

REPORT FOR: **PLANNING COMMITTEE**

Date of Meeting: 7 September 2011

Subject: Tree Preservation Order No. 948
Malpas Drive (No.1) Pinner

Responsible Officer: Stephen Kelly, Divisional Director of Planning Services

Exempt: No

Enclosures: TPO Plan relating to TPO NO.948, Malpas Drive (No.1) Pinner

Section 1 – Summary and Recommendations

The Council made Tree Preservation Order (TPO) No. 948 on 31/05/2011. This TPO protects trees T1 (Copper Beech) and T2 (Pear) as indicated on the attached plan and covers the property at 20 Malpas Drive, HA5 1DQ. 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 trees at 20 Malpas Drive. This report considers the objection received and seeks authority to confirm the order.

Recommendations:

The Committee is requested to:

Confirm TPO No. 948 Malpas Drive (No.1) Pinner, notwithstanding the objections.

REASON:

The trees at 20 Malpas Drive are considered to have visual amenity value and as such should be properly safeguarded. If this TPO is not confirmed within 6 months of 31/05/2011, the statutory protection afforded to the aforementioned trees will be lost.

Section 2 – Report

2.1 On 31st May 2011 TPO 948 was made in respect of 1 x Copper Beech and 1 x Pear to the rear of 20 Malpas Drive. This TPO was made under s198 of the Town and Country Planning Act 1990. In order to prevent felling of any of the trees before the order could be confirmed, the Council also included in the order a direction under s201 of the Town and Country Planning Act 1990 that the order shall take effect provisionally on 31/05/2011 and this direction will continue in force for 6 months from the date of the making of the TPO, ie until 31/10/2011. This report recommends the confirmation of the order prior to the expiry of the s201 direction, in order to protect the trees.

2.2 Attention was drawn to the trees following a number of events which led to the eventual decision to place a TPO on the trees in question.

A change of ownership took place when the property was purchased in around April/May 2011. Attention was drawn to the property shortly afterwards when works began to clear the front and rear garden of trees and vegetation, with the exception of the Pear T2 and Beech T1.

A TPO status enquiry in relation to T1 Beech was conducted via telephone around the beginning of May 2011. This also drew attention to Beech T1 which at this point was not subject to any protection.

The Council's Tree Officer responsible for the council's tree stock and trees within the public realm, was contacted by residents of Malpas Drive following an incident in which a street tree was apparently deliberately ring-barked. The subject tree is a Norway Maple located on Winchester Drive and immediately adjacent to the subject property. Ring-barking is the practice of removing a ring of bark (and underlying tissue) from a tree stem, destroying the tissues which transport food and water and resulting in the eventual death of the tree.

2.3.1 The Council's Tree Protection Officer duly visited the site and assessed the amenity value of the trees. It was considered that the trees marked T1 and T2 had a substantial visual amenity value.

Pear T2 is a good example of its species, has visual amenity value and is clearly visible from the street. The Beech T1 can clearly be seen from both Malpas Road and Winchester Drive and is a prominent feature within the streetscene. In addition the eventual death (& subsequent removal) of the Norway Maple as a result of being ringbarked will give clear views of the Beech T1 and thus increasing its importance and visual amenity value. Due to the contrasting species of the Beech T1 and Pear T2 and their suitability in the setting of this particular area, it was considered that they had such amenity value as to make a substantial contribution to the local landscape.

2.4 It was furthermore considered that it was expedient to make the Tree Preservation Order because the loss of these trees 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 trees subject to a Tree Preservation Order, in response to a threat of development/change of ownership.

- 2.5 Shortly after the Tree Preservation Order was made, in accordance with statutory procedures, TPO 948 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.
- 2.6 An objection letter was subsequently received from the new owner of the affected property and land on which T1 and T2 are located. The objections are outlined below with the Council's response:

Insurance cover is currently not valid as the trees are within 6 metres of the nearest boundary of the subject property

Response: The Council's Arboricultural Officer is not aware of any insurance companies who adopt this kind of policy in relation to trees and insured properties. The objector has not provided any correspondence from his insurers, or other documentation, which specifically states that his insurance is not valid due to the presence of Beech T1 at his property. The Council will be happy to review the TPO if such evidence is made available.

The Copper Beech was pruned in 2005 due to structural cracks internally and externally and damage to the driveway and patio. It has now grown to 12 metres and could pose further structural problems. The cost of repairing the cracks was £25,000.

Response: The documents provided by the objector in support of his objection contain no evidence or site investigation results, implicating the Beech T1 as contributing to the damage at the property. No roots, emanating from the Beech or otherwise, have been recovered from the underside of the foundations or have been identified as belonging to Beech T1. No reference is made to Beech T1, in any of the correspondence or site investigation results and it does not appear to have been linked to any of the damage to the property.

Site investigations (copies of which submitted by the objector) identified defective underground drains as the main cause of structural cracking. This damage all occurred to the front and side of the property. The Beech T1 is located in the rear garden and was not an influencing factor.

There was some movement to the rear of the property caused by tree roots: however, again, no mention is made of Beech T1 as a possible cause. A letter dated July 2008 from GHG Loss adjusters to the previous owner of 20 Malpas Drive states that "following drainage repairs and vegetation management, in our opinion the property is now stable and no longer suffering from subsidence". Given that Beech T1 still remains at the property and was not recommended for removal by the loss adjusters as part of the vegetation management they refer to in the letter, it is considered that the Beech was not linked to any of the damage or implicated as a future subsidence risk.

It was advised in May 2011 that there were no TPOs at the property. However 3-4 weeks later I was advised that there were TPOs on the Pear and Beech.

The Beech and Pear were not subject to any TPO protection at the time of the status enquiry. However after viewing the tree(s) at 20 Malpas Drive, and in view of the tree clearance recently carried out at the property, it was thought expedient to make the trees(s) subject to TPO protection.

The neighbour and owner of 22 Malpas Drive contacted the council to advise them of damage to the street tree; subsequently the council had applied for a TPO.

The serving of TPO 948 was not a direct consequence of the damage to the street tree. However it was felt that this incident, which appeared to be deliberate, when considered in conjunction with other events leading up to the incident, made it expedient to serve a TPO on the Beech and Pear.

Neighbours at 22 & 23 Malpas Drive and 2 Winchester Drive have both stated their support for removal of the trees and of TPO 948.

One letter of support for the serving of TPO 948 was received from the owner of 28 Malpas Drive. However, no letter of support for the removal of the Beech T1 or Pear T2, or for the removal of TPO 948 has been received, as suggested by the objector. Residents have the right to object to a TPO provided they respond within 28 days of the TPO being served. That period has now expired. No other objections have been received in relation to TPO 948.

I am planning to install fence panels at the property, this would require removal of the Beech T1.

Installation of fence panels at the property should not necessitate removal of Beech T1. An Arboricultural consultant can provide advice on the most suitable solution with regards to installing structures or fencing in close proximity to trees. A list of registered Arboricultural consultants can be provided by the Tree Officer if required.

- 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 on September 7th. 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 trees T1 and T2 merit 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 Arboricultural 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: Kanti Hirani	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 31 August 2011		
Name: Abiodun Kolawole	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 22 August 2011		

Section 4 - Contact Details and Background Papers

Contact: Rebecca Farrar, Assistant Arboricultural Officer, ext. 6092

Background Papers: None