

## TREE PRESERVATION ORDER (TPO)

Portfolio	Planning & BC
Ward(s) Affected:	Town

### Purpose

**To seek authority to confirm Tree Preservation Order (TPO) 02-22  
Tree on Eastern Boundary, within Land of 19 Highclere Drive, Camberley,  
GU15 1JY**

## 1.0 Introduction

- 1.1 A TPO has been served to protect a highly prominent Beech tree within the curtilage of 19 Highclere Drive, Camberley.
- 1.2 The TPO was served upon the owner and occupier of the land affected by the tree preservation order together with the owners and occupiers of any land adjoining the land on which the tree is situated. In accordance with the Town and Country Planning (Trees) Regulations.
- 1.3 These parties were given 28 days to object or make written representations about the making of the tree preservation order. A copy of the order is appended to this report (Appendix 2).
- 1.4 As an objection to the Order has been received, the decision whether to confirm the order is brought before Committee.

## 2.0 Background

- 2.1 Tree Preservation Order (TPO) 08/21 (Appendix 2A) was served on the 1st of September 2021 to protect 1 x Beech Tree at the property of 19 Highclere Drive, Camberley. The TPO was made in response to a residents concern that the tree was about to be imminently felled, which was indeed the case and so the need for a Tree Preservation Order was considered expedient.
- 2.2 The resident had concerns over the condition of the tree following the loss of a branch in an earlier storm in 2021. The objection period was extended to allow the resident enough time to secure professional arboricultural information from a consultant relating to the condition of the tree which would need to demonstrate that the tree was no longer worthy of protection.

2.3 During this time, it was not possible to secure a consultant due to government restrictions and illness (Covid 19) of the appointed consultant. This led to the expiration of the original TPO and a new Order was served – ref: 02/22/TPO (Appendix 2B). The new Order corrected the address and repositions the tree's location from the original Order. This was served on the 14<sup>th</sup> February 2022. This would have been corrected as a TPO modification at the confirmation stage of the original TPO.

### **3.0 Power to make a TPO – Relevant legislation**

3.1 The law on Tree Preservation Orders is contained in Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation (Tree Preservation) (England) Regulations 2012.

3.2 Under the Town and Country Planning Act (1990) local authorities may make a TPO if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area. The Act does not define amenity, nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, a TPO should be used to protect selected trees and woodlands if their removal would have a significant impact upon the local environment and its enjoyment by the public. Local planning authorities should be able to show that a reasonable degree of public benefit would accrue before the TPO is 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.

3.3 Trees may be worthy of preservation, amongst other reasons, 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 the 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.

3.4 Under the Town and Country Planning (Trees) Regulations 1999, before the local planning authority can confirm a TPO it must first consider any objections or representations duly made in respect of that order. Having considered any objections or representations, the local planning authority may then confirm the order with or without modification or may determine not to confirm the order. In terms of modifications to the order, there is no defined statutory limit on this power, although the Courts have held that this power cannot be used to effectively create a different order from the one originally imposed.

3.5 As the Order contained a direction under Section 201 of the Town and Country Planning Act 1990 it took effect immediately upon the making of the order. If the Order is not confirmed within six months of the date upon which it was made, the provisional protection afforded by Section 201 comes to an end although the Council may still confirm the TPO after that time. Once confirmed, the validity of a TPO may not be questioned in any legal proceedings whatsoever, except by way of an application to the High Court under Section

288 of the Town and Country Planning Act 1990 within six weeks from the date on which any order is confirmed.

#### **4.0 Expediency**

- 4.1 If there is a risk of trees being cut down or pruned in ways which would have a significant impact on their contribution to the amenity of the street scene then it may be expedient to serve a Tree Preservation Order to protect important prominent trees. In some cases, the Local Planning Authority may believe trees to be at risk generally from development pressure and therefore consider it expedient to protect trees without a known, immediate threat. Where trees are clearly in good arboricultural management it may not be considered appropriate or necessary to serve a TPO.
- 4.2 It was considered expedient to make this TPO in the interests of the visual amenity of the area. The Beech tree is a principal landscape feature of the street scene and provides a significant amount of scenic beauty, helping to soften the built form of Highclere Drive. Its loss would undoubtedly be harmful to the area. The Beech is typical of the species which is found in the general location of Highclere Drive and is entirely in keeping with the character and nature of the area, the mixture of both mature and immature trees alongside trees growing at the front and to the rear of properties, which help to maintain a visual draw and maintains sylvan nature of the street scene.
- 4.3 Policy DM9 of the Core Strategy and Development Management Policies 2012 seeks to ensure that trees and vegetation worthy of retention are afforded protection. The land also falls within the character area designated as the 'Wooded Hills' in the Western Urban Area Character SPD 2012. The value trees make to this area is indicative of the reference to 'wooded' in the character area designation. In addition, the loss of vegetative cover is noted as being a pressure to the character and visual amenity of the area. Serving the order therefore meets the objective of Policy of WH1 of the SPD which seeks to retain the identified green character of the 'Wooded Hills'.

#### **5.0 Representations**

- 5.1 The owner of 19 Highclere drive has objected to the TPO on the grounds that they still consider that the safety of the tree needs further investigation. (Appendix 3)
- 5.2 One letter of support was received for the original Order (Appendix 4)

#### **6.0 Officer's response to objection**

- 6.1 The residents have not to this date provided any further information/survey reports or diagnostic information to support the opinion that the tree is unsafe. if there are concerns over the trees structural integrity and should the TPO be confirmed the Council would welcome a Tree Work Application supported by appropriate levels of arboricultural evidence i.e. full VTA (visual Tree

assessment), aerial inspection (with photographs of all bio mechanical defects) and results of any internal decay detection investigations of the alleged defective zones within the main stems (i.e. Sonic Tomograph / Resistograph) to justify the any proposed work.

- 6.2 The Council would not refuse an application to either prune or fell a tree protected by a TPO where appropriate evidence has been provided which clearly demonstrates that the tree is in a condition that would warrant its removal. At this point in time as no such information has been provided to the Local Authority to demonstrate that the tree poses an unacceptable risk to residents and an inspection from the ground level only did not highlight any obvious significant defects which would result in allowing the TPO to lapse. With this in mind the recommendation is to confirm the order. This would also allow the resident more time to provide evidence to substantiate their claims and submit a tree work application.

## **7.0 Implications**

- 7.1 The confirmation of the TPO has no additional financial implications for Surrey Heath, although there are resource implications in terms of officer workload for the processing of tree works applications in the future.

## **8.0 Options**

- 7.1 The options available to the Committee are:
- To confirm the Order as originally imposed;
  - To confirm the Order subject to modifications
  - Not to confirm the making of the Order.

## **9.0 RECOMMENDATION**

- 9.1 To confirm the Order as originally imposed.

## **10.0 BACKGROUND PAPERS**

<b>Appendices number</b>	<b>Document Title</b>
Appendix 1	Photo of Beech
Appendix 2A	Copy of the previously served order TPO 08/21
Appendix 2B	Copy of the current TPO 02/22
Appendix 3	Objection email
Appendix 4	Letter of support

Alastair Barnes  
Arboricultural Officer

**APPENDIX 1**

