

Meeting:	Development Control Committee
Date:	6 <sup>th</sup> September 2006
Subject:	Confirming a TPO with an Objection
Responsible Officer:	Andy Parsons, Head of Planning
Contact Officer:	Russell Ball
Portfolio Holder:	Councillor Marilyn Ashton
Key Decision:	No
Status:	Part 1 / Public

### **Section 1: Summary**

This report considers the Confirmation of TPO No. 853 in the light of an Objection made by the Stanmore Christian Housing Association Ltd.

### **Decision Required**

Confirm a Tree Preservation Order (TPO) with an Objection

### **Reason for report**

TPO subject to an Objection.

### **Benefits**

Safeguard an important woodland from the threat of development and impact on visually important trees.

## Cost of Proposals

Nil.
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## Risks

Maybe risk of compensation payment in respect of loss or damage sustained as a natural consequence of a refusal to grant consent under the TPO when made.
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## Implications if recommendations rejected

Important woodland under threat of development – trees could be felled or damaged.
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## **Section 2: Report**

### 2.1 Brief History

2.1.1 TPO No. 853 was placed on the woodland at Du Cros Drive pending a development proposal. As further evidence/justification for making the TPO, recent damage was sustained to trees within the woodland during the construction of the Church Hall. This TPO now ensures that, with any future development on site, the Council can (a) influence the construction type and activity that may impact on woodland trees and (b) better secure their replacement should any be scheduled for removal for any approved development.

2.1.2 An objection to the TPO was first received from the Stanmore Christian Housing Association Ltd. (letter dated 26<sup>th</sup> March 2006: see Appendix i). This letter makes reference to the fact that : "... as a result of this order , we will be unable to develop this area for Extra Care Housing which we are intending to do in conjunction with the London Borough of Harrow."

By way of response to the objection, the Council's arboricultural officer informed the objector that the aim of the TPO was not to prohibit development, but rather to ensure that the Council can influence any future development/activity on the site which may impact on the woodland trees and also to better secure a replacement regime in the event of removal of any of the trees. The officer also suggested a site meeting to discuss the concerns raised by the objector. (See letter dated 29<sup>th</sup> March 2006 at Appendix ia).

2.1.3 Following the site meeting, the objector sent a letter dated 24<sup>th</sup> April 2006 (see Appendix ii) to the Council proposing new works but not withdrawing the TPO objection. The Council responded to the objector's second letter by a letter dated 2<sup>nd</sup> May 2006 (see Appendix iia) confirming the Council's position and further seeking withdrawal of the TPO objection.

2.1.4 Subsequently, a further letter was received from the Stanmore Christian Housing Association Ltd. (dated 18<sup>th</sup> May 2006: see Appendix iii) stating that “we feel unable to withdraw our objection” .... “we feel that we are being penalised and forced into additional administration work”. A response was sent on 7<sup>th</sup> June 2006 re-stating the Council's reasons for making the TPO and suggesting further site visit/discussion on the proposed levelling works. (See Appendix iia).

The objector has not responded to the Council's letter of 7<sup>th</sup> June 2006. Nor has the objector submitted any plan to the Council's arboricultural officer in respect of the proposed levelling works.

As the objection has not been withdrawn, it is now important that the TPO be confirmed in order to safeguard the woodland and the important trees it contains. Every effort has been made to negotiate and discuss these issues without success.

## 2.2 Consultation

None.

## 2.3 Financial Implications

None.

## 2.4 Legal Implications

There is no right of appeal to the secretary of state against a TPO once it has been confirmed. However, it is possible to challenge the validity of a TPO in the High Court on a point of law only and not on the merits of the trees in question or any other factual issues.

Any person who is aggrieved by a TPO may make an application to the High Court on the grounds:

- (i) that the TPO is not within the powers of the Town and Country Planning Act 1990 (the Act); or
- (ii) that the requirements of the Act (or regulations made under the Act) have not been complied with in relation to the TPO.

If the validity of a TPO is challenged, the High Court may quash the TPO or suspend its operation wholly or in part.

## 2.5 Equalities Impact

Nil

## 2.6 Section 17 Crime and Disorder Act 1998 Considerations

None.

### **Section 3: Supporting Information/Background Documents**

#### **Appendices**

Appendix i - letter dated 26<sup>th</sup> March 2006

Appendix ia - letter dated 29<sup>th</sup> March 2006

Appendix ii - letter dated 24<sup>th</sup> April 2006

Appendix iia - letter dated 2<sup>nd</sup> May 2006

Appendix iii – letter dated 18 May 2006

Appendix iiia – letter dated 7 June 2006

#### **Background papers**

TPO File 853

Any person wishing to inspect the background papers should telephone 020 8736 6092