

**Agenda Item No 9A**

**Planning and Development Board**

**12 June 2017**

**Report of the  
Head of Development Control**

**Emergency Tree Preservation  
Order – 57 Birmingham Road,  
Nether Whitacre**

**1 Summary**

- 1.1 This report seeks to bring Members up to date in respect of the making of a Tree Preservation Order at this address

**Recommendation to the Board**

**That the Board confirms action taken to make an Emergency Tree Preservation Order in respect of an oak tree at this address and that representations received are referred to the Board in due course when it comes to consider confirmation of the Order.**

**2 Background**

- 2.1 Officers' attention was drawn to a dispute between neighbours concerning a large oak tree on the boundary between two properties in Birmingham Road, Whitacre Heath. Whilst in the ownership of number 57, it overhangs number 55 and branches have occasionally been removed.
- 2.2 The Council's Tree Officer visited the site and his assessment was that the large and mature specimen was worthy of an Order on the grounds of its public amenity value in the street scene even although it was in the rear garden. A copy of the assessment is at Appendix A.
- 2.3 As a consequence authority was sought and given for the making of an Emergency Order. This was dated 5 May 2017 – see Appendix B. The opportunity for representations to be made now follows and those that are submitted will be referred to the Board in due course. At present the Board is asked to confirm the making of the Emergency Order.

**3 Report Implications**

- 3.1 **Finance and Value for Money Implications**

3.1.1 There are no implications in making the Order but Members will be aware that subsequent to confirmation of the Order, compensation may be applicable depending upon the outcome of decision relating to proposed works on a protected tree

**3.2 Legal and Human Rights Implications**

3.2.1 The owner and neighbour will be able to make representations on the Emergency Order and these will be considered when the Board takes a decision to confirm the Order or not.

**3.3 Environment and Sustainability Implications**

3.3.1 Tree Protection Order can be made where the trees are worthy of protection in the interests of public amenity.

The Contact Officer for this report is Jeff Brown (719310).

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 03/05/2017 Surveyor: ANDREW WATKINS

Tree details  
 TPO Ref (if applicable): Tree/Group No: Species: OAK.  
 Owner (if known): MRS GOLDER Location: REAR OF 57 BIRMINGHAM ROAD, WHITACE HEATH.

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- 5) Good Highly suitable
- ③ Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead Unsuitable
- 0) Dying/dangerous\* Unsuitable

Score & Notes ③ TREE OF GOOD FORM, DEVOID OF FRUITING BODIES, MINIMAL DEADWOOD WITHIN CROWN.

\* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- ② 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10\* Unsuitable

Score & Notes ② CHANGE TO ENVIRONMENT IN CLOSE PROXIMITY TO TREE IS NOT EXPECTED. TREE SHOWS SIGNS OF GOOD REGENERATION AT THIS EXACT POSITION OF THE GROWTH SEASON.

\*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- ③ Medium trees, or large trees with limited view only Barely suitable
- 2) Young, small, or medium/large trees visible only with difficulty Probably unsuitable
- 1) Trees not visible to the public, regardless of size

- Highly suitable
- Suitable
- Barely suitable
- Probably unsuitable

Score & Notes ③ VISIBLE FROM ROAD DUE TO BUNGALOW STYLE OF DWELLING. VISIBLE FROM NEIGHBOURING REAR GARDENS.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- ② Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes ② TREE DISPLAYS A NATURAL FORM AS PER GENUS. VERY MINOR HISTORIC WORKS PERFORMED TO TREE.

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- 5) Immediate threat to tree
- ③ Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes ③ NEIGHBOUR COMPLAINING ABOUT SHADING AND FALLING LEAVES FROM TREE. HAS REMOVED OVERHANGING BRANCHES PREVENTIVELY.

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-10 Does not merit TPO
- ① 11-14 TPO defensible
- 15+ Definitely merits TPO

Add Scores for Total:

13

Decision:

DEFENSIBLE.



## **Town and Country Planning Act 1990**

### **North Warwickshire Borough Council**

**(57 Birmingham Road, Whitacre Heath)**

### **Tree Preservation Order, 2017**

The North Warwickshire Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

#### **Citation**

1. This Order may be cited as the North Warwickshire Borough Council (57 Birmingham Road, Whitacre Heath) Tree Preservation Order, 2017.

#### **Interpretation**

2.—(1) In this Order "the authority" means the North Warwickshire Borough Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2011.

#### **Effect**

3.—(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

#### **Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 5<sup>th</sup> day of May 2017

The Common Seal of the North Warwickshire Borough Council  
was affixed to this deed in the presence of -

.....  
The Designated Officer  
Signed on behalf of the North Warwickshire Borough Council

### **CONFIRMATION OF ORDER**

This Order was confirmed by the North Warwickshire Borough Council without modification on  
the            day of

OR

This Order was confirmed by the North Warwickshire Borough Council, subject to the modifications  
indicated by            , on the    day of

.....  
The Designated Officer  
Signed on behalf of the North Warwickshire Borough Council

### **DECISION NOT TO CONFIRM ORDER**

A decision not to confirm this Order was taken by North Warwickshire Borough Council on  
the            day of

.....  
The Designated Officer  
Signed on behalf of the North Warwickshire Borough Council

### **VARIATION OF ORDER**

This Order was varied by the North Warwickshire Borough Council on  
the            day of  
by a variation order under the reference number  
a copy of which is attached

.....  
The Designated Officer  
Signed on behalf of the North Warwickshire Borough Council

### **REVOCATION OF ORDER**

This Order was revoked by the North Warwickshire Borough Council on  
the    day of

.....  
The Designated Officer  
Signed on behalf of the North Warwickshire Borough Council

Schedule 1, Specification of trees

**Trees specified individually**

(encircled in black on the map)

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<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	Located in the rear garden of 57 Birmingham Road, close to the boundary with 55 Birmingham Road, as indicated on the attached map.

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**Trees specified by reference to an area**

(within a dotted black line on the map)

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<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

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**Groups of trees**

(within a broken black line on the map)

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<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
NONE		

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**Woodlands**

(within a continuous black line on the map)

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<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

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