

PROVISIONAL TREE PRESERVATION ORDER - TPO/18/13

Holly Place, 62 Harwich Road, Mistley.

1.0 PURPOSE OF THE REPORT

To determine whether the provisional Tree Preservation Order (TPO), made in respect of 3 Lime trees at the above address should be confirmed, confirmed in a modified form or allowed to lapse.

2.0 BACKGROUND

As the result of Section 211 Notice 18/01255/TCA served on the Council and giving 6 weeks prior notice of the landowner's intention to fell 2 Lime trees, reduce 1 Holly by 30% and to crown thin a single Cherry a site visit was made to consider whether the proposed works were acceptable or whether any of the trees should be made the subject of a tree preservation order.

3.0 SITE ASSESSMENT AND AMENITY VALUE

The primary purpose of the site visit made on 1 August 2018 was to carry out an assessment of the amenity value of the trees included in the Section 211 Notice.

The proposal to reduce and thin the Holly and the Cherry was considered acceptable and part of ongoing maintenance operations. The Limes are large and visually prominent trees, they are in good health with high amenity value. They form part of a group of 3 trees that collectively have a positive impact on the character and appearance of the conservation area. Their removal would have a significant adverse impact on the local environment and its enjoyment by the public.

It is important to retain trees that make a positive contribution to the character or the appearance of the conservation area.

As the Section 211 Notice gave notice of the landowner's intention to fell the 2 Limes a new TPO was made to give the cohesive group of 3 Limes formal legal protection.

On 6 August 2018 Tendring District Council made a new TPO that became effective on 9 August 2018 and afforded protection to 3 Lime trees.

Conservation Area consent was given for the works to the Holly and the Cherry.

4.0 REPRESENTATIONS/OBJECTIONS

Following notification of the making of the TPO two letters of representation were received by the Council. One was from the Tree Warden representing Mistley Parish Council and another from the owner of Holly Place, 62 Harwich Road, and Mistley.

The Tree Warden did not object to the new TPO but put forward comments that they wished to be considered in the decision making process. A letter of objection was received from the owner of the land on which the trees are situated.

The issues raised by the Tree Warden and contained in the letter of objection must be fully considered before a decision is made whether to confirm the TPO, confirm it in a modified form or to allow it to lapse.

The letter from the tree warden is attached as appendix (CPD1) and the main issues are as follows:

What are the reasons for the TPO?

The trees are vigorous and overhang neighbours property making maintenance difficult. The trees are within an influential distance of adjacent property and the local soil is a thin layer of sand or gravel over London clay.

The trees are growing close together and only T3 is the only tree that can really be seen by passers by.

The trees lie within a well treed garden that forms part of a 'Green Corridor' than can only be seen by residents of those properties. In my view the removal

In my view the removal of the trees and their replacement with alternative species would have a minimal impact on amenity and wildlife.

The letter from owner of Holly House is attached as appendix (CPD2) and the main issues are as follows:

Earlier in the year I was granted permission to crown/thin all three trees Section 211 Notice 18/00564/TCA. As such I cannot understand why I now have a temporary TPO applied to these trees. I'd like to appeal on the following grounds:

- 1- They haven't been maintained for many years and are unsightly, tightly packed and fighting each other for space*
- 2- Close proximity of properties and a clay subsoil making damage by roots a possibility*
- 3- Overhang neighbouring properties and making a mess that I cannot contain.*
- 4- Previous application to maintain them had been granted*

To address the objections from the owner of the local Tree Warden:

The reason for making the TPO is to protect important trees that make a positive contribution to the appearance of the area and that; if removed would have an impact on the local environment its enjoyment by the public.

It is accepted that the trees are vigorous and that pruning works will be required to contain them to a size proportionate to their location. Conservation area consent was previously granted for works of this nature and an application for similar works made under the TPO would be looked upon favourably.

If damage to adjacent properties occurred then this could be dealt with by way of an application made under the TPO to carry out works to the tree or trees to address the issue. Any such application would need to be supported by an appropriate level of technical evidence.

The proximity of the trees to one another and the part they play in the green corridor are noted and considered reasons to support the making of the TPO rather than for not making

it. The trees are visible from a public place and make a significant positive contribution to both the character and appearance of the Mistley Conservation Area.

It is considered that the removal of the trees and their replacement with new trees would have a significant adverse impact on the conservation area and generally the appearance of the local environs

To address the objections from the owner of Holly House, 62 Harwich Road, Mistley:

1. The current amenity value of the trees is the overriding factor in the decision making process to make a new TPO. The historical lack of maintenance is not a reason to not make a new TPO. With regards to future maintenance an application to reduce the trees in accordance with the works approved under the earlier Section 211 Notice would be looked upon favourably.
2. If damage to adjacent properties occurred then this could be dealt with by way of an application under the TPO to carry out works to the tree to address the issue. Any such application would need to be supported by technical evidence.
3. The difficulty in carrying out the maintenance of branches that overhang adjacent property is noted although this is not uncommon and the problems described by the owner not considered insurmountable.
4. As stated previously an application to carry out works to reduce the size of the trees in accordance with good arboricultural practice would be likely to be looked upon favourably.

5.0 CONCLUSIONS

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.

Following consideration of the representations made by the owner of the land on which the trees are situated and from the local tree warden; it is felt there is no substantive reason why the TPO should not be confirmed.

6.0 RECOMMENDATIONS

That Tree Preservation Order 18/13 is confirmed unmodified.