Title: Confirmation of Tree Preservation Order

Report of the Acting Head of Regeneration and Planning (Planning)

Open Report For Decision

Wards Affected: Chadwell Heath Key Decision: No

Report Authors:

Linda Beard, Principal Planning Policy Officer
Tel: 020 8227 3947
E-mail linda.beard@lbbd.gov.uk

Colin Richardson, Arboricultural Officer
Tel: 020 8227 3556
E-mail colin.richardson@lbbd.gov.uk

Paul Feild, Senior Corporate Governance Solicitor
Tel: 020 8227 3133
E-mail paul.feild@lbbd.gov.uk

Accountable Director: John East, Growth and Homes

Summary:

This purpose of this report is to seek Members agreement to confirm Tree Preservation Order 08/2016 Land adjacent to 15 and 21 Lansbury Avenue, Chadwell Heath, Romford RM6 6SD. The TPO protects trees on land adjacent to 15 and 21 Lansbury Avenue, Chadwell Heath, Romford RM6 6SD.

The provisional TPO was made on 31st May 2016. One written objection to the provisional TPO has been received and one petition signed by 18 residents in support of the TPO has been received. Where objections or representations are made, the Local Planning Authority cannot confirm the TPO unless they have first considered them.

Recommendation(s)

To carry out the statutory function.
1.0 Background

1.1 This report relates to 10 Holly trees situated on land adjacent to 15 and 21 Lansbury Avenue, Chadwell Heath, Romford RM6 6SD. A map showing the location of the trees is provided in Appendix A to this report. Photographs of the trees are also included in Appendix A.

1.2 A complaint was received from a resident that a 2m high fence had been erected around amenity land between 15 and 21 Lansbury Avenue. 10 Holly trees are situated on the amenity land and the resident was concerned the trees would be felled. The land enclosed by the fence does not have a registered owner with the Land Registry. Any change of use of the enclosed amenity land, including to that of a garden or for car parking would require planning permission.

1.3 A provisional Tree Preservation Order, TPO/05/2016 was placed on the trees on 2 December 2015 to protect them from felling. One written objection to the provisional TPO was received and one petition signed by 18 residents in support of the TPO was received. If a provisional TPO is not confirmed within 6 months of being made, it lapses and the trees are no longer protected. It was not possible for TPO/05/2016 to be considered by the Development Control Board (DCB) before the 6 month time limit elapsed. As a result, a provisional Tree Preservation Order, TPO/08/2016, was then made on 31 May 2016, to protect the 10 Holly trees for a further 6 months and to allow the DCB to consider if the TPO should be confirmed. The objections and the petition have been carried over to TPO/08/2016. The provisional Tree Preservation Order TPO/08/2016 is attached to this report in Appendix B.

1.4 The principal effect of a TPO is to prohibit the:

(1) cutting down,
(2) uprooting,
(3) topping,
(4) lopping,
(5) wilful damage, or
(6) wilful destruction

of trees without the Local Planning Authority’s (LPA’s) consent. The cutting of roots, although not expressly covered in (1)(4) above, is potentially damaging and so, in the Secretary of State’s view, requires the LPA’s consent.

1.5 Under the Town and Country Planning (Tree Preservation) (England) Regulations 2012 the Order will expire if it has not been confirmed (whether or not subject to modification) within 6 months of the date of making.
1.6 One written objection to the provisional TPO has been received and one petition signed by 18 residents in support of the TPO has been received. Where objections or representations are duly made, the LPA cannot confirm the TPO unless they have first considered them.

2.0 Legal Position

2.1 The LPA has the power under Section 198 of the Town and Country Planning Act (the Act) to make provision by a tree preservation order for the preservation of trees or woodlands in their area if it appears that it is expedient in the interests of amenity. The regulation of the Orders is set out in statutory instruments made under the Act. In addition the Secretary of State has set out guidance as follows:

“...In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath, although, exceptionally, the inclusion of other trees may be justified. The benefit may be present or future; trees may be worthy of preservation for their intrinsic beauty or for their contribution to the landscape or because they serve to screen an eyesore or future development; the value of trees may be enhanced by their scarcity; and the value of a group of trees or woodland may be collective only. Other factors, such as importance as a wildlife habitat, may be taken into account which alone would not be sufficient to warrant a TPO”

2.2 The regulations require, following the making of the TPO, that notice of the TPO must be served on the land owner and state that objections or representations about trees covered by the TPO can be made to the LPA during a period of 28 days or more from the date of the notice. All objections and representations must be made in writing, specify the particular trees, groups or areas of trees or woodlands in respect of which the objections or representations are made, and in the case of objections, state the reasons for them.

2.3 Objections and representations can be made on any grounds, for example:

(1) Challenging the LPA's view that it is expedient in the interests of amenity to make a TPO,
(2) Claiming that a tree included in the TPO is dead or dangerous,
(3) Claiming that a tree is causing damage to property,
(4) Pointing out errors in the TPO or uncertainties in respect of the trees which are supposed to be protected by it,
(5) Claiming that the LPA have not followed the procedural requirements of the Regulations.

2.4 Any objection or representation made on technical grounds (for example, that a tree is diseased or dangerous) should be considered by an arboriculturist.

2.5 The LPA is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

3.0 Arboricultural Officer's Report

3.1 The area of land enclosed by the fence has 10 mature Holly trees with a visible public presence on the estate. The trees are part of structured planting as part of the original soft landscaping for the development and provide screening for adjacent properties. The trees have merit as a group and provide pleasant amenity to soften the car parking area as was intended in the design. It is appropriate to provide public protection to retain this architectural vision for the benefit of the local residents who have become used to it.

4.0 Summary of objections received

4.1 One letter was received from Mr Comfort Mbamarah, the resident of 15 Lansbury Avenue, objecting to the provisional TPO and requesting the TPO not be confirmed.

The letter is in Appendix C to this report. A petition of 18 local residents was submitted in support of the Tree Preservation Order and is provided in Appendix D.

4.2 The objections from Mr Mbamarah are summarised in the table below with the response from the Principal Planning Policy Officer:

<table>
<thead>
<tr>
<th>Objection</th>
<th>Planning Policy response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The trees provide a hiding place for secondary school children to smoke and possibly take drugs.</td>
<td>Mr Mbamarah can protect his own garden with a fence. By fencing off the amenity land the trees are at risk of being felled and their contribution to public amenity will be lost.</td>
</tr>
<tr>
<td>Foxes come to the trees and sometimes prevent us using our garden.</td>
<td></td>
</tr>
</tbody>
</table>
5.0 Reasons why the TPO should be confirmed

5.1 The 10 Holly trees protected by the TPO provide significant public amenity, despite the new fence, and are valuable to wildlife.

5.2 A petition was signed by 18 residents of Lansbury Avenue and submitted supporting the TPO. The petition states:

We, the residents of Lansbury Avenue, Romford, RM6 6SD would like to obtain a Tree Preservation Order for the Holly Trees and bushes on the land adjacent to 15 and 21 Lansbury Avenue. This estate was built in the early 80's and these trees have been here for 35+ years. Trees are important and contribute to the environment by providing oxygen, improving air quality, climate amelioration, conserving water, preserving soil and encouraging wildlife habitats into urban areas. They are also important for the visual appearance of our borough.

5.3 The TPO will ensure public amenity continues to be provided by 10 Holly trees by controlling their maintenance, preventing their removal and requiring the replacement of any trees that are lost in the future.

5.4 A draft Confirmation Order is at Appendix E to this Report

6.0 Recommendation

6.1 That Tree Preservation Order number 08/2016 is confirmed without modifications because the ten Holly trees protected by the Order make a significant contribution to the visual amenity of the area and are valuable for wildlife.
Appendix A – Map for Tree Preservation Order No. 8/2016 Land adjacent to 15 and 21 Lansbury Avenue, Chadwell Heath, Romford RM6 6SD
Appendix B: Tree Preservation Order TPO/08/2016

Town and Country Planning Act 1990

The Barking and Dagenham (Land adjacent to 15 and 21 Lansbury Avenue, Chadwell Heath, Romford RM6 6SD) Tree Preservation Order (No. 8) 2016

The London Borough of Barking and Dagenham, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as The Barking and Dagenham (Land adjacent to 15 and 21 Lansbury Avenue, Chadwell Heath, Romford RM6 6SD) Tree Preservation Order (No. 8) 2016.

Interpretation

2.— (1) In this Order “the authority” means the London Borough of Barking and Dagenham.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 31st day of May 2016
Signed on behalf of the London Borough of Barking and Dagenham

Jeremy Grint
Divisional Director of Regeneration
Authorised by the Council to sign in that behalf
CONFIRMATION OF ORDER

[This Order was confirmed by [insert name of Council] without modification on the [ ] day of [insert month and year]]

OR

[This Order was confirmed by the [insert name of Council], subject to the modifications indicated by [state how indicated], on the [ ] day of [insert month and year]]

[Signed on behalf of the [insert name of Council]

..............................................

Authorised by the Council to sign in that behalf]

[DECISION NOT TO CONFIRM ORDER

[A decision not to confirm this Order was taken by [insert name of Council] on the [ ] day of [insert month and year]]

[Signed on behalf of the [insert name of Council]

..............................................

Authorised by the Council to sign in that behalf]

[VARIATION OF ORDER

[This Order was varied by the [insert name of Council] on the [ ] day of [insert month and year] by a variation order under reference number [insert reference number to the variation order] a copy of which is attached]

[Signed on behalf of the [insert name of Council]

..............................................

Authorised by the Council to sign in that behalf]

[REVOCATION OF ORDER

[This Order was revoked by the [insert name of Council] on the [ ] day of [insert month and year]]

[Signed on behalf of the [insert name of Council]

..............................................

Authorised by the Council to sign in that behalf]
### SCHEDULE
Specification of trees

**Trees specified individually**
(encircled in black on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Trees specified by reference to an area**
(within a dotted black line on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Groups of trees**
(within a broken black line on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description (including number of trees of each species in the group)</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>G1</td>
<td>10 Holly trees (<em>Ilex aquifolium</em>)</td>
<td>On land adjacent to 15 and 21 Lansbury Avenue, Chadwell Heath, Romford RM6 6SD</td>
</tr>
</tbody>
</table>

**Woodlands**
(within a continuous black line on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Tree Preservation Order No. 8 2016
Land adjacent to 15 and 21 Lansbury Avenue, Chadwell Heath, Romford RM6 6SD
20 December 2015

Ms Linda Beard
Planning Policy, Regeneration and Economic Development
London Borough of Barking and Dagenham
Room 104, Barking Town Hall
1 Town Square
Barking IG11 7LU

Dear Ms Beard

RE: Objection to Tree Preservation Order on Land adjacent to 15 and 21 Lansbury Avenue RM6 6SD

The bush provides a hiding place for students from Warren Secondary School who come there during their brake time to smoke cigarettes and sometimes hard drugs. This is a fire hazard especially to my house that is closest to the trees.

Furthermore, there are some wild foxes that come to the bushes and they prevent us from going into the garden and sometimes wanting to attack us.

If this preservation order is allowed to take place, we could be in danger of being driven out of our home by wild foxes or in trepidation of the house being burnt down by the smoking pupils hiding among the trees.

I would appreciate it very much if you could consider our safety and well being and not allow the preservation order to go ahead.

I thank you for your help.

Kind regards

[Signature]

Comfort Mbamarah
Appendix D: Petition submitted supporting TPO/08/2016

Sharon Bagge
47 Lansbury Avenue
Romford
Essex
RM6 6SD
24th February 2016

Linda Beard
Principal Planning Policy Officer
London Borough of Barking and Dagenham
Room 104
Barking Town Hall
1 Town Square
Barking
IG11 7LU

Dear Linda,

Please find attached a petition to support a Tree Preservation Order being placed on the 10 holly trees on the land adjacent to 15 and 21 Lansbury Avenue.

Unfortunately due to myself and my neighbours working, I was unable to speak to all of them but those that I managed to speak to feel as strongly as I do about the protection and preservation of these trees.

Kind Regards

Sharon Bagge
**TPO Petition**

We, the residents of Lansbury Avenue, Romford, RM6 6SD would like to obtain a Tree Preservation Order for the Holly Trees and bushes on the Land adjacent to 15 and 21 Lansbury Avenue. This estate was built in the early 80’s and these trees have been here for 35+ years. Trees are important and contribute to the environment by providing oxygen, improving air quality, climate amelioration, conserving water, preserving soil and encouraging wildlife habitats into urban areas. They are also important for the visual appearance of our borough.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sharon Beagge</td>
<td>47 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>Kamryn Perdriand</td>
<td>37 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>Ashok K. Desai</td>
<td>37 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>A. Bhaneswar</td>
<td>23 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>S. K. Bhatia</td>
<td>23 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>S. S. Bhatia</td>
<td>25 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>Kaunita Bhatia</td>
<td>25 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>G. A. Singh</td>
<td>23 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>J. Vargis</td>
<td>33 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>Michael Mithen</td>
<td>51 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>Maria Mithen</td>
<td>51 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>Y. A. Gardner</td>
<td>37 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>Donna Peace</td>
<td>35 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>T. Hearn</td>
<td>37 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>Sarah Andrew</td>
<td>43 Lansbury Ave</td>
<td></td>
</tr>
<tr>
<td>Mike</td>
<td>49 Lansbury Ave</td>
<td></td>
</tr>
</tbody>
</table>
Appendix E: Draft Confirmation Order

Note that the Confirmation Of Order / Decision Not To Confirm Order set out below is attached to the TPO. A letter and a copy of the modified order are sent to the owner / occupiers of the land, adjacent land and to objectors informing them of the Council’s decision.

CONFIRMATION OF ORDER

[This Order was confirmed by [insert name of Council] without modification on the [  ] day of [insert month and year]]

OR

This Order was confirmed by the Mayor and Burgesses of the London Borough of Barking and Dagenham, subject to the modifications indicated on the map, on the [  ] day of [insert month and year]]

[Signed on behalf of the [insert name of Council]

.............................................

Authorised by the Council to sign in that behalf]

[DECISION NOT TO CONFIRM ORDER

[A decision not to confirm this Order was taken by [insert name of Council] on the [  ] day of [insert month and year]]

[Signed on behalf of the [insert name of Council]

.............................................

Authorised by the Council to sign in that behalf]

[VARIATION OF ORDER

[This Order was varied by the [insert name of Council] on the [  ] day of [insert month and year] by a variation order under reference number [insert reference number to the variation order] a copy of which is attached]

[Signed on behalf of the [insert name of Council]
[REVOCATION OF ORDER

[This Order was revoked by the [insert name of Council] on the [ ] day of [insert month and year]]

[Signed on behalf of the [insert name of Council]

……………………………….

Authorised by the Council to sign in that behalf]

<table>
<thead>
<tr>
<th>Background Papers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Location map and Photographs</td>
</tr>
<tr>
<td>Tree Preservation Order 08/2016</td>
</tr>
<tr>
<td>Objection Letter</td>
</tr>
<tr>
<td>Petition supporting TPO</td>
</tr>
<tr>
<td>Confirmation Order</td>
</tr>
</tbody>
</table>