

# PLANNING COMMITTEE

## Tree Preservation Order (No 05) 2010 Poplar Tree at Karcher (UK) Ltd, Beaumont Road, Banbury

20 May 2010

### Report of Head of Development Control and Major Developments

#### PURPOSE OF REPORT

To seek the confirmation Tree Preservation Order no 05-10 with one objection relating to a Poplar tree at the site of Karcher (UK) Ltd., Banbury (copy plan attached as Annex 1)

This report is public

#### Recommendations

---

The Planning Committee is recommended to:

- (1) Confirm Tree Preservation Order 05-10 at the site of Karcher (UK) Ltd., Beaumont Road, Banbury without modification in the interest of public amenity.

#### Summary

---

##### Introduction

- 1.1 The District Council made an emergency TPO 9<sup>th</sup> April 2009 following a site visit to assess a section 211 (Town and Country Planning Act 1990) notification to undertake tree works to the tree which lies within a conservation area.
- 1.2 The tree is a semi mature Poplar tree (a tree which has not yet reached the typical shape and habit of the species and is still within the first third of its expected life).

It is in a prominent position, being visible from the A423 forming part of a screen softening the Beaumont Road light industrial estate providing significant amenity contribution as well as wildlife and environmental benefits to the local area. One letter objecting to the TPO has been received from:

- i. Mr Simon C Keeping, Karcher (UK) Ltd., Beaumont Road, Banbury.

The objections are as follows:

- a. Large prominent tree in close proximity to a building
- b. There is existing root damage to the adjacent car park causing a hazard to cars and pedestrians
- c. Falling twigs and branches are a potential danger to staff and visitors using the car park
- d. The roots may cause damage to the building and underground services in close proximity to the tree
- e. The responsibility for the future maintenance of the tree

1.3 Due consideration to the above objections has been given and are as follows:

- a. The trees present stature and future potential for this to increase is one of the criteria in deciding whether a tree warrants a TPO. Guidance in determining the suitability of a tree for a TPO is provided by the TEMPO method (Tree Evaluation Method for Preservation Orders). This has been undertaken and the results included in this document as appendix 2.
- b. The existing root damage to the car park surface would be removed when a new surface is installed. The use of a cellular confinement system as the foundation for the new surface will allow for movement over the root area of the tree without damage (Cell Web or similar, an example of which can be found as appendix 3 of this document).
- c. The removal of dead wood from the branches overhanging the parking area can be removed without affecting the overall visual amenity of the tree. This will mean they are dealt with in a controlled manner and will remove the possibility of them falling on pedestrians or vehicles using the parking area below.
- d. Tree roots do not generally lift building as they are too heavy and they tend to grow around such heavy obstructs. Where subsidence occurs it is normally on clay soils. The geological map of the area denotes the underlying geology to be mud stone. Therefore indirect damage to the adjacent building is unlikely.
- e. It is unusual for tree roots to cause damage to underground pipes or services. Providing they are in good order and are not leaking the risk of roots entering the pipe work is low

Roots are able to lift light structures such as garden walls

and paving, including concrete. The installation of a cellular confinement system will help reduce the upward movement of soil due to root expansion however the risk of this re-occurring cannot be eliminated. The choice of surface may allow for localised repair if this occurs.

- f. Maintenance to trees under TPO can still be carried out and simply requires an application to the local planning authority. If the works are reasonable and necessary consent will be granted. If there are concerns about the safety of the tree then the TPO makes allowance for this under exemptions to the TPO (section 5)

- 1.4 The human rights of the objectors and others affected by the decision, i.e. Article 1 of the first protocol – right to peaceful enjoyment of possessions and Article 8 protection of the right to respect ones private and family life, home and correspondence, were taken into consideration by the amenity value checklist (TEMPO assessment) completed when the Tree Preservation Order was made. To confirm the Order does not place a disproportionate burden on the owner, who retains the right to make applications for works to the tree.

### **Conclusion**

- 1.5 All the issues raised by the objector can be addressed through the normal application process. Therefore it is recommended that the Local Area Committee confirm Tree Preservation Order 05-10 without modification.

### **Background Information**

- 1.6 Statutory powers are provided through :
- i. Section 198 Town and Country Planning Act 1990.
  - ii. Town and Country Planning (Trees) Regulations 1999
- 1.7 The Scheme of Reference and Delegation authorises the Head of Development Control and Major Developments to make Tree Preservation Orders under the provisions of Section 201 of the Town and Country Planning Act 1990, subject to there being reason to believe that the tree in question is under imminent threat and that its retention is expedient in the interests of amenity. The power to confirm Tree Preservation Orders remains with the Planning Committee.
- 1.8 The above mentioned Tree Preservation Order was authorised by the Head of Development Control and Major Developments and made on 9<sup>th</sup> April 2009. The statutory objection period has now expired and one objection was received to the Order.
-

## **Key Issues for Consideration/Reasons for Decision and Options**

---

None

## **Implications**

---

**Financial:** The cost of processing the Order can be contained within existing estimates.

Comments checked by Eric Meadows, Service Accountant PH & E 01295 221552

**Risk Management:** The existence of a Tree Preservation Order does not remove the landowner's duty of care to ensure that such a tree is structurally sound and poses no danger to passers by and/or adjacent property. The TPO legislation does contain provisions relating to payment of compensation by the Local Planning Authority in certain circumstances, but these relate to refusal of applications to carry out works under the Order and no compensation is payable for loss or damage occurring before an application is made.

Comments checked by Rosemary Watts, Risk Management & Insurance Officer 01295 221566

## **Wards Affected**

---

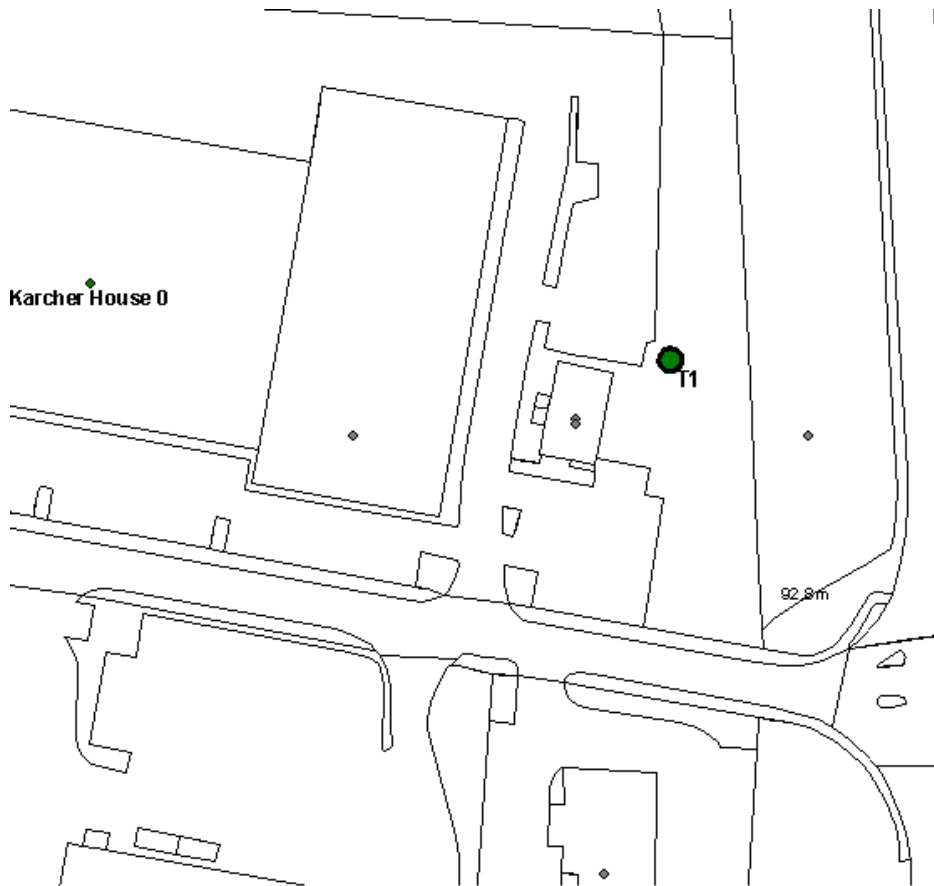
Banbury Ward

## **Document Information**

---

<b>Appendix No</b>	<b>Title</b>
Appendix 1	Plan
Appendix 2	TEMPO assessment
Appendix 3	Cellular confinement system details
<b>Background Papers</b>	
TPO file reference 05-10	
<b>Report Author</b>	Mark Harrison, Arboricultural Officer (North)
<b>Contact Information</b>	01295 221693 Michael.sands@Cherwell-dc.gov.uk

# Appendix 1 - Plan



Surveyor: Mark Harrison Date: 30/04/10 Species: Poplar  
 Location: Karcher (UK) Ltd. Beaumont Road  
 TPO Ref (if applicable): \_\_\_\_\_ Tree/Group No: \_\_\_\_\_ Owner (if known): Karcher (UK) Ltd.

### Part 1: Amenity assessment

#### a) Condition & suitability for TPO *(Relates to existing context and is intended to apply to severe irremediable defects only)*

<input checked="" type="checkbox"/>	5) Good Highly suitable	Notes <i>The tree has no obvious irremediable defects.</i>
<input type="checkbox"/>	3) Fair Suitable	
<input type="checkbox"/>	1) Poor Unlikely to be suitable	
<input type="checkbox"/>	0) Dead Unsuitable	
<input type="checkbox"/>	0) Dying/dangerous* Unsuitable	
Sub Total		<b>5</b>

#### b) Retention span (in years) & suitability for TPO *(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)*

<input type="checkbox"/>	5) 100+ Highly suitable	Notes <i>Tree has the potential to continue to provide landscape value for 40 yrs +. It is a reasonable distance from the permanent buildings and any branches eventually touching the adjacent building can be addressed without damaging the tree. Roots which are probably from this tree are encroaching on the car park and lifting the concrete surface. (Downgraded to 10-20 yrs because of roots)</i>
<input type="checkbox"/>	4) 40-100 Very suitable	
<input type="checkbox"/>	2) 20-40 Suitable	
<input checked="" type="checkbox"/>	1) 10-20 Just suitable	
<input type="checkbox"/>	0) <10* Unsuitable	
Sub Total		<b>1</b>

#### c) Relative public visibility & suitability for TPO - *Consider realistic potential for future visibility with changed land use*

<input type="checkbox"/>	5) Very large trees with some visibility, or prominent large trees Highly suitable	Notes <i>Tree is visible from A423 and is likely to increase in size and therefore become more visible.</i>
<input checked="" type="checkbox"/>	4) Large trees, or medium trees clearly visible to the public Suitable	
<input type="checkbox"/>	3) Medium trees, or large trees with limited view only Suitable	
<input type="checkbox"/>	2) Young, small trees, or medium/large trees visible only with difficulty Barely suitable	
<input type="checkbox"/>	1) Trees not visible to the public, regardless of size Probably unsuitable	
Sub Total		<b>4</b>

#### d) Other factors - *Trees must have accrued 7 or more points (with no zero score) to qualify*

<input type="checkbox"/>	5) Principal components of arboricultural features, or veteran trees	Notes
<input type="checkbox"/>	4) Tree groups, or members of groups important for their cohesion	
<input type="checkbox"/>	3) Trees with identifiable historic, commemorative or habitat importance	
<input type="checkbox"/>	2) Trees of particularly good form, especially if rare or unusual	
<input checked="" type="checkbox"/>	1) Trees with none of the above additional redeeming features	
Sub Total		<b>1</b>

### Part 2: Expediency assessment - *Trees must have accrued 9 or more points to qualify*

<input type="checkbox"/>	5) Immediate threat to tree	Notes <i>Conservation area notification for the removal of the tree to allow for car park re surfacing.</i>
<input checked="" type="checkbox"/>	3) Foreseeable threat to tree	
<input type="checkbox"/>	2) Perceived threat to tree	
<input type="checkbox"/>	1) Precautionary only	
Sub Total		<b>3</b>

### 1.1 Part 3: Decision guide

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

Total Score

**14**

**Decision: Warrants TPO**

(1)

#### Comments

*Highly visible tree, although a life expectancy of 10 - 20 yrs has been allotted, over 40 yrs life expectancy could be achieved if a suitable method of surfacing the adjacent car park can be found.*