

EAST HERTS COUNCIL

DEVELOPMENT MANAGEMENT COMMITTEE – 31 JANUARY 2018

REPORT BY EXECUTIVE MEMBER FOR DEVELOPMENT MANAGEMENT
AND COUNCIL SUPPORT

CONFIRMATION OF TREE PRESERVATION ORDER NO.2 2017 P/TPO
608 AT 47 QUEENS ROAD, HERTFORD, HERTS, SG13 8BB

WARD(S) AFFECTED: Hertford Castle

Purpose/Summary of Report

- To consider the objections to the making of the tree preservation order (TPO) received by the tree owner Mrs DC Tomlin and her daughter Ms MJ Tomlin.
- Considering the objections and reasons for making the TPO, to decide whether Tree Preservation Order No.2 2017 P/TPO 608 should be confirmed.

RECOMMENDATION FOR DECISION: That

(A)	Tree Preservation Order No.2 2017 P/TPO 608 be confirmed without modification.
------------	--

1.0 Background

1.1 Under section 211 of the Town and Country Planning Act 1990, a written notification to fell a mature copper beech tree within the Hertford conservation area at 47 Queens Road was received by the council on 10 July 2017. The council has six weeks from that date to decide whether it objects to work and make a TPO.

1.2 Previously the tree has been pruned with no objections from the council.

1.3 The reasons given by the owners in their notification for removing the tree are:

- Excessive size of the tree in proximity to the house
- Root damage to the boundary wall which is now potentially dangerous / safety concerns

1.4 The council objected to the notification to fell the tree and on 18 August 2017 made a provisional TPO to protect it. The council has six months from that date to decide whether to confirm the TPO.

1.5 The reason for making the TPO is:

- The beech is a healthy, mature tree of significant public amenity value, visible to the public and very prominent in the street scene of Queens Road. The tree is threatened with removal due to the failure of a low level retaining wall along the rear boundary of the property which is near to the tree stem. The existing and future public amenity value of the tree is considerable, and its loss would have a significant impact on public amenity. The section of wall could be removed to avoid potential risk to users of the footpath, and alternative methods explored and employed for retaining the soil that would allow the tree to be retained, a solution that would also address the owners concerns for users of the public footpath.

1.6 Before deciding to make any tree preservation order, the council uses a system called TEMPO (Tree Evaluation Method for Preservation Orders) for assessing the amenity value of trees. Using that system, the beech scores highly and merits a TPO.

2.0 Report

2.1 The copper beech tree is mature and healthy, standing on the rear western boundary of the property garden. The rear

boundary of the property runs parallel with Queens Road and the tree is therefore very prominent in the street scene, visible from several locations within and outside of Queens Road. It has at least 40 years remaining future life expectancy.

2.3 The property boundary is made of a low brick wall (in sections), with a close board fence sitting on top. The tree stem is expanding and one of the sections of the wall is leaning into the footpath.

2.2 A meeting in the garden has taken place with the owners to discuss possible options available as alternatives to removing the tree. At the meeting the owners were made aware of the TPO confirmation process, and tree work application and subsequent independent appeal process available to them if the council refused consent to remove a tree under a future tree work application.

2.3 The owners have listed their main objections to be:

- Pruning as an alternative to removal would be a short term, costly solution
- The tree is going to get significantly larger
- The tree causes part of the garden to be cast in permanent shadow causing visibility issues for the elderly resident
- Root damage to the foundations of the property
- The wall, and potential liability from either a falling branch, falls over the wall or the cracked pavement caused by the roots from the tree

2.4 In addition to the objections, the owners are willing to plant a replacement tree.

2.5 It is recognised that the tree does have future growth potential, but given its mature age, future growth is not likely to be vigorous. The size of the tree if desired could be controlled by lightly reducing the height and spread of this tree

on an approximate seven to ten year cycle to keep the tree at no more than its current size, without harming its overall health or appearance. This approach would be acceptable to the council. This cycle of pruning would not result in overly onerous costs for the owner.

- 2.6 The section of leaning boundary wall is roughly 30-40cm high. It is installed in roughly 1m long sections with the close board fence sitting on top. It would be relatively easy to remove the leaning section of wall to prevent a hazard to footpath users without affecting the rest of the wall structure. The use of the retained fence as the boundary treatment would continue to provide privacy and security, and could be easily cut in situ to bridge the tree stem and main root flare allowing space for it to continue to grow and the tree to be retained.
- 2.7 The rear garden is south facing with the tree to the west, therefore the garden receives sunlight until the sun goes behind the tree in the afternoon, therefore the garden is not permanently and unreasonably cast in shade, but only for the latter part of the day.
- 2.8 In respect of roots damaging the foundation of the property, the council has not been provided with any evidence or made aware at the time of the conservation area notification and subsequent site meeting that there is current damage to the property from root activity. The British Geological Survey online mapping system indicates the property sits on soils made up of predominantly sand and gravel, and as such the risk from the tree in this respect is low, since subsidence related damage can only occur on clay soils.
- 2.9 A tree owner has a duty of care to ensure that their tree does not cause a risk to people or property, the TPO will not unreasonably prevent managing any risks the tree may cause, if an inspection reveals a problem with a TPO tree the council can deal with this through the usual tree work application or exemption process.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

TPO (No.2) P/TPO/608 Plan

Contact Officer: Jess Khanom, Head of Operations, Tel: 01992 531693. jess.khanom@eastherts.gov.uk

Report Author: Tracy Clarke, Arboricultural Officer, Tel: 01371 811831. tracy.clarke@eastherts.gov.uk