

LOCATION: SWEETS WAY, LONDON N20

REFERENCE: TRE/BA/86

WARD: Totteridge

PROPOSAL: To seek authority for confirmation of Tree Preservation Order, without modification.

RECOMMENDATION:

1. That the Council, under Regulation 7 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 confirm the London Borough of Barnet, Sweets Way, London, N20 (No.2) Tree Preservation Order 2013 without modification.
2. That the objector(s) be advised of the reasons.

1. MATERIAL CONSIDERATIONS

Relevant Planning Policies and Guidance Adopted

- Local Plan – Core Strategy (Adopted September 2012) – Policy CS7
- Local Plan – Development Management Policies (Adopted September 2012) – Policy DM01

Relevant Planning History

- Report of Assistant Director - Development Management and Building Control dated 21st October 2013
- B/02710/13 – Land between Sweets Way and Oakleigh Road North, London, N20 – Demolition of all existing buildings and outline planning permission (with all matters other than access reserved) for new residential dwellings (Use Class C3), comprising up to 189 houses and up to 171 flats (up to 360 new dwellings in total), and a community building (Use Class D1) providing up to 292m² of floorspace. The provision of site access from Sweets Way and Oakleigh Road North.
 - Planning and Environment Committee on 18th December 2013 resolved to refuse planning permission for the reasons set out in the officer's report
 - Mayor of London advised on 15th January 2014 that he is content that Barnet Council should determine the application, subject to any action by the Secretary of State
 - Decision Notice issued 20th January 2014
- TPO/00729/13/B - Sweets Way, London, N20 0NT - 1 x Rowan (App Ref 163) - Remove. 2 x Plane (App Ref 97, 118) - Remove Broken Branches and Make Safe. Standing in Area A1 of Tree Preservation Order - Storm Damage
 - Exemption Notice issued 28th November 2013

- TPO/00738/13/B - Sweets Way, London, N20 0NT - 2 x Walnut (App Ref 6, 7), 1 x False Acacia (App Ref 38) - Remove Deadwood. Standing in Area A1 of Tree Preservation Order
 - Exemption Notice issued 28th November 2013
- TPO/00729/13/B - Sweets Way, London, N20 0NT - Crown Clean as Specified:- 2 x Sycamore (App Ref 12, 13); 5 x Norway Maple (18, 26, 27, 28, 59); 1 x Walnut (41); 1 x Oak (157); 1 x Cedar (169); 1 x Ash (171); 1 x Lime (223). Fell:- 1 x Sorbus (131); 1 x Manna Ash (173); 1 x Ash (174). Pollard at 8m above Ground Level:- 2 x Silver Maple (68, 69). Remove Large Stub to W at 3m, Cut Back Branch at 4m to E by 6m:- 1 x Ash (57). Cut Back 2 Branches to E by 3-4m:- 1 x Ash (78). Cut Back Lower Branches 3m to S:- 1 x Ash (186). Decay Investigation:- 2 x Ash (54, 172); 2 x Silver Maple (73, 155). All Standing in Area A1 of Tree Preservation Order
 - Conditional Consent granted 20th January 2014

Background Information/Officers Comments

A Tree Preservation Order was made on 21st October 2013 on the basis that it was expedient to do so in the interests of amenity in the light of a planning application for redevelopment at Land between Sweets Way and Oakleigh Road North, London, N20 for "Demolition of all existing buildings and outline planning permission (with all matters other than access reserved) for new residential dwellings (Use Class C3), comprising up to 189 houses and up to 171 flats (up to 360 new dwellings in total), and a community building (Use Class D1) providing up to 292m² of floorspace. The provision of site access from Sweets Way and Oakleigh Road North" (B/02710/13). The 'Sweets Way' land is a residential estate formerly occupied by the Ministry of Defence of some 6.7 hectares / 16.7 acres. A Tree Preservation Order request had been received from local residents and Planning Officers had raised concerns as the proposal had significant implications for trees at the site, both in their own right and in the context of the impact on the character and appearance of the wider surrounding area.

Some arboricultural information was submitted as part of the planning application (Landmark Trees Arboricultural Impact Assessment Report dated 24th June 2013 and associated plans).

230 trees on or around the site were surveyed for the Report – of which 1 tree was assessed as BS5837:2012 Category A; 126 as B; 40 as B/c; 59 as C; and 4 as U. The Report concluded that the primary impacts would affect 175 trees on site – the principle primary impact being the felling of 145 trees (including a number of the B category trees). A number of the 'retained trees' were considered likely to be affected by proposed construction in very close proximity.

The trees are prominent and a number are of significant size (e.g. the A category Oak is 22m in height with a stem diameter of 1090mm; and a number of other mature trees are 15 – 20m in height). The tree stock is a good mix of species and age ranges – thus making a valuable contribution to public amenity visually, environmentally, and ecologically.

These trees are very clearly from the Sweets Way estate, contributing significantly to the verdant character of the area – a green enclave behind the busy urban High Road. The trees are also visible above and between the buildings from Oakleigh Road North, High Road, Greenside Close, Darcy Close, Attfield Close, Domville Close and Millsom Close. The trees provide significant screening, both within the site and between the site and

surrounding residential housing. The trees are important in the context of the estate (the houses have small individual gardens set in larger communal green parkland areas) and also tie the Sweets Way estate into the wider surrounding residential area in which trees are a significant part of the character and appearance of this part of Whetstone.

The trees are considered to be of significant public amenity value and, with appropriate cultural attention, these trees might reasonably be expected to make a positive contribution to local amenity for the foreseeable future and it was therefore considered appropriate to include the trees in a Tree Preservation Order. Given the large number of trees on site, many of which had been identified by the applicant's own consultant as being in BS 5837:2012 Categories A / B / B/c, it was considered appropriate to include the trees in an area designation. This affords all of the trees an immediate level of protection which was considered necessary given uncertainty about the nature of future development (it being subject of an outline application with all matters other than access reserved). Inclusion of the trees in an Order renders them a material consideration in any planning application and allows the Council to impose conditions, if appropriate, to protect the trees.

When the southern part of the former Ministry of Defence land at Sweets Way was redeveloped from offices to what is now Greenside Close and 118 – 152 (evens) Sweets Way, the "London Borough of Barnet Sweets Way, London, N20 Tree Preservation Order 1989" (internal reference TPO/CA/237) was made. For the avoidance of doubt, the Order made on the northern part of the land has thus been referred to as the "London Borough of Barnet Sweets Way, London N20 (No.2) Tree Preservation Order".

Notices were served on the persons affected by the Order in accordance with paragraph 1(a) of Regulation 5 of the Town and Country Planning (Tree Preservation) (England) Regulations.

An objection has been received from:-

Planning Consultant on behalf of Annington Property Ltd, applicant for the 'Sweets Way' redevelopment proposals.

The Tree Preservation Order secures the protection of the trees on a provisional basis for up to six months from the date of making, but an Order needs to be formally confirmed for it to have long-term effect. The Council is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

The objections of the Planning Consultant can be summarised as:

- After citing from the National Planning Policy Guidelines "*Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management.*" he suggests that it was not expedient to make the Order as the voluntary informal notice of intended remedial / maintenance treeworks given by the landowner to the Council demonstrated that the trees on site were under good management.
- Suggesting that the trees are not of '*special amenity value*' and do not make '*a significant contribution to the character and appearance of the area*'.

- Suggesting that Barnet's planning team had never given any indication that the trees across the site were considered to be of any specific merit or worthy of formal protection during extensive pre-application discussions.
- Suggesting that the Order "implies that any loss of any of the trees would have a *'significant negative impact on the local environment and its enjoyment by the public'* which is not the case at Sweets Way".

In response the Council's Tree and Environment Officer comments as follows:

- (i) The timing of the making of the Order was coincidental with the treeworks notification. A request had been received from local residents to consider trees at the site for possible inclusion in a Tree Preservation Order, especially in the light of redevelopment and the Order made when the extent of potential tree impacts of proposals became more fully apparent.
- (ii) Section 198 of the Act empowers a local planning authority to make a Tree Preservation Order if it appears to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area' - it is to be noted that the Act does not define 'amenity'; nor does it prescribe the circumstances in which it is in the interests of amenity to make an Order; nor does it define 'tree' or 'woodland'; nor does it place a minimum size limit on tree(s). Neither the legislation nor the Guidance prescribes exactly the method for assessing amenity. It is 'amenity' that is paramount. As set out above, the trees are considered to be of significant public amenity value – visually, environmentally, and ecologically - especially taking account of their quantity and quality (many being identified by the applicant's own consultant as being in BS 5837:2012 Categories A / B / B/c); visibility from a number of publically accessible locations; provision of screening; and contribution to the character of the area.
- (iii) As trees do not benefit from the provisions and protection afforded by a Tree Preservation Order until such Order is formally made and served, it is not usual to give advance notice of an intention to include trees in an Order.
- (iv) The confirmation of the Tree Preservation Order and assessment of planning application for redevelopment are separate procedures. If it is considered that, because of implications for trees, a planning permission should be refused or granted subject to conditions to protect the trees, a Tree Preservation Order should be in place in accordance with the planning legislation. Confirmation of the Order would render the trees an ongoing material consideration in any planning application - the merit of trees and appropriateness of retention would be taken into account when assessing the planning application.
- (v) However, it may be noted that the planning application report to the Planning and Environment Committee considered that significant negative impact on the local environment and its enjoyment by the public would result from the direct loss of more than 60% of the 230 trees surveyed (including 71% of the category B and B/c trees (118 of 166)) and with more than 75% of trees surveyed being adversely affected in some way by the redevelopment proposal.

2. EQUALITIES AND DIVERSITY ISSUES

The Equality Act 2010 (the Act) came into force in April 2011. The general duty on public bodies requires the Council to have due regard to the need to eliminate discrimination and promote equality in relation to those with protected characteristics such as race, disability, and gender including gender reassignment, religion or belief, sex, pregnancy or maternity and foster good relations between different groups when discharging its functions.

The Council have considered the Act but do not believe that the confirmation of the Order would have a significant impact on any of the groups as noted in the Act.

3. CONCLUSION

The confirmation of the Tree Preservation Order is considered appropriate in the light of development proposals for land between Sweets Way and Oakleigh Road North, London, N20. As set out above, it is considered the trees identified in the Order contribute significantly to public amenity, and given normal arboricultural attention are capable of providing amenity value for a considerable time. It is therefore recommended that the Order be confirmed without modification.



This product includes mapping data licensed from Ordnance Survey with the permission of the Controller of Her Majesty's Stationery Office. © Crown copyright and database right 2013. All rights reserved. London Borough of Barnet Licence No. 100017674