

5 TREE PRESERVATION ORDER 513: LINEAR TREE FEATURE ALONG ASHBURTON ROAD AND TO THE REAR OF ASHBURTON INDUSTRIAL ESTATE, ROSS-ON-WYE.

Report By: Head of Planning Services

Wards Affected

Ross-On-Wye East

1. Purpose

- 1.1 To consider the representations made in relation to the making of a provisional Tree Preservation Order upon trees located along Ashburton Road and to the rear of Ashburton Industrial Estate, Ross-on-Wye and determine whether to confirm the Order.

2. Order description and details

- 2.1 This order concerns one group of trees comprising 10 pines, 2 poplars, 2 sycamores, 1 maple and 1 walnut tree growing along the southern rear boundary of the Ashburton industrial estate where it adjoins the residential area of North Road, Weston Grove and Ryefield Road.
- 2.2 The trees have been awarded a score using the Council's amenity evaluation rating system of 21 (Benchmark rating for inclusion within TPO is 15). The Group of trees is relatively large: has a life expectancy of between 15 and 40 years; and has an overall average form for the various species concerned. The group is particularly visible by the public, and the trees are fairly suitable to the location. This linear feature, as a former part of railway line embankment and station, demarcates industrial from residential land. The potential amenity value of the trees has already been recognised, being visible from all the surrounding public areas. The trees are considered a very important landscape feature to the surrounding area.
- 2.3 The Order was made on 8th October, 2004.

3. Background

- 2.4 The Council was alerted to the possible loss of or works to the trees by members of the public and by a request for information about the status of the trees. A site inspection was undertaken on 7th October, 2004 whereupon an assessment of their amenity value was undertaken.
- 3.2 The Order was made under emergency procedures in accordance with section 198 of the 1990 Town and Country Planning Act.

4. Policies

4.1 South Herefordshire District Local Plan Policy C.17 (Trees/management) states: -

“PARTICULARLY WITHIN SETTLEMENTS AND WHERE PROPOSALS FOR DEVELOPMENT ARE ADVANCED, THE COUNCIL WILL SUPPORT THE INCREASE AND PROTECTION OF THE STOCK OF TREES IN THE PLAN AREA IN THE INTERESTS OF AMENITY BY:

- (i) CONTINUING TO SERVE TREE PRESERVATION ORDERS IN APPROPRIATE CIRCUMSTANCES, WHERE THERE IS A DANGER TO THE AMENITY OF THE AREA BY THE LOSS OF TREES;
- (ii) ”

5. Representations

5.1 Letters of support for the TPO have been received from Ross-on-Wye & District Civic Society, P. Watkins of 23 North Road, Ross-on-Wye, and A. and C. Hiley, 8 North Road, Ross-on-Wye. The representations in support include:

- They are fine trees in themselves and form a much-loved local amenity.
- They have historic value in that they formed the boundary of the former railway line.
- They form a useful visual barrier between the housing to the south and industrial buildings to the north.
- They act as a shelterbelt against northerly winds for adjacent houses.
- They provide a lovely backdrop to the street, helping to hide the industrial buildings behind.
- They are visible amenity from most parts of the town adding to its amenity.

Reference is also made to other trees in the vicinity, which might be protected, and to a petition that was made to the owner of the trees.

5.2 Representations have been received from the owner of the trees, Alan Porter Ltd, The Glebe, Ashfield park Road, Ross-On-Wye who made the following points:

- We are looking to respond to pressures/complaints of neighbouring property owners and tenants in relation to the trees.
- Issuing a TPO is unnecessary as we are prepared to make any formal application required. We would not have proceeded to do any works without making such a formal application to the Council, but simply we wanted to establish the Council's interest and seek quotes for the cost of removing some and lopping other trees.
- Most of the trees are unattractive, with the Corsican Pines being more appropriate as woodland or park coppice trees than linear planting.
- In our opinion the trees are unstable and represent a threat to the adjacent units and the occupants.

- Ongoing damage is being caused to the roofs on both premises by the continuing build up of pine needles; blocked gutters and downpipes are a regular problem; wet pine needles covering the roofs prevents flows of rainwater to gutters; rotting pine needles are causing premature, unnecessary damage to the roof which may result in early replacement of the sheeting.
- Does the Council now take responsibility for damage caused by the shedding of branches? At the moment damage is being done to roofs, gutters, downpipes and drain gullies.

5.3 A letter of objection has also been received from Mr. D Hughes, 2 North Road, Ross-on-Wye. The grounds of objection are:

- The majority of the trees are not worthy of a TPO and they should not all be clubbed together through one order, with each tree being separately assessed in terms of suitability.
- Trees should not be protected if they cause a danger or they are not suited to the location. Such large trees on a mutual boundary are a cause of family distress, particularly during high winds. The aesthetics of the trees is far outweighed by the constant aggravation and danger of dead limbs falling, causing damage to vehicles underneath and potentially to residents.
- The trees have not been managed or maintained since the demise of the railway. They would have been cut back in the past and works are needed to them for the health and welfare of the trees.
- The use of the area has changed since the trees were planted.
- The trees constantly cause aggravation and danger through dead limbs falling, blocking gutters, dripping sap, damage to telephone wires, etc..
- There is a need to carry out works to reduce the number and height of the trees, in particular adjacent to my property

5.4 The full text can be inspected at the Town Hall, Hereford and prior to the Sub Committee meeting.

6. Officer Appraisal

6.1 A further site inspection was made in relation to the trees following receipt of representations.

Appropriateness of a TPO –

6.2 Collectively the trees are still considered to have sufficient public amenity value to warrant a TPO. Although a well-known woodland tree, Pines are common in linear features, shelterbelts, screens and old Victorian planting schemes. The trees are therefore fairly suitable for their current and historical location. This is not to say that works to address some of the issues raised may not be appropriate.

6.3 The intention of the owner to discuss works with the Council is welcomed. There is, however, no requirement for any formal application or notification without either a TPO being made or the land falling within a conservation area. The making of a

TPO does not preclude any works from taking place. Application for appropriate works would not unreasonably be withheld and works to dead, dying or dangerous trees is excluded from the need to obtain consent.

- 6.4 The trees have been individually assessed. The Group category term has been used for these trees as they have an overall impact and quality that warrants protection. The intention of the group classification is not simply to protect trees that have individual merit and happen to be standing close to one another, but for their merit as a group. Some specimens within the group may have individual merit. However, their location within the collective linear feature, demarcating industrial from residential land, has the greater value. Although the classification of 'Tree' and 'Group' differ, the legal constraints by the TCPA remain the same for both classifications.
- 6.5 Although consideration has been given to the fact that this linear feature formed part of railway line embankment and station and therefore has some historical significance, the fundamental reason these trees were protected is that they are of visual amenity value, especially demarcating and separating industrial from residential land.

Safety of the Trees

- 6.6 Public safety is of foremost importance when dealing with trees. However, the popular perception of what is dangerous does not always correlate with what actually is dangerous. All trees covered by the Order have been fully inspected by the Councils Arboricultural Consultant in light of the above objection. Although some minor defects and works that could be resolved by remedial tree surgery were noted, no trees exhibited signs of instability or other defects that would make them exempt from preservation. Arboriculture, particularly the risk assessment of trees, is a form of applied biology, where decisions should be justified by reasonably available evidence. No competing evidence has been supplied to show that the trees are at this moment in time unstable or that they present an unacceptable risk to the site. A meeting between the Council's Arboricultural Officer and the owner could proceed at any time to discuss remedial works, the need for which is mentioned above.
- 6.7 The condition of trees does change over time. A tree owner owes a 'duty of care' under the Occupiers Act 1957 to ensure that trees within his/her responsibility do not pose an unacceptable risk to life or property. It is accepted that a good tree owner should have their tree or trees inspected on a regular basis by an appropriate person. Routine deadwood and minor defects within branches could be easily resolved by remedial tree surgery. This normal household maintenance of a tree while clearly a burden to some people is a fact of life and the disadvantages should be weighed against the benefits of the trees to the town and to the value of both the property and the neighbourhood. If a problem were reasonably foreseeable then the Council would not withhold permission for appropriate works to the trees. The Council would not be liable for an injury or damage caused unless it refused consent to remove the hazardous material or for works that are needed to avoid loss or damage that could reasonably have been foreseen.

Maintenance Liability and Nuisance

- 6.8 The degree of nuisance can be a factor in determining whether works to important trees might usefully be undertaken, although not generally to whether any important

trees should be covered by a TPO. Minor nuisances are generally those, which may cause inconvenience to people, but rarely significant discomfort or financial loss. Most trees in highly populated urban areas have the capacity to cause nuisance, and it is common to hear that trees are generally appreciated, but not wanted in a particular position because of this. Action in response to all minor nuisances would lead to the removal or mutilation of many trees, to the detriment of both public amenity and wildlife. The recognition of the value of trees in towns requires that trees be retained for the benefit of wider society, even where they cause minor inconvenience to immediate landowners and residents. It is recommended that the Council should not authorise any tree work to alleviate a nuisance, which will not have a significant affect.

- 6.9 The dropping of leaves, fruits and flowers is another natural function of a tree's biology. Activities such as clearing up fallen leaves and seeds, or even installing needle guards on gutters or cleaning out gutters periodically are all part of normal property maintenance and while they are clearly a burden to some people, they are a fact of life and the disadvantages should be weighed against the benefits of trees to the town. There are a number of gutter guards for needles in the market place. If such a product was correctly installed and regularly maintained in accordance with manufacturers instructions the risk of product becoming blocked would be reduced to an acceptable level.
- 6.10 When identifying remedial works that might be undertaken, it would be useful to discuss whether any additional works might also take place to reduce the level of maintenance provided the overall amenity that the group of trees provide.
- 6.11 One of the benefits of the TPO would be to ensure the future of the linear feature. Trees such as the poplars, which are currently appropriate, may not be so appropriate to retain to full or post maturity. The poplars early removal, and replacement, for example by pines or other evergreen, would ensure the continuation of the feature.

RECOMMENDATION

That Tree Preservation Order no. 513 - Linear tree feature along Ashburton Road and to the rear of Ashburton Industrial Estate, Ross-on-Wye be confirmed without modification.