

Maidstone Borough Council

PLANNING COMMITTEE

26 February 2015

REPORT BY THE HEAD OF PLANNING SERVICES

**The Maidstone Borough Council
TREE PRESERVATION ORDER NO 5002/2014/MS
Foley Oast, Lower Street, Leeds, Kent ME17 1RR**

EXECUTIVE SUMMARY

This report seeks the permission of the Planning Committee to Confirm without modification Tree Preservation Order (TPO) No 5002/2014/MS for which objections have been received.

FOR DECISION

RELEVANT PLANNING HISTORY

14/502017/TCA-Trees in a conservation area - Reduce height of two conifers (T1 and T2) to 7.5m, Reduce height of Sycamore (T3) to 7.5m, Crown lift to 4M, and Crown thin by 20%, Remove Sycamore (T4), Crown life Beech tree (T6) to 4m and reduction of crown to outer areas from neighbours roof.
Split decision – no objection raised to works to T1, T2, T4 and T6; TPO made in respect of T3 Sycamore 01/09/2014.

14/503759/TPO: Application for consent to crown lift up to 5 metres above ground level and crown thin by 20% 1 no. Sycamore tree.
Permitted with conditions 09/02/2015.

SUMMARY TPO INFORMATION

TPO Served (Date): 1 September 2014	TPO Expiry Date 1 March 2015
Served on: Mr Bob Warwick, Foley Oast, Lower Street, Leeds, Kent ME17 1RR Owner/occupier, Foley Coach House, Lower Street, Leeds, Kent Owner/occupier, Foley Farm Cottage, Lower Street, Leeds, Kent Owner/occupier, Woodbine Cottage, Lower Street, Leeds, Kent Kent County Council, Public Rights of Way	

Copied to:

MBC internal: Local Land Charges; GIS; Case Officer for 14/502017/TCA
Ward Councillors
Parish Council

Representations

Support: 0

Objections: 1

BACKGROUND

The Sycamore tree is located at the entrance to the owner's property, set back from Lower Street by approximately 35m at the end of an entrance drive. Public footpath KH262 runs along the driveway and continues through the owner's property, immediately adjacent to the tree.

It is generally considered to have good public amenity value, being a large, mature tree of good form with estimated stem diameter of 60cm at a height of 1.5m above ground level, a height of 20m and crown spread of approximately 16m. The tree appears to be in good health and structural condition, with well-formed main forks and no significant defects, or indications of disease, decay or decline noted during the ground level, visual assessment.

The tree was the subject of conservation area notification 14/502017/TCA. The notice proposed works that would have reduced the tree significantly in size and resulted in large pruning wounds. The works would not have been in accordance with the recommendations of BS3998:2010 and were not, therefore, considered to be in line with current good practice. The sum of the works proposed was considered excessive, unjustified and inappropriate arboricultural management, which would have had a significant detrimental impact on the long term health and amenity value of the tree.

The tree was assessed using the TEMPO evaluation method, which indicated that the tree 'definitely merits protection'. The tree was considered to make a valuable contribution to the character and amenity of the area and the proposal would have had a significant detrimental impact on those qualities. Tree Preservation Order 5002/2014/MS was therefore made in response to the notification.

OBJECTIONS AND CONSULTATIONS

An objection to the TPO was received from the tree owner. The objection is summarised below, with the response to the objection being made in italics:

The TPO is unnecessary, because the tree is within the Leeds conservation area and is therefore already under statutory control.

The only justification for making the Order was disagreement with the proposed scale of the works notified, therefore the Order should be cancelled as sufficient controls already exist.

The tree is located in Leeds conservation area. The tree preservation legislation requires any person proposing works to a tree to give the Local Planning Authority six weeks' notice of their intention to carry out those tree works. The Local Planning Authority can only deal with these notifications in two ways; raise no objection, allowing the notified works to proceed, or make a

Tree Preservation Order. It is not possible for Local Planning Authorities to refuse works or permit lesser works in response to conservation area notifications, only to allow the works proposed, as notified, or to make a TPO. In this case, a TPO was made to prevent the works notified from being carried out.

The tree is a non-native, invasive species and does not warrant the special privilege afforded by the TPO. The species grows to a reasonable height which dominates native species and can lead to the loss of native species.

There is no provision in the TPO legislation to restrict the making of TPOs to native species. Trees are assessed in terms of their contribution to amenity and this is a large, prominent mature tree. Although not native, Sycamore grows successfully in this area and forms a significant part of the mature tree cover of the Borough. In a woodland situation, it might be desirable to remove Sycamore to favour regeneration of other, native species, but this is not a woodland situation and the tree is an individual of a size where it makes a positive contribution to amenity and local landscape quality, with similar visual attributes to many native species.

The issuing of the Order is short term avoidance to address the scope and scale of the works which are necessary which is not the purpose of a TPO. The officer visited unannounced and declined to discuss any of the works prior to the issuing of the Order, the issuing of the Order is therefore even more suspect and erroneous, as any concern over the scale and scope of the works could have been discussed there and then.

The Council must consider the proposal before them with conservation area notifications. Once a notification has been received, the Council has six weeks to decide whether to allow the works, as notified, or to make a TPO.

Officers do not make appointments to visit sites unless it is necessary to gain access or unless the applicant specifically requests it. The applicant is advised of this when the Council acknowledges receipt of applications. In this case, the site has a public footpath running through it allowing access to view all of the trees on the proposal. The officer called at the house to inform the owner what they were doing, and the owner offered to accompany them. This offer was declined, as the location of the trees and the works proposal was clear on the application form, so the officer considered that the notification could be viewed without assistance. It was not a refusal to discuss the merits of the proposal.

The Council followed appropriate procedure on the consideration of the conservation area notification and the making of the TPO. Following receipt of the objection, the Landscape Officer discussed the reason for making the TPO with the owner, who submitted an application, reference 14/503759/TPO, to crown lift the tree to 5m and crown thin by 20%. This application was permitted, with a condition relating to the standard of the works.

Works are necessary to the tree as a matter of some urgency and this must have been apparent to your officer during his visit.

The applicant described the proposed works to the tree on the application form as follows:-

“Tree No 3 - Sycamore. Reduce in height to 7.5 metres, crown lift to 4 metres, crown thin by 20%. Reason - tree has now grown excessively tall and spread over adjacent properties and requires to

be reduced to a safer proportion. Crown lift required so as not to impede deliveries of oil etc. by larger tankers.”

Additionally, on the application form, the applicant checked “No” against the question about reasons for the proposed works (1.) “Condition of the trees – e.g. it is diseased or you have fears that it might break or fall”

The Landscape Officer visiting the site was not aware that the applicant considered works were urgently necessary and did not note any defects during inspection to suggest that the tree was hazardous. The perception that the tree was of an unsafe proportion was therefore not considered to be based on any available evidence but rather an unjustified fear by either the tree owner or the occupiers of the adjacent properties.

The purpose of a TPO, as stated in government guidance, is “To protect trees which bring significant amenity benefit to the local area. This protection is particularly important where trees are under threat.” This tree is not under threat, it merely requires work to it.

The conservation area notification placed the tree under threat. If the Council does not respond to notifications by making a TPO, the works can proceed after six weeks. In this case, the proposed works were considered to be excessive and, whilst they would not have resulted in the removal of the tree in its entirety, they would have reduced it to a crown just 3.5m in height and resulted in large pruning wounds, with a likelihood of decay developing. The natural crown shape and structure would have been lost and the resultant regrowth would appear as multiple, dense, vigorous branches from around each pruning wound. If the pruning wounds are subject to decay at the same time, the regrowth would have increasingly weak attachment points over time and would therefore be at increasing risk of future failure. In effect, it would have created a situation where regular repeat pruning was likely to be required and the visual amenity value of the tree would be lost and its safe lifespan reduced.

The tree does not bring **significant** benefit to the local area over and above any tree in the area.

The TEMPO (Tree Evaluation Method for Preservation Orders) amenity evaluation assessment carried out by the landscape officer placed the tree in the highest category, suggesting that the tree ‘Definitely merits TPO’. It is therefore considered that the tree does exhibit sufficient amenity value for it to be considered to provide significant benefit to the local area, over and above other trees.

The wholesale and ill thought out policy of the parameters utilised for the “protection” of trees, especially in the Leeds conservation area has resulted in the village submerging into a forest of trees when viewed from the higher boundaries of the village, denying views of the many historic buildings in the village. Reference is made to the home page of the Leeds Village website which shows a view of the village taken not that many years ago, shows a view of the village now denied to all due to the proliferation of trees.

The designation of conservation areas seeks to protect the character of those areas. This includes the contribution that trees make to landscape quality, but also the buildings. The conservation area regulations are legislation and as such, the policies are established at a national level. They are not specific to or varied for particular conservation areas. Conservation areas tend to include a high proportion of old buildings, and often listed buildings, but also often include mature, and sometimes very old trees. The character of the area is a balance of these, sometimes competing, elements; trees, other vegetation and structures do obscure views of historic buildings. It may be the case that Leeds village has a higher proportion of trees now than it did in the past. The

photograph referred to was taken when the mature trees present did not have leaves and therefore obscured the buildings less than at other times of the year. Whilst the conservation area designation means that notice of proposed works must be given, for Councils to decide whether a TPO is appropriate, in the majority of cases, no objection is raised to proposed works either because the tree is not considered to merit protection or because the proposal is considered good arboricultural management. An increase in tree cover might be due to increased planting by landowners, which is not regulated.

APPRAISAL

The grounds for objection are largely a criticism of the conservation area regulations, and its mechanisms relating to trees. The owner's desire to carry out works to the tree has since been addressed by the submission and approval of an application for lesser works under the TPO.

It is not considered that the grounds of objection demonstrate that it was inappropriate to make a TPO on the Sycamore tree, or that the tree should not continue to be the subject of the Order.

It is therefore recommended that the Tree Preservation Order be confirmed, without modification.

RECOMMENDATION

Confirm Tree Preservation Order No 5002/2014/MS without modification

Contact Officer: Nick Gallavin

Head of Planning Services

Appendices: Plan and schedule for 5002/2014/MS