

Maidstone Borough Council

PLANNING COMMITTEE

26 February 2015

REPORT BY THE HEAD OF PLANNING SERVICES

**The Maidstone Borough Council
TREE PRESERVATION ORDER No. 5007/2014/MS
The Tithe Barn, The Street, Detling, Kent ME14 3JU**

EXECUTIVE SUMMARY

This report seeks the permission of the Planning Committee to confirm without modification Tree Preservation Order No. 5007/2014/MS for which objections have been received.

FOR DECISION

RELEVANT PLANNING HISTORY

14/502209/TCA Trees in conservation area notification - 1no Sycamore Tree – remove
Decision: make TPO

SUMMARY TPO INFORMATION

TPO Served: 10 September 2014	TPO Expiry Date 10 March 2015	
Served on: Mr Alfred Johnson, Tithe Barn, The Street, Detling ME14 3JU		
Copied to: Kent Highway Services Mid Kent Division		
Representations	Support: 0	Objections: 1

BACKGROUND

The tree is a mature Sycamore growing in the southern corner of the owner's garden, adjacent to The Street, Detling. It is currently estimated to be approximately 20m in height, with a crown

spread of 12m and stem diameter of 60cm at a height of 1.5m above ground level. The tree has a well balanced crown of good form and no significant defects, or indications of disease, decay or decline were noted during the ground level, visual inspection. Some ivy growth and garden rubbish around the base of the tree prevented a full inspection of the base of the tree.

The tree is prominent in the street scene and is clearly visible from surrounding public viewpoints on The Street and Hockers Lane. Amenity evaluation assessment confirmed that the tree is of sufficient quality and amenity value to merit protection by a TPO.

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 owner stated that he has done everything legally required; requested and paid for pre-application advice to discuss the removal of the tree and applied for permission, only to have a Tree Preservation Order (TPO) placed on it preventing any works being done including thinning or a reduction in size.

The tree is located in Detling 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; to raise no objection, i.e. allowing the notified works to proceed, or to make a Tree Preservation Order.

Pre-application advice was requested by the owner before submitting his six week notice to remove the tree. This is not a legal requirement, but a service provided by Maidstone Borough Council, for which a fee of £36 is charged.

Following a site visit to discuss the proposal to fell the tree, the Landscape Officer provided a written response, which advised, following assessment, that it was considered that the Sycamore:

"...is of sufficient quality and amenity value that it meets the criteria for protection by a TPO. Therefore, if the Council were to receive a notification for works that were considered inappropriate management, or detrimental to the contribution that the tree makes to the character or amenity of the area without evidence of any significant visible defects in the tree, or other evidence to demonstrate that felling is necessary, it was likely that the response would be the making of a TPO.

Removal of ivy growth, or other obstructions that prevent a full inspection could reveal defects, so it is always recommended that such obstructions are removed to enable a full inspection to be carried out.

Although I do recall that you indicated that you were not interested in anything other than felling at the time of my visit, you may wish to consider other operations that would possibly help to alleviate the problems that you consider the tree is causing, such as crown lifting or crown thinning. If the extent of operations was not likely to have any significant impact on

the long term health or amenity value of the tree, there would be less chance of a TPO being made in response to a notification for such works.

The above advice is officer level opinion and does not mean that you cannot submit a formal notification to fell the tree if you wish to do so. If you do, and it did result in the making of a TPO, you would not have a right of appeal, but you would be given an opportunity to object to the TPO before it is made permanent. You would be able to make applications for works under the TPO, which you would have a right to appeal if refused. ”

I consider that this advice set out the position clearly, indicating that a TPO would probably be made if a notification to fell was received. It also indicated that if a TPO was made, that it was still possible to make applications for works. Such applications are considered individually on their merits. Therefore, a TPO does not necessarily prevent other works from being done to the tree.

The tree is a nuisance and a danger to all in its shadow for the following reasons:

1. It is estimated to be 25m – 30m high and sways rapidly when the wind is gusting. Two independent tree surgeons believe that it presents a danger.

The Landscape Officer estimates the tree to be approximately 20m in height. Whilst not viewed in strong wind, the visual inspection did not reveal any defects or evidence of root plate disturbance to suggest that the tree presents an abnormal risk of windthrow failure. The owner has not provided any evidence to the contrary to date. However, if such evidence is submitted, the Council can consider this matter again, either via an application or a notification of works urgently necessary to remove an immediate risk of serious harm.

2. It is restricting two lovely Holly trees growing in its shadow amongst other plantation

The Hollies are smaller trees, reaching up to 5m in height. It is conceivable that the presence of the Sycamore tree is likely to be suppressing their growth to some extent and that the tree also had some detrimental impact on the growth of other plants in the garden. However, the Sycamore is considered to have the greater public amenity value. Works such as crown lifting may help to lessen its effect on the growth of other plants.

3. In the event that it should fall it would at the least cause damage to property, the garage, the gazebo, the house, three cars and a fourteenth century church are all within its footprint.
4. If it were to fall it would present danger to life and limb, being next to a public highway which is the main road used to enter Detling village. The Church and grounds are also within its shadow.
5. The tree presents a danger to all and should be removed.

In response to points 3, 4 and 5, there is no evidence to suggest that the tree is at abnormal risk of failure and, as such, it is not considered that it presents a current, identifiable hazard or danger.

6. The tree is a blot on the owner's and the village's landscape and they have to wait six months for a decision that is plain to the owner and the neighbouring church to see...and that in two professionals' opinions it at very least possibly poses danger to his family and the general public.

The Landscape Officer carried out a TEMPO (Tree Evaluation Method for Preservation Orders) assessment on receipt of the conservation area notice to fell, in which concluded that it definitely merited a TPO. The tree is therefore considered to make a positive contribution to local landscape quality.

No representations have been received from the neighbouring Church to indicate their views on the tree, or the Tree Preservation Order.

The Council has six months to decide whether or not to confirm the TPO. This does not prevent the owner from making further applications for works under the provisional TPO. The Council has not received any evidence or specific details to substantiate the claim that the tree poses a danger.

7. The roots spread over the whole of the garden, restricting, strangling and in some instances, preventing growth of shrubs and evergreens.

It is likely that the roots of the tree extend some way across the owner's garden and the tree will be competing with other plants for water, light and nutrients. This is a natural occurrence and is the case when any plants are growing in close proximity. It is not considered that this is a reason to fell trees of perceived amenity value. Other species of garden plants may be more suitable for dry, shady or low nutrient conditions and works such as crown lifting may help to lessen the effect of the Sycamore on the growth of other plants.

APPRAISAL

On balance, it is not considered that the grounds of objection are sufficiently robust to suggest 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 5007/2014/MS without modification

Contact Officer: Nick Gallavin

Head of Planning Services

Appendices: Plan and schedule for 5007/2014/MS