



Stafford

BOROUGH COUNCIL

THE COMMITTEE WILL LEAVE THE CIVIC CENTRE AT 9.30 AM TO INSPECT THE SITE AND RECONVENE AT THE CIVIC CENTRE AT APPROXIMATELY 10.15 AM

PUBLIC APPEALS COMMITTEE - THURSDAY, 13 APRIL 2006 AT 9.30 AM IN THE CRADDOCK ROOM, CIVIC SUITE, CIVIC CENTRE, RIVERSIDE, STAFFORD

PUBLIC APPEALS COMMITTEE MEMBERSHIP AS AT 13 APRIL 2006

Chairman - Councillor R M Sutherland

Councillors:

B M Cross
Mrs L Davies
A T A Godfrey
P G Goodland

J H Kennedy
J C Sillito
R M Sutherland

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ITEM NO

ITEM NO

STAFFORD BOROUGH COUNCIL

PUBLIC APPEALS COMMITTEE – 13 APRIL 2006

Report Track - Pub App 13/4/05 (Only)

Ward Interest - Milford

TREE PRESERVATION ORDER NO. 365 OF 2005 – LAND ADJACENT TO 196 MAIN ROAD, MILFORD

Report of Head of Planning and Engineering Services

Purpose of Report

To consider an objection to the above Tree Preservation Order.

1 Detail

- 1.1 The above Order was made by the Council on 21 December 2005. A copy of the Order is attached as **APPENDIX 1**.
- 1.2 An objection to the Order was received from Mr D Ashton of 198 Main Road, Milford.
- 1.3 The statement of the Head of Planning and Engineering Services is attached as **APPENDIX 2**.
- 1.4 The Committee will visit the site at approximately 9.45 am.

2 Recommendation

- 2.1 The Committee is asked to consider the objection and whether to confirm Tree Preservation Order No 365 of 2005

Previous Consideration

Nil

Background Papers

File available in Law and Administration and Planning and Engineering Services

Officer Contact

P F Windmill, Forward Planning Manager, Tel 01785 619538

NOTE: In relation to Wales, any reference in this form to the Secretary of State shall be construed as reference to the National Assembly for Wales.

Town and Country Planning Act 1990

APPENDIX 1

Insert title of Order (including year)

TREE PRESERVATION ORDER, 365 . 2005

Insert name of Council

The Stafford Borough Council
in exercise of the powers conferred on them by sections 198 [, 201^(a)] [and] [203] [and 300] of the Town and Country Planning Act 1990^(b), [~~and with the consent of the~~

Insert name of appropriate authority

hereby make the following Order:—

Citation

Insert title of Order (including year)

1. This Order may be cited as Stafford Borough Council Tree Preservation Order No 365, 2005

Interpretation

Name of Council making the Order

2. In this Order “the authority” means the Stafford Borough Council

and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

[Application of section 201

Insert date

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 22 December 2005

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders)^(c) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested)], and subject to article 5, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5. (1) Nothing in article 4 shall prevent-

- (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land^(d) of the statutory undertaker and the work is necessary-

- (a) Under section 199(1), tree preservation orders generally do not take effect until confirmed, but a direction may be given under section 201 for an order to take provisional effect immediately.
- (b) Where the Order is to be made under the sections cited *and* section 300 of the Town and Country Planning Act 1990, all those provisions should be cited, as should the fact of the consent of the appropriate authority. As to the circumstances in which the consent of the Forestry Commission is required (and should be cited) *see* section 200(1) of that Act.
- (c) Subsection (6) of section 198 exempts from the application of tree preservation orders the cutting down, uprooting, topping or lopping of trees which are dying, dead or have become dangerous, or the undertaking of those acts in compliance with obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance. Subsection (7) of that section makes section 198 subject to section 39(2) of the Housing and Planning Act 1986 (c.63) (saving for effect of section 2(4) of the Opencast Coal Act 1958 on land affected by a tree preservation order despite its repeal) and section 15 of the Forestry Act 1967 (c.10) (licences under that Act to fell trees comprised in a tree preservation order).
- (d) *See* section 263 of the Town and Country Planning Act 1990.

- (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995^(a);
- (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
 - (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
 - (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
 - (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991^(b); or
 - (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989^(c).
- (2) In paragraph (1), "statutory undertaker" means any of the following-
- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power.
 - a relevant airport operator (within the meaning of Part V of the Airports Act 1986)^(d),
 - the holder of a licence under section 6 of the Electricity Act 1989,
 - a public gas transporter,
 - the holder of a licence under section 7 of the Telecommunications Act 1984^(e) to whom the telecommunications code (within the meaning of that Act) is applied,
 - a water or sewerage undertaker,
 - a Civil Aviation Authority or a body acting on behalf of that Authority,
 - the Post Office.

Applications for consent under the Order

6. An application for consent for the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall—
- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
 - (b) specify the work for which consent is sought; and
 - (c) contain a statement of the applicant's reasons for making the application.

Application of provision of the Town and Country Planning Act 1990

7. (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2)
- (2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

(a) S.I. 1995/418.
 (b) 1991 c.59, *see* section 72.
 (c) 1989 c.29.
 (d) 1986 c.31.
 (e) 1984 c.12.

Directions as to replanting

8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

(3) A direction under paragraph (1) may include requirements as to—

- (a) species;
- (b) number of trees per hectare;
- (c) the preparation of the relevant land prior to the replanting; and
- (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9. (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of—

- (a) the refusal of any consent required under this Order; or
- (b) the grant of any such consent subject to conditions,

he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this article—

- (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
- (b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

(4) In any other case, no compensation shall be payable to a person—

- (a) for loss of development value or other diminution in the value of the land;
- (b) for loss or damage which, having regard to the statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
- (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
- (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article—

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

[Application to trees to be planted pursuant to a condition

10. In relation to the tree[s] identified in the first column of Schedule 1 by the letter "C", being [a tree] [trees] to be planted pursuant to a condition (being 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 [that tree is planted] [those trees are planted].]

Stafford Borough Council

Tree Preservation Order No. 365 - 2005
Tree on Land adjacent to 196 Main Road, Milford, Stafford

First Schedule

Note: All trees, group of trees and woodlands described in this Schedule are situated in the
Borough of Stafford on Ordnance Survey Sheet SJ 9621 (1:1250)

TREES SPECIFIED INDIVIDUALLY
(encircled in black on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Location</u>
	N/A	

TREES SPECIFIED BY REFERENCE TO AN AREA
(within a dotted black line on map)

<u>No. on Map</u>	<u>Description</u>	<u>Location</u>
	N/A	

GROUP OF TREES
(within a broken black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Location</u>
G1	4 no. Norway Spruce (nos. 1- 4) & 1 no. Apple (no.5)	Land adjacent to 196 Main Road, Milford, Stafford.
G2	1 no. Silver Birch, 1 no. Scots Pine & 1 no. Larchditto.....

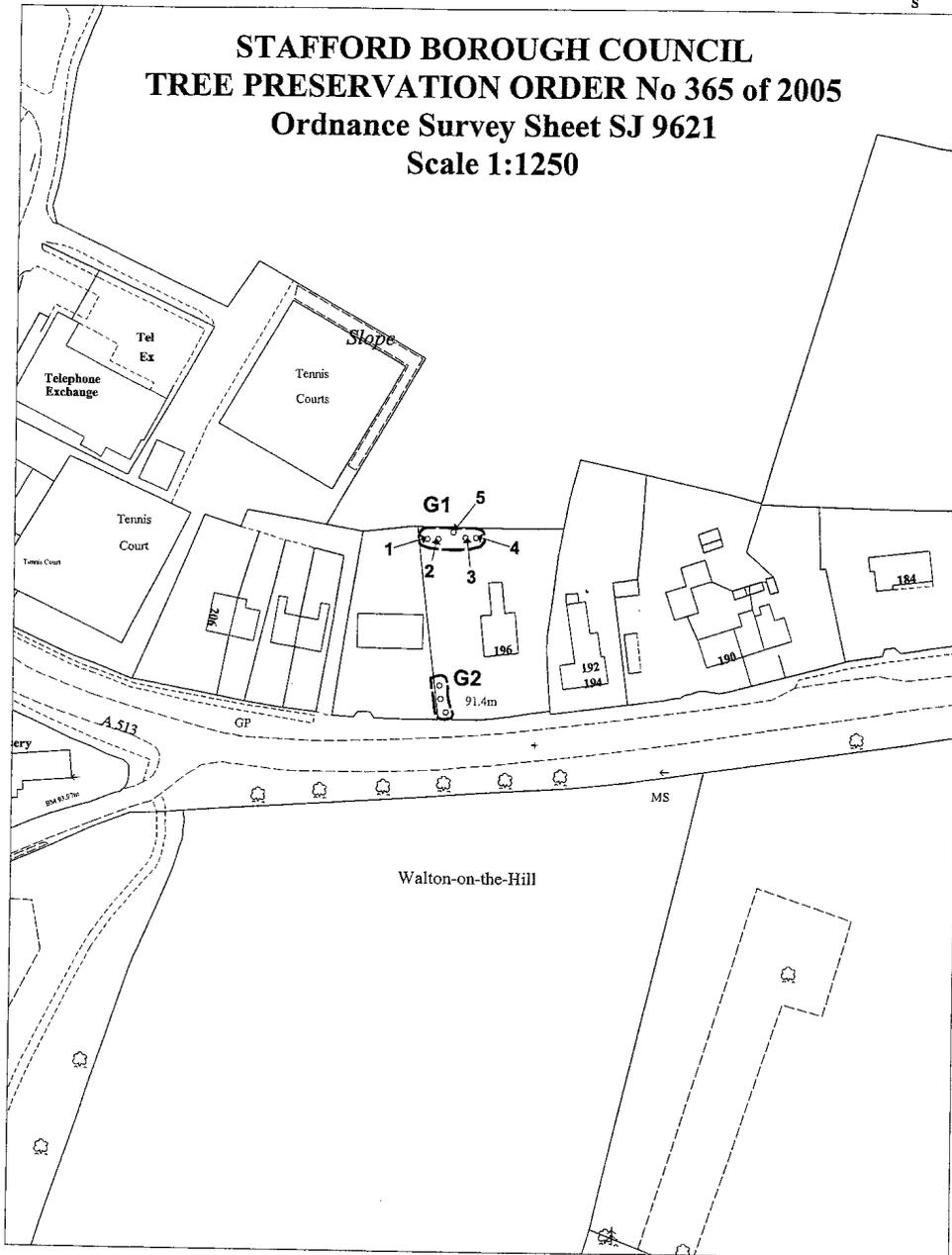
WOODLANDS
(within a continuous black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Location</u>
	N/A	

Plan Chest



**STAFFORD BOROUGH COUNCIL
TREE PRESERVATION ORDER No 365 of 2005
Ordnance Survey Sheet SJ 9621
Scale 1:1250**



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By: VE
Dept: Planning & Engineering
Scale: 1:1250

**SCHEDULE 2
PART I**

Article 7

Provisions of the Town and Country Planning Act 1990 applied with adaptations or modifications

Provisions of the Town and Country Planning Act 1990	Adaption or Modification
Section 69 (registers)	<p>(a) In subsection (1) -</p> <p>(i) omit - “, in such manner as may be prescribed by a development order;”, “such” in the second place where it appears, and “as may be so prescribed”, and</p> <p>(ii) substitute “matters relevant to tree preservation orders made by the authority for applications for planning permission”.</p> <p>(b) In subsection (2) -</p> <p>(i) after “contain” insert “, as regards such order”; and</p> <p>(ii) for paragraphs (a) and (b) substitute - “(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it.”</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>
Section 70 (determination of applications: general considerations)	<p>(a) In subsection (1) -</p> <p>(i) substitute - “Subject to subsections (1A) and (1B), where” for “Where”; “the authority” for “a local planning authority”; “consent under a tree preservation order” for “planning permission” where those words first appear, and “consent under the order” for “planning permission” in both of the other</p> <p>(ii) after “where” insert “, as regards such order”; “(including conditions limiting the duration of the consent or requiring the replacement of trees”; and</p> <p>(iii) omit “subject to sections 91 and 92.”</p> <p>(b) After subsection (1) insert - “(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area. (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).”</p> <p>(c) Omit subsections (2) and (3).</p>
Section 75 (effect of planning permission)	<p>(a) In subsection (1) substitute -</p> <p>(i) “Any” for the words from “Without” to “any”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission to develop land”;</p> <p>(iii) “the consent” for “the permission”; and</p> <p>(iv) “the land to which the order relates” for “the land”.</p> <p>(b) Omit subsections (2) and (3).</p>
Section 78 (right to appeal against planning decisions and failure to take such decisions)	<p>(a) In subsection (1) substitute -</p> <p>(i) “the authority” for “a local planning authority”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission” in the first place where those words appear;</p> <p>(iii) “consent under such an order” for “planning permission” in the second place where those words appear;</p> <p>(iv) for paragraph (c) substitute - “(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority.”</p> <p>(b) Omit subsection (2).</p> <p>(c) In (3) for “served within such time and in such manner as may be prescribed by a development order.” substitute - “in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served - (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority’s decision or direction or within such longer period as the Secretary of State may allow; (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.”</p> <p>(d) For subsection (4), substitute - “(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).”</p> <p>(e) For subsection (5), substitute - “(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.”</p>

Continued on page 7.

SCHEDULE 2 (continued from page 6)

Article 7

PART I

Provisions of the Town and Country Planning Act 1990 applied with adaptations or modifications

Provisions of the Town and Country Planning Act 1990	Adaption or Modification
<p>Section 79 (determination of appeals)*</p> <p>*Section 79 was amended by the Planning and Compensation Act 1991 (c. 34), section 18 and Schedule 7, paragraph 19.</p>	<p>(a) In subsections (1) and (2), substitute "the authority" for "the local planning authority".</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute -</p> <p>(i) "section 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part 1 of Schedule 5";</p> <p>(ii) "consent under a tree preservation order" for "planning permission"; and</p> <p>(iii) "the authority" for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71."</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after "section 78".</p>

PART II
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990,
AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

(1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

(2) The register shall contain, as regards each such order -

- (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
- (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

(1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order -

- (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
- (b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

(1) Where the authority -

- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
- (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;
- (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
- (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served -

- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
- (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

- (4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).
- (5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 79

- (1) On an appeal under section 78 the Secretary of State may -
- (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to him in the first instance.
- (2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
-
- (4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which fails to be determined by the authority.
- (5) The decision of the Secretary of State on such an appeal shall be final.
-
- (7) Schedule 6 applies to appeals under section 78.

PUBLIC APPEALS COMMITTEE - 13 APRIL 2006

TREE PRESERVATION ORDER NO. 365 OF 2005 – LAND ADJACENT TO 196 MAIN ROAD, MILFORD

SECTION 1

1 General Introduction

1.1 The Law in relation to Tree Preservation

The law relating to Tree Preservation Orders (TPO's) is included in Part VIII of the Town and Country Planning Act 1990 which was amended by the Planning and Compensation Act 1991.

The principal Regulations relating to TPO's are included in the Town and Country Planning (Tree Preservation Order) Regulations 1999.

Guidance is given in Tree Preservation Orders: A Guide to the Law and Good Practice which sets out the Government's policy and replaces Circular 36/78 Trees and Forestry.

The Borough Council is the Local Planning Authority (LPA) for the making of TPO's in the Stafford Borough area.

1.2 Scope of TPO's

A TPO protects the trees. The term "tree" is not defined in the Act, nor does the Act limit the application of TPO's to a minimum size tree. According to the dictionary a tree is a perennial plant with a self supporting woody main stem, usually developing woody branches at some distance from the ground and growing to a considerable height and size. For the purposes of the Act, the High Court has held that a "tree" is anything that which ordinarily one would call a tree. This includes a "woodland area".

1.3 Power to Make TPO's

A Local Planning Authority may make a TPO if it appears to be;

"expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area" (S198(1) of the Act).

Paragraph and 3.2 of the Good Practice Guide reads:-

“The Act does not define ‘amenity’, nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of States view, TPOs should be used to protect selected trees 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, although exceptionally, the inclusion of other trees may be justified. The benefit may be present or future; trees may be worthy of preservation for their intrinsic beauty or for their contribution to the landscape or because they serve to screen an eyesore or future development; the value of trees may be enhanced by their scarcity; and the value of a group of trees or woodland may be collective only. Other factors, such as importance as a wildlife habitat, may be taken into account which alone would not be sufficient to warrant a TPO. In the Secretary of States view, it would be inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.

1.4 Making Objections or Representations

The purpose of requiring a Local Planning Authority to serve a copy of the TPO and the Regulation 3 Notice on owners, occupiers and others with rights over the land is to ensure that they are all made aware of the TPO and given a chance to comment on it.

SECTION 2

2.1 Background

Following a recent planning application for a detached dwelling (05/05561/FUL) on 196 Main road, it was deemed appropriate to protect the retained significant trees of merit growing within the curtilage 196 Main Road, Milford to ensure retention prior to any development being undertaken, and to preserve the landscape character of the area (see Annex 1). These trees were notably one grouping to the front and one grouping to the rear of the above property containing mixed species of trees.

A site visit was made by David Woodhouse, Borough Arboricultural Officer, on 12 December 2005, to establish the general health, safety and amenity of the trees in questions. During the site visit an amenity evaluation checklist was completed. (see Annex 2).

It was deduced at this stage that it would be appropriate for selected trees to be protected by a Tree Preservation Order.

2.2 Site and Surroundings

The trees are sited within the curtilage of 196 Main Road, Milford which is a small settlement in the east of the district.

The property is located on Main Road, which is the main route from Stafford town centre to Milford and has countryside landscape at the rear.

SECTION 3

3.1 Description of the Trees referred to in the Notice

There are two distinct groupings in the order these being G1 (4 x Norway Spruce & 1 x Apple) at the rear of the site,

And

G2 (1x Silver Birch, 1x Scots Pine & 1x Larch) at the front of the site

The grouping G1 contains semi-mature trees in a formal layout. There are other trees within this grouping, the well-structured examples being subject to the TPO. They are all healthy, and can be expected to make a lasting contribution to the area as they mature fully. They are a valuable back drop to the garden, and fully screen the garden from the countryside at the rear, and whilst they are only semi-mature they can be expected to attain far more prominence in the future.

The grouping G2 contains two mature trees (Larch and Scots Pine) and one semi mature tree (Silver Birch). They are highly visible as a grouping, are healthy and generally well-balanced, with no obvious structural problems. The mature Larch is heavily shrouded in ivy, however there is currently no evidence to suggest that the tree is hazardous in any way, however it would be recommended that the ivy is removed to allow full assessment.

There is one branch from the Larch tree within grouping G2 that is touching a telephone wire, however this problem is easily alleviated by reduction of this particular branch.

SECTION 4

4.1 Reasons for the Making of a Tree Preservation Order

A tree Preservation Order is considered necessary to protect these trees following the submission of the planning application in which there will be much pressure on these trees during construction and future occupancy of any building.

The trees are significant in the immediate landscape; have significant public amenity value, having group impact; they screen development and give scale to surrounding buildings and contribute to the overall treescape in the area

SECTION 5

5.1 Objections received

5.2 Please refer to annex 3 attached.

5.3 Responses to Objections

5.4 Please see annex 4 attached

5.5 Representations received

5.6 Please see annex 5 and 6 attached.

SECTION 6

6.1 Conclusion

It is considered the trees included within Tree Preservation Order Number 365 of 2005 contain merit for protection for the reasons stated and that this Order should be confirmed without modification.

Background Papers

File reference Tree Preservation Order Number 365 is available in Planning and Engineering Services

Officer Contact

Mr P F Windmill, Forward Planning Manager, Tel 619538



ANNEX 2

Stafford

BOROUGH COUNCIL

Planning and Engineering Services, Civic Centre, Riverside,
Stafford ST16 3AQ

Tel: 01785 619344 Fax: 01785 619473 Email: trees@staffordbc.go.uk

Amenity Evaluation Checklist

INTRODUCTION

The Stafford Borough Council Planning and Engineering Services Amenity Evaluation Checklist is designed to assist those responsible of the management of trees, by establishing a systematic approach for assessing the amenity of trees and woodlands.

The Checklist has been drawn up in response to Government guidance contained in the DETR publication "Tree Preservation Orders - A Guide to the Law and Good Practice" September 2003. The guidance advises Local Planning Authorities to develop ways of assessing the "amenity value" of trees in a structured and consistent way, and explain to landowners why their trees or woodlands have been protected by a Tree Preservation Order.

The document is designed in a logical order, with each section supported by detailed references ensuring consistency and transparency of the decision making process in line with the aims of Best Value.

1. BACKGROUND FILE CHECK

- a. Any existing TPO's on or adjacent to the site/land? YES NO
- b. Is the site within a Conservation Area? YES NO
- c. Is the Conservation area designated partly because of the importance of the trees? N/A YES NO
- d. Is the site adjacent to a Conservation Area? YES NO
- e. Are there any Listed Buildings on or adjacent to the site? YES NO

f. Local Plan land-use designation. Residential garden
land

g. Are there currently any designated nature conservation interests on or adjacent to the site? No.

h. Relevant site planning history (including current applications) (refer 6f & g). 04/03301/FOL
-withdrawn

STATUTORY CONSULTEES

- i. Are there any Scheduled Ancient Monuments on or adjacent to the site? YES NO

- j. Is the land currently safeguarded under the Town & Country Planning (Aerodromes & Technical Sites) Direction 1992? (up to the 45m zone) YES NO

- k. Does the Forestry Commission currently have an interest in the land? (refer 5e). YES NO
 - Grant scheme
 - Forestry Dedication Covenant
 - Extant Felling Licence

- l. Are any of the trees situated on Crown Land? YES NO

- m. Are any of the trees situated on National Health YES NO

- n. Is the land owned by
 - This Local Authority
 - Another Local Authority

2 MOTIVATION

- a. Development Control
 - Application ref. 05/05561/FUL
 - Committee deadline
 - Development Control

erect 2-storey detached dwelling & detached garage on land adjacent to 198 Main Road, Milford

- b. Conservation Area Notification
 - Application ref.
 - Date of registration

- Expiry date
- c. Emergency action (immediate threat to the trees)
- d. Strategic inspection
- e. Change in Local Plan land-use
- f. Change in TPO legislation
- g. Sale of Council owned land
- h. Reviewing existing TPO
- i. Hedgerow Regulations 1997

3 SOURCE

- a. Tree officer
- b. Public
- c. Chief Officer
- d. Committee
- e. Council Member
- f. Other

4 LAND APPRAISAL

Site visit date: 12/12/05
 Inspecting Officer: DAVID WOODHOUSE

a. Site Description Mature, open garden land bordering a main road.

b. Description of surrounding landscape character Semi-urban / Rural in visual character. Main housing concentrated adjacent to highway, with open at rear and opposite

n. Additional factors

- Exceptional landscape value
- Conservation Area (within or adjacent)
- Contribution to the setting of a Listed Building
- Part of a deliberate composition (avenue/focal point)
- Screening/buffering (visual/noise)
- Botanical interest/rarity
- Historical associations

5. EXCEPTIONS: (TCPA 1990)

- a. Are any of the trees obviously dead, dying or dangerous. YES NO
- b. Are there any statutory obligations which might apply? (consider: Highways Act 1980, Electricity Act 1989, Civil Aviation Act 1982). YES NO
- c. Is there any obvious evidence that the trees are currently causing any actionable nuisance? YES NO
- d. Based on the trees in their current locations, is the likelihood of future actionable nuisance reasonably foreseeable? YES NO
- e. Is there currently any Forestry Commission interest in the land? YES NO

6 EXEMPTIONS: (MODEL ORDER)

- f. Are there any extant planning approvals on the site which might compromise retention of the trees? (refer 1h) YES NO
- g. Are there any lapsed planning approvals which might have compromised the trees? (refer 1h) YES NO
- h. Are there any trees obviously cultivated for commercial fruit production? YES NO
- i. Are any of the trees situated on or adjacent to a statutory undertaker's operational land? YES NO
- j. Are any of the trees situated on or adjacent to land in which the Environment Agency has an interest? YES NO

7 COMPENSATION:

a. Do any of the trees currently show any obvious signs of causing damage?
(If yes provide details)

YES NO

b. Based on the trees in their current locations, is the risk future damage reasonably foreseeable? (if yes provide details?)

YES NO

Possible issue of proximity to highway in the future

c. Are there any reasonable steps that could be taken to avert the possibility of future damage or to mitigate its extent? (if yes provide details)

N/A YES NO

- Photographs if necessary

- Are past works likely to have compromised long term retention?

YES NO

- Will past work necessitate any particular future management requirements?

j. Tree size (at maturity)

- Large (over 15m)
- Medium (8-15m)
- Small (up to 8m)

k. Presence of other trees

- High percentage tree cover
- Medium percentage tree cover
- Low percentage tree cover (define visual area/reference points)

l. Benefits

- Are the benefits current?

YES NO

- Assessment of future benefits (future growth potential; continuity/sustainability of tree cover; development)

The Norway Spruce will grow larger & will make a much better impact on the area

- Assessment of importance as a wildlife habitat.

Average Scots Pine & Birch are native

c. Statement of where the trees are visible from (annotate map)

The highway

d. Photograph the trees, the site and surroundings (annotate map)

e. Landscape function (annotate map)

- Landmark tree(s)
- Skyline
- Road frontage (trunk, principal, classified, unclassified)
- Backdrop
- Glimpses between properties or through gateways
- Filtered views
- Screening/buffering

f. Visual prominence:

- Conurbation
- Neighbourhood, estate, locale
- Site and immediate surroundings
- Value restricted to site

g. Species suitability for the site

- Particularly suitable
- Fairly suitable
- Unsuitable

h. Condition

- Good
- Fair
- Poor
- Dangerous

i. Assessment of past management

- Past work consistent with prudent arboricultural management?

YES NO 7

8 HEDGEROW TREES

- Individual standard trees within a hedge
- An old hedge which has become a line of trees of reasonable height
- Are the "trees" subject to hedgerow management YES NO
- Assessment of past hedgerow management
- Assessment of future management requirements

9 MANAGEMENT:

- a. Are the trees currently under good arboricultural or silvicultural management? YES NO
- (i) Is an order justified? YES NO
- (ii) Justification (if required) N/A YES

Development threat has high potential to damage the trees.

10 DESIGNATIONS

a. Individual

- Do the trees merit protection as individual specimens in their own right? YES NO

b. Group

- Does the overall impact and quality of the trees merit a group designation? YES NO
- Would the trees reasonably be managed in the future as a group? YES NO

c. Area

- Does the 'area' comprise scattered, individual trees? YES NO
- Is the area classification warranted as an emergency measure? YES NO
- Is the 'area' designation intended as a temporary measure, pending future reclassification? YES NO
- Do all trees/species merit inclusion? YES NO

d. Woodland

- Does the 'woodland' form an area greater than 0.1 hectare? YES NO
- Would normal silvicultural management principles reasonably be applicable? YES NO
- Does the 'woodland' currently contain regeneration and a ground flora? YES NO
- Does the 'woodland' form part of a garden? YES NO

11 MAP INFORMATION

- a. Identify the parcel of land on which the trees are situated. (Outline in red on the attached location plan)
- b. Identify all parcels of land which have a common boundary with the parcel concerned. (Outline in green on the attached plan)
- c. Identify all parcels of land over which the physical presence of the trees is situated, or that they could reasonably be expected to cover during their lifetime. (Cross hatch on the plan)

12 LAND OWNERSHIP

a. Land ownership details (if known)

resident at property
but lady is planning
to sell whole
lot

b. Land Registry search required?

YES NO

13 SUPPLEMENTARY INFORMATION

a. Has a detailed, on-site inspection been carried out?

YES NO

b. Does the risk of felling justify making an order prior to carrying out a detailed, on-site inspection?

YES NO

c. Are trees to be excluded?
Provide details as appropriate.

Birch by gate, cherry
adjacent to HS

d. Is Section 201 required?

YES NO

e. Is a Section 300 Notice required?

YES NO

f. Additional publicity required?

YES NO

g. Relevant Local Plan Policies:

[Empty box for relevant Local Plan Policies]

h. Statement of reasons for promoting this Order:

The trees are significant in the immediate landscape; have significant public amenity value having group impact; they screen development and give scale to surrounding buildings and contribute to the overall treescape in the area.

14 SUMMARY

- Would loss of the trees have a significant impact on the local environment? YES NO
- Will a reasonable degree of public benefit accrue? YES NO
- Is an Order in the interests of amenity? (Sec.4) YES NO
- Is an Order expedient in the circumstances? (Secs. 5-9) YES NO

Signed David Woodle Date 13/12/05



198 Main Road
Milford
STAFFORD
ST17 0UN

ANNEX 3

Mrs D Hill
c/o Law and Administration
Stafford Borough Council
Riverside
STAFFORD
ST16 3AQ

19 January 2006

Dear Mrs Hill,

Ref: Tree Preservation Order No 365.2005 on land adjacent to 196 Main Road, Milford, Stafford

I am in receipt of your letter of 22nd December in respect of the above order.

The European Larch shown on your plan (G2) is, frankly, an eyesore. It is covered thickly in ivy up to the top of the tree, making an almost grotesque silhouette against the trees close to it. The Scots Pine and Silver Birch are attractive, mature trees, and without the Larch, would make a much better feature. The Larch on its North side is in danger of fouling our telephone line. I would actually advocate that it be felled before it falls down of its own, possibly damaging adjacent properties.

Another tree which would benefit from the removal of the Larch is a Rowan. In the past it has obviously been savagely slashed, and is more of a large bushy shrub. Given more light and space it could develop into an attractive item. Birds and insects would benefit from it, though in its present state it would not warrant a PTO.

To the rear of 196 you have marked 4 X Norway Spruce trees and an Apple. You make no mention of a Lombardy Poplar and a Hybrid Poplar both of which are taller than the Norway Spruces. My personal opinion is that the Norway Spruces are unsuitable as garden trees. Nothing flourishes under them, and their angular outlines jar with the softer shapes of garden trees when set in a stark line.

If you could find time to come and see these trees for yourself, I should be very happy to meet you on site.

Yours sincerely,

A handwritten signature in cursive script that reads "David Ashton".

ANNEX 4

Mr D Ashton
198 Main Road
Milford
STAFFORD
ST17 0UN

Contact	Mr D Woodhouse
Direct Dial	01785 619344
Fax	01785 619473
Our Ref	PFW/DW/JML/TPO 351
Your Ref	
Date	24 February 2006

Dear Mr Ashton,

OBJECTION TO TREE PRESERVATION ORDER NUMBER 365 OF 2005 – LAND ADJACENT TO 196 MAIN ROAD, MILFORD, STAFFORD

Thank you for your letter detailing your objections to the recent Tree Preservation Order placed upon selected trees in your neighbour's garden.

I make the following comments to your objections raised

- The Larch tree is a mature example, that is as you state, thickly covered in ivy. I would recommend that the ivy is severed at the base, however I do not accept that this tree is in danger of falling down as there are no obvious faults with this tree. The aesthetic value of a tree is very subjective and this and the adjacent Scots Pine and Silver Birch have grown together for many years to form a prominent and valuable grouping of trees.
- There is one small branch from the Larch tree touching your telephone wire. This issue is very easily resolved by the pruning of this branch. This will not devalue the tree and is unlikely to cause any future structural issues. This would not require the removal of this tree.
- It is mentioned that there is a Rowan that would benefit from the removal of the Larch tree. This tree is a very small, weak tree that realistically has little future to attain any great stature given its form. To propose the removal of the Larch tree to benefit the Rowan appears an unrealistic option, especially as the Larch is an existing mature example.
- The grouping of Norway Spruce (G1) is located on the rear northern boundary of the site. It is stated that the Norway spruce are unsuitable as garden trees, that nothing grows underneath the canopy and that their angular outline jars with the softer shapes of garden trees. I would contest your opinion that they are not suitable as garden trees, as they can often mature to become valuable trees of interesting form at full maturity, and given the overall narrow form can fit well into a reasonably sized garden. It is also worth noting that at maturity, Norway Spruce actually have somewhat of a drooping habit, which can be considered a unique attraction.

- There appears to be some confusion as to what will grow underneath the canopies of the Norway Spruce, as it is evident that there is vegetation currently in existence that appears to be growing reasonably well. There will always be some growth restriction, as per most mature trees of varying species. This is something to expect wherever there are trees growing in or close to gardens.

There is no evidence of unsafe trees on the site, and whilst you may not personally like some of the trees due to personal preference, none of the reasons would be considered valid for the prevention of the confirmation of a Tree Preservation Order.

Finally you have referred to other trees on the site not covered by the above Tree Preservation Order, specifically a Hybrid Black Poplar and a Lombardy Poplar. These trees have been identified as being unsuitable for protection owing to their species being prone to significant branch drop as they become mature, that there are other more suitable species very close that will make a far stronger contribution to the area and that they do not realistically appear to be under any significant threat from the development proposal. I do not consider this a point of objection to the confirmation of the order.

Your objections will now go before Committee and you will be notified of the date in due course. You and/or a representative are entitled to attend the Committee Meeting and present your views to Members if you wish.

Yours sincerely



D Woodhouse
Arboricultural Officer

Graham Kilford

*Brook House, 192, Main Rd., Milford, Stafford ST17 0UN
Mobile contact 077 3300 1570 E-mail grahamjkilford@aol.com*

26th December 2005

Stafford Borough Council
Civic Centre
Riverside
Stafford, ST16 3AQ



For the attention of Mr.A.R.Welch

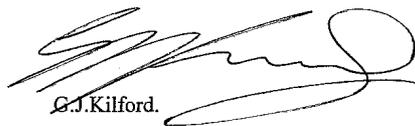
Dear Sirs, -

**Re. Town and Country Planning Act 1990, and
Town and Country Planning (Trees) Regulations 1999
Tree Preservation Order No. 365. 2005**

In connection with the above regulations, and the above TPO at 196, Main Rd., Milford, I write on behalf of my wife and myself to wholeheartedly support this order.

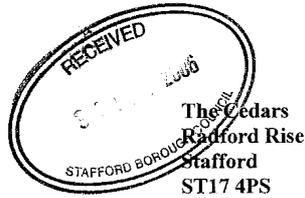
In the mad rush to build houses on every small infill area, our county is seeing far too much of its beautiful countryside destroyed and every action taken by the Council to retain the trees and hedgerows etc.and maintain the looks of our countryside is to be applauded.

Yours sincerely


G.J.Kilford.

ANNEX 6

From D.C. Wright



E-mail ; dcwright@globalnet.co.uk

Tel:01785-251600
Wednesday, 29 March 2006

Dear Mrs Hill,

Ref: Tree Preservation Order No 365.2005 on land adjacent to 196 Main Road, Lichfield

I wish to support Mr Ashton's objection to the inclusion of a European Larch tree in Group 2 of the above order. I would also query the value of retaining the Norway Spruces and the Apple tree in Group 1 as they do not appear to be in the public view or provide good amenity..

The Larch is about 45 feet tall and could well be 80 – 100 years old. It has been very badly suppressed by ivy which reaches to the very top of the tree. I would suggest that it is over mature and does not play an important visual part in Group 2 which has an exceptional Scots Pine and a good Silver Birch.

The larch in my estimation is declining and is a poor example of what can be an attractive species. Its removal would considerably improve the growth and condition of the adjacent dominant Scots Pine. I believe the tree causes considerable nuisance to Mr Ashton's property with leaf fall and small branches.

I consider that Group 2 with a dominant Scots Pine and a good Birch would fulfil the needs of a Tree Protection Order to protect the amenity of a site which may be the subject of Development and also protect the interests of neighbours.

I would be prepared to attend the site meeting with Mr Ashton on the 13th of April if you consider it appropriate.

Yours sincerely,

D.C. Wright
Member of the Institute of Chartered Foresters
Hon. Tree Consultant to the Diocese of Lichfield

Mrs D.Hill,
Law and Administration,
Stafford Borough Council,
Riverside
STAFFORD,
ST16 3AQ

PUBLIC APPEALS COMMITTEE - PROCEDURE

- 1 The local authority's representative will state the authority's case and may call witnesses.
- 2 The appellant or advocate may ask questions of the authority's representative or any witness.
- 3 The members of the Committee may then ask questions of the authority's representative, or any witness.
- 4 The appellant or advocate will state the appellant's case, and may call witnesses.
- 5 The representative of the local authority may ask questions of the appellant or advocate, or any witness.
- 6 The members of the Committee may then ask questions of the appellant or advocate, or any witness.
- 7 Ward Members and interested parties will be invited to address the Committee. The local authority's representative, the appellant or advocate and Members of the Council may ask questions.
- 8 The authority's representative will then be invited to sum up; no new material may be introduced at this stage.
- 9 The appellant or advocate will then be invited to sum up; no new material may be introduced at this stage.
- 10 The parties will then withdraw whilst the Committee considers the case.
- 11 The Committee with the Officer appointed as Secretary to the Committee will deliberate in private only recalling the local authority's representative and the appellant to clear points of uncertainty on evidence already given. If recall is necessary both parties will return notwithstanding only one is concerned with the point giving rise to doubt.
- 12 The Committee with authority to act will, announce if possible, the decision to the parties at the end of the hearing, the decision being confirmed in writing afterwards.