

Item 9

ITEM NO.

REPORT TO DEVELOPMENT CONTROL

10 October 2008

REPORT OF HEAD OF PLANNING

Planning and Development Portfolio

Tree Preservation Order No. 55/2008 1 Gilpin Road Newton Aycliffe

1. SUMMARY

- 1.1 A provisional Tree Preservation Order (TPO) was made at the above site on 24 July 2008. The purpose of this report is therefore to consider whether it would be appropriate to make the Order permanent.
- 1.2 The Town and Country Planning Act 1990 enables Local Planning Authority (LPA) to make a TPO if it appears to be “expedient in the interests of amenity to make provision for the preservation of trees and woodlands in their area”. The Order must be confirmed within 6 months of being made or the Order will be null and void. The serving of the TPO is normally a delegated function, whilst the confirmation is by members.
- 1.3 The tree that is the subject of the Order provides amenity value to the area and is considered worthy of protection to preserve the character of the area.

2 RECOMMENDATIONS

- 2.1 It is recommended that Committee authorise confirmation of the Order.

3. BACKGROUND

- 3.1 The mature tree provides a major landscape feature and contributes significantly to the character of the area.

The tree is highly visible in the landscape and is close to a local shopping area.

In order that the standards of pruning works can be controlled and the quality of the tree preserved it is considered necessary to give the tree legal protection.

This tree softens the impact made by the Oak Tree public house.

The tree is an excellent example of the species in very good condition.

The tree is scheduled to be felled.

4 CONSULTATIONS

- 4.1 Under the terms of the Town and Country Planning Act 1990 and the Town and Country Planning (Trees) Regulations 1999, the Order was served on the owners of the land. Great Aycliffe Town Council was also consulted. The parties were invited to make representations within 28 days of the date the Order was served, in order that comments could be reported to Committee.
- 4.2 One letter of objection to the Order was received.

5. COMMENTS ON THE OBJECTIONS

5.1 Height of the roots

The height on the buttress roots are probably as a result of insertion of the driveway rather than any strain on the roots. The tree certainly does not show any of the characteristics of, what is called in forestry terms, 'partial wind throw'.

5.2 Effects of the root system

As we understand it, there is a fear of damage rather than any actual damage to your property. The reasons why tree roots *may* cause damage are very complicated. The local planning authority would need technical evidence to support the likelihood of damage before this objection could be given any weight. The tree is in the region of 80-100 years old and would appear to have caused only superficial movements of the driveway blocks hitherto.

5.3 Health and safety issues

Upon inspection the tree was considered an excellent specimen with no signs of weak branch attachment nor indications of disease. It would be very difficult for an adult to climb the tree. Any attempt to do so would involve trespass onto your property and we would assume that this in itself would negate any liability from third parties. We are not aware of any claim in the UK for such a scenario.

5.4 Tree felling in the wider area

Every tree felled is judged on its merits and liabilities. Discussion of each tree felled in Newton Aycliffe would be prohibitive but if you feel you need an explanation for specific trees we would only be too happy to provide the reasons for the management option.

In this case the local planning authority felt that the reasons for the retention of the tree outweighed the reasons for felling the tree.

5.5 Selling of timber

References to 'felling' appear to have been confused with the word 'selling'.

5.6 Responsibility for the tree

The responsibility for the tree remains with the landowner unless the local planning authority refuses works to the tree. The serving of a TPO does not constitute refusal of consent. Refusal of consent can only occur if an application for works is submitted and subsequently refused. Limited liability for any damage would then transfer to the local planning authority, the details of which are outlined in the Order. The issue of the cost of works is not a material consideration when considering the value of the tree to the community. We should however point out that the serving of the Order has saved the owners a considerable amount of money that would have been spent on removing the tree.

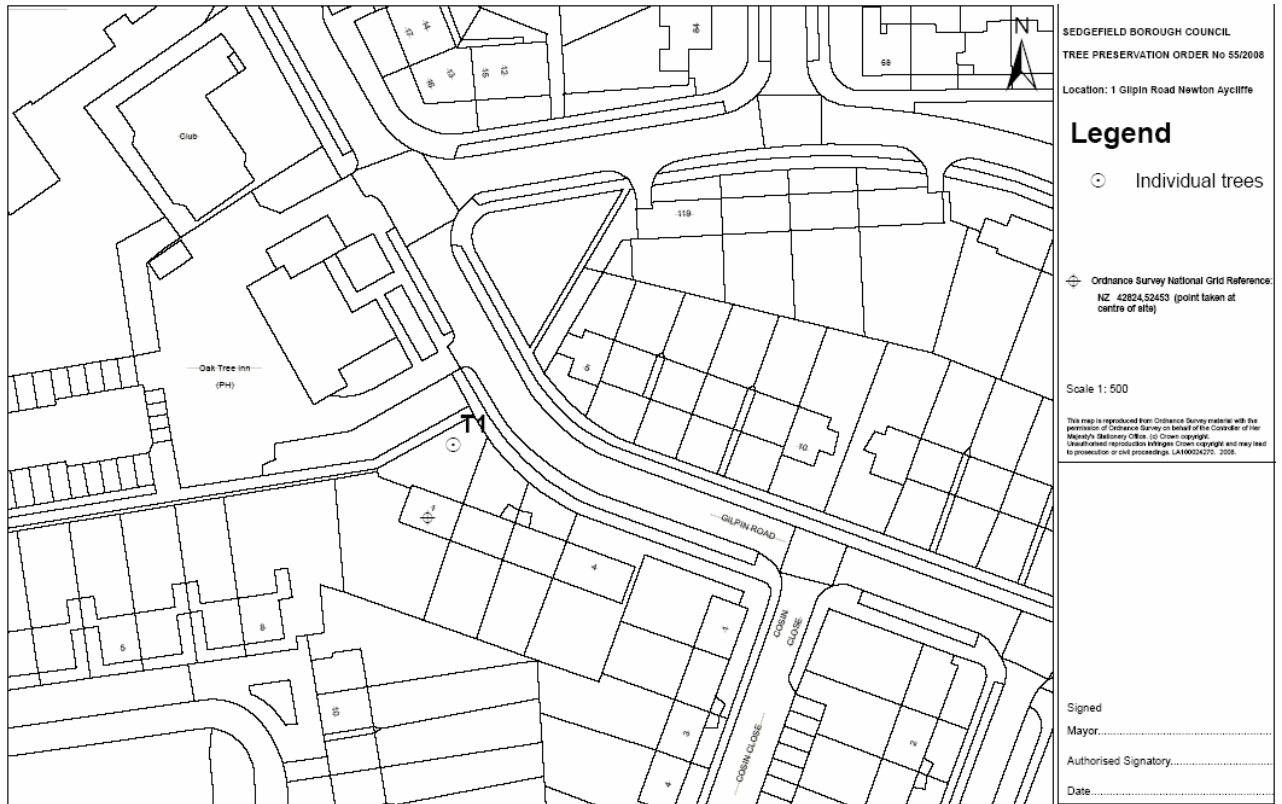
5.7 Landscape impact

The tree provides a partial screen and pleasant foil to the harsh brick and tarmac environment of the public house. The loss of the tree will be a significant loss to the local streetscene.

Following objections to TPO's we carry out a systematic assessment of the tree in question and we enclose the results of that assessment in item b of the Appendix to this report.

Appendix - Background Papers

Item a Tree Preservation Order 51/2007: Plan and Schedule



T1 Oak

Item b TEMPO evaluation

TREE EVALUATION METHOD FOR PRESERVATION ORDERS		
SURVEY SHEET AND DECISION GUIDE		
	Tree/Group No.	Species;
Surveyor; Rodger Lowe	T1	Oak
Owner; Mr and Mrs Hardy		
Location; 1 Gilpin Road		
Date; 19 September 2008		
<u>PART 1; Amenity Assessment</u>		
a) Condition and suitability for Tree Preservation Order		
Refer to Guidance Note for definitions		
Score		
5) Good	Highly suitable	5
3) Fair	Very suitable	
1) Poor	Unlikely to be suitable	
0) Unsafe, Dead	Unsuitable	
b) Longevity and suitability for Tree Preservation Order		
Refer to 'Species Guide' section in Guidance Notes		
Score		
5) 100+	Highly suitable	
4) 40 -100+	Very suitable	4
2) 20 - 40	Suitable	
1) 10 - 20	Just suitable	
0) < 10	Unsuitable	
c) Relative public visibility and suitability for Tree Preservation Order		
Consider realistic potential for future visibility with changed land use		
Score		
5) Very large trees, or trees that are a prominent skyline feature	Highly suitable	
4) Large trees, or medium trees clearly visible to the public	Suitable	4
3) Medium trees, or larger trees with limited view only	Just suitable	
2) Small trees, or larger trees visible only with difficult	Unlikely to be suitable	
1) Young, very small trees or trees not visible to the public	Probably unsuitable	
d) Other factors		
Trees must have accrued 7 points or more (with no zero scores) to qualify		
Score		
5) Principal components of arboricultural features, or veteran trees		
4) Members of groups of trees that are important for their cohesion		

3) Trees with significant historic importance		
2) Trees of particularly good form, especially if rare or unusual	2	
1) Trees with none of the above		
Part 2; Expediency assessment		
Trees must have accrued at least 9 point to qualify		
Score		
5) Known threat to trees	5	
3) Foreseeable threat to tree		
2) Perceived threat to tree		
1) Precautionary only		
0) Tree known to be actionable nuisance		
Part 3; Decision Guide		
	Score Total	Decision
7-10	Does not merit TPO	
11-14	TPO defensible	
15+	Definitely merits TPO	20 Confirm TPO

Item c Letter of objection

Mr & Mrs N Hardy
1 Gilpin Road
Newton Aycliffe
County Durham
DL5 5EQ

To
Head of Planning Services
Neighbourhood Services
Sedgefield Borough Council
Council Offices
Spennymoor
DL16 6JQ

1/8/2008

Comments / objections regarding the TPO/2008 on our Oak Tree.

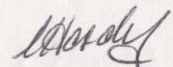
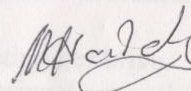
This oak tree is in close proximity to our house and is very large (being approx 100yrs old); because of this we are very concerned about the following:

- 1) The roots at the base of the tree are very high, protruding from the ground, this we believe is because the extreme height of the tree is putting strain on the roots.
- 2) We are concerned regarding the tree roots underground in relation to the house foundations, drains, pipes etc.
We are also concerned that the roots may be affecting our drive.
We do not want to wait until there could be expensive damage that we may not be covered by our insurance.
- 3) Health and safety regarding large branches being blown off the tree during gale force winds (we have a public pathway close to the tree, in fact the tree overhangs the pathway)
We are also worried re our liability and risk to children climbing the Tree.

- 4) One of the reasons quoted in the order refers to the tree providing a major landscape feature of the area. Did all the trees that have been felled this year in Newton Aycliffe have no significance to their areas?
Why were these trees felled? some of them big fine mature trees like ours, but not in a garden close to a house like ours.
- 5) Mr Lowe said twice on the phone that we were **selling** the tree - this is definitely not the case as we would be paying for the tree to be felled and removed at great cost to us!
We are Senior Citizens on a limited income and can ill afford this cost, we gave this serious thought and decided it was the better option than having to pay for regular pruning which as time goes by we will not be able to afford.
It is only 6yrs since the tree was professionally pruned and already it is enormous.
- 6) How does the tree soften the impact of the Oak Tree Pub? It does not prevent the noise of disco music and late night revellers!
There are other trees around the pub and a specimen tree on the green opposite our house. These all continue to be visible to both the shopping area and pub but do not present the same risks as the tree in our front garden.

We hope the council will look upon these comments favourably and understand our reasons are not purely selfish and we have given consideration to our community.

Yours Sincerely



Mr & Mrs N Hardy