



## Planning Committee

14 November 2019

### West Bridgford No.1 Tree Preservation Order 2019

## Report of the Executive Manager – Communities

19/00136/TORDER

### Objector

FPCR Ltd on Behalf of Simms Developments

### Location

Land North of Wilford Lane located to the East and West of Becket Way

### Proposal

Objection to West Bridgford No.1 Tree Preservation Order 2019

### Ward

Compton Acres

## THE SITE AND SURROUNDINGS

1. The West Bridgford No.1 Tree Preservation Order (TPO) 2019 protects trees either side of Becket Way on land north of Wilford Lane in Compton Acres. The land to the east of Becket Way was previously cleared of most vegetation ahead of a proposed supermarket which was never constructed. The land to the west of Becket Way is a neglected paddock. Both sites are now covered in long grass and dense patches of brambles, with some large individual trees and a small number of denser groups.
2. To the north of the sites is the Becket School, the nearest residential properties are at Bede Ling to the East, also to the East of the site is an area of sports pitches with Public Rights of Way running through them. To the West runs the tramline from Clifton to Nottingham.

## DETAILS OF THE PROPOSAL

3. The TPO protects 12 individual trees and 2 'areas' where it was not possible to determine the exact number and species of trees due to a lack of access. Most of the trees are located to the East of Becket Way with 2 individual trees located to the West.

## SITE HISTORY

4. The TPO was made as a response to the planning application to construct retail and residential units on land north of Wilford Lane, reference 18/02920/HYBRID. The application was recently refused and is subject to a yet to be determined appeal. Prior to this application the site to the east of Becket Way was owned by Sainsbury's who cleared most of the site prior to a development that ultimately did not take place. The land to the west of Becket Way is an old paddock, but it currently being marketed for sale.

## **REPRESENTATIONS**

5. One objection has been received from the agent acting on behalf of the owner of the site to the east of Becket Way. They object for the following reasons:
- Although the trees are visible from the public highway none are considered to have high arboricultural or landscape value through the BS5837 assessment. The Tree Evaluation Method for Preservation Orders (TEMPO) also finds the majority of trees not worthy of a TPO.
  - The area category is intended for short term protection and local authorities are advised to use it as a temporary measure until they can fully assess and reclassify trees in the area.
  - Area 1 and 2 consist of outgrown hedgerow forms, although visible from the highway they cannot be considered significant as they do not provide any high value specimens or any other outstanding merit and are considered typical and commonplace. Properties on Bede Ling will need to apply to carry out routine pruning of overhanging branches.
  - Trees T9 - T11 are set back from the boundary and hold little visibility to Wilford Lane or the footpath to the East. These trees along with A2 are under constant pressure to be pruned by the adjacent Beckett School.
  - Objection is raised to the appropriateness of the TPO as although the trees are visible to the public, if the trees were removed they would not result in a significant detrimental impact on the local amenity. The inappropriate inclusion of many of the trees also calls the expediency and appropriateness of the TPO into question. The Order should not be confirmed and instead withdrawn.

### **Local Residents and the General Public**

6. Interested parties were notified of the TPO, this includes all adjoining land owners, no comments or objections were received from the property owners on Bede Ling or the Beckett School. Heineken UK who own the land to the West of Becket Way have not objected.

### **Relevant National Planning Policies and Guidance**

7. Best practice in relation to TPO's is set out on the Gov.uk website at: <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

## **APPRAISAL**

8. As part of the planning application a BS5837 tree survey was carried out, such surveys categorise the quality of trees in the following way 'A' being high quality, 'B' moderate, 'C' low and 'U' for trees which are dead or dangerous. The survey determined that all the trees apart from T4 were category B, "trees of reasonable quality with an estimated remaining life expectancy of at least 20 years." T4 was classed as a category C tree, "Trees of low quality with an estimated remaining life expectancy of at least 10 years". The purpose of such a survey is to determine the quality of trees with a view to the site being developed, whereas a TPO primarily concerns itself

with the appearance and public amenity value of the trees. It is entirely reasonable for a BS5837 class B or class C tree to be protected as it shows the trees have a reasonably long enough life expectancy to warrant ongoing protection.

9. The land subject to the objection was cleared in 2012 to enable a supermarket to be constructed, but shortly afterwards a decision was taken by the applicant not to proceed with the development. As a result of this clearance most of the retained trees are located close to the edge of the site to enable large scale development to take place. In addition, the trees retained were the best quality and those considered at the time to be of sufficient value to warrant retention. One of the reasons for the refusal of the 2018 application to develop the land for mixed retail and residential use was due to the “loss of a substantial protected Lime tree [T3] which occupies a prominent position close to the frontage of the site and makes a significant contribution to the amenities and character of the area.”
10. The objection used TEMPO, a points-based assessment, to consider the appropriateness of the trees for protection and concluded the trees did not meet the criteria to warrant protection. Such assessments are always subjective, and the way the objector’s final scores were determined was not submitted to the Council, so the Council has no way of understanding the specific reasons why the trees are not considered to be appropriate for protection. TEMPO considers the amenity value of trees, retention span, visibility expediency and miscellaneous other factors. There seems to be a large discrepancy between the low TEMPO scores and the fact the BS5837 tree survey considered almost all the trees to be moderate condition. The Council has its own points-based assessment for assessing possible TPO’s, this covers the main considerations of TEMPO, but gives different weights and values. The Council’s assessment allows a consistent evaluation, and this demonstrates all the trees covered by the TPO would meet the criteria to justify protection, which is a score of 11 or above (out of a possible maximum score of 16). A comparison between the scores is given below.

TPO Reference	TEMPO assessment in objection. 1-6 TPO indefensible 7-11 Does not merit TPO 12-15 TPO defensible	RBC Assessment A score of 11 or more justifies a TPO (potential maximum score of 16)
T3	13	15
T4	6	12
T5	9	13
T6	13	14
T7	8	12
T8	8	12
T9	5	11
T10	5	11
T11	5	11
T12	5	11
A1	9	13
A2	8	13

11. It is not strictly good practice to use an area classification, but it remains a tool to be used when making TPO’s. The area classification was used due to

limited site access and the assessment was made from public vantage points. TPO's can be modified and once the future use and development of the site has been decided, and it is cleared and accessible, it is likely that a better assessment of the trees could be made with a view to changing A1 and A2 to a group classification which would specify the number of trees of each species. The purpose of using the area classification was to imply that, in parts of the site, the trees have collective value but are not necessarily woodland. The fact the objection considers the trees in the areas to be "typical or commonplace" is no reason to not protect them as any species can be protected.

12. Local authorities are able to make TPO's when it is "*expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area*". Amenity is not defined in law, but Government advice suggests "*TPO's 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.*" This is usually taken to mean that trees should at least be visible from a public vantage point. It is accepted that some trees are more prominent than others, but all the protected trees are currently visible from either Beckett Way, Wilford Road, Bede Ling and West Bridgford Footpath 8, which runs from Bede Ling through the playing fields to the East of the site. At the current time it is considered all the trees have sufficient public amenity value due to their visual prominence from public vantage points to warrant protection.
13. Both Government advice and the guidance supporting TEMPO assessments makes it clear that the future benefit and amenity value of trees should be considered as TPO's are often made as a result of development pressure. At some point this site is likely to be developed to a greater or lesser extent and the public value of some of the trees could increase in the future and for this reason, the Council considers that all the trees should remain protected until the future of the site is decided.
14. The Council is also required to consider whether it is expedient to make a Tree Preservation Order. Given that the objection to the Order applies to all trees, even ones where the objections recognises that a TPO is defensible, combined with the fact that the recently refused planning application showed that many trees would be felled, including the prominent Lime tree on the junction of Wilford Lane and Compton Acres, there is a foreseeable risk to the trees if they were not protected.
15. The owners of properties on Bede Ling and the adjacent school may have to apply to prune back overhanging branches, whilst it is recognised that this may be a minor inconvenience it is not a reason to prevent the Order being confirmed. The adjoining landowners have been notified of the TPO and none have objected to the Order.
16. It is clear that a TPO is expedient and that the trees protected are sufficiently visible to the public to warrant protection. It is considered that as all the protected trees bar one are BS5937 category B with a minimum expected useful life of 20 or more years that their retention within the TPO is justified and that it should be confirmed.

## **RECOMMENDATION**

It is RECOMMENDED that the West Bridgford No.1 Tree Preservation Order 2019 be confirmed without modification.