



Forest Heath
District Council

DEV/FH/18/007

Development Control Committee 6 June 2018

Tree Preservation Order TPO/031(2017) – Lords Walk, Eriswell

Date Served:	26.01.2018	Expiry Date:	26.07.2018
Case Officer:	Jaki Fisher	Recommendation:	Confirm
Parish:	Eriswell	Ward:	Eriswell & The Rows

Synopsis:

A Tree Preservation Order (TPO) was made on 47 individual trees and 6 tree groups located across the Lords Walk estate, Eriswell, on 26 January 2016. The TPO was served to protect these trees in response to a number of individual planning applications for development across the site including on areas of open space. These trees are a significant public amenity asset individually and as groups. They are mature trees and are attractive features both as individual specimens and collectively providing an important element of a natural setting to the residential development which is generally lacking in vegetation or natural features. A letter of objection has been considered and a minor modification to remove tree T2 from the order is proposed. However the TPO is considered to be necessary to ensure the remainder of the trees are protected into the future.

It is recommended that Members **CONFIRM** the TPO, modified to remove tree T2 Silver birch.

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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 for the Council's Tree Officer to look into the protection of trees at Lords Walk following the submission of a number of planning applications for development across the site and to avoid the precipitous removal of the most important trees. The Tree Officer visited the site and recommended that many of the mature trees on the site be protected.
3. A Tree Preservation Order was subsequently made on 26 January 2018 (Working Paper 1). The reason for the TPO is that:

These trees are a significant public amenity asset individually and as groups. They are mature trees and are attractive features both as individual specimens and collectively providing an important element of a natural setting to the residential development which is generally lacking in vegetation or natural features. They are considered to be at risk owing to development pressures and changes in ownership.

4. A representation has been made in relation to the Tree Preservation Order by an agent representing clients who own certain affected areas of the Lords Walk estate. The agent states that the objection is specifically in relation to trees T1, T2, T3, T4, T5, T6, T7, T9, T10, T16, T28, T32, T47 and G02 (tree locations are shown on the TPO plan – Working Paper 1). The reasons for the objection are based on an Arboricultural Report *TEMPO Assessment OAS/18-038-AR01 for Lords Walk, RAF Lakenheath* which sets out scores for the trees of concern. The findings of the report are interpreted as the detailed reasons for objection. The Arboricultural Report recommends that the objection is made in respect to trees T2, T7, T9, T16, T28, T32, T47 and G2. Which is at odds with the agents covering email. The reasons for the objection in the Arboricultural Report are as follows:
 - T2 – the tree has a basal wound and decay and fails to score sufficient points in part 1 of the TEMPO amenity assessment. In addition the short lifespan of the tree makes it easily replaceable within a landscape scheme;
 - T8 – discolouration of needles indicates that the tree may have a tree disease *Red band needle blight*;
 - T7 – the short lifespan of the tree makes it easily replaceable within a landscape scheme;
 - T9 - due to extensive management required due to structural condition of some main branches, however remedial works are a reasonable alternative due to possible veteran status. If not considered veteran then overall would reduce by four points and be within the indefensible range;
 - T16 - poor form main leader removed, poor past pruning with large open wounds. Fails to score 7+ points in part 1 of the TEMPO amenity assessment;

- T28 - tree is of semi mature age and located within 3- 4 m of an existing house. Tree should score zero due to future nuisance issue and unsuitability of its location;
 - T32 - small decay pocket to main union. Fails to score 10+ pts;
 - T47 - fails to score 10+ pts; and
 - G2 - trees are of short squat forms with poor growth habits resulting in twisted stems that are likely to have future structural implications. 3 individuals within group have significant structural problems or bark loss due past vandalism or dog damage. Decline in the short term would affect overall value of G2 as a cohesive group.
5. Officers have considered the objections to the order carefully along with the information which is available including that which was submitted to support the objection.
 6. The Tree Officer visited the site to inspect each of the contentious trees. The TEMPO amenity assessment submitted by the agent was interrogated and updated based on all factors, including the condition of the tree and the remaining longevity, to ensure each of these trees is suitable for protection. The Officer's TEMPO amenity assessment table is attached at Working Paper 2 and covers all the trees in paragraph 4 above. The Arboricultural Consultant's scores (from the submitted Arboricultural Report) are shown in brackets where these differ from those of the Tree Officer.
 7. It is agreed that the basal wound present on tree T2 (Silver birch located on the highway verge) means that this tree fails to meet the criteria for protection and Officers recommend that the TPO is modified accordingly.
 8. Tree T7 is a weeping willow located within the green amenity area fronting the Lords Walk site. Whilst it is acknowledged that in general this type of tree has a relatively short lifespan, this has been taken into consideration in the TEMPO amenity assessment of the tree. Otherwise the tree has an attractive weeping form and makes a significant contribution to the amenity of this space. The TEMPO assessment suggests that protection is justified.
 9. Tree T8 is a Corsican pine tree which was identified as potentially showing signs of *Red band needle blight*. The Tree Officer was not of the same opinion. The Arboricultural Consultant recommended further surveys be carried out however no further evidence has been submitted to substantiate the claim. If after the TPO has been confirmed, further conclusive evidence of the disease is confirmed, an application could be made to remove the tree. The Council would not resist such an application based on sound evidence.
 10. Tree T9 is a lime tree which the Tree Officer considered should be considered as a veteran. The Arboricultural Report made the point that remedial works to this tree are a reasonable alternative for this tree. This type of works would not be prevented by the TPO, and the Council would not resist such an application.

11. Tree T16 is a mature lime tree in a prominent location and highly visible to the public. The tree is located on the edge of the main amenity space and together with tree T15 (pine) frames the view south along Earls Field. Both the Arboricultural Consultant and the Tree Officer agree on the limitations of the tree in terms of its condition and remaining longevity however these have been taken into account in the TEMPO amenity assessment.
12. Tree T28 is a semi-mature lime tree. It is true that the tree is located relatively close to the adjacent property which is not an ideal situation. However the tree appears to have been managed in this location, there are no windows looking towards the tree which is on the north side of the adjacent properties. No evidence has been submitted to suggest that the tree is affecting the property and it is your Officers opinion that the tree should be protected.
13. Tree T32 is a silver birch tree located in the front garden of a property at Maple Close. Tree T47 is also a Silver birch tree located in the front garden of a property in Oak Lane. Both trees are in a fair condition and this is taken into consideration in the TEMPO amenity assessment. There are few other trees in the vicinity of these two trees. The trees fail to score the required points in the Arboricultural Consultant's assessment because no scores were given for the expediency assessment. Officers consider that there is a threat to these trees.
14. Group G2 is a row of pine trees which is a surviving pine line which are characteristic landscape features in this locality. These pines are generally short with squat crowns. The twisted stems are not uncommon in pine lines. The condition is considered to be fair with a remaining longevity of 40-100 years.

Finance/Budget/Resource Implications:

15. 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 the Tree and Arboricultural Officer's 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.
16. Should an application for works to a protected 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

17. 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

18. 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.
19. The making of a TPO in this instance, is in line with the powers and policies of the Council.

Performance Management Implications

20. 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

21. 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 23 February 2018.

Human Rights Act and Diversity Implications

22. 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

23. None

Risk Assessment

24. 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

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

Recommendation:

- 26. It is recommended that the report be noted and Members CONFIRM the Tree Preservation Order with the following modification: removal of tree T2 Silver Birch.**

Documents Attached:

Working Paper 1 TPO including plan and schedule

Working Paper 2 TEMPO amenity assessment table