



Forest Heath  
District Council

# DEV/FH/18/028

## Development Control Committee 7 November 2018

### Tree Preservation Order TPO/018 (2017) – Street Record, London Road, Brandon

#### **Synopsis:**

A Tree Preservation Order (TPO) was made on 1 individual tree, 3 groups and 2 areas located adjacent to London Road, Brandon, on 11<sup>th</sup> May 2018. The TPO was served primarily to replace an existing TPO (TPO/1957/019) as the original order which was made in 1957, has been misplaced.

This order which consists of mature Scots Pine trees is still important as it will continue to protect these iconic Breckland trees which form a distinctive street scene. Further to the above, these Scots Pine trees provide a valuable screen between the local industrial estate and residential housing, proving they have a high amenity value as well as a cultural and historical value.

A letter of objection has been considered, however the TPO is considered to be necessary to ensure the trees are protected into the future.

It is recommended that Members **CONFIRM** the TPO without modifications as detailed in this report.

#### **Commentary:**

1. The District 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. Because the original TPO documentation had been misplaced, a request was made for the Council's Tree Officer to serve a new order. The Tree Officer visited the site and confirmed that the trees remain worthy of protection and a new order was justified.
3. The Tree Preservation Order was made on 11 May 2018 (Working paper 1). The reason for the Tree Preservation Order was that:

*This TPO has been served primarily to replace an existing TPO (TPO/1957/019) as the original order which was made in 1957, has been misplaced. This order which consists of mature Scots Pine trees is still important as it will continue to protect these iconic Breckland trees which form a distinctive street scene. Further to the above, these Scots Pine trees provide a valuable screen between the local industrial estate and residential housing, proving they have a high amenity value as well as a cultural and historical value.*

4. A representation has been made in relation to the Tree Preservation Order by the occupant of 236 London Road, Brandon. The objection is related to the group G2 and raises no issues with A1, A2, G1, G3 or T1.  
The main reasons for the objections relating to the 4 Scots Pines within group G2 are as follows:
  - The trees grow through live electrical wires. If branch failure occurred, it would bring down the live wire which would be dangerous.
  - Branches overhang the property of 236 London Road. If branch failure occurred, it would damage cars which are parked to the front of the house. This concern was reported in 2016 and at that time permission was given for the offending branches to be cut back.
5. Officers have considered the objections carefully along with information available relevant to the concerns that have been raised.
6. The Tree Officer visited the site to inspect each of the contentious trees. Some minor aspects of ill health were visible, however no significant defects were observed that would raise concerns regarding the structural integrity of the trees. The health and form of the trees are considered to be typical for the age and species.
7. The TPO would not prohibit works to trees that pose a risk to the overhead electricity cables. The relevant section of The Town and Country Planning (Tree Preservation)(England) Regulations 2012 should be considered.  
Exceptions to the regulations apply for works to trees by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary-
  - a) In the interest of the safe operation of the undertaking;
  - b) In connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker.“Statutory undertaker” in this instance meaning the holder of a licence under section 6 of the Electricity Act 1989(6).
8. The assertion was made that consent was granted for works to the trees in question, although no record of this was found, suggesting that the work was consented in a timely manner under a 5 day notice. Applications may be made for works to trees covered by an Order. If a risk to people or property is evidenced and justified, works would normally be granted consent, and in the case that the works are urgent, procedures can deal with this in a timely way. The TPO would therefore not restrict good management practices on the grounds of health and safety.

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

9. 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.

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**

10. 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 would effect the amenity of the future development.

### **Policy Compliance/Power**

11. 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.
12. The making of a TPO in this instance, is in line with the powers and policies of the Council.

### **Performance Management Implications**

13. 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**

14. 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 14 June 2018.

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

15. 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**

16. None

## **Risk Assessment**

17. 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**

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

## **Recommendation:**

**19. It is recommended that the report be noted and Members CONFIRM the Tree Preservation Order.**

## **Documents Attached:**

Working Paper 1 – TPO including Schedule and Plan  
Working Paper 2 – TEMPO Assessment

## **CONTACT OFFICER**

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