

MAIDSTONE BOROUGH COUNCIL

PLANNING COMMITTEE

1st July 2010

REPORT OF THE HEAD OF SPATIAL PLANNING

REFERENCE: Tree Preservation Order No. 3 of 2010 Date: 25th September 2010

TITLE: Trees on land at North Lodge, 57 Heathfield Road, Maidstone.

CASE OFFICER: Guy Stephens

Tree Preservation Order (TPO) No.3 of 2010 was made under section 201 of the Town and Country Planning Act 1990 to protect one Sycamore and one Lime tree. Two objections to the order have been received and the Planning Committee is, therefore, required to consider these before deciding whether the Order should be confirmed.

The recommendation on whether to confirm this TPO is being reported to Committee for decision because:

- 2 objections have been received

POLICIES

Maidstone Borough Council, Landscape Character Assessment & Landscape Guidelines, 2000

Government Policy: ODPM, 'Tree Preservation Orders: A Guide to the Law and Good Practice'

BACKGROUND

History

On 24th March 2010 Landscape Officers became aware of an outline application, MA/10/0148, for a detached two storey dwelling with access and layout for consideration. At a site visit the Landscape Officer noted two mature trees along the frontage of Heathfield Road on a raised bank; one Lime and one Sycamore. In order to facilitate the access drive it would be necessary to remove the Lime tree. As a result, it was considered expedient to protect the trees by the making of a TPO.

The grounds for the making of the order were stated as follows: -

The Sycamore and Lime trees are mature, healthy specimens prominent from Heathfield Road, making a valuable contribution to the character and amenity of

the area. The trees are considered to be under threat due to application MA/10/0148, which would result in the removal of the Lime to facilitate a driveway and potential additional stress to the Sycamore which could result in its premature removal. Therefore, it is considered expedient to make both trees the subject of a Tree Preservation Order.

The Section 201 direction bringing the order into immediate effect expires on 25th September 2010

OBJECTIONS

The TPO was served on the owner/occupier of the land in question and any other parties with a legal interest in the land.

Two objections have been received to the order, within the statutory 28 day period from its making as follows:

1. From the owner of North Lodge, Heathfield Road. The full text of the objection is attached to this report as **Appendix A**.

The grounds of the objection are summarised as follows: -

- According to the tree survey carried out by Tom la Dell the Lime tree was identified as not being in good health due to extensive epicormic shoots, severe crown dieback, and, to the observer, there are many obviously rotten branches.
2. From Sibley Pares, Chartered Surveyors. The full text of the objection is attached to this report as **Appendix B**.

The grounds of the objection are summarised as follows: -

- The Lime should not be included within the TPO as it has, according to the Tree report, been identified as dying back and its removal is recommended.
- There is some surprise that the TPO failed to observe the contents of the tree report as it is stated within the fourth paragraph of the Order that the trees are healthy specimens which is clearly not the case.

CONSIDERATIONS

SITE AND SURROUNDINGS

Both trees are mature and are located on a raised bank which fronts onto Heathfield Road. They are part of a belt of mature, predominantly deciduous trees on the southern side of Heathfield Road which helps create a green feature within the urban setting. It is important to note that presently there is an existing TPO, TPO No 2 of 2000, which includes 22 individual trees and 8 groups of trees throughout the site. One of the protected groups, G4, which comprises

of 6 Sycamores is on the boundary of where the proposed dwelling is to be located.

DESCRIPTION OF TREES

Both trees are mature and of natural shape and have similar dimensions; the stem diameters being 800mm and measuring 19 metres in height. A tree survey was carried out by Tom La Dell on behalf of the applicant in accordance with BS 5837:2005 to assess the condition of the trees on site and identify their Root Protection Area. The Sycamore is classified as category A, high quality, whilst the Lime is graded 'C', low quality. Both trees are noted as having various defects, for example, there was short twig extension within the Sycamore canopy and the Lime showed signs of crown dieback and epicormic growth at its base. Due to their age and location it is reasonable to assume that both trees will naturally exhibit various deficiencies. However, the grading afforded to both trees is considered, by the Landscape Officer, to be inconsistent.

LEGAL CONTEXT

Local Planning Authorities (LPAs) may make a TPO if it appears to them to be:

'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

The Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees should therefore normally be visible from a public place, such as a road or footpath. The benefit may be present or future. It is, however, considered inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.

LPAs are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way, taking into account the following key criteria:

- (1) visibility
- (2) individual impact
- (3) wider impact

Officers use an amenity evaluation assessment form based on Government guidance and an industry recognized system which enables Arboricultural Officers to make an objective decision on whether trees fulfill the criteria for protection under a TPO.

However, although a tree may merit protection on amenity grounds, it may not be expedient to make it the subject of a TPO. For example, it is unlikely to be expedient to make a TPO in respect of trees which are under good arboricultural management. It may, however, be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate.

RESPONSE TO OBJECTION/S

The responses to the principle points of objection set out above are as follows:-

Mr Bone, 57 North Lodge, Heathfield road, Maidstone, Kent.

- The Landscape Officer undertook a site visit in March, when there were no leaves on the trees, to carry out an amenity evaluation. He noted that there was minor dead wood throughout the canopies of both trees. This is not necessarily a sign that the tree is in decline and is a common characteristic within a number of tree species including Lime.
- It is important to establish the significance of dead wood, failure to carry this out could result in the extensive crown reduction or in the worst case complete removal, unnecessarily.
- The fact that epicormic growth is present is, again, not usually a sign of poor health. Epicormic growth, which arises from dormant buds found the main stem, is activated when limbs are removed.

Sibley Pares, Chartered Surveyors.

- As stated above the appearance of deadwood is not necessarily a sign that the tree is in decline but an indication that the tree has not been managed.
- In my view there is no evidence to suggest the trees are particularly unhealthy as the report does not identify any specific defect which would suggest that the tree will fail imminently. Therefore, the TPO has been made correctly.

CONCLUSION:

Following his initial inspection, the Landscape Officer carried out a further assessment of both trees in June when they had full leaf cover. It should be noted that the Lime had a full crown and good shoot extension, which is a sign that it is a healthy tree. The crown of the Sycamore was more sparse, but there is no other indication that it is unsound. Ideally it should be monitored on a regular basis and if other symptoms of poor health become more visible then an application for appropriate tree work can be submitted.

For the reasons set out above it is considered that:

There are no grounds of objection above which are sufficient to throw the making of the Order into doubt.

RECOMMENDATION:

CONFIRM WITHOUT MODIFICATION Tree Preservation Order No. 3 of 2010

BACKGROUND DOCUMENTS:

406/100/331- TPO No. 3 of 2010