

BRECKLAND COUNCIL

REPORT OF PAUL CALKIN STRATEGIC DIRECTOR - TRANSFORMATION
APPEALS COMMITTEE – 17 September 2008

OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 2008 NO.31
TOFTWOOD DEREHAM

1. Purpose of Report

- 1.1 Tree Preservation Order 2008 No.31 was made to protect twenty-four individual Oak trees and one group containing twenty-eight Oak trees on land within the area known as Toftwood, Dereham on 7th April 2008. An objection to the protection of T8 and T9 has been received which must be considered by this Committee. The two Oak trees were previously covered by TPO 1990 No.6. The order will expire on 7th October 2008 unless it is confirmed before that date.

2. Recommendations

- 2.1 It is recommended that the Council/Committee confirm Tree Preservation Order 2008 No.31 with T8 and T9 included.

Note: In preparing this report, due regard has been had to equality of opportunity, human rights, prevention of crime and disorder, environmental and risk management considerations as appropriate. Relevant officers have been consulted in relation to any legal, financial or human resources implications and comments received are reflected in the report.

3. Information, Issues and Options

3.1 Background

Recent government advice has suggested that Local Planning Authorities (LPAs) undertake a re-survey of their Tree Preservation Orders (TPOs). The Purpose of this review is to ensure that Breckland's TPOs are brought up to date, protecting appropriate trees and lifting restrictions from trees that do not merit special protection.

As part of the ongoing TPO review, a recent survey of the trees covered by the old TPO 1990 No.6 Dereham has identified the trees on the attached order (Appendix A) to be of high amenity value and it is therefore considered expedient that they continue to be protected. The order includes T8 and T9: two individual Oak trees which are mature, have a considerable safe useful life expectancy and are in a satisfactory condition.

The trees have been protected for the last 18 years and the previous order was made to protect the trees prior to the land being developed. The original order was served on the Rialto Group Plc the company that developed the land.

The trees stand on the South west edge of Toftwood Dereham and are the remnants of an old hedgerow which can be seen on the aerial photograph (Appendix C).

The trees are typical hedgerow Oaks that are a feature of the Local Landscape and are important trees that are on the edge of the developed land in Dereham.

- 3.1.1 Tree Preservation Order (TPO) 2008 No.31 was served upon owner/occupiers including Mr Diffey of 18 Hillfields and Mr Rollo of 20 Hillfields in respect of 2 individual trees, on the boundary of the rear gardens and the Dereham Town Council Allotments, on the 7th April 2008 under section 198 of the Town and Country

Planning Act 1990 on the grounds that the trees have significant amenity value (Appendix A)

- 3.1.2 An objection into the making of Tree Preservation Order 2008 No.31 was made by Mr Diffey on 15th April 2008 and Mr Rollo on 16th April 2008 and received on the 16th and 18th April 2008 (Appendix B)

3.2 Issues

The following are the issues raised by Mr Diffey and Mr Rollo.

- 3.2.1 The close proximity of the trees to the properties.
- 3.2.2 Overshadowing.
- 3.2.3 Falling leaves and twigs blocking downpipes and guttering.
- 3.2.4 Structural condition of T-8.
- 3.2.5 It is not considered that the trees pose any unreasonable threat to the properties due to their close proximity to them.

No reports or evidence of root related damage have been provided.

Although the trees are closer to the rear of the properties than their height, the Trees have been crown lifted to allow light through to the rear gardens and additional remedial works to abate future growth would be allowed.

The photos showing the trees in the summer was taken in July at 15:00 hours and shows the rear of both properties in partial sunlight.

The trees are deciduous losing all their leaves in winter.

The natural seasonal event of leaf and twig loss is not considered a valid reason to prevent tree protection.

T-8 does have an old wound from a past incident, from a visual tree inspection it appears that a smaller limb had fallen due to included bark causing a weak attachment at a previous coppice point.

Minor evidence of the presence of the fungi *Laetiporus sulphurous* (Sulphur polypore) was noted, However it appears to be in the early stages with the tree producing a good amount of new radial increment.

3.3 Options

- 3.3.1 To confirm Tree Preservation Order 2008 No.31.
- 3.3.2 To modify Tree Preservation Order 2008 No.31 with T8 and T9 removed.
- 3.3.3 To not confirm Tree Preservation Order 2008 No.31.

3.4 Reasons for Recommendation(s)

- 3.4.1 The Council has a statutory duty to have regard to the conservation of biodiversity and to protect important amenity trees. The two Oak trees form an important part of the overall Landscape and help to create a 'softer edge' to the Town of Dereham.

The trees have been assessed using Breckland Councils adopted TPO scoring system and the trees fall within the suitability range (Appendix D)

4. Risk and Financial Implications

4.1 Risk

4.1.1 I have completed the Risk Management questionnaire and can confirm that risk has been given careful consideration, and that there are no significant risks identified associated with the information in this report.

4.2 Financial

4.2.1 None

5. Legal Implications

5.1 None

6. Other Implications

a) Equalities: None

b) Section 17, Crime & Disorder Act 1998: None

c) Section 40, Natural Environment & Rural Communities Act 2006: The native Oak is the species of tree which supports the greatest number of different life forms within the British Isles and has an important role in contributing to our national biodiversity.

d) Human Resources: None

e) Human Rights: None

f) Other: None

7. Alignment to Council Priorities

7.1 Environment

Saved Policy ENV 6; Development Control will, through positive action, seek to protect habitats or other features which are of value to nature conservation, biodiversity

8. Ward/Community Affected

8.1 Toftwood, Dereham.

Background Papers

None

Lead Contact Officer:

Mark Symonds - Tree Preservation Review Officer

Telephone: 01362 656279 Email: mark.symonds@breckland.gov.uk

Key Decision Status (Executive Decisions only):

Non Key Decision

Appendices attached to this report:

A: Copy of the TPO Map and Schedule

B: Letters of objection to the TPO

C: Aerial photographs of the area and pictures of the trees T8-T9

D: TPO Scoring Form