
REPORT TO:	DEVELOPMENT CONTROL COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	13 DECEMBER 2005	CATEGORY: DELEGATED
REPORT FROM:	DEPUTY CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	TONY YOUNG (5745)	DOC:
SUBJECT:	TREE PRESERVATION ORDER NO. 246 – LAND AT 27B ROSE TREE LANE, NEWHALL	REF:
WARD AFFECTED:	NEWHALL AND STANTON	TERMS OF REFERENCE:DC01

1.0 Recommendations

1.1 That this Tree Preservation Order be confirmed without modification.

2.0 Purpose of Report

2.1 To consider confirmation of this Tree Preservation Order.

3.0 Detail

3.1 This Tree Preservation Order was made on 14th July 2005 in respect of three trees: an ash and two sycamores. The Order was made for the following reasons:

'The ash tree is a fine specimen of high amenity value. The sycamore's are also worthy of preserving. All three of the trees can be seen from properties around 27B Rose Tree Lane.'

3.2 In opposition to the TPO

3.3 The owner of the neighbouring property has requested the placing of the Order to be reconsidered. She has asked for the following points to be taken into account:

- The ash tree is only half the size of a fully mature ash
- 50% of the branches overhang her property
- the roots are well established and approaching her patio area
- she considers the tree to be dangerous
- she will hold the owner of the tree responsible for any damage the tree may cause to her property and if the TPO is confirmed liability will also be on the Local Authority.

3.4 In support of the TPO

- 3.5 The Council's tree specialist considers there to be insufficient evidence to condemn the tree on dangerous grounds and he was unable to identify with the problems described during his site inspection. He says there is no reason why a reasonable amount of branch thinning cannot take place by way of an application.

4.0 Planning Assessment

- 4.1 The Governments guidance on making and confirming tree preservation orders says that LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. It goes on to say that trees should normally be visible from a public place although the inclusion of other trees may be justified. The benefit may be present or future. The trees have been identified as being publicly visible. There are presently insufficient grounds to justify not confirming the TPO. There are no obvious signs of infection to indicate the tree is potentially dangerous or that it is unreasonably interfering with the private amenity of neighbouring occupiers.
- 4.2 If the Order is confirmed then the neighbour would have the opportunity to apply to prune or fell the tree and provide a case to justify the work. If such an application were refused then the applicant would have a right of appeal. Equally, if compelling evidence is provided confirming that the tree is dead, dying or dangerous then the tree could be felled provided the LPA is given the appropriate notice.
- 4.3 Compensation cannot be claimed from the Council as a result of a tree causing damage following the confirmation of a TPO. This can only occur if damage is caused following the refusal of consent to do work to the tree, which would not have happened if the consent had been granted.

5.0 Financial Implications

- 5.1 None

6.0 Corporate Implications

- 6.1 None

7.0 Community Implications

- 7.1 None

8.0 Background Papers

- 8.1 Tree Preservation Order 246