

**Application Number:** PS/540/15/425**Description** Confirmation of Tree Preservation Order PS/540/15/425**At** 2 Irving Dale, Old Farm Park**For** Milton Keynes Council**Statutory Target:** 14/08/2020**Extension of Time:** No**Ward:** Danesborough and Walton**Parish:** Walton Community Council**Report Author/Case Officer:** Tamlin Barton  
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## 1.0 RECOMMENDATION

1.1 It is recommended that the Tree Preservation Order (TPO) is confirmed.

## 2.0 INTRODUCTION

### The Site

- 2.1 The application site is a residential property on Irving Dale, a cul-de-sac in Old Park Farm. The tree (1x Oak) is located in the corner of the rear garden of the application site and is visible from Boyce Crescent to the west as well as a footpath and Bridleway running along east side of Old Park Farm.
- 2.2 Though the tree trunk is located at 2 Irving Dale, the canopy of the Oak extends over the corners of the gardens belonging to No. 3 Irving Dale and No's 5 and 6 Wishart Green.
- 2.3 The age of the Oak is unknown but it is likely to be in excess of 100 years and it is shown on 1945 mapping on a historic hedge line which was incorporated into Old Park Farm in the 1990s.

## The Proposal

- 2.4 It is proposed by officers that the temporary TPO PS/540/15/425 is confirmed as permanent. The TPO was served as a result of conversations between the MK Arboricultural Officer and residents about potential felling of the tree.

## Reason for referral to committee

- 2.5 The application has been referred to Committee because during the consultation period associated with the new temporary TPO an objection was received relating to service of the TPO.

## Scope of debate/decision

- 2.6 Members can debate whether or not to confirm the TPO as permanent, taking account of the health of the tree and its amenity value.

## **3.0 RELEVANT POLICIES**

### **National Legislation**

- 3.1 Town and Country Planning (Tree Preservation) (England) Regulations 2012

### **Guidance**

- 3.2 National Planning Practice Guidance

Tree Preservation Orders and trees in conservation areas  
Paragraph 001 (Reference ID: 36-001-20140306) – Paragraph 171 (Reference ID: 36-171-20140306)

- 3.3 Human Rights Act 1998

There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

- 3.4 Equality Act 2010

Due regard, where relevant, has been had to the Milton Keynes Council's equality duty as contained within the Equality Act 2010.

## **4.0 RELEVANT PLANNING HISTORY**

- 4.1 Application Site

MK/666/93 Erection Of Twenty Nine Dwellings And Substitution Of House Types  
Boyce Crescent, Old Farm Park, Full Pp, 11-NOV-93

MK/98/94 Erection Of Detached Dwelling 2, Irving Dale (Plot 198 Boyce Crescent),  
Old Farm Park, Full Pp, 05-APR-94

MK/540/93 Detached Dwelling With Double Garage Plot 197 (3 Irving Dale), Old  
Farm Park, Full Pp, 03-AUG-93

## **5.0 CONSULTATIONS AND REPRESENTATIONS**

### **5.1 MKC Arboricultural Officer**

No comments have been received from the Arboricultural Officer, however the officer considered that the tree is healthy, adds to the amenity of the area and is therefore worthy of protection.

### **5.2 Neighbour/ Third Party Representations**

Following government guidance, objections to conformation of a TPO can be made on any grounds (Paragraph: 036 Reference ID: 36-036-20140306). A single objection was received from 5 Wishart Green.

Considerations raised:

The health/safety relating to large branches  
Overshadowing of garden  
Root damage to conservatory and patio foundations.  
Lack of amenity benefit.

These matters are addressed in the report.

## **6.0 MAIN ISSUES**

Whether or not the TPO should be confirmed as permanent

## **7.0 CONSIDERATIONS**

Whether or not the TPO should be confirmed as permanent

7.1 As noted earlier, it is proposed by officers that the temporary TPO PS/540/15/425 is confirmed as permanent. The TPO was served as a result of conversations between the MK Arboricultural Officer and residents regarding potential felling of the tree.

7.2 The tree is healthy and is therefore not likely to fall over or drop branches into neighbouring gardens. While there is always a risk that overhanging or dead branches on any tree could be brought down by strong winds, this could be easily mitigated for through a crown reduction and removal of deadwood as is usual arborocultural practice.

- 7.3 The tree overshadows some of the neighbouring properties gardens. However, contrary to the objection received, the tree has not grown substantially since the houses were constructed as Oaks are very slow growing. Overshadowing could in any case be managed through a crown reduction or crown thinning again as is usual arborocultural practice.
- 7.4 While root damage to surrounding properties is possible, no professional evidence has been presented to confirm any damage and the tree is not close to the surrounding houses. Any risk of future damage could be mitigated for through professional intervention.
- 7.5 The tree is visible from the public footpath / bridleway and also the Boyce Crescent and it is considered to add to the positive character of this part of Old Park Farm and therefore is of amenity benefit to the local area. As the tree is over 100 years old and is part of a historic field boundary prior to the construction of Milton Keynes, it also has some historical significance as a remnant of the original rural landscape. Mature Oak trees also provide a number of biodiversity benefits to the local area which add to the local amenity.
- 7.6 It is considered that this TPO should be confirmed and made permanent to ensure that the tree is not cut down and to ensure that that the high level of visual amenity associated with this part of Old Park Farm is maintained in the future.

## **8.0 CONCLUSIONS**

- 8.1 In conclusion, officers consider that the TPO should be confirmed.

## **9.0 CONDITIONS**

Conditions are not applicable in this instance.

## **A1.0 FULL CONSULTATIONS AND REPRESENTATIONS**

### Third Party/Neighbour Comments

#### **A1.1 Peter Snowdon 5 Wishart Green, Old Farm Park: Objection**

I wish to express my concern regarding the intention to issue a preservation order on the tree that is in the garden of 2 Irving Dale, Old Farm Park to which my property as listed above backs on to.

When we moved into our property six years ago the owner of the said property suggested he had left this tree in his garden as he liked the tree but if it ever became a problem it would be removed.

This tree has now grown far too big for the surrounding four properties and now has grown to a size that considerably encroaches into all respective gardens and now represents a danger to life and limb as large branches in high winds break and roots are already representing a problem to my patio and conservatory foundations.

The tree substantially blocks out light when in full leaf and the situation if not addressed will only become worse.

It is suggested that this tree makes a positive contribution to the appearance of the local area, the surrounding area is green and has substantial trees already that are in reasonable proximity of housing, removal of this tree will have no detriment or make a difference to the natural surroundings, removal can only have a positive outcome.

I would welcome a meeting of all residents affected and a viewing and risk assessment of the tree and properties.

My main concern is the risk to the health and safety of all residents and properties. Please can you acknowledge receipt of this letter of objection and your intentions.