

## TREE PRESERVATION ORDER

**Town and Country Planning Act 1990**  
**Land at :- Land adjoining car park off Peartree Lane &**  
**Broadwater Road Welwyn Garden City**  
**780 (2018)**

DATE : 04<sup>th</sup> June 2018

TO: Ann Helmke

FROM: Andrew Cayley BSc (Hons) Arb, M.Arbor.A (ES)

CC:

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The purpose of this letter is to provide comments relating to x1 (one) objection resulting from TPO 780 (2018). The comment(s) / objection(s) received are from;

**Kanayo Chianakwalam – Paralegal (Environment & Dispute Resolution) representing Hertfordshire County Council,**

Content received:

Dear Sirs,

As a result of housing development within the locality of Peartree Primary school, there is a need to expand this school from 1fe (forms of entry) to 3fe. However, the existing school site is simply too small to accommodate such an expansion. The site of the Broadwater Road car park lies to the north of the school's playing fields and is within HCC's ownership. It has therefore been identified as having the potential to accommodate a 3fe school (representations to the emerging local plan have already been made regarding the need for a further 2fe).

The County Council has engaged a design consultant to prepare a high level feasibility study for the relocation of Peartree Primary school to the car park site – the attached site layout drawing shows how the new 3fe school could be accommodated. The new site is larger than that of the existing school, nevertheless, it is still a relatively constrained site for the size of school required and this, together with the considerable number of trees upon it, means that the loss of some trees is unavoidable if the new school building and associated recreational space etc are to be provided in accordance with the relevant Building Bulletin guidance.

There is a particular need to remove the row of trees along the western boundary of the G4 group of trees identified on the TPO drawing as this row conflicts with location of the proposed school building.

Other trees may well need to be removed e.g. there are safeguarding concerns as some trees may hinder surveillance of the playing fields or where they may restrict the ability to provide suitably sized playing pitches with appropriate run-off areas.

At this stage no Tree survey and detailed design work has been carried out so we are unable to provide details of the precise impacts.

While the County Council will endeavour to ensure that as many trees as possible are retained, it is considered that the TPO acts to constrain development in the manner proposed and it therefore wishes to object to it.

The preference is that there is no TPO on any of the proposed school site as this gives greater flexibility for the design/layout of the school and also because the regular maintenance of trees does not require formal approval every time it is carried out.

### Comment

The above letter considers that it from a development perspective it would be preferable (to Hertfordshire County Council) that no TPO is confirmed for this site.

However, the site is already subject to statutory protection; TPO 151 remains in force and continues to protect the trees resource identified within that order.

The law on Tree Preservation Orders is in Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into force on 6th April 2012.

Orders made before 6th April 2012 continue to protect the trees or woodlands they cover and there is no need for Orders made before 6th April 2012 to be remade, amended or reissued; however, in order to help WHDC efficiently manage existing TPO's it was decided to review and re-issue the orders.

WHDC took the decision to review all of their existing TPO's and assess their suitability for continued protection. I can confirm that this is a borough wide exercise; all TPOs administered / managed by WHDC will be subject to review and re-issue.

TPO's will only be revoked where the tree(s) no longer exist or are in such a condition which no longer renders the TPO justifiable.

For clarity, Local Planning Authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

The trees subject to this objection letter were previously covered by an old Order (TPO 151) the new order has been served to effectively update the records and ascertain if the trees previously deemed worthy of protection are a) still insitu and b) still warrant protection.

When deciding whether an Order is appropriate, Local Authorities are advised to take into consideration what 'amenity' means in practice, what to take into account when assessing amenity value, what trees can be protected and how they can be identified.

Before Local Authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future; i.e the trees have an 'Amenity value'.

'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.

When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria: In this instance we can advise that WHDC assess all trees for TPO protection using the industry standard TEMPO system (Tree Evaluation Method for Protection Orders).

TEMPO considers the following:

Visibility: The extent to which the trees or woodlands can be seen by the public: the trees (or at least part of them) should normally be visible from a public vantage point (e.g a road or footpath).

Individual, collective and wider impact; public visibility alone is not be sufficient to warrant an Order; size and form, future potential as an amenity, rarity, cultural or historic value, contribution to, and relationship with, the landscape, and contribution to the character or appearance of the area are all considered before confirming / reconfirming the order.

In this instance, WHDC can confirm that the trees subject to the previous order (TPO 151) are still insitu and are visible to the general public (i.e have amenity value), their form, overall condition and contribution to the character of the area have all been considered and in our opinion are judged worthy of continued protection.

The Local Authority should therefore continue protection under the new order as no material change in the amenity provided has occurred. We would like to stress that the owners ability to apply for works to trees subject to statutory protection will, as previous, remain undiminished.

However, continuing the protection afforded by a TPO will ensure that where tree removals are judged to be necessary (subject to substantiating evidence / LPA consent), any loss(s) can be mitigated by way of condition(s) stipulating replacement plantings.

Replacement planting will ensure a continuation of protected tree cover into the future; the confirmation of the TPO will not, necessarily, stop any future development proposals from progressing, but it will add valuable protection to onsite trees and assist in securing retention through any proposed development / avoid unnecessary tree removals.

We would therefore recommend that the TPO is confirmed; the confirmation of the TPO will ensure continued protection of a valuable local resource; in the event that tree removals are proposed (as part of any proposed future development application); consultation with the Local Authority will be required and where deemed inappropriate prevented.

Any agreed losses may be mitigated by way of condition(s) stipulating replacement plantings.