

## Report of the Head of Planning and Enforcement

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED), SECTIONS 198-201 and 203.**

**TREE PRESERVATION ORDERS No. 665 (2009) & No. 677 (2010)  
WOODLAND SITUATED ON LAND WEST OF WOODFIELD TERRACE &  
DOVEDALE CLOSE, HAREFIELD**

### Summary

To consider whether to confirm Tree Preservation Orders Number 665 and 677 with or without modification. It should be noted that Tree Preservation Order 677 supersedes Tree Preservation Order 665.

### Recommendations

- 1. That Tree Preservation Order Number 665 (2009) not be confirmed, and**
- 2. That Tree Preservation Order Number 677 (2010) be confirmed without modification.**

### Information

Tree Preservation Order Number 665 (2009) (TPO 665) was authorised under delegated powers. The TPO was made on a block of woodland on land west of Woodfield Terrace and Dovedale Close, Harefield, after the Local Planning Authority (LPA) received a planning application (ref: 66148/APP/2009/1453) for the development of the land. The proposed development was described as outline residential development (up to 9 dwelling houses). The application was refused by notice dated 29 October 2009. A subsequent appeal against the Council's decision was dismissed on 22 September 2010.

The following objection was received to woodland, W1, on TPO 665 on the grounds that: -

- i) **Amenity value.** The woodland is not considered to have a high amenity value. It is situated in a remote location, visible only from the adjacent farmland, allotments/footpath and from the rear of approximately 15-20 properties along Dovedale Close. It is not clearly visible from any busy public place or from any transport route. Due to the general poor quality and limited views of the woodland, it is considered to have a relatively low amenity value.

The Order is therefore contrary to the Secretary of State's view that:

“ TPOs should be used to protect selected tree and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or

footpath.” (Tree Preservation Orders, A guide to the Law and Good Practice, Section 3.2, Department for Communities and Local Government – CLG, 2006)

And:

“ the extent to which the trees or woodlands can be seen by the general public will inform the LPA’s assessment of whether its impact on the local environment is significant. If they cannot be seen or are just barely visible from a public place, a TPO might only be justified in exceptional circumstances.” (Tree Preservation Orders, A guide to the Law and Good Practice, Section 3.3(1), Department for Communities and Local Government – CLG, 2006)

- (ii) **Potential Cost of the Order.** Due to a lack of recent management the site is becoming choked with poor quality, semi-mature sycamore trees. If the Order is confirmed without amendment these trees will be protected and permission will be required to undertake all of the required management operations. There is no expiry date to the Order so the potential number of applications / appeals could be very high. Each application and each potential appeal against the decision will need to be considered by the local authority. This could draw upon a considerable amount of public official’s time and public finances.
- (iii) **Unjustifiable Allocation of Public Finances.** The local authority has the responsibility to ensure that they allocate public finances in the best interests of the public. Given the low amenity value of the woodland and the potential cost of the Order, it is considered that that confirmation of the Order to not be in the public’s best interest.
- (iv) **Site Potential.** There is no permitted public access into the woodland though there is evidence of vandalism and unauthorised dumping. Therefore, the woodland provides little or no public benefit. I understand that it is proposed to develop the site. This could be done in a sensitive manner, by selective removal of the lower quality trees and retention of the higher quality trees. A carefully considered design, taking into account arboricultural advice and the recommendations of BS 5837, could lead to an enhancement of the site. It would be possible to retain the higher quality trees and develop around them so that they become high amenity, specimen trees. If the Order is confirmed without amendment this will be prevented.
- (v) **Boundaries.** Given the high fines associated with unauthorised works it is important that the boundaries of Tree Preservation Orders are clear and indisputable. The limit of the Order does not appear to follow defensible boundaries. Along the southern boundary the Order bisects an area of woodland. This will lead to confusion as to whether some trees are protected or not. This is contrary to the Secretary of State’s view that:

“The boundary of the woodland should be indicated on the map as accurately as possible, making use of any natural landscape features or property boundaries in a way that will avoid any future uncertainty if trees close to the boundary are removed.” (Tree Preservation Orders, A guide to the Law and Good Practice, Section 3.15, Department for Communities and Local Government – CLG, 2006)

### **Observations on the objections to TPO 665**

Objections (i), (ii), (iii) and (iv) are considered below in relation to the objections to TPO 677. TPO 677 was made to take account of and address objection (v) regarding the ‘boundaries’ of TPO 665, which it is intended to supersede.

### **Information (TPO 677)**

Tree Preservation Order Number 677 (2010) (TPO 677) was authorised under delegated powers. The TPO was made on a larger area of woodland on land west of Woodfield Terrace and Dovedale Close, Harefield. The TPO 677 is a provisional Order, which is effective for six months, in this case that is until the 16 October 2010, and needs to be confirmed by the Local Planning Authority (LPA). If the TPO is not confirmed by 16 October 2010, the provisional protection comes to an end, although the LPA can confirm the Order after the six month period.

The following objection was received to woodland, W1, on TPO 677 on the grounds that: -

- ii) **Amenity value.** The woodland is not considered to have a high amenity value. It is situated in a remote location, visible only from the adjacent farmland, allotments/footpath and from the rear of approximately 15-20 properties along Dovedale Close. It is not clearly visible from any busy public place or from any transport route. Due to the general poor quality and limited views of the woodland, it is considered to have a relatively low amenity value.

The Order is therefore contrary to the Secretary of State’s view that:

“ TPOs should be used to protect selected tree and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath.” (Tree Preservation Orders, A guide to the Law and Good Practice, Section 3.2, Department for Communities and Local Government – CLG, 2006)

And:

“ the extent to which the trees or woodlands can be seen by the general public will inform the LPA’s assessment of whether its impact on the local environment is significant. If they cannot be seen or are

just barely visible from a public place, a TPO might only be justified in exceptional circumstances.” (Tree Preservation Orders, A guide to the Law and Good Practice, Section 3.3(1), Department for Communities and Local Government – CLG, 2006)

- (vi) **Potential Cost of the Order.** Due to a lack of recent management the site is becoming choked with poor quality, semi-mature sycamore trees. If the Order is confirmed without amendment these trees will be protected and permission will be required to undertake all of the required management operations. There is no expiry date to the Order so the potential number of applications / appeals could be very high. Each application and each potential appeal against the decision will need to be considered by the local authority. This could draw upon a considerable amount of public official’s time and public finances.
- (vii) **Unjustifiable Allocation of Public Finances.** The local authority has the responsibility to ensure that they allocate public finances in the best interests of the public. Given the low amenity value of the woodland and the potential cost of the Order, it is considered that that confirmation of the Order to not be in the public’s best interest.
- (viii) **Site Potential.** There is no permitted public access into the woodland though there is evidence of vandalism and unauthorised dumping. Therefore, the woodland provides little or no public benefit. I understand that it is proposed to develop the site. This could be done in a sensitive manner, by selective removal of the lower quality trees and retention of the higher quality trees. A carefully considered design, taking into account arboricultural advice and the recommendations of BS 5837, could lead to an enhancement of the site. It would be possible to retain the higher quality trees and develop around them so that they become high amenity, specimen trees. If the Order is confirmed without amendment this will be prevented.
- (ix) **Boundaries.** Given the high fines associated with unauthorised works it is important that the boundaries of Tree Preservation Orders are clear and indisputable. The limit of the Order does not appear to follow defensible boundaries. Along the north-western boundary the Order seems to follow a rather arbitrary wavy line which appears (when transposed onto satellite imagery) to bisect some trees within the adjacent field. This will lead to confusion as to whether some trees are protected or not. This is contrary to the Secretary of State’s view that:

“The boundary of the woodland should be indicated on the map as accurately as possible, making use of any natural landscape features or property boundaries in a way that will avoid any future uncertainty if trees close to the boundary are removed.” (Tree Preservation Orders, A guide to the Law and Good Practice, Section 3.15, Department for Communities and Local Government – CLG, 2006)

Objections (i), (ii), (iii) and (iv) are the same as those to TPO 665. The boundaries of TPO 677 vary from those of TPO 665 because, whereas TPO 665 in the main reflected the property boundary and the planning application (for up to 9 houses), the 'boundary' reflects the extent of the extensive area of woodland, which includes the application site.

The secondary woodland (W1 on TPO 677), which has formed through the natural colonisation of un-wooded land / orchard, is mainly Oak, and covers an area of land the Colne Valley. Part of the woodland is in the Green Belt and the central part that forms the sloping planning application site is adjacent to the Green Belt boundary. The woodland also borders the Harefield Village Conservation Area, and a footpath, which forms part of the 'Hillingdon Trail' and provides public access from Harefield into the open land of the Colne Valley.

The woodland, including that on the application site is the northern limit of a larger area of woodland that stretches along the eastern Colne Valley escarpment. The woodland is also in the Harefield Chalk Pit Site of Importance for Nature Conservation.

The woodland is highly visible in the landscape, particularly from the Hillingdon Trail and from Woodfield Terrace, and has a very high amenity value. The Inspector, who dismissed the planning appeal found that:

"The site is not in a remote location." And "The woodland is a prominent feature of the area and makes an important contribution to its character and appearance".

The removal or loss of the woodland (W1 on TPO 677), or a large part of it, would have a detrimental effect on the amenity, ecology and landscape of the area.

Under section 198(1) of the Town and Country Planning Act 1990, Local Planning Authorities may make a TPO 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".

It is expedient to make a TPO if the LPA believe there is a risk of the tree or woodland being cut down and/or if the tree or woodland is at risk from development pressures.

TPO 677 was made to preserve and protect the woodland in the interests of amenity, especially as the removal of it or several trees forming it, as part of a scheme to develop the land, would have a significant impact on the environment. The Inspector, who recently dismissed the appeal, considered that proposed development would involve the loss of a significant proportion of the woodland trees on the site, and would cause serious harm to the character and appearance of the immediate area and to the setting of both the

Green Belt and the Conservation Area, and conflict with the relevant saved policies in the Unitary Development Plan.

In this case, given that the woodland has been neglected and is not under good silvicultural management, it is also expedient to make the Order. The LPA will deal with any subsequent TPO applications and appeals together with those applications and appeals in relation to other protected (TPO) trees and woodlands. Furthermore, given the very high amenity value of the woodland, the making of the Order is in the public interest.

The boundaries of TPO 677 are well defined. On the north side the woodland is bounded by the public footpath and on the east side it is bounded by Woodfield Terrace and properties in Dovedale Close. On the other 'sides' the irregular shape and full extent of the woodland (landscape feature), which is adjacent to fields and grassland, is indicated on the map as accurately as possible.

There were no other objections to TPOs 665 or 677.

### **Conclusions**

It is recommended that TPO 677 be confirmed without modification, and therefore that TPO 665 not be confirmed, because it is superseded by TPO 677.

The following background documents were used in the preparation of this report.

- 1 - Tree Preservation Order No. 665 (2009).
- 2 - Tree Preservation Order No. 677 (2010).
- 3 - Letters of objection to TPO 665 and 677.
- 4 - Tree Preservation Orders – A Guide to the Law and Good Practice.
- 5 - Appeal Decision dated 22 September 2010.