

Location **53 Princes Park Avenue London NW11 0JR**

Reference: **23/TPO/022** Received: 19th May 2021
Provisional: 04.12.2023

Ward: Golders Green Expiry 04.06.2024

Case Officer: **Glenn Kelly**

Applicant:

Proposal: Tree Preservation Order at 53 Princes Park Avenue (23/TPO/022)

OFFICER'S RECOMMENDATION

That the Council, under Regulation 7 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 confirms the London Borough of Barnet Tree Preservation Order at 53 Princes Park Avenue (23/TPO/022) with no modification or variations before 04.06.2024

OFFICER'S ASSESSMENT

On the 21st November 2023 the council received a request to make a TPO from a concerned tree work contractor, who had visited the site to provide a quotation for the removal of the tree. Following this request the Council undertook an appraisal of the tree on 30.11.2023 by Planning Officers Nathan Nicholls (Senior Ecologist) and Glenn Kelly (Senior Tree Officer).

The officers found a large mature oak tree located in the rear garden of 53 Princes Park Avenue. The following observations were made:-

“53 Princes Park Avenue is a semi-detached residential dwelling. The residential buildings situated within this postcode are typically semi-detached and detached. There are a number of outbuildings in the rear gardens of Princes Park Avenue and Woodlands, some of which are situated in close proximity to trees.

Searches indicate that the residential buildings situated within this postcode were typically constructed between 1900 and 1929 and between 1930 and 1949.

A basic assessment of the site using Google Maps indicates that the oak tree is situated approximately 25 metres from the dwelling, abutting the boundary with 51 Princes Park Avenue to the south, along with 97 and 99 Woodlands, NW11 9QT, to the west.

The Subject Tree

The tree is visible from Princes Park Avenue and stands out as one of the larger trees in the immediate vicinity. This tree stands in close proximity to other established trees situated in neighbouring gardens, which provide limited public amenity and appear to be of sub-optimal form.

Visibility of the tree is partially obscured by residential dwellings however it appears to be of a good condition, displaying high levels of vitality when viewed from public highways. The tree displays no evidence of major dysfunction at the time of observation.

Depending on growing conditions, English oak can live for in excess of 500 years, as such the subject tree would have been retained during the development of the surrounding estate. A review of the immediate vicinity suggests that the subject tree maintains ample clearance from adjacent properties, meaning it is unlikely that there would be a foreseeable necessity for heavy pruning or removal which would be detrimental to public amenity.

Additionally, Woodland Trust research indicates that English oak “supports more life than any other native tree species in the UK” (<https://www.woodlandtrust.org.uk/trees-woods-and-wildlife/british-trees/a-z-of-british-trees/english-oak/>). It is considered that the subject oak is a tree with identifiable habitat importance.”

To ensure that officers maintain their impartiality, the Council utilised the ‘Tree Evaluation Method For Preservation Orders’ (TEMPO) by Forbes-Laird Arboricultural Consultancy Ltd as part of its assessment.

TEMPO is a points-based framework which considers all of the relevant factors in TPO decision-making. Points are awarded on the basis of amenity, retention span, relative public visibility and ‘other factors’ (depending on score) and tallied to produce a recommendation according to the following categories:

Any 0 Do not apply TPO; 1-6 TPO indefensible ; 7-11 Does not merit TPO; 12-15 TPO defensible; 16+ Definitely merits TPO

The Council’s TEMPO assessment concluded that this tree “definitely merits TPO” having produced a total score of 21. However, this is not binding and must be considered in light of other factors. These other factors are included in the officer assessment above.

Once a tree preservation order has been made the local planning authority has six months in which to decide to allow the order to lapse or be confirmed. Once the order has been confirmed it will remain enforce.

CONSULTATION

As a result of this assessment as a TPO: Tree Preservation Order at 53 Princes Park Avenue (23/TPO/022) was made on 04.12.2023 and served on the owners and affected under delegated authority.

Affected properties:-

51 Princes Park Avenue
55 Princes Park Avenue

97 Woodlands
99 Woodlands

Following the service of the order on the property owner and affected properties the Council received 3 objections. One from the tree owner and two from the neighbours at 97 Woodlands and 51 Princes Park Avenue.

If one or more objection to a tree preservation order is made the confirmation of the order must be determined by the planning committee.

The objections can be summarised as:-

Tree over hanging the gardens of neighbouring properties, casting shade, leaf fall and general tree debris, concern about letting young children play in the garden due to branches falling, tree is not healthy future stability of the property,

The matters relating to the liveability of around the tree, the rear gardens of both Woodlands (20m) and Princes Park Avenue (25m) are extensive. Tree located at the end of the gardens does not significantly impact on the property by virtue of the distance.

Trees need regular maintenance when growing in urban areas that are used frequently, and infrequent interventions to remove dead and diseased limbs would address most of the concerns over the tree.

The tree owner was particularly concerned about the risk to property from subsidence, he was invited to provide supporting evidence however, none has been provided. Officers therefore conclude that this is a general concern in relation to trees and properties built in an area known for shrinkable clay soils. Should movement occur then this can be appraised by officers and a decision made based on the evidence. Tree root related subsidence is unpredictable and does not occur in every situation where a tree is in proximity to a building.

LEGISLATIVE BACKGROUND

In accordance with the Town and Country Planning Act 1990 (as amended), if the Local Planning Authority wishes to control treatment of trees it must make a Tree Preservation Order (TPO). An application for TPO consent would then be required for works to the subject tree(s) and would be determined in accordance with the provisions of the relevant legislation. This appraisal considers the appropriateness of making such an Order.

It should be noted that the purpose of a Tree Preservation Order is to provide statutory protection to selected trees which make a significant contribution to public amenity.

The National Planning Practice Guidance provides the following advice in respect of the making of Tree Preservation Orders:

“Orders 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. When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

size and form;

future potential as an amenity;

rarity, cultural or historic value;

contribution to, and relationship with, the landscape; and

contribution to the character or appearance of a conservation area.”

Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.”

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 application would have a significant impact on any of the groups as noted in the Act.

OFFICER RECOMMENDATION

Based on the objections, there still remains a concern that the owners would wish to remove this tree. As such, officers believe it is expedient to confirm the order before 04.06.2024 and so preserving the important visual tree amenity.

The tree owner can apply for permission to remove the tree and, should they wish to do so appeal any decision made by this authority. The appeal process would be undertaken by the Planning Inspectors under Part 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

