

Item No. 9	Classification: Open	Date: 13 October 2020	Meeting Name: Planning Sub-Committee A
Report title:		TPO 596 confirmation: 147 Camberwell Road, SE5 0HB	
Ward(s) or groups affected:		Camberwell Green	
From:		Director of Planning	

RECOMMENDATION

1. That the provisional TPO reference 596 be confirmed unamended.

BACKGROUND INFORMATION

2. A Tree Preservation Order (TPO) was served on 22 June 2020 following a request to remove the tree under a S.211 (Trees in Conservation Areas) application.
3. The TPO protects a mature Ailanthus Altissimi, whose common name is the Tree of Heaven and situated within the front garden space to 147 Camberwell Road.
4. The tree is highly prominent as viewed from public realm and confers added benefit from the uptake of pollutants to providing shade cast and limiting precipitation. The species is highly suited to its proximity to the road given its tolerance of pollutants and to drought.
5. One objection has subsequently been received, which according to the council's standing orders must be considered at planning committee before the order can be confirmed

KEY ISSUES FOR CONSIDERATION

6. To continue to have effect the TPO attached in Appendix 1 must be confirmed within six months from the date of being served. Should it not be confirmed the trees described in the schedule and shown in the plan would continue to be afforded the temporary statutory protection of the conservation area designation.
7. The TPO includes a prominent tree many of which would date back to the development of the large Victorian villas and later early Edwardian properties which are a feature of these roads, built upon previous woodland pasture.
8. This tree has been assessed as contributing to amenity and because of its value to screening and combatting pollutants, which are particularly high in the area given the proximity to Camberwell Road.
9. The tree was assessed as attaining a score of 17 (out of a potential total 25) under the Tree Evaluation Method for Tree Preservation Orders (TEMPO), resulting in a decision guide indicating that making a TPO is merited.

10. The confirmation of a TPO cannot be appealed. However, any subsequent refusal of an application for works to a TPO or imposition of conditions upon consent can be appealed to the Secretary of State via the Planning Inspectorate.
11. Anyone proposing to carry out works to a tree or trees subject to a TPO must seek permission from the local planning authority. This involves completing an application form identifying the trees, detailing the works proposed and explaining the reasons for the works. The council's planning officer will usually inspect the trees prior to making a decision and may recommend alternative works or refuse consent. If authorisation is given to fell a protected tree, a new tree will usually be required to be planted as a replacement. However, this will in turn require a new TPO to be served.
12. If a tree protected by a TPO is felled, pruned or willfully damaged without consent, both the person who carried out the works and the tree owner are liable to be fined up to £20,000 through the Magistrates Court or, if taken to the Crown Court, an unlimited fine. There are exceptional circumstances, such as when a tree is dead, dying or dangerous, when permission is not required. However, in order to avoid the risk of prosecution advice must be sought from the council and five days notice given before carrying out any works (except in an emergency).

Policy implications

13. 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.
14. Section 197 of the Act imposes a duty on the local planning authority to ensure the preservation and protection of trees whenever appropriate.
15. London Plan Policy 7.21 Trees and woodlands states that trees and woodlands should be protected, maintained, and enhanced, following the guidance of the London Tree and Woodland Framework.
16. The draft New Southwark Plan P60 states that in exceptional circumstances removal of trees protected by TPO or conservation area status will be permitted where sufficient evidence has been provided to justify their loss. Replacement planting will be expected where removal is agreed. The replacement of TPO trees must take into account the loss of canopy cover as measured by stem girth and biodiversity value.
17. The current recommendation supports the relevant national legislation, London and draft Southwark policies to retain trees with proven amenity value.

Objection to the order

18. One objection has been received from a local resident.
19. The objection proposes that the tree is unsafe due its location above a coal hole and in close proximity to a major road and that the tree is suppressing a young London Plane street tree.
20. The Ailanthus tree is a mature specimen which despite previous pruning, contributes to the wider area. Photographs supplied by the objector show the

tree to have good vitality and there are no outward concerns to show root plate displacement or other structural weaknesses. Leaf distribution within the overall canopy is widespread and healthy.

21. Trees are self-optimising structures which put down roots in response to their external environment. Indeed many of London's most prominent trees were planted above underground services, or, within nature; are sited over foxholes, on the sides of embankments or on top of setts.
22. The internal structure of the coal hole shows no signs of damage save for the incursion of one small exploratory root which could be severed. The relatively small yet wide trunk along with a low crown break add to the biomechanical stability of the tree.
23. Given that the tree has previously been reduced, there is no reason why the trees could not continue to be maintained on a regular basis under the protection of a TPO. The reduction of the Ailanthus would provide for the continued growth of the London Plane street tree.
24. The serving of a TPO affords this tree the highest level of protection available and places a greater duty on the tree owner to provide overwhelming evidence in support of any removal. To date, the objector has yet to provide overwhelming supportive professional evidence to the claim that the tree is causing damage or is unstable.
25. Where removals are conducted unlawfully, the provisions of S.210 of the Town and Country Planning Act allow for the council to enforce, and where appropriate, prosecute suspected breaches, seeking suitable compensation for the loss in amenity afforded by the unlawful removal of any tree.
26. To date, officers have received two applications to reduce the tree 2011 and 2017, with a further request for removal which resulted in the serving of a Tree Preservation Order.
27. The law requires that in order for a TPO to be served; the amenity must be assessed. The TEMPO methodology has in this instance, been applied correctly taking into account any evidence of trees being a nuisance based on the available evidence.
28. Photos of the tree are included within the TPO at Appendix 1.
29. Should the recommendation be accepted and the order confirmed then an application to carry out works can be submitted in the usual way with consent or refusal considered on the basis of any further evidence provided.

Consultation

30. The TPO was lawfully served to the owners of the trees and included in the TPO register which is publically available online. Once confirmed the planning and land charges registers are updated.

Conclusion

31. It is recommended for the reasons set out above that the trees are of sufficient quality to justify TPO status.
32. The tree is highly visible from the public realm, it contributes not only to the verdant nature of their setting of the Conservation Area but also confers benefit to the wider community both in the uptake of pollutants and the reduction in direct precipitation and counter the urban 'heat island' effect through shade cast
33. Whilst there is no right of appeal against confirmation, the affected parties can apply with further evidence to carry out works to the tree should that be considered necessary. This is considered to be sufficient protection of the rights of all parties concerned and their ability to enjoy and protect their property.
34. Should the provisional TPO not be confirmed, it is likely the council would receive a subsequent S.211 application to remove the tree resulting in the serving of a further TPO.
35. It is therefore recommended that in order to afford greater legislative protection to these prominent trees, the Provisional Tree Preservation Order be confirmed, unamended.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

36. The original tree preservation order was made on 22 June 2020 and this protects the trees for up to six months unless confirmed and made permanent.
37. The report refers to the duty imposed upon councils by virtue of section 197 of the Town and Country Planning Act which requires the authority to ensure the preservation and protection of trees where appropriate.
38. In this instance, one objection to the Order has been received.

Legislative requirement

39. The TPO lapses on 22 December 2020 if not confirmed.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
TPO guidance Link: Please copy and paste to your browser https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#confirming-tree-preservation-orders	Chief Executive Dept 160 Tooley Street London SE1 2QH	Planning enquiries 020 7525 5403 Planning enquiries email: planning.enquiries @southwark.gov.uk Council website www.southwark.gov.uk
TEMPO guidance Link: http://www.flac.uk.com/wp-content/uploads/2014/12/TEMPO-GN.pdf		
Southwark Council TPO information Link: http://www.southwark.gov.uk/environment/trees/tree-preservation-orders-and-conservation-areas		As above
Southwark TPO register Link: https://geo.southwark.gov.uk/connect/analyst/mobile/#/main?mapcfg=Southwark%20Design%20and%20Conservation&overlays=TPO%20zones		As above

APPENDICES

No.	Title
Appendix 1	Photos
Appendix 2	Provisional TPO (to follow)

AUDIT TRAIL

Lead Officer	Simon Bevan, Director of Planning	
Report Author	Liam Bullen, TPO Surveyor	
Version	Final	
Dated	25 September 2020	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	No	No
Cabinet Member	No	No
Date final report sent to Constitutional Team	25 September 2020	

APPENDIX 1

Photos

