

Agenda Item:

Meeting: Development Management Committee
Date: 26th August 2009
Subject: Confirmation of Tree Preservation Order No. 5/2009 (Land at 73 Great Northern Road, Dunstable)
Report of: Background to Tree Preservation Order and outline of unresolved objections from residents.
Summary: To request that the Committee consider the unresolved objections made following the making of Tree Preservation Order No. 5/2009 and to confirm the Order.

Contact Officer: Andy Jones X 5161

Public/Exempt:

Wards Affected: Dunstable

Function of:

RECOMMENDATIONS:

1. That the Committee confirms the Tree Preservation Order, which was provisionally made for 6 months, and is due to expire on the 25th September 2009.

Background

1. The mature Sycamore tree is situated within the rear garden of 73 Great Northern Road, Dunstable. The Tree Preservation Order (TPO) was made on the 25th March 2009 following concerns from the owner of the tree that a neighbour was being insistent that the specimen should be removed as it was becoming a nuisance. Following a site visit on the 2nd March 2009 it was found that the tree formed a fine stately specimen that was generally well balanced and of good shape, except where branches had been previously cut by a neighbour. The tree was a stand alone specimen, visible from the highway, with few other trees in the vicinity to compensate in the event of its loss. It was considered that there was no justification to fell the tree and that complaints from the neighbour were unfounded. It was therefore considered that a TPO was justified for the reasons that:-
 - The Sycamore tree makes a strong individual contribution to the visual amenity of the surrounding area, and its loss could not be mitigated by adjacent trees.
 - The Sycamore tree is visible from the surrounding public highway and footpaths and makes a positive contribution to the visual amenity and character of the area.

2. The Tree Preservation Order was served on the 25th March 2009 and two objections were made. The first of these were a letter dated 10th April 2009 from Mr A Lowes of 8 Richard Street, Dunstable whose main points of objection were:-

- Lived in Richard Street for 10 years and tree was not previously a problem as it had been cut back by neighbours.
- Tree is now very big in respect of proximity to houses.
- Tree blocks sunlight to house and gardens.
- Less able to grow a lawn.
- Must be significant that root growth could damage nearby property, water supply and drainage.
- Growth of tree could now be unchecked and lead to instability and falling branches.

3. The Tree & Landscape Officer's reply to Mr Lowes Objection were as follows:-

- A Tree Preservation Order does not remove the possibility of any tree being pruned provided it is done with the consent of the Local Planning Authority and an application is made to carry out the works.
- Trees in the urban environment are very important, and all trees to some extent will shade out lawns and plants underneath. It is considered unacceptable for mature specimens to be felled for reasons of shading garden areas, since the urban environment could not sustain tree removal on these grounds.
- Tree growth will not cause direct damage to a house foundation as the load bearing is too great. Indirect damage caused by soil desiccation, resulting in foundation movement and structural cracking, will not occur on unshrinkable chalk substrate such as that found in Dunstable.
- In respect of damage to water supply and drainage, tree roots will only enter an already defective service pipe and will not themselves create the original defect.

4. A further objection dated 16th April 2009 from a Mrs Sansone of 10 Richard Street, Dunstable, whose main points of objection were as follows:-

- Sycamore does not make a strong visual contribution to the visual amenity of the surrounding area.
- Its loss could be mitigated by adjacent trees because there are plenty of trees in the surrounding area which are beautiful.
- The Sycamore is not clearly visible from the surrounding public highway because of a high fence.
- Garden is in complete darkness.
- Sycamores are like a giant weed and grow extremely fast.
- Tree makes the house cold in summer.
- Washing gets covered in pigeon droppings.
- Tree attracts flies that swarm in the summer.
- In autumn the tree sheds dense large sticky leaves.

- Difficulty in selling house because of the tree.
- Had problems with their pond because of the tree.
- Tree has no conservation value whatsoever.
- Sooty bark disease on Sycamores can causes a type of pneumonia in humans.
- Sycamore leaves on railway lines delay their morning commute to London.
- Sycamore trees are a menace and (Mrs Sansone) does not want to sit in the garden with her newborn baby surrounded by swarming flies.

Mrs Sansone included in her letter a list of signatures from residents in respect of the Tree Preservation Order. The list of signatures was not accepted as a petition in recognition that the list was not affiliated to any statement or declaration and that the date of many of the signatures predated the letter sent with it by Mrs Sansone.

5. The Tree & Landscape Officer's reply to Mrs Sansone's objection was to defend the suitability of the Sycamore for preservation by demonstrating that the Tree Preservation Order was undertaken by way of a structured and systematic assessment system, known as TEMPO.

The Sycamore was assessed under TEMPO ("Tree Evaluation Method for Preservation Orders"), which is a nationally recognised system, produced by an independent arboricultural consultant, where scores are allocated towards meeting certain criterial needs required of a tree to justify a TPO. The scoring produced by the valuation method indicates that any score between 11 to 14 points merits a "*defensible TPO*" and that any score over 15 Points "*Definitely merits a TPO*" Following a survey on the 25th March 2009 it was found that the Sycamore tree had a score allocation of 16 points, based on the fact that it was

- In good condition
- Had a retention span of 40 to 100 years
- It is a large tree that has a degree of limited view from public areas
- It is of particularly good form
- There is a perceived threat to the tree

Mrs Sansone was also informed that a mature tree should not be allowed to be felled on the grounds of causing shade, dropping leaves or attracting flies and pigeons. It was also advised that the tree does not have sooty bark disease and that the medical significance of this disease to human health is yet to be quantified.

6. Following the response from the Tree & Landscape Officer, there was no further correspondence received from Mr Lowes. Mrs Sansone sent in a further letter dated 16th June 2009, refuting the Council's case in defending the making of the Tree Preservation Order and claimed that many of the issues raised were merely the opinions of the Tree & Landscape Officer and were not based on factual evidence. Therefore, the objection remains unresolved.

**Appendices: - Copy of Tree Preservation Order No. 3/2009
- Copy of TEMPO Guidance Notes for users**

