

PLANNING COMMITTEE

4 MARCH 2014

REPORT OF THE HEAD OF PLANNING

A.4 PROVISIONAL TREE PRESERVATION ORDER 13/00016/TPO- 12 PERTWEE CLOSE BRIGHTLINGSEA, CO7 0RT



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Application:	13/00016/TPO	Town / Parish: Brightlingsea Town Council
Address:	12 Pertwee Close Brightlingsea CO7 0RT	
Development:	T1 - T3 Sycamore.	

1. **PURPOSE OF THE REPORT**

- 1.1 To determine whether the provisional Tree Preservation Order, made in respect of 3 Sycamore trees at 12 Pertwee Close, Brightlingsea, should be confirmed, confirmed in a modified form or allowed to lapse.

2. **BACKGROUND**

- 2.1 On 2 September 2013 planning application 13/00987/FUL was made valid for the land on which the trees are situated. The development proposal was described as: *Proposed detached dwelling*. On 4 October 2013 a site visit and inspection of the application site was made to consider the impact of the proposal on the trees and other vegetation on the land and to determine whether or any trees merited protection by means of a Tree Preservation Order (TPO). On 11 October 2013 a new TPO was served to protect 3 Sycamore trees situated on the northern boundary of 12 Pertwee Close.
- 2.2 On 17 October 2013 the planning application was withdrawn.

3. **SITE ASSESSMENT AND AMENITY VALUE**

- 3.1 The purpose of the site visit made on 4 October 2013 was to carry out an assessment of the amenity value of trees situated within the curtilage of 12 Pertwee Close, Brightlingsea and on adjacent land forming part of a residential development in Lodge Close.
- 3.2 The boundary of the application site in Pertwee Close is planted with an established conifer hedge. There is a mature Sycamore situated on the left hand side boundary when facing from the highway. The boundary hedge does not fall within the scope of the tree preservation order legislation and because of its condition and form the Sycamore does not meet the criteria under which it would merit retention or formal legal protection.
- 3.3 Close to the boundary with the adjacent Lodge Close development there are three mature Sycamores that feature prominently in the street scene when viewed from Pertwee Close, Lodge Close and the new development in Lodge Close. All three trees make a positive contribution to the character and appearance of the area.
- 3.4 The trees have high visual amenity value. As the development proposal threatened the removal of all three trees a new Tree Preservation Order was made in order to ensure that the trees on the land are retained.

4. **REPRESENTATIONS/OBJECTIONS**

- 4.1 Following notification of the making of the Order to the owner of the property and adjacent properties, one letter of representation objecting to the Tree Preservation Order has been received.
- 4.2 The objection, made by Tyler Surveying, the planning agents acting on behalf of the landowner, must be fully considered to determine whether or not to confirm the Order.

4.3 The objection is as follows:

1. *Firstly, having sought professional advice it is considered that trees T2 and T3 are of limited amenity value due to their poor management in the past. This has resulted in specimens with abnormally high crowns which will detract from the amenity value which they are supposed to provide. Please see the attached arboricultural report which supports this statement.*
2. *Secondly, that the order is being imposed so as to restrict development of the site. This is highlighted by the fact that the amenity value of these trees and others did not warrant the imposition of such an order when the various planning applications relating to the adjacent land were considered.*

Amendments to the scheme which prompted this order are currently under consideration and include for the replacement of these trees with mature specimens of good stock on the boundary/adjacent land thereby enhancing the amenity of the area.

I would be grateful if you could take these matters into consideration when making your decision regarding confirmation of this order.

4.4 To address the objections a further site visit was made on 13 January 2014. The response to each point above is as follows:

1. The Tree Survey and Report submitted in support of the objection to the TPO does not comply with BS5837 2012: Trees in Relation to Demolition, Design, and Construction.

4.5 In the section of the tree report entitled 'Scope' it states that *'Tyler Surveying Ltd instructed Tree Planning Solutions to carry out a tree condition survey and amenity assessment of the subject trees. The purpose of the survey is to identify those trees with defects that are a hazard and pose a risk to users of the site and to assess the amenity value that the trees provide to the wider public.'*

4.6 The survey sheet states that T1 is in good condition and T2 and T3 are in fair condition. T1 has minor basal cavity and may require future crown reduction to reduce bending stresses on lower unions. The report goes on to say that the works could be part of scheduled maintenance programme and that only a low frequency (3 yearly) inspection is required.

4.7 T2 and T3 are described as having the lower parts of their stems covered by Ivy, with misshapen and high crowns. T2 is described as having a slight abnormal stem taper. However no works are identified as necessary and only a low frequency (3 yearly) inspection is required.

4.8 In the section of the tree report entitled 'General Comments' it claims that T2 and T3 obscure T1 and are unlikely to continue to add to the character due to the reason put forward relating to their shape and form.

4.9 The tree report does not state that the trees are dangerous or that they pose a hazard to users of the site. It gives no indication that any of the 3 trees are not viable.

4.10 The tree report confirms that the trees are in reasonable condition and it is clear that they feature prominently in the local street scene. It is considered that all three trees merit retention and continued protection by means of the TPO.

2. With regard to the claim that the TPO was made to stop development it should be noted that The Council has a duty to consider trees in the development process and the power to make TPO's where it is considered necessary.

- 4.11 The primary reason for making a new TPO is because trees have high amenity value by way of being in a prominent location and being seen and enjoyed by the public. Secondly, TPO's should only be made if it is expedient to do so. As the development proposal threatened the removal of the trees a new TPO was made to secure their retention. In essence this is the basis for making any new TPO and as the TPO is a constraint on the land it may affect the development potential of the land.
- 4.12 As the subject trees were not put at risk by the earlier development of adjacent land it was not considered necessary to protect them at that time. It should be noted that TPO/07/03 Brightlingsea Water Tower was made to protect a Horse Chestnut and a Sweet Chestnut on the land in Lodge Close to ensure that they were protected during the construction of the development.
- 4.13 The comments regarding new tree planting are noted and would be considered under the process of determining any future planning application that may be received.

5. CONCLUSIONS

- 5.1 There is a statutory duty on local planning authorities, set out in Part 8 of The Town and Country Planning Act 1990, in the interests of public amenity to make provision for the protection of trees.
- 5.2 The trees have considerable amenity value to the locality. The removal of any of the trees would have a significant detrimental impact on the local environment and its enjoyment by the public.
- 5.3 Following consideration of the representations made by the agent acting on behalf of the owner of the land it is felt there is no substantive reason why the order should not be confirmed unaltered.

6. RECOMMENDATIONS

- 6.1 That Tree Preservation Order 13/16 is confirmed without modification.

Background Papers

None.