

Committee: Planning
Date: 8 February 2012
Title: Tree Preservation Order 07/11.
27 Brewery Lane Stansted

Agenda Item

6

Summary

1. This item seeks the Committee's consideration of an objection received in respect of the making of Tree Preservation Order 07/11 protecting two lime trees at 27 Brewery Lane, Stansted. This item was previously considered at the Committee meeting of the 11th January 2012 where a decision was deferred to allow the Committee to visit the site.

Recommendations

2. Tree preservation order 07/11 is confirmed without amendment.

Financial Implications

NONE

Background Papers

3. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

TPO 07/11 and objection letter.
TEMPO survey sheets.
Copy of the revoked ECC TPO 9/53.

Impact

- 4.

Communication/Consultation	Owner of 27 Brewery Lane and Stansted PC to be advised of Planning Committee decision.
Community Safety	none
Equalities	none
Health and Safety	none
Human Rights/Legal Implications	none

Sustainability	none
Ward-specific impacts	none
Workforce/Workplace	none

Situation

5. A Tree Preservation Order (TPO) was made on 12th October 2011 protecting two mature lime trees situated on the road frontage of 27, Brewery Lane, Stansted [Appendix 1: Location Map].
6. The owner of 27 Brewery Lane has objected to the making of the TPO. His grounds of objection are as follows; “the trees were in no danger from me and that, anyway, these are not the sort of trees on private land and a private road which provide sufficient amenity value. There was no need for UDC to proceed in the way it did against me, and no need for them to be protected. There is no need for UDC to mire itself, and my family, in this regulatory mechanism”. The owner has raised concern over branches being shed and the general safety of the trees, stating that “the trees appear to have a level of rot in them and each has considerable scarring, which has not properly healed”. Also, the owner has raised issue over why these trees have been singled out for protection stating “There are, as you may be aware lime trees on High Lane itself which are not subject to a TPO, which have just been subject of some excellent work, and a fine clean-up operation, involving the removal of all the suckers which this type of tree generates. I still see no reason why I have been singled out for a TPO – particularly in the circumstances which you know there to be.”
7. Government advice is that TPOs should be used to protect selected trees if their removal would have a significant impact on the local environment and its enjoyment by the public. Local Planning Authorities should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees, or at least part of them, should therefore be normally visible from a public place, such as a road or footpath, although exceptionally, the inclusion of other trees may be justified.
8. Brewery Lane is a private road, however, both the lime trees are clearly visible in views taken from the public highway at the junction of High Lane with Brewery Lane [Appendix 2: Photograph].
9. Both Limes are mature specimens of some 13m in height and in good general health. Their size and form contribute to the quality and character of the surrounding area. The trees were assessed using the Tree Evaluation Method for Tree Preservation Orders [TEMPO] which is widely used by Local Planning Authorities. Both trees scored sufficient points under this assessment to definitely merit a TPO [Appendix 3: TEMPO survey data sheets & decision guide]. The assessment of the trees being in ‘good’ condition is based on them being generally free of defects, showing good health and likely to reach normal longevity and size for the species. There is some limited branch tip die back but this is not considered to indicate obvious decline in the trees’ health. There

are no extensive wounds or areas of advanced decay which have been detected. Some dead wood has on occasions been shed by these trees but this has been minor in nature, consisting of twigs and small branch tips.

10. Under the provisions of a TPO application, consent is not required for carrying out work on trees which are dead or dying or have become dangerous. Government advice is that this exemption allows for the removal of dead wood from a tree or the removal of dangerous branches from an otherwise sound tree.
11. The lime trees were previously protected under Essex County Council TPO 9/53 [Appendix 4]. This ECC TPO was revoked in accordance with County Council policy to withdraw from the administration of TPOs. It is considered expedient to make these trees subject to a UDC TPO to maintain their protection in the interests of amenity.
12. The making and serving of the UDC TPO was carried out in accordance with the TPO regulations. Other trees in Stansted previously protected under ECC TPOs have been surveyed and new UDC TPOs are being made as appropriate. The Lime trees in High Lane which have recently been subject to the removal of epicormic basal growth, crown lifting over the carriageway and selective pruning away from the adjacent house, in order to abate encroachment, have not been considered for protection as they are growing on ECC land and are therefore the responsibility of the County Council. Government advice is that it would be very rarely appropriate for one local authority to make a TPO for trees on land owned by another local authority.

Risk Analysis

13.



Risk	Likelihood	Impact	Mitigating actions
1. There are no risks associated with confirming, or not confirming, a TPO.	1	1.	None.
2. A TPO does make provision for the payment by the LPA of compensation for any loss or damage caused or incurred as a direct result of a refusal of consent	1. The likelihood of loss or damage directly resulting from a refusal of consent, or conditions	3-4. The impact could be loss of life, significant injury, and/or destruction of property. Compensation under a TPO	Refusal of consent, or conditions applied to a grant of consent, must take into account any potential risks directly associated with such decisions.

<p>under a TPO, or conditions applied to a grant of consent.</p>	<p>applied to an approval, is not considered to be high.</p> <p>Necessary works to protected trees which are dead, dying, or dangerous, do not require the consent of the LPA.</p>	<p>is unlimited.</p>	
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- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Appendix 1: Location Map



 <p>UTTLESFORD DISTRICT COUNCIL TREE PRESERVATION ORDER</p>	<p>No. 07/11 - 27 Brewery Lane Stansted</p> <p style="text-align: right;"><i>M. [Signature]</i></p>	
<p>Reproduced from the 1996 Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Utlesford District Council Licence No: 100018688 (2007).</p>		
DATE:12/10/2011	MAP REFERENCE: TL5125SW	SCALE:1:1250

Appendix 2: Photograph of the two lime trees viewed from public vantage point in High Lane.



Appendix 3: TEMPO survey data & decision guide in respect the two lime trees [T1 & T2].

**TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):
SURVEY DATA SHEET & DECISION GUIDE**

Date: 11.10.11	Surveyor: BPS
Tree details	
TPO Ref:	Tree/Group No: T1 Species: LIME
Owner (if known): MR. J. RICH	
Location: 27 BREWERY LANE, STANSTED	

Part 1: Amenity assessment

a) Condition & suitability for TPO:

Refer to Guidance Note for definitions

- 5) Good Highly suitable
- 3) Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead Unsuitable
- 0) Dying/dangerous* Unsuitable

* Relates to existing condition and is intended to apply to severe irremediable effects only.

Score & Notes
5

b) Remaining longevity (in years) & suitability for TPO:

- 5) 100+ Highly suitable
- 4) ~~40-100~~ Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality.

Score & Notes
4

c) Relative public visibility & suitability for TPO:

Consider realistic potential for future visibility with changed land use.

- 5) Very large trees with some visibility, or prominent large trees. Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Just suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Score & Notes
4

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habit importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes
1

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify.

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only.

Score & Notes
1

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-10 Does not merit TPO
- 11-14 TPO defensible
- 15+ Definitely merits TPO

Add Scores for Total:
15

Decision:
SERVE TPO

[Signature]

**TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):
SURVEY DATA SHEET & DECISION GUIDE**

Date: 11-10-11	Surveyor: JRS
Tree details	
TPO Ref:	Tree/Group No: T2 Species: LIME
Owner (if known): MR. J. RICH	
Location: 27, BREWERY CANE STANSTED	

Part 1: Amenity assessment

a) Condition & suitability for TPO:

Refer to Guidance Note for definitions

- 5) Good Highly suitable
- 3) Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead Unsuitable
- 0) Dying/dangerous* Unsuitable

* Relates to existing condition and is intended to apply to severe irremediable effects only.

Score & Notes 5

b) Remaining longevity (in years) & suitability for TPO:

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality.

Score & Notes 4

c) Relative public visibility & suitability for TPO:

Consider realistic potential for future visibility with changed land use.

- 5) Very large trees with some visibility, or prominent large trees. Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Just suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Score & Notes 4

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habit importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes 1

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify.

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only.

Score & Notes 1

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-10 Does not merit TPO
- 11-14 TPO defensible
- 15+ Definitely merits TPO

Add Scores for Total: 15

Decision: SERVE TPO

JRS

Appendix 4: Extract of ECC TPO 9/53 map and 1st Schedule. The group of trees at G6 included the two Lime trees on the frontage of 27 Brewery Lane.



