

REPORT SUMMARY

CASE REFERENCE: 5005/2023/TPO	
ADDRESS: Otham Glebe, Church Road, Otham, Kent ME15 8SB	
RECOMMENDATION: Confirm Tree Preservation Order No. 5005/2023/TPO with MODIFICATION as per the attached Order.	
SUMMARY OF REASONS FOR RECOMMENDATION: The Council considers that the tree or trees contribute to amenity and local landscape character, and it is expedient to make a Tree Preservation Order (TPO).	
REASON FOR REFERRAL TO COMMITTEE: An objection was received to the making of the TPO	
PARISH: Downswood and Otham	WARD: Downswood and Otham
CASE OFFICER: Paul Hegley	SITE VISIT DATE: 13/04/2023
PROVISIONAL TPO MADE: 13.04.2023	PROVISIONAL TPO EXPIRY: 13.10.2023
PROVISIONAL TPO SERVED: 14.04.2023	TPO OBJECTION EXPIRY: 13.06.2023

RELEVANT PLANNING HISTORY

Planning:

Pre-application 21/504121/PAMEET

Enforcement:

NONE

Appeals:

NONE

MAIN REPORT

1. INTRODUCTION AND BACKGROUND

- 1.01 The Maidstone Borough Council made the provisional Tree Preservation Order No. 5005/2023/TPO on the 13.04.2023, which is attached.
- 1.02 The site has been subject to two previously unconfirmed TPO's (ref: 5003/2021/TPO & 5003/2023/TPO) both of which were made as area orders protecting only the trees present at the time regardless of their size, age or condition. The previous lapsed TPO's were requested by local Cllrs following the sites submission within the Council's call for sites allocation of December 2020.

- 1.03 Following a more detailed assessment of the site the current TPO subject to this report now categorizes the trees as either individuals, groups or Woodlands giving a greater level of protection than the previously lapsed area orders.

2. DESCRIPTION OF TREES

- 2.01 The TPO protects 15 individual trees growing towards the centre, northern and southern boundaries, 2 groups towards the western boundary a small block of woodland along the western boundary and a larger area of woodland towards the south-eastern corner.
- 2.02 The majority of the protected individual trees are of young age having established over the years as self-sown specimens. The most prominent of the individual trees is an English Oak growing towards the centre of the site. The Oak displays veteran characteristics and as such is listed on the Woodland Trust Ancient Tree Inventory as ID 172227.

3. OBJECTIONS

- 3.01 One objection was received to the making of the TPO, which has been summarised below.
- 3.02 Objections Summary:

Concerns raised include:

- The owners have worked closely with Maidstone Borough Council to ensure that those trees worthy of retention or transplanting are protected as the land is brought back into productive agricultural use. The privately owned agricultural land has been the subject of a succession of agricultural tenancies and after a fallow period has, this year, been cleared of brambles and is currently being enclosed with stock-proof fencing. The resumption of agricultural use does not need planning permission. Some trees are worthy of protection in situ, but others should either be pruned and transplanted or simply removed.
- The owners agree to the retention of the following trees/groups/woodlands: T1, T5, T7, T8, G1, W1, W2.
- Trees that should be relocated i.e., saplings to be transplanted in the Autumn: T2, T3, T4, T6, T9, T10, T14, T15.
Several of these young trees will need expert pruning to give them a healthy future.
- Trees that should be removed:
T11, T12 and T13.
The owners' arborist categorised these as "C" under BS5837 i.e., of low-quality value.
- In 2020, as part of the Local Plan Call for Sites, the Local Planning Authority assessed the site as available, suitable for housing development and achievable. In assessing the site as suitable for 27 houses, allowance was made for some 0.86 hectares (2.1 acres) of trees/woodland. Retention of T11, T12 and T13, which are of poor quality and low value would sterilise the access and therefore the development potential of the land. The fact that it is not currently intended for development is not a valid planning reason to sterilise a site that is available, suitable for sustainable development and achievable, and which may well be needed for housing in the future.
- The Council should resolve not to confirm the TPO, but to replace it with an Order that only protects the following trees/groups/woodlands:
T1, T5, T7, T8, G1,

4. REPRESENTATIONS

4.01 One other representation in support was received to the making of the TPO, which has been summarised below.

4.02 Representations Summary:

I am writing in support of the above Tree Preservation Order made with regard to Otham Glebe.

However, I would ask that you look again at the boundary of Otham Glebe as you have mistakenly included part of my garden within Woodland W1 identified on the map. The boundary of the W1 woodland is incorrect, it should be a rectangle. On an aerial photo and OS maps it could appear that the woodland continues into my garden, but this is not the case. We do have a couple of trees in that area, but also a wildlife pond, lawn and shrubs. It is not a woodland, and the trees are not under threat.

5. CONSIDERATIONS & APPRAISAL

5.01 Condition:

At the time of assessment, the trees listed within the TPO appeared to exhibit no visual defects to indicate they pose an abnormal safety risk.

5.02 Contribution to public amenity:

Whilst some trees in the TPO are more prominent than others from surrounding public areas, as a collective they contribute positively and significantly to the mature and verdant landscape of the area and to its character and appearance.

5.03 Response to objection:

Up until recently the site has been unmanaged for many years becoming an overgrown paddock with dense thickets of brambles and young developing self-seeded trees/saplings. The recent clearance of the brambles in preparation of returning the area back to grazing land has opened up the site to some degree making the retained trees more important in terms of their landscape value. It is acknowledged that many of the sapling trees present throughout the site are of poor form and not worthy of protection, however those made subject to the order are considered to have good overall form/structure that makes them suitable for inclusion and as such are not considered to warrant any expert pruning as suggested.

The categorization of trees under British Standard 5837:2012 is based on a tree's suitability of retention in terms of potential development of the site and not its inclusion within a TPO. Consequently, the use of this standard to exclude trees T11, T12 & T13 is considered inappropriate and unjust. In line with current government guidance a TEMPO amenity evaluation assessment has been carried on the three trees which confirms their suitability for inclusion.

In terms of development, a TPO should not be imposed to prevent good use of the site but merely to add protection to existing healthy prominent trees that otherwise could be lost in pre-development clearance works. However, it should be noted that the granting of full planning consent overrides a TPO.

5.04 Response to representations

Having reviewed the coverage of woodland W1 on the TPO, it would appear that the northern boundary has been incorrectly plotted to include a small proportion of the neighbouring garden of The Rectory. As the area is clearly domestic garden and not woodland its inclusion is not considered expedient, so it is recommended that it is omitted from the TPO as shown as red hatching on the amended TPO at Appendix A.

6. CONCLUSION

- 6.01 The objections raised to this TPO are not considered to be sufficiently robust to question its validity and the exclusion of the incorrectly plotted area of garden as woodland within W1 is considered appropriate in terms of following good government guidance when making and confirming preservation orders.

7. RECOMMENDATION

- 7.01 **Confirm** the Tree Preservation Order **No. 5005/2023/TPO With MODIFICATION** as per the attached Order to exclude the area of red hatching within Woodland W1.

Case Officer: Paul Hegley

Date: 05.09.2023

Note: Tree Officer assessments are based on the condition of the trees on the day of inspection. Whilst every effort is made to ensure that the assessments are accurate, it should be noted that the considerations necessary for determining applications/notifications may be able to be made off-site and, in any case, no climbing or internal inspections or excavations of the root areas have been undertaken. As such, these comments should not be considered an indication of safety.

APPENDIX A

Copy of amended/modified TPO 5005/2023/TPO