

EAST HERTS COUNCIL

DEVELOPMENT CONTROL COMMITTEE – 20 JULY 2011

REPORT BY THE HEAD OF ENVIRONMENTAL SERVICES

8a CONFIRMATION OF EAST HERTFORDSHIRE DISTRICT COUNCIL
TREE PRESERVATION ORDER(No. 5) 2011 P/TPO 561 TITLE
'PRIORY FARM,HUNSDON ROAD, WIDFORD HERTS'

WARDS AFFECTED: HUNSDON

<u>RECOMMENDATION FOR DECISION:</u> that	
(A)	Tree Preservation Order (No.5) 2011 be confirmed as an opposed order.
(B)	The Director of Neighbourhood Services be authorized to bring it into operation.

1.0 Purpose/Summary of Report

1.1 A Tree Preservation Order (No. 5) 2011 Ref., P/TPO 561 was served under Section 201 of the Town and Country Planning Act 1990 on the 24 May 2011. This order had the immediate effect of protecting six silver birch trees and one native cherry tree for a period of six months, but it has to be submitted to committee for confirmation and permanent effect.

2.0 Contribution to the Councils Corporate Priorities

2.1 The confirmation of this order contributes to the priority of

Pride in East Herts

Improving standards of the built neighbourhood and environmental management in our towns and villages.

2.2 The confirmation of this order contributes to the objective of

Shaping now, shaping the future

Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.

3.0 Background

- 3.1 Two of the subject birch trees are rooted beside a farm access road leading off Hunsdon Road just beside the access to 'Priory Farm'. The other four birch trees and the native cherry are rooted in the farmyard close to the Grade II Listed barns. All of the trees can be easily viewed from Hunsdon Road and the Public Right of Way (Footpath 7) that runs along the farm access road.
- 3.2 On the morning of 13 April 2011 the Arboricultural Officer was alerted by an anonymous resident that trees were being felled in the designated Widford Conservation Area on the access road to the south of 'Priory Farm'. On arrival on site at around 10:45 am it was found that several protected trees had already been felled and the arisings removed from the site. The two workers who were removing the trees were officially cautioned on site and advised that they should cease the task they had been set by their employer. The Arboricultural Officer was then asked to speak to Mr Scott Findlay (of S Findlay Farms Ltd) by mobile phone and was thus able to advise that removing the trees without consent constituted a prosecutable offence under the Town and Country Planning Act 1990.
- 3.3 On the following day, 14 April 2011 the council received a formal application (a Section 211 Notice) for tree work from S Findlay Farms Ltd. The application contained a full Arboricultural Report on the various trees by Mr Ian Lorman a qualified freelance Arboricultural Consultant.

The application proposed the removal of three silver birch trees beside the access road and a group of trees (G1) comprising a former hedgerow and a 'retrospective application' for removing several ash and other trees forming part of G1 that had already been felled without formal authorization on or before 13 April 2011. The Arboricultural Report demonstrated that the ash trees and the hedgerow that had already been removed comprised of poor quality trees over which the council should take no legal action.

After a further site visit and consultation with other officers and with an independent consultant working on behalf of the council a decision was taken to serve a provisional Tree Preservation Order. The order was served in two groups: - the two birch trees beside the access road and the group of birches and the native cherry tree in the farmyard. The Tree Preservation Order was

served by hand on the evening of 24 May 2011.

3.4 In the application for tree work S Findlay Farms Ltd., stated that the reason that they wished to remove the trees was as follows:

- “The felling and removal of all the trees identified in group G1 and trees numbered 0901, 0902, 0903, 0904, 0905 and 0906. To maintain an access way for agricultural vehicles including combine harvesters.”

3.5 The arboricultural report supplied with the application stated that the birch trees Nos., 0901, 0903, 0909, 0910, 0912 and 0913 and the native cherry 0911 were categorized as Category B2. Under the British Standard BS5837: 2005 *Trees in relation to construction: Recommendations*, Category B2 trees are described thus:

- “Trees present in numbers, usually as groups or woodlands, such as they form distinct landscape features, thereby attracting a higher collective rating than they might as individuals but which are not, individually, essential components of formal or semi-formal arboricultural features (e.g. trees of moderate quality within an avenue that includes better, A category specimens), or trees situated mainly internally to the site, therefore individually having little visual impact on the wider locality.”

Thus Category B1 and B2 trees are a constraint on development sites and should be retained.

4.0 Report

4.1 S Findlay Farms Ltd., have corresponded with the Council and have stated that if the two protected silver birch trees beside the access road cannot be removed, then the newly purchased ‘New Holland’ combine harvester will not be able to be driven down the track or through the farmyard to reach the farm fields. Mr Findlays letter of 30 May 2011 has been accepted as an objection to the serving of the order.

Mr Findlay has stated that the ‘New Holland’ combine harvester is 3.8 metres wide and 18.9 metres in length*. The width of access road between the two birch trees and the hedge on the south side of the track has been measured and found to be 4.5 metres wide and the two birch trees have fairly high crowns. There is also a

wider alternative route around the steel barns through the farmyard which Mr Findlay states he cannot manoeuvre around due to the width of the tray of the combine harvester. [*The 'New Holland' website gives the width of a combine as 3.8 metres (depending on the type of tyres fitted) and a total length as between 8 to 9 metres.]

4.2 These birch trees and the cherry tree are stated by S Findlay Farms Ltd own arboricultural consultant to be Category B2 trees and therefore in landscape terms worthy of retention and thus legal protection.

4.3 The serving and confirmation of the Tree Preservation Order on these trees would ensure retention of these trees of public amenity value for the next 20-40 years.

4.4 The serving of the provisional Tree Preservation Order was viewed as an appropriate action.

5.0 Consultations

5.1 As stated above (at 1.3) the Arboricultural Officer consulted with Mr Bosworth, the independent consultant employed by Development Control on the Widford draft Conservation Area Appraisal and Management Plan. Mr. Bosworth commented by e-mail that: *"The several birch trees are located behind a modern brick wall, they are mature and about 10m in height. They are visible from the Hunsdon Road from several locations and add to the quality of the street scene. I consider from a visual standpoint that their loss would be regretted"*

A letter expressing support for the serving of the Tree preservation Order has been received from Widford Parish Council. A letter from an adjoining neighbour expresses support for the order and trusts that in due course, that the Council will confirm the Order.

6.0 Observations

6.1 The removal of these birch trees would be detrimental from a visual standpoint and would reduce the landscape character of the central part of the Widford Conservation Area.

6.2 If the order is confirmed, these trees will provide a level of increasing amenity to local residents and visitors to the area.

6.3 The District Council has a policy to protect trees because of their amenity value and the contribution that they make to the landscape character of our towns and villages. Special attention must be paid to the desirability of preserving the character or appearance of Conservation Areas and to the setting of the Listed buildings, especially where trees provide the context.

7.0 Legal Implications

7.1 Confirmation of Tree Preservation Orders is a legal requirement of the relevant planning act and is in compliance with the regulations.

8.0 Financial Implications

8.1 There are no financial implications in confirming this order.

9.0 Human Resource Implications

9.1 There are no human resource implications in confirming this order.

10.0 Risk Management Implications

10.1 There are no risk management implications in confirming the order

11.0 Conclusion

11.1 The Committee is asked to confirm this order as an opposed order, which has been served to protect trees that are well placed to provide screening of the existing barns or any future development. Confirmation of the order would afford additional legal protection to trees of public amenity value that enhance the landscape character of the designated Widford Conservation Area.

Background Papers:

1. Application for tree work Ref. 398537 received 14th April 2011.
2. Arboricultural Report by Mr. Lorman supplied as part of the above tree work application.
3. 'Tree Preservation Orders: A guide to the law and good practice'.

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ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	<p>Pride in East Herts</p> <p><i>Improving standards of the built neighbourhood and environmental management in our towns and villages.</i></p> <p>Shaping now, shaping the future</p> <p><i>Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.</i></p>
Consultation:	As detailed in the report.
Legal:	Confirmation of Tree Preservation Orders is a legal requirement of the relevant planning act and is in compliance with the regulations.
Financial:	None.
Human Resource:	None.
Risk Management:	None.