

## **TRAFFORD METROPOLITAN BOROUGH COUNCIL**

### **PLANNING (TREE PRESERVATION ORDER) SUB COMMITTEE**

#### **REPORT OF THE CHIEF PLANNING OFFICER ON OBJECTIONS TO TREE PRESERVATION ORDER NO. 387**

1. A provisional Tree Preservation Order was made on the 8<sup>th</sup> November 2012 to protect a mature English Oak tree standing in the rear garden of 18 Woodville Drive, Sale, Cheshire M33 6NF. The Order was instigated by a resident of Whitefield Road, Sale who had been advised by the tree owner that he was desirous of felling the tree to make more room for his children to play in the garden and to enable him to erect a greenhouse and detached office building. The tree owner also expressed concern about any potential hazard to users of the garden that the tree might pose.

A provisional Tree Preservation Order was made to give the Local Planning Authority greater control over the fate of the Oak tree. The tree had been inspected by the Council's Senior Planner (Arboriculture) prior to the service of the provisional Tree Preservation Order and he noted that the tree was typical of the species and in good health and vigour at the time of the inspection.

2. The Council received one letter of objection to the Order, submitted by the owner of the Oak tree. The Council also received four items of correspondence in support of the Order.

3. The grounds for objection raised are:

a) Concern relating to safety and liability for injury or damage to property on account of falling aerial portions of the tree.

b) Falling leaves: the tree owner has received complaints from elderly neighbours about leaf litter from the tree accumulating in their garden and he also states that leaf litter is also a problem within his own garden.

c) The tree owner and his family would prefer to pay for the tree to be removed, in preference to meeting the ongoing cost of annual pruning.

d) The tree owner is of the view that the enforced retention of the tree, the need to manage the tree by pruning and the acceptance of liability for any damage caused by the tree would be in breach of his family's human rights.

I have the following comments to make to these objections:

a) Trees that are dead or dangerous are exempted from Tree Preservation Orders under Section 198(6a) of the Town and Country Planning Act 1990. Local Authorities have adequate powers to make dangerous trees safe, if the tree owner fails to do so, under The Local Government Act (Miscellaneous Provisions) 1976. Tree inspections are undertaken free of charge by the Council's Senior Planner (Arboriculture) upon request and the condition of the Oak tree at 18 Woodville Drive may therefore be monitored at no cost to the tree owner. The Oak tree appeared to be in good health and vigour at the time of the inspection made by the Council's arboriculturist prior to service of a Provisional Tree Preservation Order.

b) It is accepted in common law that all trees, of both deciduous and evergreen species, will produce debris in the form of leaves or needles, dead twigs, flowers, fruits and seeds. There is no liability on the part of a tree owner for the accumulation of this matter within nearby properties.

c) Annual pruning by a tree surgery contractor would be excessive and unnecessary for a species such as English Oak. A cyclic pruning regime involving the pruning back of regrowth every five years, if necessary, would be in accordance with good arboricultural practice.

d) The current Planning Act empowers Local Planning Authorities to make Tree Preservation Orders if it is 'expedient in the interests of amenity' to do so. Furthermore, Tree Preservation Order legislation was recently revised with the introduction of The Town and Country Planning (Tree Preservation)(England) Regulations 2012. The Human Rights Act 2000 does not affect the ability of Local Planning Authorities to make Tree Preservation Orders nor remove a tree owner's duties and responsibilities in relation to the management of their trees.

4. Messages of support for the Order received by the Council included the following comments:

- The tree provides an educational resource for local children.
- The tree provides a habitat for a diverse range of wildlife species.
- The tree provides shade from the sun and privacy for children at play.
- The tree improves the local landscape and its loss would be detrimental to the latter.

## **Conclusion**

The objections raised are not substantive and it is recommended that the Order be confirmed without modification.

## **Accompanying Documents**

1. Copy of Tree Preservation Order 387
2. Copy of the letter objecting to the Order.
3. Copies of the letters supporting the Order.

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