

Meeting:	Development Management Committee
Date:	Tuesday 18 th December 2007
Subject:	Tree Preservation Order No. 890
Key Decision: (Executive-side only)	No
Responsible Officer:	Graham Jones, Director of Planning, Development and Enterprise
Portfolio Holder:	Councillor Marilyn Ashton, Portfolio Holder Planning Development & Enterprise
Exempt:	No
Enclosures:	<ol style="list-style-type: none">1) Preston Bennett representations letter (12th Oct. 2007). Formal objection on behalf of the owners of Glencara, Royston Grove, Hatch End.2) ACS objections letter (2nd October 2007).3) Ms. Sally Lewis (dated 10th October 2007) on behalf of herself and Mr Shapiro of Glencara, Royston Grove.

SECTION 1 – SUMMARY AND RECOMMENDATIONS

Objections have been made against Tree Preservation Order (TPO) No. 890 that covers trees at Nos. 36 (Glencara), 38 and 40 Royston Park Road. This report sets out why this TPO should be confirmed.

RECOMMENDATIONS:

The Committee is requested to confirm TPO No. 890 notwithstanding the objections.

REASON: TPO No. 890 must be confirmed by March 2008. After this date, the trees currently covered by this TPO will have no statutory protection.

SECTION 2 - REPORT

- 2.1 On 14th September 2007, TPO No. 890 was made in respect of 5 trees and 1 group:

Tree 1: Beech

Tree 2 :Cypress

Tree 3 :Cypress

Tree 4 :Cypress

Tree 5: Cherry

Group 1: 2 x Ash and 2 x Oak.

The TPO was made in light of a planning proposal to demolish the 2 semi-detached houses at Glencara and 38 Royston Park Road to construct 13 x 2/3 bedroom flats. The proposed development would significantly increase the current building footprint and could impact directly on tree Group 1.

- 2.2 Objection letters were subsequently received from ACS Arboricultural Consultants, Preston Bennett and Ms. Sally Lewis stating that the subject trees have limited public visual amenity. The specific objection for each tree and the Council's view is set out below. Before reviewing the objections, which are largely based on amenity issues, it is important to note that the Council took into account the threat posed to the trees by the proposed development before making the TPO. This is expedient and in line with guidance given in Chapter 3 (paragraph 3.5) of the DETR publication "Tree Preservation Orders; a Guide to Law and Good Practice (2000)".

- 2.2.1 Tree 1 objections: The tree is obscured and suppressed by adjacent street trees, and is unlikely to reach its full potential. In the future, the tree will grow towards the property at Glenacara and cause tree debris problems.

Council's Arboricultural Officer's Response: Although growing adjacent to street trees, the crown of the subject tree is clearly visible from both Royston Park Road and Royston Grove. Only a part of the tree crown is suppressed and as such the tree could develop as part of the tree group at the front of Glencara. The loss of the tree would be harmful to the visual amenity and the street scene.

As regards the issue of possible tree debris nuisance, the Council would consider any application received in the future for pruning of the tree on its merits.

- 2.2.2 Group 1 objections: The Group description is inaccurate and only the tops of the trees are visible from Royston Grove.

Council's Arboricultural Officer's Response: The Group description is accurate (see paragraph 2.1 above). The Group is clearly visible from Royston Grove. The loss of Group 1 would be harmful to the visual amenity and the street scene.

- 2.2.3 Tree 5 and Group 1 objections: These trees have limited public benefit as they are sited in rear gardens set back from the road. More specifically Group 1 is made up of self-sown trees with a drawn habit.

Council's Arboricultural Officer's Response: It is accepted that Tree 5 cannot be seen from the road but it, along with Group 1, forms part of a tree mass at the rear of the properties in Royston Park Road. Policy EP29 of the Harrow Council Unitary Development Plan adopted 30th July 2004 provides that the Council will protect and enhance tree masses by "(A) Resisting applications for development which would impair the integrity of part of any tree mass.... (B) Making Tree Preservation Orders." This policy highlights the importance the Council places on tree masses.

It is important to note that the owners of Tree 5 at No. 40 Royston Park Road have not made objections to confirmation of the TPO.

The crowns of Group 1 can clearly be seen from Royston Grove and so they do provide public visual amenity. It is not uncommon for trees growing in groups to develop a drawn habit as they compete for light. However, such groups usually form significant unified crowns (see amenity value of Group 1 above).

- 2.2.4 Trees 2, 3 & 4 objection: The trees do not meet the quality criteria required by law to justify protection by a TPO. The trees do not provide visual amenity as they are common and hidden behind a high fence and a Laurel hedge.

Council's Arboricultural Officer's Response: The subject trees can clearly be seen from Royston Grove and as such they provide public visual amenity. The potential loss of the trees would have an unacceptable impact on the street scene. The fact that the trees are of a common tree species does not detract from their public visual amenity.

- 2.2.5 Trees 1 & 4 objection: These trees would have been assessed when permission was given for planning application ref: P/781/05/CFU in November 2005 to build 3 flats and a rear double garage with access.

Council's Arboricultural Officer's Response: The TPO has been made in light of the current proposal to demolish the semi-detached houses at Glencara and 38 Royston Park Road to provide 13 flats. If planning permission P/781/05/CFU is implemented, then T1 & 4 could be removed if they are *directly* affected by the approved proposal.

- 2.3 The current position is that only a temporary 6-month statutory protection is accorded to the subject trees by virtue of Section 201 of the Town and Country Planning Act 1990 (as amended). This temporary protection expires in March 2008. If the TPO is not confirmed by this date, the trees will have no statutory protection.

- 2.4 Regulation 5 of the Town and Country Planning (Trees) Regulations 1999 provides that if objections are properly made, a local planning authority cannot confirm a TPO without giving the objections proper and due consideration.
- 2.5 There is no right of appeal to the Secretary of State against the confirmation of a TPO. However, 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: -
- 2.5.1 The TPO is not within the powers of the Act, or
- 2.5.2 The requirements of the Act (or Regulations made under the Act) have not been complied with in the making of the TPO.
- 2.6 The Committee is requested to give the objections and the full circumstances due consideration. It is the Arboricultural Officer's opinion that the objections do not outweigh the amenity considerations in this case.
- 2.7 It is accordingly recommended that the TPO be confirmed.

Financial Implications

There are no financial implications.

Performance Issues

Please provide details of specific performance indicators on which this report impacts (LAA, BVPI, CPA, PAF). What is the target for positive change in this PI or how is a negative impact being mitigated?

SECTION 3 - STATUTORY OFFICER CLEARANCE

Name: Steve Tingle.	<input type="checkbox"/> Yes	on behalf of the Chief Financial Officer
Date: 3 December 2007		
Name: Jessica Farmer	<input type="checkbox"/> Yes	on behalf of the Monitoring Officer
Date: 13 November 2007		

SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

Contact: Russell Ball, Planning Arboricultural Officer, extn: 6092

Background Papers: Tree Preservation Order 890

IF APPROPRIATE, does the report include the following considerations?

1.	Consultation	YES/ NO
2.	Corporate Priorities	YES / NO
3.	Manifesto Pledge Reference Number	

1)

PRESTON  BENNETT
HOLDINGS LIMITED

Our Ref: EW/SN

Mr. A. Parsons,
Planning Department,
London Borough of Harrow,
3RD Floor, North Wing,
PO Box 37, Civic Centre,
Station Road, Harrow,
Middx., HA1 2UY.



12th October 2007.

By Post & Fax: 0208-424-1603

Dear Mr. Parsons,

Re: **Representations to Draft TPO 890**
Glencara' & 38-40 Royston Park Road, Hatch End, Middx., HA5

Preston Bennett have been instructed to formally object on behalf of the owners of Glencara, Royston Grove, Hatch End in respect of the above draft Tree Preservation Order.

The DETR publication 'Tree Preservation Orders, A Guide to the Law and Good Practice' April 2000, provides national guidance to LPA on the application of TPO.

TPOs should be used to protect trees and should be used if their removal would have a significant impact on the environment and its enjoyment by the public. Furthermore, the trees or part of them should be visible from a public place. It is also expected that the LPAs take into account the trees in their local surroundings and their suitability to a particular setting, together with the presence of other trees.

Based on the above we do not believe the trees fit in within these criteria:-

1. Tree 1 is growing in close association with the two large and dominant street trees situated within the highway outside Glencara, Royston Park Road. As such, the canopy of this tree is not only suppressed and obscured but it is unlikely that the tree will attain its true potential. In addition, the tree will have a tendency to grow towards the property and cause a negative impact relating to loss of light and general nuisance from falling leaves/debris in the future. I therefore question the suitability of this tree for long-term retention within the confines of this residential setting and therefore the expediency of the TPO.
2. Tree 5 and Group 1 (2 x Ash and 2 x Oak) are of limited public benefit and contribute little to the character and amenities of the wider area. Due to their position, set back from the highway, public visibility is restricted to partial views from between the properties and from Royston Grove. Although these trees may provide general greening to the internal landscape, they are not prime arboricultural features which would warrant formal preservation and the associated administrative burden to the owners.



ESTATE AGENTS | SURVEYORS | DEVELOPMENT CONSULTANTS

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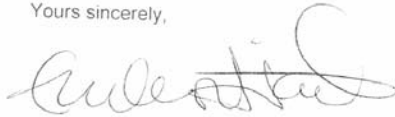
Registered in England No. 2885561 Directors: Ronald Preston F.R.I.C.S., Peter Bennett, Susan Fisher, Antony W Stone, Richard Henley M.R.T.P.I (Planning)

3. Trees 2, 3 and 4 simply do not meet the quality criteria usually associated with trees which are afforded the stringent legal protection of a Tree Preservation Order. As such the inclusion within a TPO is not expedient to the interests of the general public.
4. In relation to the determination of Planning Application (Ref. P/781/05/CFU) which was approved on the 11th November 2005 for the redevelopment of our client's property, 'Glencara', for 3 flats with a new detached double garage in the rear garden accessed off Royston Grove, all the trees to the front and rear would have been assessed, specifically Trees T1 and T4, in relation to the approved car parking off Royston Grove and Royston Park Road. The effect of the development on all trees was clearly considered acceptable at the time and a Planning Permission issued which should over-ride and be given material weight in assessing the inappropriateness of the designation of these trees.

I request that the above is fully taken into consideration when determining the draft TPO and that the Order is either amended to exclude T1 and T4 or preferably not issued.

I hope the above is clear. However, if you require any further assistance or wish to arrange a meeting on site, please do not hesitate to contact me.

Yours sincerely,



Emma Weintroub, BSc., MRICS
Development Consultant
PRESTON BENNETT HOLDINGS LTD.

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2nd October 2007

Our Ref: eb/obj1/glencara

Your Ref: TPO.890

Andy Parsons
London Borough of Harrow
Garden House
5 St John's Wood Road
Harrow
HA1 2EE

For the attention of Andy Parsons

Dear Mr Parsons

Objection to Tree Preservation Order Ref: TPO.890

I have been requested to formally object to the imposition of the above Tree Preservation Order (TPO) for the reasons that I have set out below.

Grounds for Objection

The DETR's publication 'Tree Preservation Orders, A Guide to the law and good practice' April 2000, provides national guidance to LPA's on the application and management of Tree Preservation Orders and replaces the earlier edition published in 1994. This guide has been prepared with its foundation on the DoE Circular 36/78 'Trees and Forestry'

In the earlier Circular 36/78 it is stated at para. 40:

".....More generally, orders [TPO's] should be used to protect selected trees and woodlands if their removal would have a significant impact on the environment and its enjoyment by the public."

Further the Circular states:

"....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, inclusion of other trees may be justified."

The above guidance is repeated in the latest DETR's guidance at para 3.2. In addition, the 2000 guidance states that if trees cannot or are just barely visible from a public place a TPO might only be justified in exceptional circumstances and that the mere fact that the trees are publicly visible will not in itself be sufficient to warrant a TPO.

It is also expected for LPA's to take into account the trees in their local surroundings and their suitability to a particular setting together with the presence of other trees.

Based on the above I do not believe that the trees fit within this context for the following reasons;

1. Tree 1 is growing in close association with the two large and dominant street trees situated within the highway outside 'Glencara' Royston Park Road. As such the canopy of this tree is not only suppressed and obscured but it is unlikely that the tree will attain its true potential. In addition the tree will have a tendency to grow towards the property and cause a negative impact relating to loss of light and general nuisance from falling leaves/debris in the future. I therefore question the suitability of this tree for long term retention within the confines of this residential setting and therefore the expediency of the TPO.
2. Tree 5 and Group 1 (2x Ash and 2 X Oak) are of limited public benefit and contribute little to the character and amenities of the wider area. Due to their position set back from the highway, public visibility is restricted to partial views from between the properties and from Royston Grove. Group 1 is made up of self sown trees which are of poor form and drawn habit. Although these trees may provide general greening to the internal landscape, they are not prime arboricultural features which would warrant formal preservation and the associated administrative burden to the owners.
3. Trees 2, 3 and 4 simply do not meet the quality criteria usually associated with trees which are afforded the stringent legal protection of a Tree Preservation Order. As such the inclusion within a TPO is not expedient to the interests of the general public.

When considering the confirmation of the TPO, I respectfully request that full regard is paid to the points raised above.

I hope that this information is clear and helpful at this stage but if I can be of any further assistance or you would like to arrange a site meeting, please do not hesitate to contact me.

Yours sincerely

Edward Buckton
BSc (Hons), Arbor A (tech cert), HND Forestry

cc Mr Trevor Britain

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Tel:0208 4282972
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Andy Parsons
London Borough of Harrow
Garden House
5 St John's Road
Harrow
HA1 2EE



10 October 2007

Dear Mr Parsons

Ref: TPO 890

I am writing to object to Tree Preservation Order 890 on behalf of myself and Mr Shapiro of Glencara, Royston Grove, owners of the properties in whose gardens all but one of the trees are situated.

The grounds of our objections are as follows:-

Trees marked **G1** on the plan. (the description is inaccurate)
These trees are in the boundary hedge between the two back gardens, they are self-seeded and were not there when we moved in to no. 38. The gardens are totally enclosed making the trees barely visible to passers by along Royston Park Road if they stop and pry between our properties, an undesirable intrusion into our privacy by anyone's standards.
From Royston Grove only the very top canopy is visible, then only when in leaf and if craning your neck. For these reasons they cannot be regarded as a public visual amenity.

Tree marked **T5** on the plan.
This tree is only partially visible to members of the public walking along Royston Park Road if they stop and stare between nos. 38 and 40; it is almost totally obscured by a Magnolia and a high Laurel hedge.

Trees marked **T2, T3 & T4** on the plan
These trees are mostly behind a high fence and then a Laurel hedge, which itself must be at least 12ft high, they are very common and what little can be seen of them publicly has no visual amenity value whatsoever.

Tree marked **T1** on the plan

This tree is almost totally overshadowed by two large trees growing in the street. It stands no chance of growing properly and does not add value or quality to the greening effect well provided by the public trees.

May I ask that our objections are properly taken into account when considering confirmation of the tree preservation order on what are, in the main, very private trees with no public visual amenity value at all.

Yours sincerely,

A handwritten signature in cursive script that reads "Sally Lewis".

Sally Lewis