

Report to the Cabinet

Report reference: C/055/2007.

Date of meeting: 8 October 2007.



**Epping Forest
District Council**

Portfolio: Planning and Economic Development.

Subject: Essex County Council Tree Preservation Orders.

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Recommendations/Decisions Required:

- (1) That Members note the proposals agreed by Essex County Council for transferring the responsibility of Tree Preservation Orders (TPO's) made originally by the County Council to the District Council, and the suggested alternative options for dealing with this issue;**
- (2) That the following actions in respect of the ECC TPO's be approved:**
 - (a) prioritise required survey work according to risk/importance;**
 - (b) fully utilise ECC staff time on offer for survey work; and**
 - (c) extend the contract for post PPE/37 (Technical Support officer) until June 2009 at a cost of approximately £18,000, paid for from DDF (Planning Delivery Grant) to carry out all the administrative work in connection with the new TPO's.**

Background:

1. At its Cabinet meeting on 19 June 2007, Essex County Council (ECC) agreed to review and revoke all their existing Tree Preservation Order's (TPOs) – a copy of this report is attached at Appendix 1. They also agreed to work with district and borough councils to ensure that important trees within Essex, currently protected by an ECC TPO, would continue to receive protection once the ECC TPO has been revoked. In addition, a target date was set of 31 March 2010 to complete the resurvey and revocation of all ECC TPO's.

2. Essex County Council made its first TPO in 1949, making early use of powers conferred under the "new" Town and Country Planning Act 1947. TPOs have only been made by District and Borough Council's since 1974. Although the County Council can modify or revoke its own TPOs it cannot make any new orders. If the County Council does modify or revoke any of its TPOs it is good practice (and follows government guidance), to work closely with District and Borough Council partners to ensure that trees still worthy of protection, and particularly those under most threat, continue to be protected. The County Council has recently confirmed that they will adopt this approach and that no ECC orders will be revoked until District and Borough Council's have been able to confirm new orders.

3. The records show that there are 40 ECC TPOs within the Epping Forest District covering a variety of woodland, parkland, group, area and individual trees. Applications for works to trees protected by an ECC TPO are dealt with by the County Council, which can sometimes lead to confusion for residents and complicates the advice that is given by officers. This is cited as one of the reasons that the County Council has made the decision to revoke its TPOs – that decisions would be taken at a more local level and that all matters relating to TPOd trees would be dealt with by the local planning authority.

4. Of these orders, 8 mostly smaller urban orders were reprotected by the District Council in 1991, although the original orders have never been rescinded. In addition, the orders covering Epping and Waltham Abbey were partially updated. Urban orders not reprotected include Bracken Drive/Stradbroke Drive and the Bowls, Chigwell, substantial areas in and around Waltham Abbey, Theydon Grove, Epping, and parts of Buckhurst Hill, Loughton, Ongar, Sheering and Theydon Bois.

Implications:

5. The questions arising from this situation can be summarised as follows:

(a) should the trees be reprotected, and if so, should this cover all the existing orders or a selection following prioritisation;

(b) what are the workload implications, in the immediate and longer term;

(c) what are the financial implications in the immediate term; and

(d) what are the financial implications in the longer term (for example in respect of subsidence issues).

6. This report deals only with the immediate implications relating to the putative resurvey programme, not the longer-term issues.

7. The County Council has offered to help District and Borough Councils with the inspection programme that would allow replacement TPOs to be made. However, it is not confirmed at the time of writing this report how much officer time will be made available to the District Council. Preliminary indications from the County Council are that it may amount to 50% of the likely time required for the site surveys. The County Council's Tree and Landscape team intend to provide this support out of their own resources. What would not be covered at all would be the preparation of plans and initial contact with householders or landowners, or the time required to serve and process the confirmation of any orders that are made as a result. The proportions of time generally are approx. 20% for the site survey/drawing up the plan and schedule, 80% for the remainder, which as things stand would all fall to the District Council's tree and landscape team.

8. Initial analysis indicates that, following best current practice, up to 250 new TPOs would be needed to replace the outstanding Essex orders to ensure full continued protection. This is because many of them are "area orders" which cover all the trees within a wide area, often subsequently developed (or redeveloped) for housing. Some of the orders were very widespread, taking in several such areas within a single order. For subsequent administration, orders need to be divided into smaller geographic areas, and then made specific to individual trees so far as possible.

9. The figure assumes that rural woodland orders would be reprotected by a simple replacement order. There are some instances where the orders appear to have been dormant. It may be that these kind of orders could be allowed to lapse without threat to the trees, however it is not felt safe to make this decision without further investigation.

10. In order to make new TPOs, orders need to be correctly drawn up, correctly served on all parties concerned (including neighbours), re-served where necessary, non-responding owners or neighbours chased until their details are confirmed as correct, any objections dealt with, and in due course the order confirmed with any modifications. Even taking account of the offered support for the survey work this is a considerable workload, which could not be undertaken by existing staff resources within the 30-month target period. (For comparison, last year the team made 22 new TPOs in respect of trees threatened by development).

11. The situation is also complicated by the fact that the Technical Support Assistant post

within the tree and landscape team has been vacant from 14/09/07. This post is a temporary contract until March 2008. At the present time this post carries out most of the administrative support work required for the preparation, serving and confirmation of TPOs, as well as high hedges administrative work. Even if authority was given to fill this post, it is unlikely that a suitable candidate could be found for such a short period. The extension of the present contract for this post until at least June 2009 is considered to be essential to carry out all the administrative tasks involved in the new orders, as set out in paragraph 9 above.

12. Several options should therefore be considered, the details of which are set out below:

OPTION	IMPLICATIONS/COST
1. Do nothing – do not take up ECC offer of staff time and let the existing TPOs lapse.	Existing trees of value will no longer be protected – the council will then have no influence on their care/retention.
2. Engage landscape consultants to carry out survey work in addition to ECC staff time, and extend contract for technical support officer post to carry out all admin work	All trees/woodlands would be re-protected within deadline. Consultants cost: approx. 75 days @ £450/day - £33,750. Makes full use of ECC staff time offered. Cost of extended contract for TSO post c. £18,000
3. Employ a tree/landscape officer for a 8 month contract, in addition to ECC staff time, and extend contract for technical support officer post to carry out all admin work	Trees would be re-protected within deadline. Salary for tree officer – c.£28,000 – £30,000. Makes full use of ECC staff time offered. Cost of extended contract for TSO post c. £18,000
4. Prioritise survey work according to risk/importance (accepting that the majority of lower priority orders will lapse until they can be reprotected); make full use of ECC staff time for survey work, in addition to some EFDC landscape officer time; and extend contract for technical support officer post to carry out all admin work	Priority trees would be re-protected within deadline, but not lower priority orders. EFDC officer time will be at some cost to other work areas for a lengthy period (e.g. other new TPOs, TPO applications, works to trees in conservation areas, and landscape advice on new developments). Overtime payments likely. Makes full use of ECC staff time offered. Cost of extended contract for TSO post c. £18,000

N.B. None of the above costs include Land Registry searches (£8 per title) and recorded delivery (approx. £2 per envelope).

13. Option 1 would be likely to attract considerable criticism and would be contrary to the Council's Corporate Objective to ensure the protection of the unique, green and sustainable environment of the district. Option 2 would achieve the desired objective but carries with it considerable costs, which could only be met through the use of a considerable amount of Planning Delivery Grant. Similarly, option 3 would achieve the desired objective but with less total cost, although this would still need to be met through use of Planning Delivery Grant.

14. Option 4 represents a compromise – only those orders considered to be a high priority would be re-protected within the deadline, accepting that some lower priority orders may lapse until they can eventually be re-protected. Full use would be made of the ECC staff time offered, but EFDC officer time would still be required to monitor and carry out a proportion of the survey work. This would inevitably reduce the ability of the landscape team to meet some existing workloads and targets. The cost of extending the contract for the technical support officer post would be unavoidable, given the amount of work necessary to prepare, serve and

confirm all the new orders.

Statement in Support of Recommended Action:

15. Option 4 would achieve the re-protection of the most important trees affected by the ECC TPOs, while enabling close supervision of the work carried out by ECC officers and constant re-assessment of the workload and timetable for completion. The cost of extending the contract for the technical support officer post could be met from the Planning Delivery Grant budget, the allocation of which is to be the subject of a separate report to Members. A further report is also due to be presented to Members on resources for the Forward Planning and Environment section within Planning Services following the approval of the East of England Plan later this year. This report will also update the position in respect of the Landscape and Trees Team, and specifically the need for the technical support officer post, as more information and analysis of future workloads will be known.

16. Option 4 is therefore recommended to Members as the preferred option.

Other Options for Action:

17. These are set out in the table in paragraph 11.

Consultation Undertaken:

18. External consultation with Essex County Council.

Resource Implications: The resources of the landscape team within Planning Services will be severely stretched by the burden of this additional work, and there will inevitably be some impact on other work areas for a period (e.g. other new TPOs, TPO applications, works to trees in conservation areas, and landscape advice on new developments). However, with the help of the County Council's officers on a temporary basis, the prioritisation of the new TPOs, and the extension of the contract for the technical support officer post, the additional workload is considered to be manageable.

Budget Provision: There is no provision within existing CSB for this project. It is therefore proposed to fund the cost by means of an allocation of £18,000 from within the 2007/08 Planning Delivery Grant. A report will be submitted to a future meeting on how the PDG will be allocated, but adoption of recommendation 2(c) will mean that this project will be committed at this meeting and included in that later report. The cost of Land Registry Searches and postage would be met from within existing budgets.

Personnel: Extension of existing temporary contract (Post PPE/37) for a further 15 months.

Land: Nil.

Council Plan 2006-10/BVPP Reference: "Green and Unique" GU1 – protect special character of the District.

Relevant Statutory Powers: Town and Country Planning Acts.

Background Papers: TPO files and ECC general file.

Environmental/Human Rights Act/Crime and Disorder Act Implications: N/A.

Key Decision Reference (if required): Key Decision.