

# PLANNING COMMITTEE

## Tree Preservation Order (no.13/2010) Sycamore tree at The Old Dairy, Charlton on Othmoor

4 November 2010

### Report of Strategic Director Planning, Housing and Economy

#### PURPOSE OF REPORT

The purpose of this report is to advise Members of objections received to the above-mentioned Tree Preservation Order and to seek a decision on whether or not to confirm the Order.

This report is public
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#### Recommendations

The meeting is recommended

- (1) To confirm Tree Preservation Order (no.13/2010) at the site of The Old Dairy, Charlton on Othmoor without modification in the interests of public amenity.

#### Executive Summary

##### Introduction

- 2.0 Upon receipt of a planning application for the property adjacent to The Old Dairy, a site visit was undertaken to assess the impact of the proposal on any vegetation noted to be within influencing distance. The close proximity of the tree to the proposed development led the visiting officer to believe the tree required increased legal status to provide a greater level of protection during and post development.

##### Proposals

- 3.0 The tree located within a conservation area and under a foreseeable level of threat is considered to have a high level of amenity value. It is therefore proposed that the tree become subject of a Tree Preservation Order without modification.

## **Conclusion**

- 4.0 Members are asked to confirm the above Tree Preservation Order under the following powers:

Statutory powers are provided through :

*Section 198 Town and Country Planning Act 1990.*

*Town and Country Planning (Trees) Regulations 1999*

The Scheme of Reference and Delegation authorises the Head of Development Control and Major Developments or in his/her absence the Development Control Team Leader or the Team Leader - Development Control & 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.

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The above mentioned Tree Preservation Order was authorised by the Head of Development Control and Major Developments and made on 14 May 2010. The statutory objection period has now expired and one objection was received to the Order.

## **Background Information**

- 5.1 The Order relates to 1 No sycamore (*Acer pseudoplatanus*) located within the boundary and rear garden of The Old Dairy, High Street, Charlton on Otmoor (see plan attached as Annex 1).
- 5.2 The Tree Preservation Order was made on the 14/05/2010 as a result of a site visit undertaken to assess the impact of a submitted planning application (ref: 10/00798/F) for a proposed development on a neighbouring property.
- 5.3 Due to the insufficient information regarding the protection of the tree during the proposed development, the officer considered the level of risk presented to the tree to be unacceptable. A TEMPO evaluation was undertaken to assess the suitability of the tree for a TPO with the cumulative total achieving a score of 17 points. This clearly indicated the tree to be suitable for a TPO, additionally the officer considered the implications of the development application and decided to make the tree subject to a provisional TPO.
- 5.4 One letter of objection has been received from Mr T. Pollard regarding the making of this TPO. A copy of this letter forms Annex 2 to this report.

The letter received is summarised below:

### **5.5 The objection received from Mr Pollard states that:**

- a) There is no particular amenity value to this tree (T1) due to its rear garden location and that the tree is not noticeable from the public highway unless specifically looked for. The tree casts excessive shade onto the garden of 'Fox Cub Cottage' and 'The Old Dairy' and reduces the occupant's abilities to fully enjoy the gardens.
- b) As a result of a lapse in management, the garden has multiple self-seeded sycamore trees and should not be allowed to become overgrown and regress into woodland. Mr Pollard states that a utility line passes through the crown of the which will have an impact regarding future pruning works and concerns are also stated regarding the potential impact of the tree upon the adjacent underground services and drains of 'The Old Dairy' and 'Fox Cub Cottage'.
- c) Mr Pollard does not consider the tree to be a rare species and questions the relevant factor within the TEMPO assessment.
- d) Mr Pollard does not consider the tree to be under any form of threat as the proposed development is to be constructed on a shallow raft foundation.
- e) The tree reduced the amenity values of both properties.

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

#### **Considerations:**

- 6.0 The sycamore (T1) has achieved a height and spread that enables a significant proportion of the crown to be viewed from the High Street. This visibility and prominence are clear indicators of the potential amenity value of this tree. It would be expected for a tree of this size to cast a level of shade across garden areas. As the tree has not been managed for a while, it may be possible for the LPA to allow a certain level of works to be undertaken on the tree which may improve lighting. Works may include crown raising, crown thinning or specific branch removal/reduction.
- 6.1 The objection point regarding the garden and the potential for it to regress to woodland is a management/maintenance issue which will have little or no bearing upon the status of the sycamore or its health and well-being. A significant proportion of the self-seeded trees mentioned are of such a size that their removal will be exempt from the normal conservation area 'notice' and any additional self-seeded trees that require a form of notice for works would not be considered suitable for a TPO due to the fact that it would not be expedient due to the presence of the existing protected tree.

- 6.2 There are utility lines which pass within close proximity to the crown and which in the future will require pruning works to facilitate clearances. Due to the height of the utility lines and the anticipated area of the crown to be influenced, I believe that it is possible to maintain the amenity value of the tree whilst still providing adequate clearances. Sympathetic pruning operations undertaken by the service provider working in accordance with their Code of Practice and liaising with the LPA.
- 6.3 The sycamore tree scored points during the TEMPO evaluation on the factor relating to 'Trees of particularly good form, especially if rare or unusual'. The sycamore scored points on it being of particularly good form alone with no additional consideration or points scored on it being a rare or unusual form.
- 6.4 The objection letter states that the tree (t1) is not under threat from the development and does not therefore justify the points scored within the TEMPO. Due to an effective planning process, the tree was afforded adequate protection during and post development and therefore suffered minimal, if any damage as a result of the application. However, the tree is still considered to be under a level of threat due to reduced light levels, potential maintenance costs and issues with drains.
- 6.5 Mr Pollard raises concerns over the tree reducing the amenity value of both properties. Although understandable, I consider this to be a subjective view point. Persons viewing the properties may have different opinions on the visual relationships or influences on the tree and the adjacent dwellings.

#### **Reasons for Decision:**

- 7.0 Due to the potential nuisance issues raised, I consider it appropriate to confirm the TPO now rather than later and then to work closely with the owners regarding appropriate future management.
- 7.1 The tree has a suitable and adequate level of amenity value and adds to the character of the conservation area. The TEMPO assessment (Tree Evaluation Method for Preservation Orders) supports this conclusion.
- 7.2 The nuisance and future management issues raised maybe valid however, there are pruning techniques yet to be considered which may reduce or remove these nuisance issues. Problems associated with roots and drains should be assessed by a qualified drainage expert to assist in providing appropriate recommendations.

#### **Options:**

- 8.0 The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One	Refuse the TPO and retain the tree protected under conservation Area legislation.
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Option Two Confirm the TPO without modification, retain and manage the tree as appropriate.

**Consultations:**

Charlton on Otmoor

**Implications:**

Financial: The cost of this Tree Preservation Order can be met from approved Estimates.

Comments checked by E.Meadows, (Service Accountant) 01295 221552

Legal: The Committee should confirm the Order if it is in the interests of amenity to preserve the tree. The property owner has not produced an expert's report to support his objections.

Comments checked by N. Bell, Solicitor (01295 221687)

Risk Management: The position relating to risk assessment is that the existence of a Tree Preservation Order does not remove the landowner's duty of care to ensure that such trees are structurally sound and pose 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 R. Watts, Risk Management & Insurance Officer (01295 221566)

**Wards Affected:**

Otmoor

**Document Information**

Appendix No	Title
Appendix 1	Site Map
Appendix 2	Copy of objection letter
Appendix 3	Copy of TEMPO document
Background Papers	
N/A	
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