

**9 Lynwood Road, Epsom, Epsom, KT17 4LF**

Objection to the implementation of a Tree Preservation Order on a group of 5 limes at 9 Lynwood Close, Epsom - Tree Preservation Order No. 456

|                         |                     |
|-------------------------|---------------------|
| <b>Ward:</b>            | <b>College</b>      |
| <b>Contact Officer:</b> | <b>Jeremy Young</b> |

**1 Summary**

- 1.1 This report is for the Planning Committee to consider whether to confirm Tree Preservation Order (TPO) No. 456 following objections to its implementation by the property owner of flat 1 - 9 Lynwood Road.
- 1.2 9 Lynwood Road is divided into 5 flats and is situated in the Burgh Heath Road Conservation Area. A section 211 notice was received on 22/3/2017 from a tree work contractor acting on behalf of the owner of flat 1 (application No. 16/01900/CAT). This application gave six weeks' notice that it was intended to pollard the 5 Lime trees situated on the property frontage. Officers evaluated the proposal early in the application process and advised the agent that pruning was considered too harsh and detrimental to landscape amenity. The agent was advised that a Tree Preservation Order could be served to block the tree work proposal. Officers recommended that the proposal should be amended to a lighter more sensitive operation of crown reduction and an alternative specification was suggested.
- 1.3 No amendment to the specification was received and following an amenity appraisal of the trees, delegated authority was obtained and a provisional TPO was made on 3<sup>rd</sup> May 2017.
- 1.4 The flat owner at no.1 objected to the TPO on 14<sup>th</sup> May 2017.
- 1.5 Where objections are received these are reported for consideration by the Planning Committee. A decision is required whether the order should be confirmed, modified or revoked after taking into account the amenity implications and the validity of the objections received.

**2 Site description**

- 2.1 Lynwood Road was originally laid out for housing between 1895 and 1913. No. 9 Lynwood Road is an early 20<sup>th</sup> century house and along with 1, 7a and 7b are the only buildings in this road that are shown in the 1913 map. The property is a large detached property set in a spacious plot with a pleasant sylvan character to the grounds. In 1949 permission was granted for the property to be converted into 5 flats. The grounds are now communal gardens for the five flats.

- 2.2 The rear garden of No.9 has a more open character. There are trees on the east boundary but the defining treescape feature from easterly views is a Copper Beech located in the rear garden of Leysin, Lynwood Avenue which adjoins the garden. Leysin and No. 11 Lynwood Road are both infill properties built in the former garden extent of No.9. Located on the south side of the garden between No. 9 and No.11 is a stand of mature, mainly broadleaf trees, that makes a good contribution to the sylvan quality of the garden and the street scene. On the frontage of the property are the 5 Lime trees that stand in a row.
- 2.3 The five Lime trees subject of the TPO are the most visually dominant trees on the site when viewed from Lynwood Road frontage. Collectively these Limes give considerable sylvan amenity and character to the landscape of the street and the front garden environs. The trees are estimated to be 70 years old. Limes are long lived species and can have a life expectancy over 200 years. These trees are therefore of middle age class with potentially good longevity. The Limes have attained average crown spreads of approximately 8-11m and the trees are located approximately 14m from the front of the house. In height the trees range between 9m and 15m. They are all lapsed pollards but two of the trees are smaller as they have been pollarded more recently.
- 2.4 All five Limes have been assessed to be in a good condition. The stems appear outwardly sound, free from adverse pathogens (diseases) and the trees have no observable biomechanical defects. Minor dead wood was observed in the crowns, which is natural.
- 2.5 The canopy of the Limes hangs a little low over the highway but this could be easily remedied by periodic light tree surgery. At a distance of 14m from the house there is sufficient spatial separation for the trees to grow to their full potential and not encroach directly on the building. However, it is accepted that if the trees reached their full height and spread they would shade the building.

### **3 Proposal**

- 3.1 When a tree preservation order is served it takes effect immediately for a provisional period. If the TPO is to remain valid it must be confirmed within expiry of six months from the date the order is made or a new order has to be made. There is an opportunity for those affected by the TPO to raise an objection or make comments. The Committee has agreed that any unchallenged orders are confirmed automatically. Where objections are received these are reported for consideration by the Planning Committee and a decision is required whether the Order should be confirmed, modified or revoked after taking into account the amenity of the tree and validity of the objections received.
- 3.2 Subsequent to the making of this TPO one objection has been received to its implementation from the owners of flat 1 – 9 Lynwood Road. The letter of objection is appended to this report and Members are advised to take account of the points raised.

3.3 In summary the basis of the objection to the TPO on the Limes are set out below:

- The trees are not deemed to be of high public amenity.
- Three of the trees represent a risk of danger from falling debris (most notably to cars parked in the street).
- The risk of the trees being felled or pruned inappropriately is unfounded.
- Previous land owners are felt to have neglected the trees which are vigorous. The proposed work, although more extensive, is only to redress this backlog.
- Residents feel that the pruning would improve visual amenity.

#### **4 Consultation and comments from third parties**

4.1 The TPO was served on the owner/occupier of the 5 flats and the freeholder. The trees do not overhang neighbouring property other than the public highway.

4.2 Neighbours have not submitted written objections or observations on the TPO and no letters have been received in support of the TPO.

4.3 Relevant planning history

| <b>Application number</b> | <b>Decision date</b> | <b>Application detail</b> | <b>Decision</b>         |
|---------------------------|----------------------|---------------------------|-------------------------|
| 9903/986                  | 01/11/1949           | Conversion into 5 flats   | Agreed                  |
| 96/00602/CLE              | 28/10/1996           | Use as 5 contained flats  | Permitted               |
| 09/00060/CAT              | 21/05/2009           | Felling of Lime           | No objection raised     |
| 16/01900/CAT              | 03/05/2017           | Pollarding of 5 Limes     | Proposal blocked by TPO |

#### **5 Planning Policy**

National Policy Planning Framework (NPPF) 2012

Chapter 11 Conserving and Enhancing the Natural Environment

Core Strategy 2007

Policy CS1 Sustainable Development  
Policy CS5 Built Environment

Development Management Policies 2015

Policy DM5 Trees and Landscape  
Policy DM9 Townscape Character and Local Distinctiveness

## 6 Planning considerations

### 6.1 Amenity Considerations

- 6.2 The Town and Country Planning Act 1990, Section 198 provides that Local Planning Authorities may make a Tree Preservation Order (TPO) if it appears to them to be “expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”. Tree preservation orders and trees in conservation areas planning practice guidance (updated 6/3/2014) recommends that “TPO’s should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future”
- 6.3 To define what amenity means in practice, the Council’s procedure is to use a systematic scoring system to evaluate whether a tree/s has sufficient amenity to justify the serving of a TPO. This also ensures a consistent approach to tree protection across the Borough. In considering the amenity value such factors as the size, age, condition, form, rarity, prominence, screening value, appropriateness to setting and presence of other trees are taken into account.
- 6.4 In considering the Conservation Area Notice to Pollard the Lime trees the Tree Evaluation Method for Preservation Order (TEMPO) system was undertaken to evaluate whether a TPO in this case was defensible and justified. Under this system the trees scored a sufficiently high grade to justify the TPO. The amenity appraisal demonstrates that it is both expedient and appropriate to protect the Limes in the interest of amenity. The tree amenity evaluation data sheet and decision guide are attached to this report.
- 6.5 The Limes make a very pleasant contribution to the amenity of the landscape and in particular enhance the pleasant leafy character of the road. Officers noted that the aesthetic quality of the trees enriches the site and helps soften the built form. In addition ornamental qualities of the trees such as the yellow autumn colouring, vividly fresh juvenile foliage in the spring and the trees general contribution to green infrastructure was noted. Heavy pollarding of the trees, as specified, would have significantly denuded the tree mass and their contribution to the landscape. The tree work would have been very noticeable because the Limes are clearly visible in the public realm (the street) and the large extent of tree canopy mass proposed to be removed would leave a very skeletal and bare tree form. In the case of the larger three Limes the resultant pruning wounds from this work would be detrimental to the health of the trees because of the excessive pruning wound size and the increased risk of decay entering and rotting the woody structure. A TPO was deemed justified because of foreseen damage to the trees and harm to landscape amenity. Creation of the tree preservation order was deemed necessary as the work could proceed by default after the six week section 211 Notice unless the Council acted by making a Tree Preservation Order to block the proposal and protect the trees.

- 6.6 Members should also be aware that the Burgh Heath Road Conservation Area Character Appraisal and Management Proposal 2010 makes special mention of the sylvan character trees give to this area. The study views the treescape of the conservation area to be a very positive benefit and advocates that all trees need to be protected from inappropriate lopping or felling to help preserve the attractive spacious and sylvan character.
- 6.7 Validity of the Objections
- 6.8 Officers have considered the reasons for the objection to the TPO and do not feel these reason are justified. Officers do not agree that the trees have low public amenity. The trees are fairly sizable, clearly visible in the public realm, attractive, are in a good condition and have a good future life expectancy. They have the potential to get larger and contribute further.
- 6.9 There appears to be a misunderstanding by the applicant that the Council can refuse conservation area tree work notifications. This is not the case. The Council can either raise no objection or they have to make a TPO to prevent the tree works. The potential consequences of creating a TPO was communicated to the applicant's agent early in the application process. An opportunity was given for them to amend the proposal which was not taken up. Officers recommended the following tree work:-  
*2 smaller Limes – Thin the crowns by 35% and raise the crowns for 3.75m ground clearance. Reduce lateral branches towards the road to a line just back from the kerb line.*  
*3 Larger Limes – Raise the crowns for 4m ground clearance. Reduce the crown height by 2m and radial spread by 1.5m, pruning back to suitably strong growing points. Clean out dead wood.*
- 6.10 There is no evidence to support that three of the trees are in a dangerous condition. Minor dead wood was noted in the crowns of the trees but this could be simply addressed with pruning work to remove dead branches and stubs. The Council has no objection to this routine maintenance and the removal of dead wood is classed as an exception to the normal requirement to obtain tree work consent. Dead wood removal can therefore proceed without the need for an application to be approved.
- 6.11 Officers consider that some of the concern over safety of the Limes arises because of an apprehension over their size and the target area of parked cars below. Often there is a perception that trees need to be reduced regularly to keep them contained and safe. Such views are not supported by arboricultural evidence and to the contrary heavy pruning of trees can often introduce decay which means the trees become more hazardous in the future.

- 6.12 Pollarding is an operation that can sometimes be practiced to manage trees. It originates from old pasture wood systems where ladders were leant against trees and branches periodically cut off for firewood, pole etc. In more recent years the practice has fallen into decline as tree surgeons, with more sophisticated climbing equipment, are now able to access most parts of a tree's canopy and undertake more sensitive pruning works. Pollarding is detrimental to tree health if it involves heavily pruning back trees with full or regrown crowns. Modern practice only advocates pollarding 1) early in a tree's life cycle and pruning regularly thus limiting the size of pruning wounds; or 2) if the tree is over-mature and it is a means of prolonging the safe retention of the tree. The British standard for tree work 3998 2010 advises that it is undesirable to wound trees so severely that major dieback or extensive decay is likely to ensue. The standard specifically states that retrenchment pruning (light phased crown reduction) is the main option for managing lapsed pollards. In this case officers are not discounting sensitive pruning, they are just objecting to heavy crown reduction which is likely to be detrimental to the health and amenity of the trees. Light or selected crown reduction will reduce end loading weight of branches sufficiently to relieve biomechanical pressure from leverage forces. The tree work likely to be looked upon favourably will ensure the trees are managed for safety but also in a way which preserves their aesthetic contribution to amenity.
- 6.13 Officers have indicated the proposed level of pollarding to these Limes which was sought from this application, by marking the pruning points (with red dashed lines) on the photographs attached to this report. Members should be aware that if this TPO is not confirmed heavy pruning to these points could then proceed.

#### Expediency

- 6.14 The pollarding notification indicates the applicant's intention for the trees. Officers have assessed that this pruning is inappropriate. In view of this appraisal it would therefore seem reasonable for the Council to believe the trees are at risk of being pruned in a harmful way.
- 6.15 Once the amenity assessment indicates the trees are worthy of protection and there is a risk the proposal will be harmful to amenity it becomes more compulsive for the Council to act and issue a TPO.
- 6.16 Confirming the TPO will have the effect of creating a planning constraint on the use of the land, however this impact is not considered to be a disproportionate burden on the owner or leaseholders who would retain the right to make applications for tree works and appeal planning decisions.

## **7 Conclusion**

- 7.1 Lynwood Road is an attractive tree lined road and is popular for its older style houses and leafy appeal. The Limes make a significant contribution to this sylvan character of the local landscape and street scene. The Limes are all healthy of good form with a useful degree of safe life expectancy.

- 7.2 If the order is not confirmed the trees could be heavily pollarded to the detriment of their health, visual character and amenity to the landscape.
- 7.3 The inappropriate tree work proposed is contrary to policies contained in the Development Management Policies Document and the Core Strategy of the Local Development Framework - these seek to conserve and enhance landscape character and the natural environment. Confirmation of the TPO and retention of the tree promotes environmental sustainability.
- 7.4 It is the officer's view that the objections raised against the making of Tree Preservation Order No. 456 do not override the public interest to protect the trees as an amenity and natural feature.

## **8 Recommendation**

- 8.1 That Tree Preservation Order No. 456 is confirmed without modification.