

**To the Chairman and Members of the  
PLANNING REGULATORY BOARD**

**Date 17<sup>th</sup> November 2016**

Report of the Assistant Director of Planning and Regeneration Service

ITEM NO.    SUBJECT

1            Proposed Tree Preservation Order No 5, 2016 –  
              Land at 108 Main Street Bramley

**Item 1**

**Proposed Tree Preservation Order No 5, 2016 – Land at 108 Main Street Bramley**



**RECOMMENDATION:**

**That Members confirm the serving of Tree Preservation Order No. 5, 2016, without modification with regard to the 2 trees the subject of this report, situated on land at 108 Main Street Bramley under Section 198 and 201 of the Town and Country Planning Act 1990.**

**Background**

An application for redevelopment of this site was granted planning permission on 21<sup>st</sup> June 2016 (reference RB2016/0114). As part of the application process the Tree Service Manager noted that there are three trees on the site, being trees T1 Sycamore, T2 Silver Birch and T3 Sycamore. T1 and T2 were identified as the better amenity trees with reasonably good future prospects and their retention was considered desirable as they help provide valuable and important amenity to the area and are easily visible from the public highway and surrounding properties.

He recommended that T1 and T2 should be protected by a new Tree Preservation Order.

A Tree Preservation Order was placed on two of the trees on site under a new TPO (ref: No. 5 2016) on 20<sup>th</sup> July 2016 and all interested parties notified.

## Objections

An objection was subsequently received from Anderson Tree Care who act on behalf of Mr Long of AEON Financial Services Ltd. The objection states that the planning permission contains 6 conditions relating to the trees and their protection throughout the build of the project, and that the TPO was served some time after the planning permission was granted, and came 'out of the blue' having not been discussed with the client's architect and Planning Officer.

Objections raised are on the following grounds –

- It is not expedient.
- The trees have insufficient amenity value to justify protection.
- Concerns about the size of T1 and if not controlled there is a significant risk of damage to property, blocking of light and risk of damage to property or injury to persons from falling branches.
- The 'TEMPO' tree appraisal system is not a proper system of amenity valuation and therefore irrelevant.

A late representation has also been received from Fernie Greaves on behalf of the freehold owner of 110 a, b & c Main Street. This states that there is concern about the size of the Tree T1 as it currently overhangs 110 Main Street. If the size of the tree is not controlled there is a significant risk of root damage to the client's property, blocking of light and the risk of damage to property or injury to persons from falling branches from the tree.

The Tree Service Manager has considered the objections raised and has commented as follows:

### The Tree Preservation Order is not expedient

The objector states that the trees are under good management and the Order is unnecessary. He states the trees could have been removed before making an application to develop the site, planning Ref No RB2016/0114. However, because they did not remove them this indicates they are aware of their responsibility to the Borough's landscape and the trees' contribution to the landscape.

T1 and T2 were not subject to any regulations prior to the Order being made and the owner could have removed them as well as an additional Sycamore prior to submitting an application to develop the site. This would have saved the owner the expense of providing a tree survey report to support the planning application, as well as any additional costs associated with their retention as part of the development e.g. special design and construction measures within their root protection areas, RPA's, in accordance with BS 5837 Trees in Relation to Demolition, Design and Construction. However, T2 was shown to be removed on the original site plan to develop the land to accommodate 2 new semi-detached properties to the north of the site, Robin Ashley Architects Dwg No 15-005-05 dated October 2015.

Also, no information was provided to show how it was intended to retain and safeguard the future prospects of T1 and T2 as part of a revised site layout plan, Robin Ashley Architects Dwg No 15-005-05 Rev G (27-05-16). Without this information the future prospects of the trees appeared to be at risk. This is because the development included changes to existing surfaces and excavations within their RPA's that are potentially

harmful unless they are carried out carefully in accordance with the above British Standard and current good Arboricultural practice. For this reason their future prospects were perceived to be at risk and they were recommended for inclusion in a new Order as a holding measure.

The trees have insufficient amenity value to justify protection

The objector believes the trees do not merit protection and disagrees with the TEMPO evaluation scores for both trees. A summary of the 2 TEMPO evaluation forms is as follows.

	<b>T1 Sycamore</b>	<b>T2 Silver Birch</b>
Part 1: Amenity Assessment		
a) Condition and suitability	5	3
b) Retention span (in years) and suitability for Tree Preservation Order	4	2
c) Relative public visibility and suitability for Tree Preservation Order	4	4
d) Other Factors (trees must have accrued 7 or more points (with no zero score) to qualify)	1	1
Part 2: Expediency Assessment (trees must have accrued 9 or more points to qualify)	2	2
Overall Score	16	12
Part 3: Decision Guide	Recommend inclusion in a new TPO	Recommend inclusion in a new TPO

T1 Sycamore

1a) The objector considers the score is optimistic because T1 surrounded by tarmac and concrete and these are not good growing conditions for its future prospects.

The evaluation notes state outwardly T1 appears in reasonably good condition with reasonably good future prospects. It is agreed the surrounding ground surfaces do not provide ideal growing conditions and this may influence the ultimate size and age of T1. However, despite this T1 appears to be growing well and there is no evidence to suggest it is in reduced or poor condition that would qualify a reduced score. Indeed, it is noted that the objector reported T1 tree to be in good condition and growing vigorously in his original tree report for the site dated, June 2016. Also, the proposed development involves changes within part of RPA of T1 that are likely to be beneficial to its future

prospects with the use of permeable materials that should increase the amount of moisture to the roots.

1b) The objector considers the score to be highly optimistic and believes pruning is overdue as indicated in his previous report. He states the tree should score a zero as it is an existing nuisance.

The age of T1 has been estimated at approximately 90 years based on its stem circumference of 2.26m (90.4 inches). The average growth rate of broadleaved trees with a full crown is 2.5cm (1 inch) girth per year as indicated by Alan Mitchell - Field Guide to Trees in Britain and Northern Europe, Collins. The general life expectancy of Sycamore is 200 to 300 years. Taking in to account its position and the existing and proposed site constraints a safe useful life expectancy of 40 to 100 years does not appear unreasonable.

The pruning referred to in the previous report was to low overhanging branches only. This does not involve extensive pruning and permission has not been granted to prune T1 as part of RB2016/0114 as stated by the objector. If the Order is confirmed a small amount of careful pruning could be supported to help maintain adequate clearance above ground level and help ensure it is maintained in a safe and healthy condition. The Tree Service Manager does not agree that because it needs pruning in this way it has outgrown its position. Also, he is not aware of any evidence to substantiate the claim it is a 'nuisance' in a legal sense. Therefore, unless any evidence is provided to show it is causing any difficulties that cannot be resolved without removing T1, this does not appear to be a reason not to confirm the Order as it stands.

1c) The objector believes the score to be overly generous but does not state what score he would award it under the TEMPO evaluation.

T1 is clearly visible from the highway and the approved development will not reduce the level of amenity it provides to the area. It is accepted it is not a very large tree but at 15m in height with a branch spread of 9m it is likely to be of an average size for its age and the site constraints. A reduced score would only apply if T1 was visible with limited view only.

1d) The objector believes the Sycamore is not suitable for its location and for this reason it should qualify for a score of minus 1 (-1).

Sycamore may not be popular urban trees, particularly where there are associated difficulties e.g. aphids that feed on their leaves and secrete a sticky sap commonly known as 'honeydew'. In addition they are regarded by some people as weed species as they often become self-set. A more attractive ornamental species may be more highly valued. However, ornamental trees may not tolerate the site conditions as well as the Sycamore. Also, the branches of T1 only overhang land used for car parking and there is approximately 4m between its branches and any nearby buildings. Therefore, the Tree Service Manager does not agree that it is unsuitable for its location.

### T2 Silver Birch

1a) The objector believes T2 does not have good future prospects considering the site constraints.

The evaluation notes state T2 appears in reasonably good condition with reasonably good future prospects. The objector notes the lower option of 'poor' is overstating the situation. Also the approved development includes changes to existing ground surfaces that should be beneficial to the future prospects of T2. Therefore, under the circumstances, the evaluation score appears reasonable.

1b) The objector considers the score to be optimistic considering it grows in a pub car park.

T2 is approximately 30 to 50 years. Silver Birch generally has a life expectancy of 80 years according to Alan Mitchell. Therefore, a life expectancy of 20 to 40 years may be considered optimistic if T2 is 50 years old. However, if it is 40 years old or less a life expectancy of 20 to 40 years does not appear unreasonable, particularly if the development results in beneficial changes to its growing conditions.

1c) The objectors opinion is that Silver Birch are only ever likely to be small trees, but acknowledges T2 is a decent size at 14m in height but not as big as the Sycamore.

T2 is 15m in height with an average branch spread of 12m diameter and a clear main stem of 2m. This gives an area of 156m<sup>2</sup>. This qualifies it for a score of 7 under the Helliwell System (150 to 200m<sup>2</sup>) rather than 5 (50 to 100m<sup>2</sup>) as indicated by the objector. Because of its size and its position adjacent to the highway, the allocated score under the TEMPO system appears reasonable.

1d) The objector has not made any comments about this part of the evaluation so it appears the allocated score is not disputed.

### Part 2 Expediency

The evaluation notes indicate there was a perceived threat to the future prospects of T1 and T2 due to the proposed development as previously discussed above.

In summary it is felt the TEMPO evaluations for T1 and T2 have not been overly optimistic as stated by the objector. The TEMPO template had been updated, unknown to the Tree Service Manager, prior to the date of the evaluation, though he concludes that this is unlikely to have affected the overall score for T1 and T2 or the recommendation to protect them with a new Order.

Concerns about the size of T1 and if not controlled there is a significant risk of damage to property, blocking of light and risk of damage to property or injury to persons from falling branches.

The concerns associated with the size of the tree are fully appreciated and understood. However, it is not the size of a tree that makes it potentially unsafe, it is its condition. Regular inspections to ensure it is free of any significant defects and carrying out any work necessary to ensure it is maintained in as safe and healthy condition, subject to any regulations, will help to minimise the risk of any personal harm and or damage to property. Due to its position to the north of the existing buildings on Main Street it is unlikely to cause serious difficulties of shading towards the buildings although parts of the car park at the rear of 110 Main Street will be shaded throughout the day particularly when the tree is in leaf.

The TEMPO tree appraisal system is not a proper system of amenity valuation and therefore irrelevant.

The Government's advice in the National Planning Practice Guidance (NPPG) states that,

*"When deciding whether an Order is appropriate, authorities are advised to take into consideration,*

- *what 'amenity' means in practice*
- *what to take into account when assessing amenity value*
- *what 'expedient' means in practice*
- *what trees can be protected and*
- *how they can be identified*

*When granting planning permission authorities have a duty to ensure, whenever appropriate, that planning conditions are used to provide for tree preservation and planting. Orders should be made in respect of trees where it appears necessary in connection with the grant of permission".*

The TEMPO system, Tree Evaluation Method for Preservation Orders, was designed as a field guide to decision making and is presented on a single side of A4 as an easily completed pro-forma. It has undergone a number of minor revisions since its inception and stands as a record that a systematic assessment has been undertaken. It considers all of the relevant factors in the Tree Preservation Order decision making chain including amenity and expediency. It may be used for new Order's or for re-surveying old ones. For these reasons it appears to be in accordance with the Government's advice and is fit for purpose.

#### Additional comments from Mr Anderson

The additional comments within the letter from Mr Anderson do not appear to be relevant to the objection as they relate to the Council's procedure for making Tree Preservation Orders and considering any representations and the Council has responded separately in that respect.

#### **Conclusion**

It is considered that the objections to the Order have been carefully considered and that the Order has been made in accordance with Government guidelines. In this instance, it is recommended that the Order is confirmed without modification.