

Committee Date			
Address	40 Silverdale Road Petts Wood Orpington BR5 1NJ		
TPO No.	2687	Officer	Chris Ryder
Ward	Petts Wood & Knoll		
Proposal	Confirmation of Tree Preservation Order (TPO) 2687		
Reason for referral to committee	Objections received	Councillor call in No	
RECOMMENDATION		Confirmation without modification	

KEY DESIGNATIONS

Tree Preservation Order (TPO) 2687
Tree Preservation Order (TPO) 333

Representation summary	Objection from property owner and neighbours	
Total number of responses	3	
Number in support	0	
Number of objections	3	

1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- To consider one objection received against the making of Tree Preservation Order (TPO) 2687.
- The oak tree (T1) makes an important contribution to the visual amenity of the surrounding local area, is cohesive with other trees in the vicinity and is awarded high amenity value.
- Members must determine whether to confirm the TPO or allow it to lapse.

2 LOCATION

- 2.1 The site is located on the east side of Silverdale Road, close to the junction with Hazelmere Road.
- 2.2 Tree Preservation Order (TPO) 2687 was made on 24th January 2020 to secure protection to the oak tree in the rear garden of 40 Silverdale Road.



Figure 1 – 40 Silverdale Road



Figure 2 - Oak (T1)

3 RELEVANT PLANNING HISTORY

3.1 No relevant history.

4 CONSULTATION SUMMARY

4.1 The land owner/occupier was served the TPO by recorded delivery. Immediate neighbours were notified in writing of the TPO service.

4.2 Three objections were received and are summarised as follows:

- a) The past property owners had not managed the tree.
- b) The tree overhangs properties severely.
- c) The canopy is close to nearby roofing and is therefore responsible for gutter blockages.
- d) The TPO would restrict pruning works.
- e) The mass of the tree impacts light access to the properties.
- f) The amenity value of the tree is questioned when compared against those situated at the end of gardens.
- g) The size of the tree is now considered a nuisance.
- h) Falling debris has been raised as a concern.
- i) One of the dwelling's occupants is allergic to the oak tree. Symptoms have worsened due to the tree.

- j) The owner of the property and tree should have the right to its management.
- k) Only a portion of the tree is visible from the street scene. Amenity value is only to neighbours opposite.
- l) The tree is 4m from a garage and 9.8m from the dwelling, which poses a risk to building structural integrity. An extract from a homebuyer report is appended and refers to the risk of damage to buildings due to oak trees on clay soils. The report indicates that biannual maintenance pruning is required. Such measures were not a factor when buying the neighbouring property. The Root Protection Area (RPA) has been calculated to exceed 12m. Evidence of movement around the front bay window is referred to within the appended homebuyers report.
- m) Design considerations are listed as interpreted from British Standard 3857.
- n) Gardens are impacted as a result of shade and restrict enjoyment.
- o) The tree is considered to be a contributing factor to damp issues with a neighbouring property.
- p) Leaf fall is noted as a seasonal maintenance complaint.
- q) The tree is suspected to be causing damage to the neighbouring garage.
- r) Tree roots are causing localised lifting of hard landscaping and subsequent trip hazards.
- s) Risk of drain damage; photo appended.
- t) The tree has clearly previously been maintained.
- u) The neighbouring dwelling was purchased on the basis that the subject tree was not subject to a TPO. This is supported by an email to the estate agent, appended to the objection.
- v) The presence of the TPO will impact the future sale of properties.
- w) The tree/TPO would restrict the future extension of the properties to the rear.
- x) The absence of maintenance could result in an issue with the insurance policies.
- y) The removal of the subject tree would open up views to trees at the end of the garden.
- z) The past assessment of trees covered under the older TPO resulted in no protection being placed on the subject oak tree. This would suggest a logical decision was made not to include the tree due to the distance to dwellings.
- aa) It is not considered fair that when an enquiry was made and the following result was the service of the TPO.
- bb) The replacement of the tree would be supported.

5 POLICIES AND GUIDANCE

5.1 National Policy Framework 2019

15. Conserving and enhancing the natural environment

5.2 **The London Plan**

7.21 Trees and Woodlands

5.3 **Draft London Plan**

G1 Green Infrastructure and Natural Environment
G7 Trees and Woodlands

5.4 **Bromley Local Plan 2019**

42 Conservation Areas
73 Development and Trees
74 Conservation and Management of Trees and Woodlands

5.5 **The London Borough of Bromley Tree Management Strategy 2016-2020**

Section 18

5.6 **National Planning Guidance - Tree Preservation Orders and trees in conservation areas (Ministry of Housing, Communities and Local Government)**

Paragraph 020 - 057

6 COMMENTARY

- 6.1 The TPO was made on 24th January 2020 in accordance with The Town and Country Planning Act 1990 sections 198 – 202G.
- 6.2 Further to a visual assessment adopting the TEMPO (Tree Evaluation Method for Preservation Orders) scoring system, a new TPO was considered justified as the tree merited preservation. In summary, the tree has a suitable retention span, a moderate level of public visibility and is cohesive with other trees in the rear gardens of properties in the road.
- 6.3 The Order does not prevent future works from being carried out, but it requires that the Council's consent be gained prior to removing the tree and prior to carrying out most forms of tree pruning. In assessing applications to remove trees or carry out pruning, the Council takes into account the reasons for the application, set alongside the effect of the proposed work on the health and amenity value of the trees.
- 6.4 The TPO is valid for 6 months from the date the order was made. If the TPO is not confirmed within this period, the TPO will cease to exist. Considering the perceived risk to tree as a result in the change of ownership, the continued preservation is pursued.

7 RESPONSE TO OBJECTIONS

- a) The TPO is not designed to prevent necessary works. Any proposed works will be considered for consent via the application process.
- b) A reasonable level of pruning to provide clearance would be accepted following an application.
- c) As above. Gutter guards may be installed to reduce blockages.
- d) Pruning works would be considered on the merits of an application.
- e) Pruning may improve light access, but light loss is not an actionable nuisance in English law in respect of broadleaf trees.
- f) An amenity assessment of the tree concludes that a TPO is justified.
- g) The relationship between property and the natural environment should maintain a balance. The tree should be respected as a feature that existed before the dwelling was built.
- h) Seasonal debris can be removed under exemption.
- i) The tree should not be harmed to address symptomatic complaints of occupants.
- j) Necessary and acceptable management will not be opposed.
- k) The officer's assessment has demonstrated that on the basis of age, cohesion and partial public visibility, a TPO is justified.
- l) More details on property damage would be required as stated in the application form used to apply for works. Evidence of property damage would not necessarily result in consent being granted for proposed works.
- m) British Standard 3857 is relevant to design considerations. The properties are long established.
- n) Gardens containing trees would be foreseeably impacted by shade caused by tree coverage.
- o) Technical reports would need to be supplied and proposed solutions submitted under the application process. This would not guarantee planning consent.
- p) Leaf fall is a seasonal nuisance that all property owners are expected to tolerate, where mature vegetation exists.
- q) As per paragraph (l).
- r) Hard surfacing built around a mature tree would always be at risk of localised distortion. The tree should not have to suffer to repair hard landscaping. A more suitable surface material or design would be guided.
- s) As per paragraph (l). Tree roots are generally attracted to broken drainage.
- t) As per paragraph (a).
- u) Properties were purchased in the knowledge of mature trees in rear gardens.
- v) The London Borough of Bromley Tree Management Strategy (2016-2020) acknowledges the property value gained by the presence of trees.
- w) Proposed developments would be assessed against Council Policy. The tree would remain a development constraint. Each case would be assessed on its own merits.
- x) Trees at this distance from dwellings are common. General maintenance pruning would be considered under application. The demands of an insurance policy would not guarantee planning consent.
- y) It is Council Policy to promote the retention and protection of important trees. The removal of the tree to open a vista would conflict with Council Policies.

- z) TPO 333 did not include the subject tree in the past assessment. No officer notes are available to address why the tree was not included in the schedule of TPO 333. A formula (TEMPO) to assist officer evaluation was introduced in 2016 and adopts a criteria based method of assessment. The outcome of the assessment is that TPO 2687 is merited. The assessment sheet has been appended to the TPO file, however, is a decision making guide for the officer and not available for public scrutiny.
- aa) The Council are made aware and react to threats to trees by undertaking amenity assessments. This is not a deliberate action, but part and parcel of the Council's responsibility to ensure tree populations are preserved.
- bb) Tree replacement would be a planning condition, should tree removal later be justified and permitted.

8 CONCLUSION

- 8.1 The TPO will cease to be valid upon expiry of 6 months from the date of service.
- 8.2 A level of management may be considered reasonable, should a justified application be submitted. Damaging works will be opposed.
- 8.3 Members are advised to confirm the TPO as recommended.

RECOMMENDATION: Confirm TPO without modification.