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**Meeting:** Development Management Committee  
**Date:** 28 April 2010  
**Subject:** Confirmation of Tree Preservation Order No. 16/2009  
(Land at Frog Corner, The Green, Whipsnade)

**Report of:** Andy Jones - Tree and Landscape Officer

**Summary:** To request that the Committee consider the unresolved objection made from Mr M Cowell of Frog Corner, The Green, Whipsnade, following the making of Tree Preservation Order No. 16/2009, and to confirm the Order subject to a slight modification to improve the accuracy regarding the marking of the trees on the TPO map, as pointed out by the objector.

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Contact Officer: Andy Jones X 75161  
Public/Exempt: Public  
Wards Affected: South West Bedfordshire  
Function of:

<b>CORPORATE IMPLICATIONS</b>
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None
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<b>RECOMMENDATIONS:</b>
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<p><b>That the Committee confirms the Tree Preservation Order (TPO) with minor modifications to the map included with Schedule 1, subsequent to the TPO being made provisionally for 6 months, with the provisional Order due to expire on the 9<sup>th</sup> May 2010.</b></p>
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## **Background**

1. The Tree Preservation Order (TPO) was instigated in response to a formal notification that was received by the Local Planning Authority on the 30<sup>th</sup> September 2009 as required under Section 211 of the Town and Country Planning Act 1990 to carry out tree works in a Conservation Area. The notification proposed the felling of two Corsican Pines and the pruning of an Oak and a group of Beech at the property of Frog Corner, The Green, Whipsnade. The LPA was then allowed a six-week period under this legislation to assess the impact of the works on the Whipsnade Conservation Area and to consider the making a Tree Preservation Order where any concerns in respect of the proposed work are subsequently raised.

A subsequent site visit was made on the 26<sup>th</sup> October 2009 when it was identified that the removal of two Corsican Pines would have a significant visual

impact on the Conservation Area, as they collectively had a commanding visual impact over the surrounding Whipsnade Common. The application of other work practices as an alternative to felling, eg cable bracing, had not been considered by the owner. The extent of the reduction works on the group of Beech and the impact on their health and amenity value was also questionable. Where a degree of pruning was seen to be justified on an Oak, it was considered that the work should be subject to planning control, where conditions could be imposed on the quality or extent of works, to prevent damaging what was noted to be a fine tree, again in full view of the Common.

It was recognised that the property of Frog Corner was situated within an important landscape area, being a designated "Area of Great Landscape Value" and "Area of Outstanding Natural Beauty" It was noted that the trees made a significant contribution to the amenity and character of the area, being visible from public areas, and that a Tree Preservation Order was therefore justified and considered expedient in the circumstances.

2. A TPO was then made on one individual Oak (T1), one group containing 17 Beech and 2 Poplar (G1) and a further group containing of 2 Corsican Pines (G2) for the reasons that:-

- The trees make an important contribution to a designated "Area of Great Landscape Value" and their destruction would be harmful to the character and visual amenities of the area.
- The trees make an important contribution to a designated "Area of Outstanding Natural Beauty" and their destruction would be harmful to the character and visual amenities of the area.
- The trees make an important contribution to the Whipsnade Conservation Area, which is an area characterised by having a rich treescape of broadleaved and exotic trees that make up the unique composition of this Conservation Area.
- The trees are visible from the surrounding Whipsnade Common, footpaths and other areas and make a positive contribution to the visual amenity and character of the area.

3. Following the serving of the TPO, an objection was received from Mr M Cowell of Frog Corner, The Green, Whipsnade on the 4<sup>th</sup> December 2009. The grounds for the objection were based on the following:-

- The Order includes Poplar trees within the group G1, which had not been part of the original notification and have already been subject to previous good management. It is not therefore considered to be expedient for the LPA to protect them.
- Oak tree T1 does not lie within the Whipsnade Conservation Area, therefore the grounds cited in the TPO do not fully apply to this tree and it should not be made the subject of a TPO. This is significant as the works proposed on this tree were for a modest crown reduction in response to the need to reduce branch leverage of over-elongated limbs to guard against frequent dropping of branches in high winds.

- The 17 Beech trees in G1 only make limited contribution to the visual amenity and character of the area and are visible with some difficulty.
- Many of the trees in G1 are overcrowded and Honey fungus disease has been a problem in the past and there is a need to thin out defective specimens.
- There is a concern regarding the size and position of the Corsican Pine trees to the proximity to the adjacent property and the potential damage to people and property if these trees should fail.

4. The Tree & Landscape Officer's reply to these points in respect of the objection were:-

- The Poplar trees are considered to be intrinsically linked as part of G1 and contribute to the overall value of the group and would undermine the groups collective value if they were to be excluded from the TPO. For this reason it is considered to be expedient to make a TPO covering these trees. It should also be recognised that a TPO can be made at any time and not just in respect of a Conservation Area Notification.
- The reference to Oak tree T1 not being situated in a Conservation Area does not prevent a TPO being made on this tree. The fact that this tree is not included in the Conservation Area is further reason to make a TPO in order to impose a degree of planning control on what is a fine tree. The trees do not necessarily need to be included within the Whipsnade Conservation Area to contribute to its setting and character.
- The TPO does not necessarily prevent justified work from being carried out on the Oak T1. In the absence of a TPO, the LPA could not impose conditions on the quality and extent of work to prevent any potential disfigurement of a tree having significant amenity value. The only way an LPA may do this is to place a TPO on the tree so that the relevant conditions can be imposed as part of a formal application process.
- The 17 Beech trees were considered to have an important group value within G1 and contributed to an overall mutual canopy. Any subsequent thinning of these trees is likely to adversely affect the integrity of the group, which rely on each other for shelter and to maintain the overall shape of the group. Honey fungus is a selective disease where any infected trees may be removed under normal exemption from the TPO.
- It was considered that there was insufficient evidence submitted in the Conservation Area Notification to agree to the felling of the Corsican Pines for the reasons stipulated. A TPO will allow sufficient planning control for the LPA to be satisfied that the trees should only be removed for reasons based on sound arboricultural judgement.

5. The trees were 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 criteria needed 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 an inspection on the 26<sup>th</sup> October 2009, it was found that the following scoring was applicable to these trees:- (where groups of trees are included, a typical specimen within that group has been scored):-

#### Oak

The Oak has a score allocation of 16 points based on the fact that it is

- In good condition (5 points)
- Has a retention span of over 100 years (5 points)
- Large or medium tree clearly visible to the public (4 points)
- Tree has no other factors (1 point)
- Expediency assessment is precautionary (1 point)

#### Beech

The Beech have an average score allocation of 14 points, based on the fact that they are:-

- In fair condition (3 points)
- Have a retention span of between 40 to 100 years old (4 points)
- Medium trees with limited public view only (3 points)
- Trees have no other factors (1 point)
- There is a foreseeable threat to the trees (3 points)

#### Corsican Pine

The principle tree of the group has a score allocation of 15 points, based on the fact that it is:-

- In good condition (5 points)
- Has a retention span of between 20 to 40 years (2 points)
- Large or medium tree clearly visible to the public (4 points)
- Tree has no other factors (1 point)
- There is a foreseeable threat to the trees ( 3 points)

6. Following the response from the Tree & Landscape Officer, there was further correspondence received from the objector that continued to challenge the LPA’s grounds for the making of the TPO and reiterating the issues already raised. The objection therefore remains unresolved.

**Appendices: - Copy of Tree Preservation Order No. 16/2009**

**-Amended TPO plan showing modified position of tree positions**