

# **BARNET**

**LONDON BOROUGH**

## **COMMITTEE REPORT**

- LOCATION:** PEWTERERS COURT, RECTORY CLOSE, LONDON, N3 1TP
- REFERENCE:** 16/TPO/004
- WARD:** Finchley Church End
- 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 confirms the London Borough of Barnet Pewterers Court, Rectory Close, London, N3 1TP Tree Preservation Order 2016 without modification.
  2. That the person(s) making representations 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 Service Director - Development Management and Building Control dated 29<sup>th</sup> February 2016
- TCP/0059/16 – Pewterers Court, Rectory Close, London, N3 1TP – 1 x Conifer (directly to the right of the main entrance pathway) - Reduce height by 1/3rd, Crown lift to flashing above window, Reshape to dome.
  - s211 Notice of Intent registered 3<sup>rd</sup> February 2016
  - Tree Preservation Order made 14<sup>th</sup> March 2016
  - Decision Notice that a Tree Preservation Order had been made and served separately issued 15<sup>th</sup> March 2016
- TPP/0170/16 - Pewterers Court, Rectory Close, London, N3 1TP – 1 x Thuja - Reduce height by 1/3rd, Crown lift to flashing above window, Trim to achieve a dome instead of a point. T1 of Tree Preservation Order.
  - Refused under delegated powers 3<sup>rd</sup> May 2016 for the reason “The proposal will detrimentally affect the health and appearance of a tree of special amenity value.”

- TCP/0189/16 – Pewterers Court, Rectory Close, London, N3 1TP – 1 x Tamarisk (applicant's ref. X) - Crown clean, Reduce left hand over extended branch by 2 metres and the rest to match, Cut away from sign
  - s211 Notice of Intent registered 23<sup>rd</sup> March 2016
  - Decision Notice - Six week expired date 18<sup>th</sup> May 2016

### Background Information/Officers Comments

A Tree Preservation Order was made on 14<sup>th</sup> March 2016 in the interest of public amenity in the light of a s211 Notice of Intent received from a tree surgeon proposing to undertake works to a conifer standing adjacent to the main entrance pathway at Pewterers Court, to reduce the tree's height by a third, crown lift to the flashing above window and reshape to a dome. The Notice of Intent was registered under reference TCP/0059/16 on 3<sup>rd</sup> February 2016.

The subject conifer is a Thuja which has had minimal previous treatment - it is a single stemmed tree with a narrow conical form that is typical of the species. It is middle-aged to early mature, about 15 metres in height with a branch spread of between 2 - 3 metres and a trunk diameter of 49cm. The tree appears to be in reasonable physiological condition with foliage of good colour and form throughout the crown. There is some minor deadwood close to the trunk – this is typical of the species and there are no obvious major structural faults.

The Thuja serves as a focal point and is clearly visible from along Rectory Close to the junction with Hendon Lane. The top of the tree is also visible from the public footpath that runs adjacent to the north-eastern boundary of Pewterers Court and also from Church Crescent and Priory Close above the properties. It contributes significantly to the character and appearance of the Finchley Church End Conservation Area helping to soften the urban appearance of, and provide a sense of scale to, the large residential block at Pewterers Court. Given the evergreen nature of the tree its visibility is greater during the winter months and this also contributes to its public amenity value.

Judging from its age and location, the prominently located Thuja was planted as part of the landscaping associated with the planning permission(s) for the retirement / sheltered housing flats and warden accommodation. It thus post-dates the St Mary's Rectory Church Crescent N3 Tree Preservation Order 1972 that was made at the site prior to redevelopment as Rectory Close and the construction of Pewterers Court.

The treatment proposed under Notice of Intent reference TCP/0059/16 would be of significant detriment to the health and appearance of this tree and also to public amenity – both by causing significant wounding and drastically altering the form of the tree. The proposed treatment would result in the removal of a very large proportion of the leaf-bearing branch structure from the tree (cumulatively about half) - which would significantly impact on the tree's ability for continued healthy growth. The proposed reshaping, from its characteristic cone to a "dome", would permanently affect its appearance and necessitate frequent future treatment to maintain the topiarised form.

The reasons given for the proposed works in the notification submissions - *“This tree is in need of a height reduction. It was suggested by the police this was needed to help prevent it being climbed by burglars to gain access – it is also blocking the light to the flats opposite”* - did not appear to justify such excessive treatment. The tree would be very difficult to climb (given the dense branches arising from the trunk) and, given the distance between the branches of the tree and the adjacent building, it would be difficult to get from the tree to the building even if the tree were to be climbed. In addition, the proposed reduction in height would not make any difference to whether the tree could be climbed for “access.”

Officers were concerned about the nature and extent of the proposed treatment and during the site visit to inspect the tree, a local resident verbally asked that nothing be done to this tree “because it’s lovely.”

In accordance with the Town and Country Planning Act 1990 (as amended), if the Local Planning Authority wishes to control treatment of a tree subject of a s211 notice of intended treeworks, it must make a Tree Preservation Order (TPO). An application for TPO consent would then be required and would be determined in accordance with the provisions of the relevant legislation (it is not possible to grant consent or refuse a s211 notice of intent).

The Thuja is considered to be of significant public amenity value and, with appropriate cultural attention, might reasonably be expected to make a positive contribution to local amenity for the foreseeable future - it was therefore included in a new 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 e-mailed representation has been received from one of the residents of Pewterers Court.

The Tree Preservation Order secures the protection of the tree 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 representation can be summarised as:

- It seems nearly fully grown and right in front of my window obstructing some of my view. Residents at Pewterers Court have been plagued recently with burglaries, car break ins, vandalism and drug dealing. We were of the mind that if we could just trim some of the bottom branches we would be more able to see clearly our forecourt and gardens.

- Anyway this tree is not our main problem [an adjacent tree was described and photographs provided] Do you think from the pictures I have sent that there should be any problem tidying this tree up.

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

- (i) The inclusion of the Thuja in a Tree Preservation Order would not preclude application(s) for consent to prune a tree included in a Tree Preservation Order being submitted to the Council, in accordance with the planning legislation. Such application would be considered on its merits on the basis of the information submitted at the time. However, it would allow the Council some measure of control over treatment that was considered excessive.
- (ii) Following the making of the Tree Preservation Order, it was explained to the tree surgeon that as the tree was now included in an Order, they would need to submit an application (rather than a s211 Notification) – which would need to be considered formally in accordance with the TPO procedure; that whilst they could resubmit the same form, the new application would be registered under a different reference and dealt with under a different procedure. However, they should be aware that there is a significant difference between the two procedures:
  - A Local Planning Authority can approve / conditionally approve / refuse an application for consent to undertake treatment of a tree included in a Tree Preservation Order (and the applicant would have a right of appeal against the refusal of consent)
  - A s211 Notice of Intent of proposed Conservation Area treeworks is a notification process rather than a consent / refusal
  - If a Local Planning Authority wishes to prevent specified treatment subject of a s211 Notification, it would need to make a Tree Preservation Order, then any subsequent TPO application would be considered and could be refused. Further it was noted that, in deciding whether or not to resubmit, they should take account that the Local Planning Authority had considered it appropriate to include the tree in an Order having received the s211 Notification.
- (iii) The trimming of 'some of the bottom branches' advocated in the representation is significantly less than the treatment proposed by the tree surgeon in the s211 Notice of Intent TCP/0059/16 (Reduce height by 1/3rd, Crown lift to flashing above window, Reshape to dome) or their subsequent resubmission for essentially identical treatment which was registered under reference TPP/0170/16. Whilst lifting of some low branches may allow increased surveillance, the reduction in height would make no difference to residents' ability to see the forecourt and gardens more clearly.
- (iv) A separate S211 Notice was registered under reference TCP/0189/16 for pruning works to the other tree, a Tamarisk (the "main problem"). The six week notification period expired on the 18<sup>th</sup> May 2016 and the specified 'tidying up' can be undertaken.

## 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 interests of public amenity and would allow the Council some measure of control over treatment that is considered excessive. As set out above, it is considered the Thuja tree identified in the Order contributes significantly to public amenity, and given normal arboricultural attention is capable of providing amenity value for a considerable time. It is therefore recommended that the Order be confirmed without modification.

