
Meeting: Development Management Committee
Date: 23 June 2010
Subject: Confirmation of Tree Preservation Order No. 1/2010 -
Land at Aubers Farm, Manor Road, Lower Sundon

Report of: Andy Jones - Tree and Landscape Officer

Summary: To request that the Committee consider the unresolved objection made from Mr D Wilson of Lowesby Hall, Lowesby, Leicestershire, following the making of Tree Preservation Order No. 1/2010, and to confirm the Order without modification.

Contact Officer: Andy Jones X 75161

Public/Exempt: Public

Wards Affected: Barton

Function of:

CORPORATE IMPLICATIONS

None

RECOMMENDATIONS:

That the Committee confirms the Tree Preservation Order (TPO) without modification, subsequent to the TPO being made provisionally for 6 months, with the provisional Order due to expire on the 28th July 2010.
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Background

1. The Tree Preservation Order (TPO) was instigated in response to an application to erect a double garage and build a replacement brick wall with railings. Site investigations revealed that the application would involve the removal of a mature Silver Birch and cause root damage to an adjacent Horse Chestnut. It was noted that any attempt to re-locate the garage would subsequently bring it into conflict with the root spread of a nearby Robinia tree. Concerns were made in respect of this aspect of the planning application and the application was subsequently refused permission on the grounds that the application would result in an adverse impact on significant trees. It was recognised that the property of Aubers Farm 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 Silver Birch (T1), a Horse Chestnut (T2), a Robinia (T3) and a Beech (T4) and one group (G1) containing 2 Horse Chestnut and 2 Silver Birch 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 are visible from the surrounding public highway and make a positive contribution to the visual amenity and character of the area.
- The trees form an important component of the surrounding treescape, many of which are covered by existing Tree Preservation Orders and therefore protecting these trees is ensuring suitable continuity of tree protection in the wider landscape that is characteristic of Lower Sundon.

3. Following the serving of the TPO, an objection was received from Mr D Wilson of Lowesby Hall, Lowesby, Leicestershire on the 19th February 2010, who owns Aubers Farm. The specific grounds for the objection were given as follows:-

- That the Silver Birch tree T1 is past its best and will fall over in the next few years and it is therefore proposed to plant two additional Silver Birch trees to plan for the end of the life of T1.
- Beech tree T4 is a mature Beech, arguably past its best, although it is accepted forms a major part of the landscape. However, it is situated close to the listed farmhouse and could fall over at any time.
- Whilst there are cracks in the house it is not beyond doubt that Beech tree T4 is responsible but experience suggests that the roots must be already close to the house if not already under the foundations. There must be a good chance that obvious damage will start to emerge at any time in the future. The tree has already damaged the brick garden wall and is making repair of this wall difficult.
- Beech tree T4 is very substantial and could fall quite unexpectedly in the future. Given the close position of the tree to the property, there is a high chance of the tree causing severe damage, with the risk to life and limb.
- Beech tree T4, whilst having a positive effect on the landscape of the area, has a quite detrimental and overwhelming effect on the occupants of the property of Aubers Farm, and in summer makes the rooms very dark compared to what they should be.

4. The Tree & Landscape Officer's reply to these points in respect of the objection were:-
- The Silver Birch T1 was identified as being at risk from the recent planning application and the LPA have a duty under the Town and Country Planning Act 1990 to protect trees under threat from development where it is considered expedient to do so.
 - The LPA welcomes any proposal to plant replacement trees in anticipation of replacing existing trees as they become over-mature, but it is not accepted that T1 is past its best and should be felled. Such a decision would undermine the TPO process and would be unacceptable.
 - There is no evidence that T4 Beech is also "past its best" and could "fall over at any time". As a Local Authority Tree Officer, there is a requirement to defend against removal and work to good arboricultural practice and principles. Tree Officers cannot condone tree removal in the absence of recognised defects that do not constitute risk and where they are being proposed to be felled purely on the basis of hypothesis.
 - The potential threat to this tree from the removal of the adjacent wall and replacement with railings has been evaluated and it is considered that with care and good practice, any damage to the tree could be avoided. It is accepted that tree roots have the capacity to lift lightly loaded structures such as walls, paving and garages, but is considered that the load bearing is too great to cause direct damage to house foundations, although indirect damage caused by soil shrinkage may be attributed to soil desiccation caused by tree roots.
 - Therefore, the cracking found in the house may or may not be attributed to the Beech tree, although it should be recognised that many properties in Lower Sundon have protected mature trees within their gardens, and there is no record of any history of subsidence damage caused by trees. In dealing with building crack damage, evidence should always be obtained in the form of a structural Engineer or Chartered Surveyors Report. If any findings implicate adjacent trees, which are recommended for removal, then such evidence should be used as a basis to apply to the LPA to fell the tree.
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 required 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 21st January 2010, 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):-

Silver Birch (T1)

The Silver Birch has a score allocation of 14 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)
- Medium tree with limited view only (3 points)
- Tree has no other factors (1 point)
- There is a foreseeable threat to the tree (3 points)

Horse Chestnut (T2)

The Horse Chestnut has a score allocation of 16 points, based on the fact that is-

- In good condition (5 points)
- Has a retention span of between 40 to 100 years old (4 points)
- Medium tree with limited public view only (3 points)
- Tree has no other factors (1 point)
- There is a foreseeable threat to the tree (3 points)

Robinia (T3)

The Robinia tree has a score allocation of 17 points, based on the fact that it is:-

- In good condition (5 points)
- Has a retention span of between 40 to 100 years (4 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 tree (3 points)

Beech (T4)

The Beech tree has a score allocation of 19 points, based on the fact that it is:-

- In good condition (5 points)
- Has a retention span of between 40 to 100 years (4 points)
- Is a prominent large tree (5 points)
- Tree is of particularly good form (2 points)
- There is a foreseeable threat to the tree (3 points)

Group G1

The principle tree of the group has a score allocation of 13 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 just a precautionary threat to the trees only (1 point)

6. Following the response from the Tree & Landscape Officer, there was no further correspondence received from the objector and the objection therefore remains unresolved.

Appendices: - Copy of Tree Preservation Order No. 1/2010