**PLANNING COMMITTEE – 16NOVEMBER 2017**

**PART I - DELEGATED**

**5. Consideration of tree works application 17/1819/TPO, trees protected by Three Rivers (Homefield Road, Chorleywood) Tree Preservation Order 2012**

 (DCES)

1. **Summary**

* 1. To consider the tree works application 17/1819/TPO for works to manage the hedgerow at Homefield Road, Chorleywood.

2. **Details**

2.1 The Three Rivers (Homefield Road, Chorleywood) Tree Preservation Order 2012 was made on 1 February 2012 and confirmed without confirmation on 9 March 2012. This Order protected several groups and a number of individual trees in the locality of Homefield Road. This replaced an earlier less specific and extensive TPO which protected only the hedgerow at Homefield Road as one group of trees.

2.2 There is a history of a number of applications for works to trees growing within the hedge at Homefield Road, as follows:

2.3 An application was made in 2009 (09/2063/TPO) to undertake works to the hedge. This matter was considered at the then Development Control Committee on 25 February 2010. Permission was granted to remove the entirety of Group 4 (which forms part of the Groups 20 and 21 of the current TPO), subject to a number of conditions. The permission was valid for a period of two years from the date of the decision letter.

2.4 On 2 November 2011 a subsequent application was received (11/2339/TPO) for the same works as referenced in a report by Patrick Stileman accompanying the application. At this time the permission was renewed and on the same basis as the previous decision, and the permission letter again advised that it was valid for a period of two years from the date of the letter, as recommended as good practice. The removal of Group 4 was part of a schedule of works for which consent had been granted.

2.5 Following on from this consent some of the works were undertaken, however for one reason or another, the section of the hedge identified as Group 4 remained intact and works to remove this section of the hedge were not undertaken.

2.6 In June 2017 a further application (17/1320/TPO) was received to undertake works to trees including the removal of a Sycamore, an Elder and remove and replant the hedge Group 4.

2.7 Permission was requested for the following works:

 ‘Group 4 – Elder, Hazel, Hawthorn, Ash: remove and replace 40m length of mixed hedge by grubbing out and replanting. Reason: most of the trees are dead.’

2.8 Permission for this work was refused for the following reason:

 ‘The 40m length of hedge described as Group 4 in the application and supporting Arboricultural Report contains a number of trees which are protected as Groups 20 and 21 of TPO721. Section 3.3 of the Arboricultural Report and the supporting plan DS09060201.05\_A do not distinguish between the trees within the 40m length of hedge which are protected and those which are not. Granting consent for the work as described would result in the removal of healthy trees and will impact on the character of the Chorleywood Common Conservation Area.’

2.9 Consent however was granted for lesser works comprising:

* + - Hazel within G4 (DS09060201.05): coppice to facilitate replanting of new hedgerow mix as specified on the plan.
		- Hawthorn within G4 (DS09060201.05): Single over mature hawthorn at southern end of group. Reduce stems to 1.5m to facilitate replanting of new hedgerow mix as specified on the plan.
		- Elder within G4 (DS09060201.05): Fell to facilitate replanting of new hedgerow mix as specified on the plan.

2.10 The decision notice issued in response to this application permitted the removal of a number of healthy Hawthorn trees, with one large one being retained. It also permitted the removal of some healthy Ash as necessary in order to remove the one large dangerous one.

2.11 A note was added to advise that consent is subject to the condition that replacement planting is carried out to the specification on drawing number DS09060201.05, and that all ground preparation to be carried out using hand tools to ensure the retention of the earth bank.

2.12 Subsequent to the applicants receipt of this decision notice a site meeting was arranged on site between officers and the Arboricultural Consultant. Two Ash trees were identified on site which should be retained in any scheme and while stump grinding was identified as the best way to avoid damage to tree roots, discussions were had relating to the possible use of an excavator to remove stumps.

2.13 A further application was received (17/1819/TPO) which identified a similar scope of works to 17/1320/TPO except that it proposed the retention of two ash trees, and identified that works to remove the remainder of the hedgerow removing stumps with the use of an excavator outside of the root protection areas of the two ash trees would enable the necessary restoration and replanting of the hedge following on from these works.

2.13 An officer recommendation was made to approve the application subject to conditions being imposed relating to protective measures for the adequate retention of trees for the duration of works on site and to ensure that replacement planting was carried out in accordance with the plan in document DS09060201 Rev. A. This recommendation went out in the weekly tree bulletin T38 which expired on 6 October.

3. **Officer Summary of Objections**

3.1 A number of objections were received in relation to the proposed works and the officer recommendation to grant consent for works.

3.2 These objections raised the following issues:

1. Adversely affects the Conservation Area and is of historical significance in that it is apparently part of the ancient Wessex and Mercia border.
2. The removal of G4 would change the character of the area
3. Healthy trees are proposed to be removed
4. In 2009 Group 5 was in poor condition but has had some work carried out to it, and it is now in reasonable condition
5. Concern about proposed use of mechanical means to remove trees and the undesirable effect this will have on the structure of the bank/ the bank profile
6. Concerns about whether the hedgerow is being managed properly as similar applications for which permission has been granted in the past have never been implemented.
7. Concern about the inclusion of Field Maple at ten meter spacing in the planting scheme when these are not planted anywhere else and are considered a totally unsuitable alternative.
8. Proposed addition of bark mulch and matting is detrimental to the retention of the bank and would sterilise the bank and will be detrimental to the Conservation Area. Hedges should grow with grasses and wildflowers beneath them.
9. Concern as to how accurately the trees for retention are shown.
10. The removal of the hedge will have a significant visual impact on both Homefield Road and Orchard Drive/Green Street
11. The requirement for Chestnut Pale fencing to protect houses in Homefield Road, together with the new planting until establishment.
12. Compliance with UK Government Tree Preservation Orders and trees in conservation areas has not been demonstrated. (Para 171, ref ID: 36-171-29140306).
13. The hedge is protected under the Hedgerow Regulations 1997.

3.3 **Officer Response to Objections**

1. The visual impact of the proposals is one of the key considerations of deciding any TPO application. The hedgerow is protected by a Tree Preservation Order which takes precedence over the Conservation Area designation. All of the trees growing within the hedge aside from the Ash trees, the Hazel (for which permission has been given to coppice) and the Hawthorn (for which permission has been given to reduce to 1.5m) have already been approved to be removed. Only one of the Ash trees is currently considered to be in a dangerous condition, however other smaller trees need to be removed to facilitate a safe working space to dismantle this Ash. The fact that they are covered by a TPO means that the Council can secure the long-term retention of the hedge feature with replacement planting. The fact that the hedge may be historic does not change our approach to the way we determine the application.
2. The removal of Group 4 is likely to impact in the short-term on the visual amenity of the area, however in the long term, replacement planting will establish to secure the visual amenity of the area.
3. The proposals now retain the two Ash trees in reasonable condition. It also requests consent for the removal of the Hazel for which permission had previously been given for its coppice to ground level and removal of the Hawthorn which had previously been given consent for its reduction to a height of 1.5m. It is considered that these two trees are required to be removed in order to facilitate the successful establishment of any replacement planting scheme. Other much smaller Ash trees are required to be removed in order to facilitate other works.
4. The condition of Group 5 (directly to the south of Group 4) has improved since the last survey was undertaken in 2009 and it would appear that supplementary planting has taken place.
5. The use of mechanical means to remove the trees could impact on the rooting systems of any trees to be retained, hence the intended requirement to protect the rooting systems of the two Ash trees by not permitting machinery to operate within the rooting areas of these trees. The bank profile and its retention during any works, falls outside of the scope of the TPO legislation and as a result it would not be considered reasonable to condition the methods of undertaking works where it does not relate directly to the protection of trees to be retained.
6. While the Council can grant consent for works, it cannot impose a requirement on any landowner to undertake works to protected trees. The Council has given consent to remove Group 4 twice previously. It can only reconsider this application on a similar basis. It would not be appropriate to withhold consent due to the fact that the Council did not believe that the hedge owner would proactively manage the hedge should they be granted consent.
7. Field Maple trees were planted as part of the replacement planting scheme planted to the south of the new vehicle entrance into Homefield Road from Orchard Drive. These were planted as standard trees within smaller hedgerow planting which included a wider range of species. North of Group 4 exist four semi-mature Field Maple trees so they obviously grow well in this location. Field Maple commonly forms a component of native hedges. It would be possible to negotiate an approximate spacing of the trees as part of the replacement planting so it did not appear too regimented.
8. The provision of a layer of bark mulch is considered good practice to reduce the amount of competition from other vegetation while the planting scheme is establishing. The seed bank within the topsoil on any site will survive for a number of years, so that once the trees and hedge planting have established, other plants will begin to make a comeback.
9. The trees for retention will be clearly described and shown on a plan attached to any decision letter.
10. It is agreed that the removal of Group 4 will have a significant visual impact on Homefield Road and Orchard Drive/Green Street, however this will only be short term.
11. Chestnut pale fencing is normally used on a temporary basis to protect planting while it is establishing. It would not be possible to impose a condition relating to the installation of fencing to protect adjacent houses.
12. Compliance with Government guidance paragraph 171, ref ID: 36 – 171 – 29140306 is not relevant as this application was dealt with as a TPO application, not a Conservation Area Notification. This is always the case when a tree is protected by virtue of a TPO as well as growing within a statutory Conservation Area.
13. The Hedgerow Regulations 1997 only apply to hedgerows ‘growing in or adjacent to, any common land, protected land, or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys’ and would not apply in this location.

4. **Options/Reasons for Recommendation**

4.1 There are two options available to the Committee:

1. Grant consent subject to the relevant conditions (listed below).
2. Refuse consent which will mean that the applicant can implement works to trees within the hedgerow in accordance with decision notice issued in response to application 17/1320/TPO

5. **Policy/Budget Reference and Implications**

5.1 The recommendations in this report are within the Council’s agreed policy and budgets.

6. **Financial, Legal, Staffing, Environmental, Community Safety, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications**

6.1 None specific.

7. **Recommendation**

7.1 That permission is granted to remove all of the trees in Group 4 with the exception of the two Ash trees, and that the following conditions are imposed:

1. All work must be carried out in accordance with British Standard3998: 2010
2. The two ash trees are retained and their root protection areas are protected by a tree protection scheme to be submitted and agreed prior to the commencement of works.
3. That a replacement planting scheme is implemented in accordance with the Patrick Stileman Tree and Hedgerow Management Plan Rev A dated 25 August 2017 and comprising a hedgerow mix of 50% Hawthorn,20% Blackthorn, 10% Field Maple, 10% Hazel, 5% Dog Rose and 5% Guelder Rose and four standard Field Maple trees (with a stem girth of 10-12cm) at locations which will allow them to grow to maturity.
4. The installation of spiral guards necessary to mitigate predatory attack from mammals.
5. The native planted whips should be 40-60cm in height and planted as double staggered rows at 0.5m between each plant in the row.
6. All planting comprised in the approved details of landscaping shall be carried out in the first planting season (November to March) following the completion of works. Any trees or plants that die, are removed or become seriously damaged or diseased, within a period of 5 years of completion shall be replaced within the next planting season with others of similar size and species.

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 **Background Papers**

 TPO file