



St Edmundsbury  
BOROUGH COUNCIL

# DEV/SE/18/013

## Development Control Committee 12 March 2018

### Tree Preservation Order TPO/028 (2017) – The Foundry, Old Bury Road, Stanton

#### **Synopsis:**

A Tree Preservation Order (TPO) was made on two Horse Chestnut trees, located at The Foundry, Old Bury Road, Stanton on 23 November 2017. The TPO was served to protect the two trees in response to an outline planning application to develop this site.

The trees occupy a prominent position within Stanton on the junction of Old Bury Road, Hepworth Road and Upthorpe Road and contribute significantly to the character, appearance and amenity of the locality.

A letter of objection has been considered, however the TPO is considered to be necessary to ensure the trees are properly considered as part of any planning application.

It is recommended that Members **CONFIRM** the TPO without modification.

#### **Commentary:**

1. The Borough Council's Standing Orders allow for the making of provisional Tree Preservation Orders by your Officers, subject to reporting any representations relating to such action at the Development Control Committee.
2. A request was made by the Parish Council for Officers to consider protecting the trees located to the front of The Foundry site on Old Bury Road. The Tree Officer visited the site and recommended that the trees be protected. An additional sycamore tree was not recommended for protection.
3. A tree preservation order was subsequently made. The reason for the Tree Preservation Order is that:

*These two Horse Chestnut trees are located in a prominent position next to the main road, close to the heart of Stanton village. The road which these trees are situated next to is busy with pedestrians walking from nearby housing into the village. They also border the Stanton conservation area and it is considered that these trees do contribute to the character, appearance and amenity of this area. The order is further required to protect these trees as this area has high potential for future development.*

4. Planning application DC/17/2624/HYB was submitted to St Edmundsbury Borough Council in December 2017 which seeks permission for the demolition of the buildings on the site and outline permission for 9 dwellings.
5. A representations has been made in relation to the Tree Preservation Order by the agent representing the owner of the Tripp Batt Country Store objecting to the tree preservation order. The main concerns raised in the objection are as follows:
  - the trees have been assessed as part of the above planning application to not have considerable amenity value, and have been classed C1 using BS 5837:2012. The trees are described as '*of low quality and value: currently in adequate condition to remain until new planting could be established (a minimum of 10 years is suggested). Unremarkable trees, limited merit/impaired condition;*'
  - some planting in this location enhances the conservation area and street scene, this could be achieved through other landscaping and/or new planting rather than placing a TPO on these particular trees;
  - Planning policy should enable the benefits of future planning proposals to be weighed up against any loss or impact on these trees;
  - a well-designed development of any kind on the site would have a considerably longer lifetime than 20 years and be likely to result in more benefits to the community on balance than two trees of 'limited merit and value' and which have restricted root space due to the pavement surface; and
  - by enabling development in this location the planning authority would have the capacity to impose planning conditions related to planting and landscaping and therefore to provide a street scene that has higher amenity value for a longer time period.
6. Officers have considered the objections to the order carefully along with the information which is available including that which was submitted with the planning application.
7. The Tree Officer visited the site prior to making the tree preservation order and commented that *these are of value and do contribute to the appearance and amenity of the area which is also the conservation area. They have been managed well and have been kept at a height which can be well managed for the future. They both have a good form and there doesn't appear to be any defects which would compromise these trees.* The applicant's tree survey confirms the position that no immediate arboricultural work is required to these trees and that they could be retained on site for a period of at least 10 years. The agent's comments also confirm that the trees, in this location, enhance the conservation area and street scene. A TEMPO amenity assessment has been undertaken that confirms that taking into account all the factors, including the condition of the tree and the remaining longevity, the tree is suitable for protection.
8. The agent makes the case that the public visual amenity afforded by the trees could be achieved through replacement of the trees with other landscaping and/or new planting rather than placing a TPO on these particular trees. He also states that planning policy should enable the benefits of future planning proposals to be weighed up against any loss or impact on these trees. The tree

preservation order has not been made to stop development but to ensure that the trees and their environmental benefits are properly considered as part of the proposals.

9. The current planning application shows these trees retained in situ, although it is noted that this is an outline application with an indicative layout. The trees are also shown to be retained within the tree survey and that they could be adequately protected. The current situation is that the applicant is not seeking to remove the trees. The tree preservation order would ensure that if development goes ahead with the retention of the trees, the trees would be adequately protected during the construction period and potentially into the future.

### **Finance/Budget/Resource Implications:**

10. Works to or removal of a tree or trees covered by a TPO will require the formal consent of the local planning authority before any work can be carried out. Currently all such applications are submitted to the local planning authority and do not attract a fee. The Council's Planning Services and Arboricultural Officers will deal with subsequent applications arising as a result of the TPO without any additional fee income. There may also be appeals should TPO consent be refused.
11. Should an application for works to a preserved tree (or for its removal) be refused, the local planning authority may in certain circumstances, be liable to pay compensation to the affected property owner, should the trees cause damage to a property. Such claims are, however, rare and, in this instance, considered unlikely given that the condition and location of the trees can be considered fully when deciding where to locate new dwellings and other facilities associated with any development.

### **Environmental Impact and Sustainability**

12. Removal of any trees, which are considered to be worthy of protection in the public interest, would detract from the visual amenity of the local environment and in this case may effect the amenity of any future development.

### **Policy Compliance/Power**

13. The local planning authority has powers under the Town & Country Planning Act 1990 and the Town & Country Planning (Trees) Regulations to make a TPO if it appears expedient in the interests of amenity to do so.
14. The making of a TPO in this instance, is in line with the powers and policies of the Council.

### **Performance Management Implications**

15. The applications determined under the TPO provisions and any subsequent appeals are not currently the subject of any national or local performance indicators.

## **Legal Implications**

16.This provisional TPO is served on the owner and occupier of the land affected by the TPO, and also on owners and occupiers of adjoining land, who had a period within which to make objections or representations to the Order. The statutory consultation period expired on 20 December 2018.

## **Human Rights Act and Diversity Implications**

17.These matters have been assessed in relation to and are considered to comply with the requirements of the Human Rights Act 1998. In relation to Article 6, interested parties have been advised of the making of this provisional Tree Preservation Order and their views have been considered within this report. Any interference with Rights under Article 8 and Article 1 of the First Protocol are necessary in the public interest.

## **Crosscutting Implications**

18.None

## **Risk Assessment**

19.As set out above, the Council may, in certain circumstances, be required to pay compensation to owners of properties damaged by preserved trees, if the Council has refused consent to carry out works to the affected tree and such works may have prevented the damage. These claims, however, are rare.

## **Council Priorities**

20.The Council is keen to safeguard the built and natural environment.

## **Recommendation:**

**21. It is recommended that the report be noted and Members CONFIRM the Tree Preservation Order without modification.**

## **Documents Attached:**

Working Paper 1 - TPO including plan and schedule

## **CONTACT OFFICER**

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