

Committee Agenda



Epping Forest District Council

Area Planning Subcommittee South Wednesday, 16th January, 2013

You are invited to attend the next meeting of **Area Planning Subcommittee South**, which will be held at:

Roding Valley High School, Brook Road, Loughton, Essex IG10 3JA
on **Wednesday, 16th January, 2013**
at **7.30 pm** .

Glen Chipp
Chief Executive

**Democratic Services
Officer**

Simon Hill (The Office of the Chief Executive)
Tel: 01992 564249 Email:
democraticservices@eppingforestdc.gov.uk

Members:

Councillors J Hart (Chairman), Ms S Watson (Vice-Chairman), K Angold-Stephens, G Chambers, K Chana, Mrs T Cochrane, R Cohen, C Finn, L Girling, Ms J Hart, J Knapman, L Leonard, A Lion, H Mann, J Markham, G Mohindra, S Murray, Mrs C Pond, B Sandler, Mrs T Thomas, H Ulkun, Mrs L Wagland, D Wixley and N Wright

A BRIEFING FOR THE CHAIRMAN, VICE-CHAIRMAN AND APPOINTED SPOKESPERSONS WILL BE HELD AT 6.30 P.M. IN COMMITTEE ROOM 1 ON THE DAY OF THE SUB-COMMITTEE.

WEBCASTING NOTICE

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site - at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Council's published policy and copies made available to those that request it.

Therefore by entering the Chamber and using the lower public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings for web casting and/or training purposes. If members of the public do not wish to have their image captured they should sit in the upper council chamber public gallery area

If you have any queries regarding this, please contact the Senior Democratic Services Officer on 01992 564249.

1. WEBCASTING INTRODUCTION

1. This meeting is to be webcast;
2. Members are reminded of the need to activate their microphones before speaking; and
3. the Chairman will read the following announcement:

“I would like to remind everyone present that this meeting will be filmed live for subsequent uploading to the Internet and will be capable of repeated viewing.

If you are seated in the public seating area it is possible that the recording cameras will capture your image and this will result in the possibility that your image will become part of the broadcast although Officers will try and avoid this.

This may infringe your human and data protection rights and if you have any concerns about this you should speak to the Webcasting Officer.”

2. ADVICE TO PUBLIC AND SPEAKERS AT COUNCIL PLANNING SUBCOMMITTEES (Pages 7 - 12)

General advice to people attending the meeting is attached together with a plan showing the location of the meeting.

3. MINUTES (Pages 13 - 26)

To confirm the minutes of the last meeting of the Sub-Committee.

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

(Assistant to the Chief Executive) To declare interests in any item on this agenda.

6. ANY OTHER BUSINESS

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs 6 and 25 of the Council Procedure Rules contained in the Constitution requires that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order 6 (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks' notice of non-urgent items is required.

7. CONFIRMATION OF TREE PRESERVATION ORDER TPO/EPF/20/12, 3 LEE GROVE CHIGWELL (Pages 27 - 28)

Recommendation:

That the tree preservation order TPO/EPF/20/12 not be confirmed.

REPORT

Background

1. Tree Preservation Order TPO/EPF/20/12 was sealed on 18 October 2012 to protect a single oak tree in the rear garden of 3 Lee Grove, Chigwell. It was made following a Tree Preservation Order check revealing that the intention was to have the tree felled. A site plan is attached.

2. The justification for the TPO was that from available evidence it was a large and potentially important tree; the order was necessary to investigate the justification for felling and the amenity value of the tree.

Grounds of Objection

3. Objections have been received to the order from the owner, as well as the neighbours on either side, at 5 Lee Grove and 7 Chigwell Rise.

4. The grounds of objection on behalf of the owners are that:

- (1) It is not expedient in the interest of the amenity to make a TPO.
- (2) The tree included within the TPO is dangerous.
- (3) The Council has provided no evidence that they have followed any internal process when determining whether the tree is suitable to be protected by a TPO.
- (4) No systematic system was employed to determine the merit of serving the TPO.

5. The objection from 5 Lee Grove mentions the safety of the tree, but also considers that the tree has outgrown its immediate surroundings and essentially is too large for its situation.

6. The objection from 7 Chigwell Rise is on the basis of safety, but also loss of natural light.

7. In relation to the objection from the owners the main points above are expanded as follows:

(a) Visibility: to be protected a tree should normally have a significant visual impact; because of its situation in a rear garden this tree can only be glimpsed from public places. The tree has no particular importance; it is not rare and has no value as a screen, and makes no significant contribution to the character or appearance of a conservation area. It may have been expedient to serve the order but it is not expedient to confirm it.

(b) In relation to danger, the objection points to numerous clumps of toadstools identified as honey fungus growing throughout the garden although predominating towards the house end. And to an extensive pocket of decay in the lower stem extending into the heart wood. Evidence of seasonal fungal fruit brackets, provisionally identified as *Inonotus hispidus* were present. On the balance of probability the tree would be described as a hazard with a potential to fail imminently.

(c) In relation to the council's procedures the objection notes that there is no evidence that the authority has employed a systematic assessment, such as TEMPO, for evaluating the suitability of a tree for being protected by a TPO. Because the Council was not able to visit the tree before making the TPO, the order has been made without any clear understanding or knowledge of the individual tree or its general condition. It is also the case that should the council wish any further information it is for the council to pay for such investigations, as it is for the local authority to prove that the tree is suitable for protection. The letter states that should the authority confirm the Tree Preservation Order they would be assuming liability for any damage or injury caused by the failure of the tree if this failure was as a consequence of the decay outlined in the letter.

8. In conversation, when inspecting the tree the owner stated that he had no desire to see the tree felled, but wanted the comfort that it could be dealt with at any time, without the need for application.

Director of Planning and Economic Development Comments

9. The main point is considered to be how seriously the tree has been infected by the fungal decay identified and whether it has significant future public amenity value such that the order should be confirmed.

10. In relation to the other elements of the objection it is acknowledged that the TPO was made without a systematic evaluation of its suitability for protection. There are particular issues with TEMPO which make it unsatisfactory; however the Tree and Landscape team do formally record the key issues and considerations before making any order, when time is available. However in this case the information to hand suggested that the Council had no time to undertake a systematic investigation and it was considered that the order was justified as a precautionary measure because of its apparent size and likely age. It is indeed a fully mature oak tree some 20 metres tall with a significant branch spread.

11. It is further considered that such a tree could be protected even in a rear garden so long as it was at least visible from some public place, which this tree proved

to be. Many people would consider that such a fine tree would enhance their property, so long as it was in safe condition. The crux of the issue is therefore the tree's safety.

12. The presence of honey fungus in the lawn at some distance to the tree may well be completely disassociated from the oak tree. Furthermore there are several species of armillaria, with varying potential impacts.

13. However, there was evidence of at least 2 fungal fruiting bodies having been present on the tree. It is considered that these were probably a different species of the genus Inonotus to that named, specifically Inonotus dryadeus, or the dryad's saddle fungus. This fungus over the long term it can decay a tree substantially and render it dangerous.

14. From an external examination it appeared that the root buttresses were sound but it was evident that the heartwood had completely rotted away. Examination of a crack in the lower stem showed extensive internal decay. There were also marks on the bark where the large, annual fruiting bodies had been attached, before falling off (as they do naturally after releasing their spores).

15. On the balance of probabilities the tree could be retained and managed safely by a program of continuing crown reduction. However, were this reduction to be undertaken then the value amenity of the tree would be significantly lessened. There would also be a significant and ongoing responsibility and financial cost to the owner, in that the operation would have to be repeated on a regular basis.

16. Such a reduction would deal with some of the grounds of objection by neighbours, but not all, and only at the cost of diminishing to a negligible level the tree's public visibility.

Recommendations

17. It is concluded that the limited future visual amenity able to be provided by the tree does not justify the use of planning powers to insist on its retention, bearing in mind the ongoing responsibility and expense to the owner of maintaining the tree in a safe condition.

18. It is therefore consistent with policy LL7 of the local plan and alterations 2006. that Tree Preservation Order TPO/EPF/20/12 should not be confirmed.

8. DEVELOPMENT CONTROL (Pages 29 - 62)

(Director of Planning and Economic Development) To consider planning applications as set out in the attached schedule

Background Papers: (i) Applications for determination – applications listed on the schedule, letters of representation received regarding the applications which are summarised on the schedule. (ii) Enforcement of Planning Control – the reports of officers inspecting the properties listed on the schedule in respect of which consideration is to be given to the enforcement of planning control.

9. DELEGATED DECISIONS

(Director of Planning and Economic Development) Schedules of planning applications determined by the Head of Planning and Economic Development under delegated powers since the last meeting of a Plans Subcommittee may be inspected in the

Members Room or at the Planning and Economic Development Information Desk at the Civic Offices, Epping.

10. EXCLUSION OF PUBLIC AND PRESS

Exclusion: To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

Confidential Items Commencement: Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.