

**BABERGH DISTRICT COUNCIL**

**FROM:** Head of Contract and Asset  
Management

**REPORT NUMBER** **H30**

**TO:** LICENSING AND APPEALS  
COMMITTEE (TREES)

**DATE OF MEETING:** 19 May 2008

**TREE PRESERVATION ORDER BT 406 (TPO BT 406) – LAND TO NORTH OF  
SUDBURY, SUFFOLK**

1. **PURPOSE OF REPORT**

- 1.1 To consider an objection to the making of a Tree Preservation Order (TPO) BT 406, and the recommendation that the Tree Preservation Order be confirmed without modification.

2. **RECOMMENDATION**

- 2.1 That Tree Preservation Order BT 406 be confirmed without modification.

The Committee is able to resolve this matter.

3. **FINANCIAL IMPLICATIONS**

- 3.1 The Town and Country Planning Act (Trees) Regulations 1999 contain provisions for financial compensation and this may be payable in certain circumstances if consent is refused under the Order for works to protected trees or if consent is granted subject to conditions. This is the case when making any Tree Preservation Order.

4. **RISK MANAGEMENT**

- 4.1 The natural beauty of the area could be adversely affected if the trees subject to this provisional TPO were to be removed. Without a TPO, various trees of high amenity value could be lost and this would have a detrimental impact on the local landscape.
- 4.2 Serving of the TPO will not necessarily prevent development occurring, but will ensure that the trees are an important part of the consideration process. Any felling that might be required to implement a full planning permission can be controlled, and adequate replacements secured.

5. **KEY INFORMATION**

- 5.1 Tree Preservation Order BT 406 was served on 13 December 2007. It has a provisional existence of six months and will expire on 17 June 2008 if not confirmed by this Committee.

- 5.2 The trees that are the subject of this Tree Preservation Order are located within a significant tract of gently rolling farmland situated to the north of Sudbury. It is bounded to the South by the existing urban edge of Sudbury and to the east by the B1115 Great Waldingfield Road. The northern and western boundaries are less well defined and only partially relate to existing features on the ground. The bulk of the land take is currently under productive farmland, but it also encompasses a supermarket retail site, a school and its playing field, an orchard, industrial use on the former Chilton airfield, and a private residence known as Chilton Priory. The land affected by the Tree Preservation Order also forms part of the land allocation for a mixed use package of development contained in the Babergh Local Plan (Alteration No 2); Policy CPO 1 refers (Chilton Woods).
- 5.3 There are essentially three main categories of trees proposed for protection on this site; individual trees within field boundary hedgerows, groups of trees in field corners, and areas of new maturing tree planting around the industrial area on the corner of the former airfield.
- 5.4 This latter type, although young, forms an essential screening role for the existing industrial units on site. Furthermore, with the right management these trees can go on to form significant features in the landscape for many years to come, and would be integrated within the development relating to the mixed use land allocation (Policy CPO 1 Chilton Woods). Not all the young trees in these areas are native species but there is plenty of scope within an ongoing management programme for them to be progressively thinned out in favour of the native species that are typical of the surrounding wider landscape.
- 5.5 There is an additional area that merits protected status. W8 is a belt of mature oak trees with native shrub understorey, situated to the west of the B1115. It is typical of the surrounding countryside and will assist with the integration of any future development into the landscape.
- 5.6 Of a smaller scale and bounding the same field as W8 is G1, a group of 30 oak trees. Similar to W1, G1 contributes to the natural sub-division of the site as a whole and should be preserved for the natural amenity it contributes to the location.
- 5.7 The remaining trees (T1-T16) subject to this provisional TPO are individual mature oak trees, standing along field boundaries. These trees all have a significant life expectancy, and will contribute a valuable sense of maturity to any new development as well as maintaining a sense of continuity across the wider landscape.
- 5.8 The serving of this TPO has been prompted by the site being proposed for development under Policy CPO 1 within the Babergh Local Plan (Alteration No. 2). As a result the trees could potentially be under threat of removal or damage in the event of development going ahead. The Local Planning Authority considers the trees to be of significant public amenity value and as such they should be afforded the statutory protection by the making of a Tree Preservation Order in the interests of maintaining the visual amenity of the area.

5.9 One letter of objection to the making of TPO BT 406 has been received from Suffolk County Council acting in its capacity as landowner. This objection is based upon an assessment undertaken by Hayden's Arboricultural Consultants on behalf of Suffolk County Council and the Ashwell Property Group. The objection can be summarised as follows: -

- (a) The woodlands identified as W2 and W7 should not be included within TPO 406, as they do not merit a TPO due to being of limited landscape/amenity value as hidden within/behind adjacent woodland areas.
- (b) The extent of the woodland identified as W1 with regard to its northern boundary with the old airfield taxiway near woodland W2 should be reduced as this would have limited affect on visual amenity when viewed from Waldingfield Road.

5.10 Mitigation of the above objections – Babergh District Council response:

- (a) The woodlands designated as W2 and W7 are not hidden from public view, but are clearly visible from both the B1115 when travelling toward Sudbury, and also along Acton Lane. From both of these viewpoints the trees provide screening of the current commercial/industrial site usage.
- (b) The woodland designation W1 is the largest group of trees proposed for protection within the TPO. It is a young maturing woodland with good potential if subject to appropriate management. That some parts of it are less visible away from Waldingfield Road is self evident due to its size. However it is the value of the woodland as a whole that the Council seeks to protect. Removal of an area of lower visibility sets a precedent that could degrade the overall value of the woodland and is not environmentally sustainable.

The objection also draws attention to a planning consent granted in October 2006 (B/06/01151) that may conflict with the southern boundary of W1 in terms of a requirement for visibility splays. This concern is addressed at point 4.2 above.

## 6. **HUMAN RIGHTS IMPLICATIONS**

6.1 The imposition of a Tree Preservation Order will impact on the human rights of the individual. Those human rights affected are particularly, but not exclusively:

Article 1 of the First Protocol (Protection of Property) – The right to peaceful enjoyment of possessions,

Article 8 – The right to respect for private and family life,

6.2 However, in such cases the human rights of the individual must be balanced against the rights of the public to expect the planning system to protect a tree[s] when its [their] amenity value justifies such protection.

6.3 In this instance, it is your officer's opinion that in this balancing act the protection of the tree[s] should prevail.

7. **APPENDICES**

- (a) Copy of TPO BT 406
- (b) Copy of objection letter and email from Suffolk County Council dated 18 February 2008
- (c) Copy of Hayden's Arboricultural Consultants tree survey drawing and data sheets 05 and 06 February 2008 respectively.

8. **BACKGROUND PAPERS REFERRED TO:**

None.

**CONTACT: DAVID PIZZEY**

**TEL: 01473 826662**