

Report Title:	Petition for Debate – Maidenhead Golf Course Blanket Tree Preservation Order
Contains Confidential or Exempt Information?	No - Part I
Member reporting:	Councillor Coppinger, Lead Member for Planning and Health (including Sustainability)
Meeting and Date:	Full Council – 26 February 2019
Responsible Officer(s):	Jenifer Jackson, Head of Planning
Wards affected:	Oldfield

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REPORT SUMMARY

1. The council and the local planning authority recognise the value of trees, woodlands and hedgerows which bring environmental, social and economic benefits providing amenity value and benefits beyond contributing to the character and identity of varied landscapes. The council is firmly committed to maintaining and enhancing the borough's trees and woodlands.
2. The Borough Local Plan Submission Version (BLPSV) allocates Maidenhead golf course for development, primarily housing. The site is currently in use as a golf course and is situated within the Metropolitan Green Belt, the council owns the freehold.
3. An online petition seeking that the local planning authority make a blanket tree preservation order on land at Maidenhead Golf Course attracted 1249 signatures. The petition closed on 8 February 2019 and the Lead Petitioner requested that the subject be referred to Council for debate. The purpose of this report is to make clear that the council is committed to maintaining and enhancing the borough's trees and woodlands and to respond to the petition and make recommendations.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Full Council notes the report and:

- i) Reiterates it's firm commitment to maintain and enhancing the borough's trees and woodlands as a vital part of the environment of the borough.**
- ii) Acknowledges the petition and approves funding of £40,000 from revenue in the financial year 2019/20 to the Head of Planning to commission a consultant to conduct a detailed Arboricultural survey of the Maidenhead Golf Course site.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Context

- 2.1 The land which is currently used as a golf course accessed off Shoppenhangers Road, Maidenhead; was put forward as land being available for development and assessed as such by the Local Planning Authority. Through the plan making process the site has come forward as an allocation for a significant extension to Maidenhead forming a single allocation under HA6 within Policy HO1 of the Borough Local Plan Submission Version (BLPSV). The Borough Local Plan was submitted to the Secretary of State for Communities and Local Government on 31 January 2018 and is currently at examination.
- 2.2 Each of the proposed site allocations is accompanied by a pro forma contained in Appendix D of the plan. The requirements listed include the retention of Rushington Copse and ensuring other mature trees and hedgerows are retained where possible. Related to this is a requirement to design the development sensitively to conserve the biodiversity of the area and to ensure that protected species are safeguarded; biodiversity is recognised as one of the key considerations.
- 2.3 As the landowner the Council has appointed a development partner to bring forward the development. The project to create up to 2,000 new homes as well as a new primary and secondary school, and health and community facilities on the golf course site will be worth hundreds of millions of pounds. Thirty percent of the new homes on the 132-acre site will be affordable as part of the council's commitment to building a borough for everyone. The landowner has publicly stated that only 60 percent of the council-owned land will be developed, leaving green spaces and ancient coppice woodland for everyone to enjoy. This significant project is a key part of the council's ambition to transform Maidenhead and provide residents with the homes and modern facilities they need.

Trees, woodlands and hedgerows

- 2.4 Trees, woodlands and hedgerow are an essential component of the Borough's natural and built environment and make a major contribution to its green character; this is a characteristic which residents value. These features have an important contribution to make towards protecting and enhancing the quality of the townscape and achieving the highest quality of urban design.
- 2.5 The council is firmly committed to maintaining and enhancing the borough's trees and woodland as a vital part of the environment of the borough. Given this commitment, the council has produced a tree and woodland strategy for the period 2010-2020 following on from a public consultation. A number of trees and woodlands in the Borough are designated for their amenity or landscape value and have 'Tree Preservation Orders' or are afforded protection if within Conservation Areas. Similarly, countryside hedgerows are

considered important and may be protected against removal within the scope of the Hedgerow Regulations 1997.

Tree Preservation Orders

- 2.6 Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'. Authorities can either initiate this process themselves or in response to a request made by any other party. 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.

National Planning Practice Guidance

- 2.7 Orders 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. Orders can be made on individual trees, groups of trees or as woodland orders in addition to blanket protection. The type of Order an authority makes should reflect the assessment of the site; the guidance is that blanket orders should not be used save for to protect trees at risk of felling due to development pressure where it is not possible to survey a site in the time available and the protection of the trees is a priority. In those instances it would be good practice to then conduct a survey to allow the Order to be modified prior to confirmation so that it does only apply to those trees worthy of being protected. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

Petition

- 2.8 The online petition seeking that a blanket tree preservation order be made secured 1249 signatures and was created by the Lead Petitioner, Cllr Geoff Hill. The full wording of the petition is as follows:

We the undersigned petition The Royal Borough of Windsor and Maidenhead to Place a Blanket Tree Preservation Order on the Maidenhead Golf Club development site ...We are calling on RBWM to bring into force a Blanket Tree Preservation Order (TPO) across the whole of Maidenhead Golf Club site which is up for redevelopment.

This Blanket Tree Preservation Order is intended to protect existing natural environment from over-development by RBWM and it's development partner.

Please sign this petition to save our the last remaining Green Lung in Maidenhead and protect what little countryside we have left.

- 2.9 Prior to creation of the petition the Lead Petitioner had met with senior Officers to discuss the same and had been advised of the government guidance, best practice and relevant policy which is also set out within this report. 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. Tree Preservation Orders are not a means of protecting a site from development.

What might a local authority take into account when assessing amenity value?

2.10 When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

i) Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

ii) Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

iii) Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

What does 'expedient' mean in practice?

2.11 Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural (forestry) management.

2.12 It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it

may sometimes be appropriate to proactively make Orders as a precaution. The council has made Orders in relation to sites proposed to be allocated within the BLPSV where schemes are coming forward, for example, Sunningdale Park, Larch Avenue, Sunningdale and will continue to do so where it is considered there is good reason.

- 2.13 In this instance the Council is the landowner for the majority of the site the subject of the recommendation. It is not usual practice for the Council to make Tree Preservation Orders in respect of trees on its own land; this is because the Council has control as landowner and consequently the risk is likely to be low. The Council is committed to protecting trees, especially significant trees. The site is identified as a development site within the Borough Local Plan Submission version which is currently at Examination but there is no reason to believe that the trees on site are currently at risk. Equally it would not be good practice to impose a blanket Order on a site with a view to preventing future development, the appropriate way forward would be to work with the developer on the site layout to ensure the protection of trees of amenity value through planning condition. A Blanket Order would never protect every tree on site from being removed through the development or re-development of that site due to the relevant considerations set out above. Therefore it is not a valid mechanism to use to prevent development of a site, particularly where a site has been identified through another statutory process as being suitable for development.
- 2.14 Due to the size of the site and the number of trees within it the required survey is a very significant piece of work to undertake. There is not capacity within the current Tree team to do this work and this is addressed below in the financial implication section. A detailed survey is likely to take some time to produce; it would generally not survey the totality of the trees, for example, those on the periphery of a woodland rather than the whole woodland. Officers would then consider the information within the survey on the health and condition of the trees and their amenity value with regard to the relevant British Standard and use this to bring forward tree preservation order(s) under the legislation as might be deemed appropriate at that time.
- 2.15 Members should note that there is no right of appeal against the making of a Tree Preservation Order; objections can be made to an order prior to it being confirmed. The validity of making an Order can be the subject of legal challenge. The work flow for making a Tree Preservation Order is noted as a background paper. Works to a tree protected by an Order are on application to the council, refusal of any works can be the subject of an appeal to the Secretary of State, then handled by the Planning Inspectorate.
- 2.16 Members should further note that the authority's consent is not required for carrying out work on trees subject to an Order so far as such work is necessary to implement a full planning permission. For example, the order is overridden if a tree has to be removed to make way for a new building for which full planning permission has been granted.

Options

Table 1: Options arising from this report

Option	Comments
Commission a full Arboricultural survey of the Maidenhead Golf Course site and land to the south to identify those selected trees and woodlands which have high amenity value; make a tree specific, group and/or woodland order(s) to protect those trees. Recommended option.	A survey will allow officers to identify the important trees and groups of trees or woodland with high amenity value and whose removal would have a significant negative effect on the environment. An Order/Orders can then be made to protect those trees.
Make a blanket tree preservation order across the entire Maidenhead Golf Course site, following the statutory process. Not the recommended option.	This will cover every tree on site regardless of the condition of that tree or the desirability of protecting it for its amenity. It would not mean that each and every tree would be protected from being removed through a planning application submitted at a later date.

3. KEY IMPLICATIONS

- 3.1 The council's adopted Tree and Woodland Strategy makes clear the council's commitment to protection of the borough's trees and woodlands and their enhancement. This is carried through into adopted planning policy and used in the consideration of planning applications. The retention of existing trees on a development site can help to soften the impact of new buildings and structures as well as providing enhanced amenity and reduce the impact of vehicles in terms of noise and pollution.

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Development proposals brought forward for the golf course site shall maximise opportunities for creation, restoration, enhancement and connection of natural habitats as an integral part of	n/a	At application submission	n/a	n/a	On submission of a planning application for the redevelopment of any part of the site.

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
proposals with reference to the Tree and Woodland Strategy for the Borough					
Development proposals brought forward for the golf course site should ensure that ancient woodland (including planted ancient woodland sites and wood pasture) will be maintained, protected and enhanced.	n/a	At application submission	n/a	n/a	On submission of a planning application for the redevelopment of any part of the site.
Any identified ancient or veteran trees on the golf course site are to be safeguarded from harm or loss.	n/a	At application submission	n/a	n/a	On submission of a planning application for the redevelopment of any part of the site.

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 A full detailed survey of all of the trees on site would be required to support the recommendation. There is insufficient capacity within the council to conduct such a survey, this would have to be commissioned from an external agency at additional cost which cannot be met from within current budget. Approval of additional revenue to carry out the survey work is requested, the amount is set out in table 3.

Table 3: Financial Impact of report's recommendations

REVENUE COSTS	2019/20	2020/21	2021/22
Additional total	£40,000	£0	£0
Reduction	£0	£0	£0
Net Impact	£40,000	£0	£0

5. LEGAL IMPLICATIONS

- 5.1 The law on Tree Preservation Orders is in Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into force on 6 April 2012. Section 192 of the Planning Act 2008 made further amendments to the 1990 Act which allowed for the transfer of provisions from within existing Tree Preservation Orders to regulations. Part 6 of the Localism Act 2011 amended section 210 of the Town and Country Planning Act 1990 concerning time limits for proceedings in regard to non-compliance with Tree Preservation Order regulations. Under the Council Constitution the Head of Planning has delegated authority to make and to confirm Tree Preservation Orders.

6. RISK MANAGEMENT

Table 4: Impact of risk and mitigation

Risks	Uncontrolled risk	Controls	Controlled risk
Trees are removed in advance of a TPO being made thus failing to comply with the adopted Tree and Woodland Strategy.	High	The Council owns the site.	Low
Removal of trees results in adverse impact on protected species and/or their habitat which is a criminal offence.	High	The Council owns the site.	Low

7. POTENTIAL IMPACTS

- 7.1 Removal of trees on site without due regard to the Council's Tree and Woodland strategy would result in a reduction in the long term form of the tree

cover on site which would have environmental, social and environmental consequences.

8. CONSULTATION

None.

9. TIMETABLE FOR IMPLEMENTATION

9.1 The full implementation stages are set out in table 5.

Table 5: Implementation timetable

Date	Details
May 2019	Subject to approval of funding set out in table 3 go out to tender to seek quotes for a comprehensive survey of the trees on site to British Standard.
June 2019	Appoint consultant to conduct surveys.

10. APPENDICES

None.

11. BACKGROUND DOCUMENTS

11.1 This report is supported by 2 background documents:

- <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#confirming-tree-preservation-orders>
- https://www3.rbwm.gov.uk/download/downloads/id/203/tree_strategy_and_policy_guidance.pdf

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Date returned
Cllr Coppinger	Lead Member for Planning	13/02/19	14/02/19
Duncan Sharkey	Managing Director	13/02/19	13/02/19
Russell O'Keefe	Executive Director	13/02/19	14/02/19
Andy Jeffs	Executive Director	13/02/19	14/02/19
Rob Stubbs	Section 151 Officer	13/02/19	14/02/19
Elaine Browne	Interim Head of Law and Governance	13/02/19	14/02/19
Nikki Craig	Head of HR and Corporate Projects	13/02/19	14/02/19
Louisa Dean	Communications	13/02/19	14/02/19
Kevin McDaniel	Director of Children's Services	13/02/19	14/02/19
Angela Morris	Director of Adult Social Services	13/02/19	13/02/19
Hilary Hall	Director of Commissioning	13/02/19	13/20/19

Name of consultee	Post held	Date sent	Date returned
David Scott	Head of Communities, Enforcement and Partnerships	8/02/19	13/02/19

REPORT HISTORY

Decision type:	Urgency item?	To Follow item?
Key decision Non-key decision	No	
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