

Location: **Land Rear of 30-36 Garden Fields, Great Offley**

Applicant: -

Proposal: **Group of 10x English Oak (Quercus robur)**

Ref. No: TPO/00204 (2022)

Officer: **Thomas Howe**

1.0 **Proposal**

1.1 Confirmation of Tree Preservation Order TPO/00204 (2022) – Group of 10x English Oak (Quercus robur), Land At Spinney, Rear Of 30 To 37 Garden Fields, Offley, Herts

2.0 **Site History**

2.1 In accordance with The Town and Country Planning Act 1900 (as amended) and The Town and Country Planning (Tree Preservation) (England) Regulations 2012 North Hertfordshire Council served a provisional Tree Preservation Order dated 5 December 2022 in respect of the above which provides for a period of 6 months for the Local Planning Authority to confirm the Order.

2.2 13/02671/1 - Erection of 63 dwellings consisting of 6 x 1 bedroom flats, 15 x 2 bedroom houses, 21 x 3 bedroom house, 15 x 4 bedroom houses and 6 x 5 bedroom houses; new vehicular access onto Luton Road, associated car parking, cycle and bin storage areas and associated infrastructure (as amended by plans received 5,10 & 16.12.13 and revised affordable housing statement received 16.12.13) – Conditional Permission

- Condition 5: *“The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.”*
- Condition 6: *“None of the trees to be retained on the application site shall be felled, lopped, topped, uprooted, removed or otherwise destroyed or killed without the prior written agreement of the Local Planning Authority.”*

3.0 **Representations**

3.1 A period of 28 days from the date of service of a provisional Tree Preservation Order provides for comments to be made. In this case, two letters of objection have been received, raising the following concerns:

- Homes were purchased on basis that no TPO was in place;
- Protecting the trees will infringe on ability to maintain the tree(s);
- Requirement to apply for tree works would result in unnecessary work;

- Impact of works upon 'common law' and ability to trim branches together with the legal implications of this;
- Incurrence of injuries from the trees and their maintenance;
- Poor condition of trees at present;
- Requests clarification of why this tree group is protected and not the hedges.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 Garden Fields comprises a new build development within Offley. The Spinney is to the rear of No. 30 to 36 Garden Fields, adjacent to the southern and south-eastern boundaries of these dwellings.

4.2 **Key Issues**

4.2.1 When considering whether to confirm the TPO, it is essential that the following points be considered such as: any impact on the local environment in terms of loss of amenity if the trees were to be removed; any benefit in their retention for the present and the future and other relevant factors such as wildlife.

4.3 **Consideration**

4.3.1 Trees represent an important environmental, economic and amenity resource within the built and natural environment. They are recognised within the England Trees Action Plan 2021-2024; Tree Preservation Orders and Trees in Conservation Areas 2014 and the North Hertfordshire Council Tree Strategy 2017 and Climate Change Strategy 2020-2025. In addition to these, Section 14 (Meeting the challenge of climate change, flooding and coastal damage) of the NPPF and Policies SP12 – Green Infrastructure, biodiversity and landscape and NE1 – Landscape, all seek to support the contribution trees make to the natural environment.

A Tree Preservation Order is made by a local planning authority to protect specific trees, groups of trees or woodlands in the interests of amenity. An order prohibits the cutting down, topping, lopping, uprooting, wilful damage, or destruction of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.

4.3.2 Prior to the making of the provisional TPO, a visual assessment of the trees was undertaken by Maydencroft arboriculture consultants. The assessment looked at the condition of the trees at that time (November 2022) and the following findings were recorded:

Roots, buttresses and base of trunks – Difficult to fully assess due to location of some trees in private gardens. Structure of trees otherwise appears in good condition when viewed from ground level.

Crown – Recently reduced, however, trees are in good condition and should recover fully. Crowns are otherwise healthy and are in good condition with strong aesthetic contributions to the locality given their balanced and pleasing shape. Good vitality of crowns with symmetrical growth in previously reduced trees.

Value – High potential for current and future wildlife habitation and this species have the ability for up to 50+ decades of arboriculture value. The group is well established and presently contributes significantly to local amenity with the potential for contributions for the foreseeable future.

- 4.3.3 The conclusion of the assessment recommended the retention of these trees and their subsequent protection by means of a Tree Preservation Order being placed on this tree group. This recommendation was based on the visibility and subsequent amenity value of the trees together with their long-life expectancy and high potential for wildlife habitation. The report also advised that the removal of one or more of the trees would result in harm to the group as a whole by reason of harm to the balanced appearance of the group at present.
- 4.3.4 In terms of the objections received, it is accepted that there may be some impact upon the ability for residents to maintain the trees. However, the Local Planning Authority can and will consider cases on their merits and would incorporate submitted evidence as part of the decision. This evidence can comprise a tree report prepared by an arboriculturist. This is unlikely to impede the residents' ability to maintain the trees as an application for works to a protected tree is free and incorporates a time limit. It is acknowledged that this would result in the introduction of further requirements for maintaining the trees, however, the process is not significantly time consuming or requiring significant effort from landowners and officers.
- 4.3.5 The report provided by Maydencroft does not support the representation that advises of the poor condition of the trees. The contributions made by the trees to absorbing carbon together with the ability for the trees to host animals and other organisms is welcomed given its biodiversity contributions.

5.0 **Environmental Implications**

- 5.1 Trees contribute a key role in helping to tackle the climate emergency and creating a greener district. They not only directly remove carbon dioxide from the atmosphere and provide us with oxygen but also deliver many other benefits including: providing visual public amenity; softening or complementing the effect of the built environment; displaying seasonal changes and providing opportunities for biodiversity; making places more comfortable in noticeable ways by contributing to screening and shade; reducing wind speed and turbulence; reduce flooding by intercepting snow and rainfall and reducing sun glare.
- 5.2 Trees are also a key element of the green infrastructure network, contributing to urban cooling and providing microclimate effects which help reduce energy demands on buildings. They therefore represent a key resource that can significantly contribute to climate change adaptation.

6.0 **Legal Implications**

- 6.1 There are no financial implications for the council at this stage. Compensation is potentially payable only where sufficient evidence has been provided by an applicant to support an application to carry out works to a protected tree and where that application is refused.

7.0 **Human Rights Act Implications**

7.1 The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy his possessions, but it is capable of justification under Article 1 of the First Protocol as being in the public interest (the amenity value of the trees) and subject to the conditions provided for by The Town and Country Planning Act 1990 (as amended) and The Town and Country Planning (Tree Preservation) (England) Regulations 2012 and by the general principles of international law.

8.0 **Alternative Options**

8.1 If the Provisional Tree Preservation Order (TPO/00204) is not confirmed then the trees would be controlled temporarily by the conditions attached to the original planning permission, with return forms advising that the site was completed in 2016.

9.0 **Conclusion**

9.1 Mature trees such as this group of English Oaks play a key role in helping to tackle climate change and to create a greener district. These trees contribute by absorbing carbon dioxide and by providing habitats for a variety of species. Therefore, if the TPO is confirmed, the protection of these trees will not just retain their environmental contributions but also the public amenity values given their relative visibility and their pleasing shape and scale. These would contribute positively to the council's objectives of reducing global warming and carbon emissions.

9.2 Should the TPO be confirmed, it does not result in the inability to maintain the trees and instead requires the submission of a TPO application, with the Local Planning Authority considering the impacts to the trees and any evidence submitted accordingly.

10.0 **Recommendation**

10.1 That the provisional Tree Preservation Order (TPO/00204) be **CONFIRMED**.