

PLANNING COMMITTEE

8 MARCH 2011

REPORT OF THE INTERIM HEAD OF PLANNING

A.5 PROVISIONAL TREE PRESERVATION ORDER 10/12 – LYON CLOSE, HOLLAND ROAD, CLACTON

1.0 PURPOSE OF THE REPORT

To determine whether the provisional Tree Preservation Order, made in respect of nine individual trees and two groups on land at Lyon Close, Clacton on Sea, should be confirmed or allowed to lapse.

2.0 BACKGROUND

During the winter of 2009-2010, a review of the council's tree preservation orders was undertaken in accordance with government advice that local planning authorities keep their TPOs under review so that they are up to date and accurately reflect the amenity value of trees still present.

3.0 SITE ASSESSMENT AND AMENITY VALUE

On the 18 November 2009 a site visit was made to carry out an assessment of the amenity of trees shown as T1-T10, A1 and G1-G5 on an existing tree preservation order, TPO 78/22. The trees were situated on land around several properties along Lyon Close and Holland Road. The land was formerly the grounds of Middlesex Hospital at the time the original TPO was made and since then has been developed with new housing surrounding the old hospital building.

Several of the trees shown on the original TPO are no longer present but the trees still present were generally in reasonable to good condition and very visible from both Lyon Close and the busier Holland Road.

4.0 REPRESENTATIONS/OBJECTIONS

Following notification of the making of the Order to the owners of properties with trees and adjacent properties, one letter of objection was received.

The owners of 12 Lyon Close have lodged an objection to the provisional Tree Preservation Order. The objections must be fully considered to determine whether or not to confirm the Order in light of the objections.

In summary the objection from the owners of 12 Lyon Close are as follows:

- 1. The tree is much too big already and only 27 feet from our house.*
- 2. Our surveyor has said he was worried it could damage our foundations.*

3. *The tree already needs cutting back.*

To address the objections two letters were written to the residents requesting a meeting but no response was received so a site visit was carried out on the 11 January 2011. No one was at home and no access to the rear garden was available. The response to each point above is as follows:

1. The tree has been the subject of a TPO since 1978 and has been of a mature size for a considerable time. The properties in Lyon Close are relatively new and the tree would have been mature when they were built. A subjective view that a tree is 'too big' is not an appropriate reason to remove a tree.
2. No information has been supplied to support the concern over foundation damage. The tree would have been of a mature size when the houses in Lyon Close were built and foundation design should have taken account of the tree.
3. A TPO does not prevent work to trees and a reasonable request for appropriate pruning of the tree is unlikely to be withheld. An application for works to this tree would have been required since 1978.

5.0 CONCLUSIONS

There is a statutory duty on local planning authorities, set out in Part 8 of The Town and Country Planning Act 1990, in the interests of public amenity to make provision for the protection of trees.

In addition, government guidelines are that all TPOs should be updated regularly, particularly older orders that contain area orders which are difficult to regulate and often cause confusion amongst the general public. This is what has been carried out in this particular case where an existing, old order has been brought up to date.

This tree is a mature, healthy specimen and has considerable amenity value to the locality. Its removal would have a significant detrimental impact on the local environment and its enjoyment by the public.

Following consideration of the representations made by the residents it is felt there is no substantive reason why the order should not be confirmed.

6.0 RECOMMENDATIONS

That Tree Preservation Order 10/12 is confirmed without modification.