



PLANNING COMMITTEE

11 December 2014

REPORT OF THE HEAD OF REGENERATION - DEVELOPMENT AND DELIVERY

CONFIRMATION WITH MODIFICATIONS OF TREE PRESERVATION ORDER 8 OF 2014 ON LAND AT HOLY ASCENSION CHURCH, SANSTONE ROAD, BLOXWICH, WALSALL, WS3 3SJ.

1. PURPOSE OF REPORT

To seek the confirmation of the Tree Preservation Order 8 of 2014 in modified form.

2. RECOMMENDATIONS

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order 8 of 2014 in a modified form. A plan of the Tree Preservation Order and a schedule of the trees are attached to this report.
- (ii) Support the reason for making the Tree Preservation Order set out in the report detail, paragraph 10.
- (iii) Note that six representations have been received in response to the making of this Tree Preservation Order.

3. FINANCIAL IMPLICATIONS

Within budget, in general, new Tree Preservation Orders generate additional applications for consent and increase officers' workload.

4. POLICY IMPLICATIONS

Within Council policy – YES

5. LEGAL IMPLICATIONS

The owners and future owners of this site will be required to apply for Council permission if they wish to fell or prune any tree protected by the Tree Preservation Order. Failure to do this renders anyone carrying out unauthorised works to trees liable to criminal proceedings.

6. **EQUAL OPPORTUNITY IMPLICATIONS**

Not applicable.

7. **ENVIRONMENTAL IMPACT**

The management of Walsall's tree cover through the administration of the Tree Preservation Order system has positive implications in protecting trees for their visual and environmental benefits. Removal of protected trees is often necessary because trees have a finite lifespan and may also cause nuisance or damage. In these instances the Council has to decide whether the removal of protected trees is justified. In the event that felling a tree is permitted, the Council can secure replacement planting to maintain tree cover.

8. **WARD(S) AFFECTED**

The Tree Preservation Order 8 of 2014 is located within the Bloxwich East Ward.

9. **CONSULTEES**

Owners and near neighbours were sent copies of the Tree Preservation Order and invited to make representations to the Council in either opposition or support of this Tree Preservation Order. Any response is described within the report.

REPORT DETAIL

10. The Tree Preservation Order 8 of 2014 was made on 29 July 2014 following the submission of a planning application 14/0630/FL for the demolition of the existing Holy Ascension Church and the construction of a new church and related facilities including the provision of vehicular access and garage to the vicarage. The application was deferred by Planning Committee on 22 July 2014 so the layout could be revised to move the proposed church further away from the trees on site. It subsequently received planning permission once these amendments were made. Planning Committee also recommended that any significant trees on site should be protected by a Tree Preservation Order. The subsequent Tree Preservation Order protected the significant trees on site for the following reasons;

- The trees form a prominent landscape feature in the local area and will continue to contribute to landscape quality in the future.
- The trees add to the amenity and visual diversity of the immediate area.
- At the time of the making of the Tree Preservation Order the site was the subject of planning application 14/0630/FL for a new church and related facilities and the council considered it prudent to protect the trees to prevent their premature removal.

11. The minimum six week period allowed for objection to the Order expired on 9 September 2014. Six letters objecting to the Order have been received from residents at numbers 5 and 5A Sanstone Road and numbers 10, 12, 14 and 15 Par Court. No representation has been received from the church. The objections received make the following comments;
- The trees are extremely unsightly, spindly, top heavy and the significant height of them is unacceptable.
 - The land has a significant number of mature trees and to allow the density of them to increase by not removing them will have an adverse affect on the church and neighbouring properties in the future. The trees bordering the gardens of 14 and 15 Par Court already appear to cast heavy shadows during certain parts of the day.
 - Group 'G1' of the TPO are common Ash trees that can grow to a height of 30 metres with a 20 metre spread. The trees will be far too large if left to mature within the confines of the residential development. The gardens are not large enough to cope with the spread of the canopies and the shade will impact the properties.
 - Ash tree 'T7' and the group of 25 Ash trees 'G1' of the TPO should be removed to avoid possible disruption to drains, the reduction of natural light to 14 and 15 Par Court, risk of damage to the same properties if the trees were to fall in adverse weather conditions, the reduction of property values if the trees are protected by a TPO and the impact of the trees continued growth into the gardens of 14 and 15 Par Court.
 - Tree group 'G1' are common ashes that comprise of 25 trees which border the rear of 15 Par court and also part of the neighbour's rear boundary. This is too small an area for trees to grow that can reach a mature size of 30 metres with a 20 metre crown spread. Currently the rear garden of 15 Par Court only receives 2 hours of sunlight during the day and this will decrease as the trees grow in size. The height and spread of the trees in such close proximity to 14 and 15 Par Court is not acceptable due to the small length of the gardens.
 - Another concern is the damage the trees may cause to the boundary fence as they grow and also the implications for the hydro brake situated under the driveway of 15 Par Court as well as other property damage.
 - As the trees grow the result will be a huge bank of trees behind the properties on Par Court and without any management within the group 'G1' more saplings will continue to grow.
 - Consideration should be given to the trees being replaced with a species that is smaller and that would not encroach over the boundary into the gardens.

12. The officers' response to the representations is as follows;

- A site meeting was held on 11 September 2014 between council officers, representatives of the church and their agent. At this meeting the requirements for a landscape scheme to discharge a planning condition relating to the demolition and rebuilding of the church as well as the future of the trees in the Tree Preservation Order were discussed.
- In considering the objections to the TPO and following a detailed assessment of the 25 Ash trees in group 'G1' it was considered that 18 of the smaller young trees could be removed retaining 7 of the larger more established Ash trees adjacent the boundary with Par Court. Ash tree 'T7' was also assessed and it was also considered that its removal could be permitted in the expectation that further tree planting can be secured through the landscape condition in their planning permission for a replacement church. The 18 young Ash trees within group G1 and Ash tree T7 have since been marked with yellow paint by the council's tree officer to help identify them.
- It was put to the church and their agents that the removal of further ash trees within the group 'G1' may be permitted in the future subject to the satisfactory growth of tree planting secured through the landscape condition and set further back from the boundary with Par Court. Once the new trees have become established and are sufficiently large to make a meaningful landscape contribution the remaining 7 protected Ash trees within group 'G1' could be reassessed and consideration given to their removal. However, no landscape proposals have yet been received and no new tree planting can be planted until the existing church building is demolished.
- Maintaining the tree screen is also important for bat conservation reasons. The building previously occupying the site of the Par Court development contained a bat roost. One of the conditions of the planning conditions relating to the Par Court application required the provision of bat roosts for the displaced bats in the new development. Bats are reliant on tree lines and hedges which provide sheltered flyways across the landscape. This line of trees to the rear of Par Court is likely to fulfil such a function and therefore should not be removed. All species of British bats are protected through national and European law. Removing key habitat features is therefore highly undesirable.
- Council officers consider the group to be of a form typical of trees growing in close proximity to one another and that they contribute positively to the amenity and landscape character of the area.
- The Ash trees within group 'G1' are currently approximately 14.0m in height and have a crown spread of approximately 5.0m. The majority of branches which overhang the boundary in to the rear gardens of 14 and 15 Par Court have been cut back to the boundary up to a height of approximately 7.5m, this was probably done when the properties were built and prior to the Tree Preservation Order being made. The Ash trees are orientated south-east of the properties approximately 12.0m from the

rear elevations of the houses. The orientation of the trees in relation to the houses would mean that they cast some shade on the properties for a significant part of the day. The high clear stems and relatively small canopies means that shading is dappled rather than severe. However, all the residents moved into the houses in Par Court knowing that the trees were present and growing adjacent to their properties on land they do not control.

- The trees have been assessed by the council's tree officer and are considered to be in good health and there is no reason to believe that any tree will fail imminently. The underground services and foundations relating to the development should have been designed in accordance with National House Builders Council (NHBC) codes of practice to withstand tree roots given the proximity of the trees to the Par Court development.
 - Not all of the trees on the site are protected by a Tree Preservation Order and these unprotected trees could be pruned or removed at any time to reduce the density of the vegetation on site or to remove any adverse affects they may be having on the church or neighbouring properties. In a TPO comprising individual trees and groups only the trees protected at the time the TPO was made will be protected. Any sapling which subsequently establishes itself will not be protected.
 - The existence of the Tree Preservation Order does not prevent good arboricultural management being undertaken and the Council would consider any applications for works to the protected trees in the future. It is also accepted that the condition of trees changes over time and that works may be required in the future to ensure the trees do not cause undue nuisance.
13. Officers have taken account of the representations received and proposed the omission of a significant number of trees from the original TPO while still retaining an important tree line in the neighbourhood. The Planning Committee is therefore recommended to confirm Tree Preservation Order No 8 of 2014 in a modified form.

14. **CONTACT OFFICER**

Andrew Cook - Extension: 4740.

15. **BACKGROUND PAPERS**

File PD1/17/965 relating to Tree Preservation Order 8 of 2014.

Simon Tranter,
HEAD OF DEVELOPMENT AND DELIVERY

SCHEDULE

TPO 8 of 2014 SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Silver Birch	On the frontage of the site adjacent to Sanstone Road
T2	Silver Birch	Adjacent the south east boundary of the site
T3	Cherry	Adjacent the south east boundary of the site
T4	Silver Birch	Adjacent the south east boundary of the site
T5	Silver Birch	Adjacent the south east boundary of the site
T6	Cypress	Adjacent the south east boundary of the site
T7	Ash	Adjacent the north west boundary of the site

Trees specified by reference to an area (within a dotted black line on the map)

Reference on map	Description	Situation
None		

Groups of trees (within a broken black line on the map)

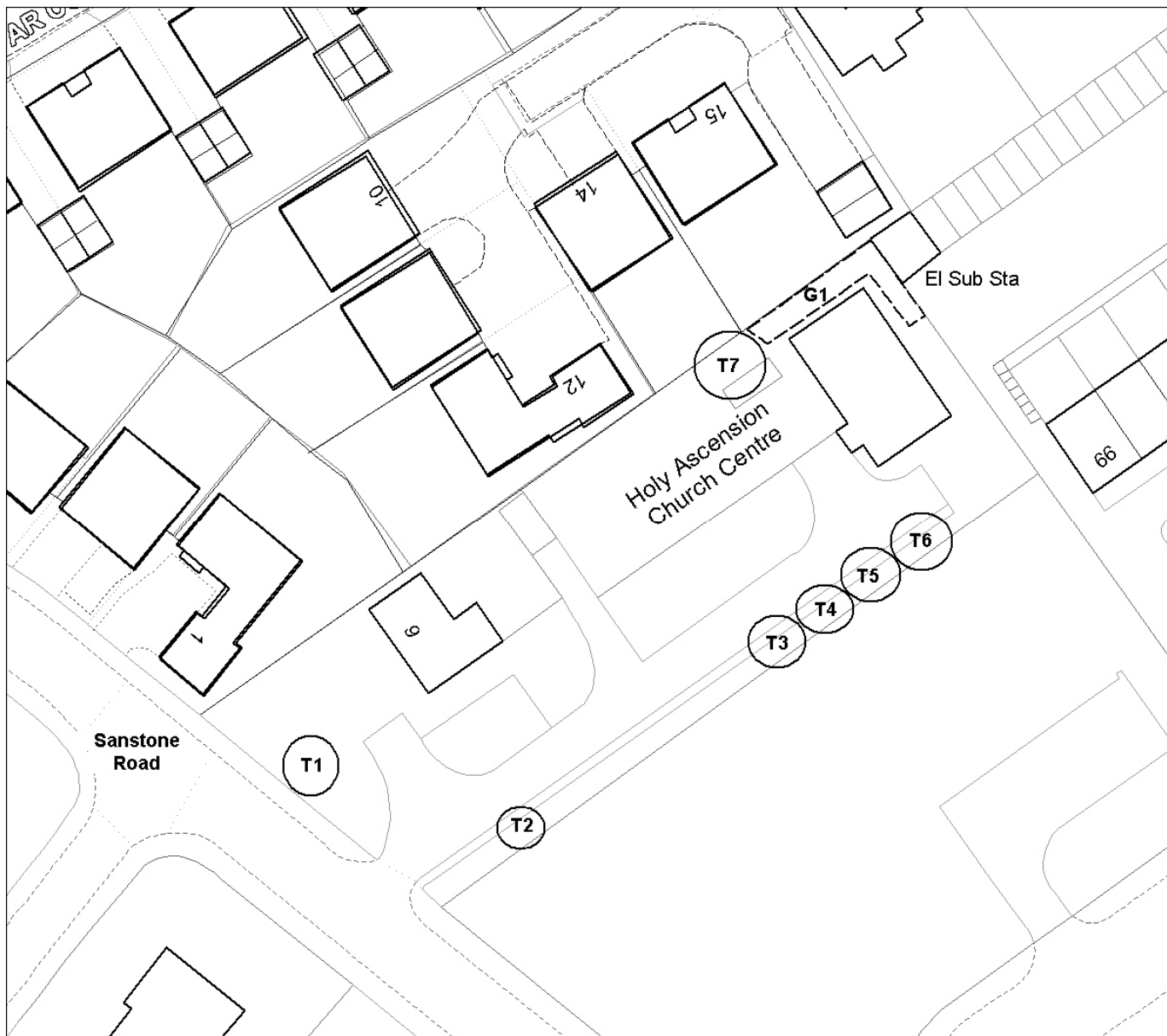
Reference on map	Description	Situation
G1	25 young Ash	Adjacent the north west boundary of the site

Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
None		

TPO 8 of 2014

Land at Holy Ascension Church, Sanstone Road, Bloxwich, Walsall, WS3 3SJ



SCHEDULE – with modifications

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T6	Cypress	Adjacent the south east boundary of the site

Trees specified by reference to an area (within a dotted black line on the map)

Reference on map	Description	Situation
None		

Groups of trees (within a broken black line on the map)

Reference on map	Description	Situation
G1	7 young Ash	Adjacent the north west boundary of the site

Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
None		

TPO 8 of 2014 – with modifications

Land at Holy Ascension Church, Sanstone Road, Bloxwich, Walsall, WS3 3SJ

