

WEST OXFORDSHIRE DISTRICT COUNCIL
UPLANDS AREA PLANNING SUB-COMMITTEE – 3 NOVEMBER 2014
CONFIRMATION OF TREE PRESERVATION ORDER NO.1/2014 – LAND AT
FOXFIELD COURT, CHIPPING NORTON(141.288)
REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING
(Contact: Nick Dalby, Tel: (01993) 861662)

(The decision on this matter will be a resolution)

1. PURPOSE

To consider the confirmation of Tree Preservation Order No.1/2014 affecting land adjacent to Foxfield Court, Chipping Norton.

2. RECOMMENDATION

That the Order be confirmed without modification.

3. BACKGROUND

- 3.1. In July 2014 a provisional area tree preservation order was made under delegated powers to safeguard trees growing on land at Foxfield Court, Chipping Norton. The Order was made following concerns expressed by local residents that the area affected may have been about to be cleared of vegetation.
- 3.2. The purpose of the provisional Order was to exercise a degree of control over the trees at the site pending further investigations and discussions about the future of the land.
- 3.3. Objections to the making of the Order have been received from the landowner and letters of support have been submitted from some local residents.
- 3.4. The provisional Order takes effect for a period of six months and during this period the Council must decide whether to confirm it, amend it in some way, or allow it to lapse.

4. OBJECTIONS

The grounds for objecting to the making of the Order are as follows.

- The local authority has failed to follow the correct procedure for making a TPO.
- The local authority has failed to gather sufficient information prior to making the area subject to a TPO.
- The TPO is contrary to Government guidelines on best practice.

5. RESPONSE TO OBJECTIONS

- 5.1. These grounds relate to legal and procedural issues. Your officers have received legal advice which confirms that the Order was made lawfully. The letter of objection is available on file.
- 5.2. Instructions were received by Legal Services on 3 July 2014.

- 5.3. On 4 July 2014 Legal Services served the Order on the landowner and all interested land owners.
- 5.4. On 11 July 2014 the letter to the Owner, Willstown Developments Ltd, with enclosed documents, was returned to the Council marked 'return to sender-not at this address'. The address and company name details had been taken from the Land Registry Title Register. The Legal officer checked as to whether there had been a change of address and sent a duplicate letter with enclosures to an alternative address. This was again sent by first class post on 11 July 2014.
- 5.5. On 11 July an agent acting for the owner contacted the Council to advise that his client had not yet received notification of the TPO.
- 5.6. On 15 July 2014 Legal Services sent an email to the owner apologising for the confusion and explaining how the Order had been sent to the address provided on the Land Registry Title Register. This has been remedied by sending a duplicate letter to the correct address.
- 5.7. There has been no prejudice against the owner at any time as despite a short delay in receiving the Order, sufficient time remained to submit objections or representations.
- 5.8. Your officers are of the opinion that sufficient information was gathered to enable an accurate order to be drawn up. This element of the objection relates to pre-application correspondence between the Council and the owner and does not affect the validity, or the methodology, of preparing the Order itself.
- 5.9. Government Best Practice Guidance recommends caution in the use of 'area' classifications when preparing TPOs. However, the 'area' category remains one lawful way of protecting trees dispersed over an area. It is acknowledged that there can be difficulties in administering 'area' orders in the longer term, but there are occasions when this is the most appropriate classification available to local planning authorities seeking to safeguard vegetation of the type existing at this site.

6. LETTERS OF SUPPORT

Eight letters of support have been received in response to the making of the Order. The reasons for support can be summarised as follows and the letters are available on file.

- local environmental asset
- wildlife haven
- of local amenity value
- a natural barrier between Foxfield Court and the proposed Tank Farm development
- removing the trees would affect the landscape and natural environment of the area.

7. PLANNING ASSESSMENT

- 7.1. The trees included in the Order are considered to have high amenity value in that they are prominent in public views from Foxfield Court and the well-used public footpath between Wards Road and Tank Farm. They are also prominent in views from Chipping Norton Lido.
- 7.2. The vegetation growing on the bank of the former quarry is valuable in terms of the contribution it makes to the setting of the original Foxfield Court development. Its value comes from the combination of all the elements of the vegetation present (not just the trees affected by the TPO) but the scrub, shrub and ground flora. It is also valuable in the context of the proposed development at Tank Farm. This steeply

sloping ground, with its dense vegetation, provides a useful and logical piece of green infrastructure and will help to assimilate the Tank Farm development into the wider surroundings. The purpose of the 'area' TPO is to attempt to safeguard this resource and in recognition that it is not the value of any individual specimen that is important but the sum of all the parts.

- 7.3. The grounds for objecting to the Order are based on legal and technical issues regarding the validity of the Order itself, rather than the amenity merits. The legal advice received concludes that the Order is valid and lawful.
- 7.4. The provisional Order was made to safeguard the trees pending further investigation and discussions regarding the future of the land. These discussions are still on-going and therefore in order to continue the protection of the trees afforded by the TPO it is recommended that it be confirmed without modification.

8. ALTERNATIVES/OPTIONS

The Council could decide not to confirm the Order or confirm it subject to modifications.

9. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

10. REASONS

To protect and enhance the environment in accordance with the Council Plan.

Andrew Tucker
Strategic director (Development)

(Author: Nick Dalby, Tel: (01993) 861662; EMail: nick.dalby@westoxon.gov.uk)
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Background Papers:
TPO No.1/2014.