
REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	1 MARCH 2011	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY SERVICES	OPEN
MEMBERS' CONTACT POINT:	KIM DORAN-PARKES Ext: 5982	DOC:
SUBJECT:	TREE PRESERVATION ORDER 341 - LAND TO SOUTH OF WYE DALE, CHURCH GRESLEY	REF: TPO 341
WARD AFFECTED:	CHURCH GRESLEY	TERMS OF REFERENCE: DC01

1.0 Recommendations

1.1 That this Tree Preservation Order be confirmed.

2.0 Purpose of Report

2.1 To consider confirmation of this Tree Preservation Order (TPO).

3.0 Detail

3.1 This Tree Preservation Order was made on 3rd September 2010 in respect of a Woodland Order on land to the southwest of Nos. 2-14 (evens) Wye Dale, 4 & 5 Beresford Dale, 17, 19, 39, 41, 67 and 69 Wolfscote Dale and 7 & 28 Bramley Dale, Church Gresley.

The order was made for the following reason:-

'The trees within the National Forest provide an important landscape buffer between the existing properties on Wye Dale, Beresford Dale, Wolfscote Dale and Bramley Dale and the newly constructed properties on Phase 4 of the Castleton Park development. The landscape buffer shall be part of the private gardens of the new properties and therefore the trees shall be under increased pressure from the individual owners of the properties in the future. The Council therefore considers that the making of the Order is necessary to protect the high public amenity value of the trees in the future.'

3.2 Letters of objection have been received covering the following points:-

- Occupier(s) were informed by the developer whom the new-build properties were purchased from, that the local council was to plant several trees in the rear gardens of several of the properties. The planting schedule was not adhered to and unsuitable trees have been planted.

- A section of the protected trees was removed as part of homeowner developments to a garden of a property on Newman Drive.
- The buffer zone was firstly to be 20m in depth and this has been reduced.
- The sales office of the new estate informed customers that the trees would only be protected for 5 years and that extensions could be added to the rear of the properties after this point also.
- Should there be any damage to properties, what will be done?
- The planted areas have been referred to in the TPO order as 'public amenity'. How can this be the case when they are in private gardens?
- Why have the new properties been given the tree planting within their gardens as it would have made more sense for the residents of Wye Dale to have received extended gardens on which the trees were planted?
- Who is responsible for the existing hedge between 6 Wye Dale and the properties on Newman Drive?

3.3 In answer to the comments made, the Council has the following comments:-

- The planting schedule was agreed with the developers and this has been adhered to. Any suitable alterations to this planting scheme can be dealt with via the determination of a tree application.
- This issue was resolved through our enforcement procedure. Should there be any other breaches to the protection of these trees we will investigate them once again upon the receipt of any complaint.
- Consideration was given to the suitable depth of the buffer zone to be situated in the private gardens of residents. The implemented scheme was considered suitable in terms of buffering and its location within gardens but any future alterations can be considered under a tree application form where consideration will be given to the suitability of the works.
- The trees covered under the tree protection order will always be protected. The planning conditions attached to the original approval of the development require that a planning application is submitted for extensions, which again remains in perpetuity with the property.
- The responsibility of the trees lies with the owners of the property that the tree(s) are within. Works to trees that are protected can be dealt with under a 'tree preservation order form' submitted to the local planning authority.
- The trees may be located in private gardens but they will at some point be visible from many public vantage points.
- It was not necessary or possible for land to be taken from the developer to be given to the residents of the adjoining housing estate. The level of protection that a TPO places should suitably protect the future of the trees.

- Any vegetation planted that was covered under the subsequent TPO 341 has been planted within the land ownership of the properties within the new housing development. Should the hedge in question be an existing one, property deeds will determine its ownership.

4.0 Planning Assessment

- 4.1 The trees are sufficiently protected under the TPO in order that they can be suitably maintained fit for their purpose, amongst other things, as a buffer zone between the new housing development and the existing one to the north.
- 4.2 Should there be any future issues raised concerning unauthorised works to the trees, we will investigate and resolve the issue in line with government guidelines.
- 4.3 Any proposed works to the trees will be considered under a tree application.

5.0 Conclusions

- 5.1 It is expedient in the interests of amenity to preserve the trees.

6.0 Financial Implications

- 6.1 None.

7.0 Corporate Implications

- 7.1 None

8.0 Community Implications

- 8.1 None

9.0 Background Implications

- 9.1 Tree Preservation Order 341
9.2 Letter 13.10.10
9.3 Letter 05.10.10
9.4 Letter 04.10.10
9.5 Letter 03.10.10
9.6 Email 03.10.10
9.7 Letter 29.09.10
9.8 Letter 27.09.10