
REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 4
DATE OF MEETING:	18 JANUARY 2011	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY SERVICES	OPEN
MEMBERS' CONTACT POINT:	KIM DORAN-PARKES Ext: 5982	DOC:
SUBJECT:	TREE PRESERVATION ORDER 338 LAND ADJ 36 BRIDGE STREET, CASTLE GRESLEY.	REF: TPO 338
WARD AFFECTED:	LINTON WARD	TERMS OF REFERENCE: DC01

1.0 Recommendations

- 1.1 That this Tree Preservation Order be confirmed.

2.0 Purpose of Report

- 2.1 To consider confirmation of this Tree Preservation Order.

3.0 Detail

- 3.1 This Tree Preservation Order was made on 15 July 2010 in respect of a Woodland Order on Land Adjacent to 36 Bridge Street, Castle Gresley.

The order was made for the following reason:

'The trees provide good amenity value as part of an extensive linear green roadside buffer zone to the encroaching high-density housing and to the public footpath to the front of the site adjacent to No.36 Bridge Street. The area is mixed wetland flush, which is rare habitat and the trees are highly visible from public vantage points. The trees are part of an evolving roadside/housing wildlife corridor, which is a valuable landscape feature that contributes to the character and environmental quality of the surrounding area. The trees are under threat of development and it is considered expedient that this order is made.'

Members will recall an appeal against a refusal for the residential development of the site was subsequently dismissed and the details reported (included in the report to the Committee of 12 October 2010). In his dismissal the inspector attached little weight to the importance of the trees in their contribution to the amenity of the area but greater weight to the site's function as part of the wider area of open space.

- 3.2 A letter of objection has been received from Midland Tree Surgeons (the land owner's consultant) raising the following points:

- a. The order is the same as Tree Preservation Order (TPO) 329 which was left to expire and differs only by the designation of the order being altered from an 'area' order to 'woodland' order.
- b. No response was received by the complainant with regard their letter of objection relating to TPO 329. The council has not acknowledged the objections to TPO 329 when providing a reason for TPO 338 being necessary.
- c. The woodland order is not the appropriate order to use for this site as it has small trees and is not of a size that the general public would consider woodland.
- d. The woodland order will protect future successive trees within the TPO boundaries and any such trees may be in inappropriate for such protection and unnecessarily burden the landowner should any future works to them be necessary.
- e. The stating of specific species confirms that only those species are protected, which is illogical when using a woodland order.
- f. There is a lack of explanation and justification to substantiate the reason for placing the order.
- g. There is no evidence to demonstrate that an amenity evaluation of the site has been undertaken when this is advised in section 3.3 of 'tree preservation orders: a guide to law and good practice' (guide). Given that tree planting is already protected by way of a condition attached to a previous planning consent, it is considered that should the assessment have been undertaken it would not have supported the making of the order.
- h. The area concerned is a grouping of trees within a site curtilage that is fenced off from the surrounding landscape. There are considerable zones of similar yet more established Council owned tree planting in the vicinity of the site that will in time achieve the Council's required roadside buffer. TPO 338 contributes in a very minor way to the buffer zone by way of its small trees and separation by fencing therefore the area of the TPO, when considered collectively, is not instrumental to the maturation of the wider landscape corridor within the vicinity.
- i. TPO's are the incorrect instrument to be used to safeguard wetland habitat. The maturing of the trees is likely to conflict with the wetland flush habitat and it will also dry out the land.
- j. The Birch and Willow are pioneer species that successive trees will out compete.
- k. The trees are protected by way of a condition attached to a previous planning consent; therefore it cannot be expedient to 'double up' on this.
- l. The 'guide' states that the visibility of trees alone should not be reason for the placing of a tree preservation order.

3.3 The following response is given with the aid of the Council's consultant landscape architect/arboriculturalist:

- a. The initial TPO (329) was made as a group order and after further consideration the Council's consultant advised that the trees should be protected under a Woodland order. Therefore TPO 329 was not confirmed and order TPO 338 was made to replace it.
- b. As TPO 329 was not confirmed comments to it became irrelevant. However, as part of TPO 338 representations were invited once again hence the current report.
- c. The woodland order is a suitable order in accordance with 'the guide'. The 'guide' does not stipulate the size of the trees. This is a wood and with time will further mature. It has excellent amenity value, especially when in leaf and is seen from roads, public footpaths and a high-density housing estate. Therefore it is a viable, woodland TPO. The wood is also within the boundaries of the national forest.
- d. The future management of successive trees alone is not a reason for the TPO to not be confirmed. The planning system allows for the management of woodlands.
- e. All of the trees within the designated boundary, as defined in the 'guide', are protected under woodland TPO. The 'guide' does not require that all of the species be named. It is an incorrect assumption to assume that any species not named specifically within the order are not protected.
- f. The description and explanation made are valid and support the retention of this young wetland woodland.
- g. The 'guide' advises upon the use of a consistent means of assessing the amenity value of a site, this has been undertaken in order to compile the 'reasons for making the order' section of the TPO. The 'guide' does not require that the Council's means of assessment be stated in the TPO order document. Numerous assessments of this wood have been carried out. An assessment of the wood in summer, when the trees are in leaf, enabled a proper evaluation of its amenity value. The loss of this wood would have a significant detrimental impact on the local environment.
- h. This site, although within a fenced boundary, is a pertinent area to TPO. In contrast the larger roadside buffer of trees is not, as it forms the highway landscape scheme therefore it is not prudent to protect a linear woodland that is to be retained as highway screening and is not under threat. The wood covered by TPO 338 is particularly valuable as a landscape amenity feature that will further mature, taking into consideration the 'guide' stating that the future amenity value of trees should be considered as trees are not static and will change over time.
- i. Wildlife is an amenity feature and in line with the 'guide' it has not been used as a sole factor to when deciding if the order should be created but is however still a consideration. A wetland flush is an amenity wildlife factor and is well worth inclusion as an amenity consideration.
- j. This may be true in time but if this young woodland was not protected now there would be no pioneer species to result in a more enduring woodland.

- k. The planning condition offers no protection after the maintenance period and the only protection after that time is through s TPO. After thorough assessment of the site the TPO was considered necessary in compliance with the guidelines set out in the 'guide'.
- l. The visibility of the trees was not the sole reason for the placing of the order. This is demonstrated by the inclusion of other reasons in the 'reasons for making the order' section of the TPO.

4.0 Planning Assessment

- 4.1 Notwithstanding the appeal inspector's conclusion when considering the possible development of the site, it is considered that the woodland has good amenity value and is an intrinsic valuable gateway/entrance to the parklands that will mature and develop further. It is well seen by cars, pedestrians, walkers, dog walkers and from local houses and contributes towards the linear green roadside buffer. The TPO remains fully supported by the Council having considered all comments and objections made, as outlined above.

5.0 Conclusions

- 5.1 It is expedient in the interests of amenity to preserve the woodland.

6.0 Financial Implications

- 6.1 None.

7.0 Corporate Implications

- 7.1 None

8.0 Community Implications

- 8.1 None

9.0 Background Implications

- 9.1 Tree Preservation Order 338
- 9.2 Letter of Objection from Midland Tree Surgeons dated 18th August 2010.