



Derby City Council

PLANNING CONTROL COMMITTEE
8 September 2016

ITEM 6

Report of the Director of Strategic Partnerships,
Planning and Streetpride

**Tree Preservation Order 2016 Number 586 (Epworth House,
3 Stuart Street, Derby)**

SUMMARY

- 1.1 This report summarises and comments on an objection to a Tree Preservation Order (TPO) on a cedar tree at Epworth House, 3 Stuart Street, Derby and recommends confirmation of the TPO without modification.

RECOMMENDATION

- 2.1 To approve confirmation, without modification, of TPO 2016 Number 586 (Epworth House, 3 Stuart Street, Derby)

REASONS FOR RECOMMENDATION

- 3.1 Confirmation of this TPO would control works to the cedar tree on this site, avoiding a loss of amenity value to the immediate area.

SUPPORTING INFORMATION

- 4.1 On 9th June 2016, Derby City Council, in exercise of the powers conferred by sections 198, 201 and 203 of the Town and Country Planning Act 1990, made the above TPO on a cedar tree at Epworth House, 3 Stuart Street, Derby as shown on the plan attached as Appendix 2.
- 4.2 The reason why the TPO was made is cited as: "The tree indicated in this Order is proposed for protection in the interests of visual public amenity. The tree is situated in a prominent position on Stuart Street and can be appreciated from the immediate vicinity. The tree contributes materially to the amenities of the locality by playing an important part in providing a sense of scale and maturity."
- 4.3 One letter, attached as Appendix 3, objecting to the TPO was received from Margaret MacQueen BSc CBiol MRSB MICFor CEnv MAE, Principal Consultant Arboriculturist, Expert & Legal Services at OCA UK Limited on behalf of Methodist Homes for the Aged (MHA).

- 4.4 The objections from OCA UK Limited on behalf of MHA are summarised below followed by the Director's response.
- 4.5 **Objection point one:** OCA UK Limited believe that the reasons for the making of the Order have not been fully explained and point out that current Government advice in relation to the creation and service of TPOs, found in Planning Practice Guidance, states "Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future." The assessment prior to TPO service should cover criteria such as visibility; individual impact; wider impact; expediency, which OCA UK Limited feel the Council has not provided evidence of, or indicated that it has in fact assessed the 'amenity value' of the cedar tree, using for example TEMPO, Tree Evaluation Method for Preservation Orders. TEMPO is a scoring scheme developed by Julian Forbes-Laird which values a tree in relation to its condition, life expectancy, prominence in the landscape, 'other factors' and the magnitude of any threat, creating a threshold for deciding whether a TPO is defensible or not.
- 4.6 **Director's response to point one:** The reasons why we have made a TPO are that on Friday 3 June 2016 we were emailed by Ground Control Limited on behalf of MHA to ascertain whether the cedar tree was protected by a TPO, or within a conservation area where all trees are automatically protected. The reasons stated for felling the tree were that "the tree is dropping pines and sap on to people's cars." Separate site visits were made the following week by three officers, a Senior Planning Technician, the Environment and Climate Change Manager and an Arboricultural Officer. All officers individually felt the tree worthy of a TPO, backed up by the completion of an Amenity Evaluation Rating for TPOs form where the cedar tree scored 16, attached as Appendix 4. This form is completed for all trees that are considered worthy of a TPO and helps to objectively assess the tree against a number of different criteria including amenity, size, health and suitability to the area. The suitable benchmark rating for inclusion within a TPO is 15. The Amenity Evaluation Rating for TPOs form is a similar tool to TEMPO, used by local authorities to assist those responsible for the management of TPOs, by establishing a more systematic and objective approach for assessing the amenity of trees and woodlands.
- 4.7 **Objection point two:** OCA UK Limited state that the cedar tree is implicated in direct damage to the adjacent site boundary wall and block paving car parking surface. MHA have a duty of care towards their employees in relation to ensuring there is no risk of a trip claim, but that the service of the Order has added a significant additional layer of complexity in relation to asset management for MHA, they now having to apply for statutory consent to carry out works to the cedar tree.

4.8 **Director’s response to point two:** As outlined under 4.6, the reasons given in the original email for the removal of the cedar tree was that “the tree is dropping pines and sap on to people’s cars.” No mention was made of the tree being implicated in direct damage to the adjacent site boundary and block paving car parking surface. Prior to this, on 6 July 2015, Ground Control Limited emailed the Council about carrying out works to trees at MHA based on a tree survey carried out by Landscape Planning Limited dated 29 May 2015. As part of this tree survey, the recommended works to the cedar were to crown lift by 4 metres because branches were obstructing the highway. We had no objection to this work which has already been undertaken.. No other issues were identified with the cedar tree and it was recommended by Landscape Planning Limited that the tree be re-inspected in 36 months. It is acknowledged that MHA have a duty of care towards their employees, as all employers do, but it is felt that this can be achieved in this case by rebuilding the small section of affected boundary wall and the relaying of the affected block paving car parking surface, rather than felling the cedar tree. In terms of applying for permission to carry out works to protected trees, once a completed application has been submitted and registered at no cost to the applicant, they are determined within eight weeks.

OTHER OPTIONS CONSIDERED

5.1 The only other option considered is not to confirm the TPO, which would mean that the cedar tree on site would be left without any level of statutory protection, which could lead to its removal or damage.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Andy Hills – Environment and Climate Change Manager
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For more information contact: Background papers: List of appendices:	Graham Toon 01332 642117 graham.toon@derby.gov.uk None Appendix 1 - Implications Appendix 2 - Location Plan Appendix 3 - Letter of objection Appendix 4 - Amenity Evaluation Rating for TPOs form Appendix 5 - Photographs
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IMPLICATIONS

Financial and Value for Money

1.1 None arising from this report.

Legal

2.1 The Local Planning Authority must, before deciding whether to confirm the Tree Preservation Order, consider any duly made objections.

2.2 The Local Planning Authority may modify the Tree Preservation Order when confirming it.

Personnel

3.1 None arising from this report.

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4.1 None arising from this report.

Equalities Impact

5.1 None arising from this report.

Health and Safety

6.1 None arising from this report.

Environmental Sustainability

7.1 Trees, such as the one discussed in this report, are an important part of urban areas, because they:

- provide a wealth of benefits relating to biodiversity. In our urban areas, whether located on streets, or in parks, gardens or schools, trees are unique in their ability to support a variety of wildlife
- clean the air, reduce temperatures, and counteract our polluting lifestyles by absorbing and storing carbon dioxide through a process known as photosynthesis. During this process, which enables them to grow, carbon dioxide is converted into stored carbon. This is why trees are sometimes

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referred to as 'carbon sinks'

- provide oxygen for people, and catch dust and pollutants on their leaves. By filtering out polluted air, they help reduce the incidence of asthma, skin cancer and stress-related illness
- provide natural winter insulation and summer shade, which could help reduce the annual heating and cooling expenditure of homeowners.

Property and Asset Management

8.1 None arising from this report.

Risk Management

9.1 None arising from this report.

Corporate objectives and priorities for change

10.1 This decision would assist in taking forward the Corporate Priority of achieving 'An inspiring place to live'.