

REPORT FOR: **PLANNING COMMITTEE**

Date of Meeting:	16 April 2016
Subject:	Tree Preservation Order No. 955 Old Hall Drive (No.2) Pinner
Responsible Officer:	Paul Nicholls, Divisional Director of Planning Services
Exempt:	No
Enclosures:	TPO Plan relating to TPO NO.955 Old Hall Drive (No.2) Pinner

Section 1 – Summary and Recommendations

The Council made Tree Preservation Order (TPO) No. 955 on 19/01/2016. This TPO protects T1 (Monterey Pine) as indicated on the attached plan and covers the property 'Darien' at Old Hall Drive, Pinner HA5 4SW. Before confirming the order, the Council must consider objections and representations duly made in respect of the order. An objection has been made against this TPO in respect to the Monterey Pine at Darien, Old Hall Drive. This report considers the objection received and seeks authority to confirm the order.

Recommendations:

The Committee is requested to:

Confirm TPO No. 955 Old Hall Drive (No.2) Pinner, notwithstanding the objections.

REASON:

The Pine at Old Hall Drive is considered to have significant visual public amenity value and as such should be properly safeguarded. If this TPO is not confirmed within 6 months of 19/01/2016, the statutory protection afforded to the aforementioned tree will be lost.

Section 2 – Report

- 2.1 On 16th January TPO 955 was made in respect of 1 x Monterey Pine in the front garden of Darien, Old Hall Drive. This TPO was made under s198 of the Town and Country Planning Act 1990 and took effect provisionally on 19/01/2016. The protection will continue in force for 6 months from the date of the making of the TPO until 19/07/2016. This report recommends the confirmation of the order prior to the expiry date, in order to protect the tree in question and make the Order permanent.

Background

- 2.2 Attention was drawn to the Pine following submission of a planning application for a replacement dwelling at the site. The Pine was proposed for removal to facilitate the development
- 2.3 In March 2015 a TPO status enquiry in relation to T1 Pine had been conducted via email in March 2015. At this time the tree was not subject to protection and the email response from the Council confirmed this accordingly. The Pine was known to be under any threat of removal at this time and had not been assessed or viewed by the Council Tree Officer.
- 2.4 In January 2016 a planning application was submitted for a proposed replacement dwelling. As part of the proposals a tree survey was provided. The Pine was identified as an 'A' retention category (high quality) tree.
- 2.5 A site visit was carried out by the Tree Officer shortly after being notified of the proposals, to view the Pine identified in the tree survey.
It was considered that the Pine had significant amenity value and that its loss would have a significant impact on the local surroundings and their enjoyment by the public.
Consequently it was considered expedient in the interests of amenity to make the tree subject to a Tree Preservation Order, in response to a threat of development.
- 2.6 In accordance with statutory procedures, TPO 955 was duly served on the owners/occupiers and all affected properties, who were informed of the right to make objections and representations within the relevant timeframe.
- 2.7 Shortly after the TPO was served, the Tree Officer was contacted by the owners and agreed to meet them on site to discuss the options available to them in terms of appropriate management of the tree (eg pruning) and to address their concerns. The extent of pruning likely to be allowed was indicated by the TO during the meeting and it was agreed that these works would be applied for via a TPO application.
- 2.8 A TPO application was duly submitted, however the works applied for were over and above what had been indicated as acceptable during the meeting. The owners were advised that the extent of reduction requested was unacceptable and would not be consented to.

Shortly afterwards an amended application was submitted for lesser works to the Pine. This application is currently being processed and as the works are considered acceptable in principle. A decision notice is shortly to be issued.

2.7 An objection letter was subsequently received from the new owner of the affected property and land on which T1 Pine is located. The objections are outlined below with the Council's response:

- **Pre-application discussion commenced on a proposals to replace an empty property last year. During the discussion the Council Tree Section confirmed that the tree did not have protection and was not of quality to warrant protection**

Response: A TPO status enquiry was sent via email to the Council in March 2015. The Council receives many such enquiries on a daily basis and responded solely to confirm that the Pine was not currently subject to protection. No reference was made in their response in relation to the Pine's quality or whether it warranted TPO protection, nor could it have been – as at this time the Pine had not been viewed or assessed by the Tree Officer.

- **There is little justification for the Council to now serve the order. There are no circumstances for this change of mind late in the day.**

Response: The Council has a statutory duty to protect trees with special amenity value and where it is expedient to do so in the interests of amenity. The Pine had not been viewed or assessed for amenity value prior to submission of the planning application in January 2016. Having viewed the Pine and assessed its suitability for TPO, it was considered expedient to serve the TPO.

- **It is acknowledged by both the Council and the owners, that the tree has caused significant damage to the existing building. The issue of subsidence needs to be addressed irrespective of any proposal to replace the house.**

Response: There is structural damage to the existing property, however without full site investigation data (namely crack / level monitoring, positive root ID from underside of foundations, trial/bore-holes), there is no conclusive evidence to implicate the Monterey Pine as the main cause of damage.

The foundation depth of the existing house, at less than 1m, is inadequate by modern standards and did not take into account the shrinkable clay subsoil and presence of mature trees nearby.

The structural engineers report (by Austin Truman) states that the extent of damage and condition of the existing building is such that demolition and construction of a new building will be necessary in any event. The report recommends the use of a pile and beam foundation, which will both address the soil conditions and subsidence issues, in addition to allowing for the retention of the Pine.

It should be noted that previous pre-application discussions for a new dwelling at this site (by previous owners of Darien) placed emphasis on the need to retain

the Pine as an important feature and did not consider it's removal necessary to facilitate development. There is no reason why the same should not apply here.

- **The house has been empty for many years as a result of structural damage and the enclosed report from Austin Truman confirms the need to remove this tree.**

Response: The report refers to the Pine as 'the likely cause of movement' but does not provide conclusive evidence to demonstrate the necessity for removal.

- **By an email dated 19th March 2015, the Council confirmed that 'there are no tree preservation orders on your property'.**

Response: This information was correct at the time of the email enquiry. TPOs are served on a reactive basis, in response to threats of 1) development b) change of ownership c) bad management. The Pine was made subject to a TPO in reaction to a threat of removal / threat of development.

- **On 17th July 2015, the tree officer, Rebecca Farrar, met the architect and the arboricultural consultant on site to discuss this tree. Following this meeting the TPO group plan was amended and the Monterey Pine removed as it was not considered worthy of retention**

Response: The Council's Tree Officer does not recall attending a meeting on this date and has no record of any meetings at the site prior to the serving of the TPO in January 2016, nor of any discussions regarding the tree's suitability for TPO protection, prior to her visit shortly after the planning application was submitted early in 2016.

- **As a result of this discussion, a proposal for a replacement house was drawn up and agreed with officer. During these discussions the officer from the tree section were present.**

Response: Rebecca Farrar is the sole Planning & TPO Tree Officer and previously stated can find no record of having attended a site meeting in July 2015. It is understood that the applicants' appointed arboricultural consultant carried out a tree survey and impact assessment, in relation to the proposals for the site, in around July 2015 – however the Council Tree Officer was not present at any of these meetings

2.8 No other objections were received by the Council.

2.9 Acknowledgement was sent via email to the objector shortly after his objection was received informing him that his objection would be taken into consideration at the next Planning Committee meeting. No site visit was arranged after receiving the objection.

Consideration

2.10 It is considered that in spite of the objections to the confirmation of the Tree Preservation Order, the Pine T1 merits the protection of a TPO and it is expedient

to confirm the order without modifications, for the same reason as set out in paragraph 2.3 above.

- 2.11 The Committee is requested to give due consideration to the objection and the Tree Officer's response to the objection.. In the Council's Arboricultural Officer's opinion, the objections do not outweigh the amenity considerations in this case.
- 2.12 It is accordingly recommended that the TPO be confirmed.

Financial Implications

None. The expenses incurred in confirming the order can be met within existing budgets.

Risk Management Implications

None.

Corporate Priorities

Confirming the TPO will contribute to the Council's Corporate Priority of keeping neighbourhoods green.

Section 3 - Statutory Officer Clearance

Name: Jessie Man	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 6.4.2016		
Name: Abiodun Kolawole	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 01.04.2016		

Section 4 - Contact Details and Background Papers

Contact: Rebecca Farrar, Tree Protection Officer, ext. 6092

Background Papers:

None