

Meeting:	Strategic Planning Committee
Date:	13 December 2006
Subject:	Confirmation of Tree Protection Order No. 856 – Barrow Point Avenue
Key Decision:	No
Responsible Officer:	Graham Jones Director of Planning
Portfolio Holder:	Marilyn Ashton Planning, Development and Enterprise
Exempt:	No
Appendices:	None

SECTION 1 – SUMMARY AND RECOMMENDATIONS

RECOMMENDATIONS: Confirm TPO (Tree Preservation Order) No. 856 notwithstanding the objection.

REASON: TPO No. 856 must be confirmed by 26th December. After this date, the trees currently covered by this TPO will have no statutory protection.

SECTION 2 - REPORT

Brief History

- 2.1 On the 27th June 2006, TPO No. 856 was made in respect of 21 individual trees, (comprising species of cypress, oak, ash, cherry amongst others) and four groups of trees (including species of birch, ash, horse chestnut and thorn) at Barrow Point Avenue.
- 2.2 Attention was initially drawn to the trees by a resident at the Avenue. Following a site visit by the Council's arboricultural officer, it was considered expedient in the interests of amenity to make arrangements for the preservation of these trees. The trees both individually and as groups make a significant contribution to the local landscape. It appeared that TPO 856 should take effect immediately due to

a change of ownership at Barrow Point Avenue so as to afford the trees temporary protection for a period of not more than 6 months. In accordance with statutory procedures, shortly after it was made TPO 856 was duly served on the owner(s)/occupier(s) of nine affected properties in Barrow Point Avenue who were informed of the right to make objections and representations within the relevant time frame..

2.3 On 25th July 2006, a letter of objection was received from Mr Graham Rodin, the owner of one of the affected properties at Barrow Point Avenue, who was concerned that the TPO would prevent him from future management of three trees subject to the TPO and located on his property. Mr Graham's concerns can be summarised as follows: -

2.3.1 T18 – An ash tree in the front garden located 7.5 metres from the house was alleged to be a subsidence threat to their property on the basis that the Association of British Insurers advise that ash trees should be no more than 10 metres from a house. This tree has been crown reduced by 30-40% and Mr Rodin expressed his intention to remove it in the long term;

2.3.2 T15 – Hazel at the rear – Mr Rodin claims the tree has grown too close to the fence thus presents a risk to the integrity of the fence. He intends to remove it;

2.3.3 T17 – Holly at the rear – Has grown to an excessive height in proportion to the garden and needs regular pruning.

2.4 The Council's Arboricultural Officer has made considerable efforts to accommodate Mr Rodin's concerns and carefully considered the objections. In early August 2006, a site visit was arranged with the owner to discuss their concerns. Following the site visit it is the view of the arboricultural officer that: -

2.4.1 TP18 - To date there has been no documented tree related subsidence claim in relation to this tree. The tree is not in such close proximity to the property as to present the risk of damage by subsidence as claimed. Furthermore, the subject tree is now being managed as a pollard with a containerised crown volume. At the time of the site visit, it was explained to Mr Rodin that if at any time in the future the Ash was implicated in a subsidence claim on a balance of probability, then permission for its removal would be granted. To ensure the proper management of the tree consent was granted on the 11th August 2006 to remove regrowth back to previous pruning points.

2.4.2 TP15 and TP17 – During the site visit Mr Rodin was assured that permission for reasonable pruning works would be given for his preserved trees. Consent was given on 11th August 2006, to prune T15 in accordance with previous pruning points and to reduce the height and trim back T17.

- 2.5 In view of the consents granted on 11th August 2006, Mr Rodin was kindly requested in writing on two separate occasions to withdraw his objection but has failed to do so.
- 2.6 In the absence of a response, another letter was sent to the owner on 20th November. To date there has been no response.
- 2.7 The temporary 6 month protection accorded to the trees by virtue of Section 201 of the Town and Country Planning Act 1990 (as amended) expires on 26th December 2006 unless the TPO is confirmed. This will make the protection afforded to the trees specified in the order permanent unless the TPO subject to any future variation, modification or revocation of the TPO.
- 2.8 The Town and Country Planning (Trees) Regulations 1999 in paragraph 5 provide that if objections are properly made, a local planning authority cannot confirm a TPO without giving them proper consideration.
- 2.9 There is no right of appeal to the Secretary of State against the confirmation of a TPO. Under Section 288 of the Town and Country Planning Act 1990 ("the Act"), the validity of a TPO can be challenged on a point of law by an application to the High Court within six weeks of the date the TPO is confirmed on the grounds that:
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- 2.9.1 The TPO is not within the powers of the Act, or
- 2.9.2 The requirements of the Act (or Regulations made under the Act) have not been complied with in the making of the TPO.
- 2.10 The Committee is requested to give the objections and the full circumstances due consideration. It is the arboricultural officer's opinion that the objections have been adequately dealt with by the consents granted which make provision for sensible tree pruning/management.
- 2.11 If the TPO is not confirmed the temporary protection afforded to the trees will lapse between 26th December 2006 until such time as the TPO is confirmed. During this time the trees I question would be at risk.
- 2.12 It is accordingly recommended that the TPO be confirmed as the objections raised by the owner can be addressed by sensible tree management in accordance with the consents granted or indeed any future consents that made be requested and granted.

SECTION 3 - STATUTORY OFFICER CLEARANCE

Chief Finance Officer

YES

Name: Anil Nagpal

	Date: 8 December 2006
Monitoring Officer	<input type="checkbox"/> YES Name: Adekunle Amisu
	Date: 12 December 2006

SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

Contact: Russell Ball (020 8736 6092)

Background Papers:

IF APPROPRIATE, does the report include the following considerations?

1.	Consultation	YES
2.	Corporate Priorities	Protecting Our Precious Environment
3.	Manifesto Pledge Reference Number	C2