

WEST AREA PLANNING COMMITTEE

13th March 2018

TPO Name: Oxford City Council - Cripsey Road (No.1) Tree Preservation Order 2017

Decision Due by: 25th April 2018

Site Address: Land On The East Side Of Cripsey Road Oxford

Ward: Jericho And Osney Ward

Case Officer: Kevin Caldicott

Reason at Committee: Objection received to the Tree Preservation Order

1. RECOMMENDATION:

- 1.1. West Area Planning Committee is recommended to confirm the Oxford City Council – Cripsey Road (No.1) Tree Preservation Order, 2017 without modification.

2. EXECUTIVE SUMMARY:

- 2.1. This report considers a Tree Preservation Order (TPO) that has been made to protect trees that are along the east side of Cripsey Road. The TPO is currently 'provisional' and must be 'confirmed' before 25th April 2018 if it is to be made permanent.
- 2.2. Network Rail has objected to the TPO and this report considers that objection and also the comments that have been received in support of the TPO.
- 2.3. Officers consider that it is expedient in the interests of amenity for the TPO to be confirmed without modification.

3. BACKGROUND:

- 3.1. On 16th July 2017 the Council received a request from the Abbey and Cripsey Residents' Association (ACRA), for a TPO to be made to protect trees that grow along the east side of Cripsey Road. This request was a response to the public consultation on the (draft) Oxford Station Supplementary Planning Document (SPD). A report from arboricultural consultant's Landmark Trees, submitted in support of the request, highlighted the amenity value of the trees and the expediency for the Council to use its powers to make a TPO.
- 3.2. The Oxford City Council – Cripsey Road was made on 26th October 2017. It protects four individual lime trees (T1-T4) and a linear area of mixed species

trees (A1) growing along the east side of Cripsey Road. The map and schedule which form part of the TPO are at paras 4.1 and 4.2 of this report.

- 3.3. The TPO took immediate effect but is provisional for 6 months unless it is confirmed and thereby made permanent. In deciding whether or not to confirm a provisional TPO the Council must consider the consultation responses it received during the statutory 28 day consultation period that follows it being made.
- 3.4. Confirmation of provisional TPOs is delegated to the Head of Planning, Sustainable Development and Regulatory Services when no objections have been received. However, objections are reported to the Area Planning Committee for consideration.

4. TPO MAP & SCHEDULE

Location Plan



4.2 TPO Schedule

Trees specified individually
(Represented by a solid black circle on the map)

Reference on Map	Description	Situation
T.1	Lime	East side of Cripsey Road, Oxford.
T.2	Lime	East side of Cripsey Road, Oxford.
T.3	Lime	East side of Cripsey Road, Oxford.
T.4	Lime	East side of Cripsey Road, Oxford.

Trees specified by reference to an area
(within a dotted black line on the map)

Reference on Map	Description	Situation
A.1	All trees of whatever species	East side of Cripsey Road, Oxford.

5. REASONS FOR MAKING TPO:

5.1. In the interests of amenity, to protect 4 individual lime trees and a liner area of mixed species trees growing along the east side of Cripsey Road, Oxford that are significant in public views from Abbey Road, Botley Road and Cripsey Road and/or in the private outlook of multiple residential properties. The trees are visually attractive, offering a range of ornamental attributes and environmental services which vary according to the seasons and they act to screen and/or soften the appearance of the railway, its associated buildings, service and parking areas and also the road of Roger Dudman Way, thus enhancing both the appearance and character of the area for the benefit of amenity. It is expedient to make the Tree Preservation Order because the Oxford Station site is being considered for development.

6. CONSULTATION RESPONSES:

Objection:

- 6.1. Network Rail has objected to the provisional TPO. In summary the main points of objection area:
- Trees in area A1 do not meet the criteria for TPO protection because of their size;
 - TPO it will affect Network Rail's ability to deliver station improvements (if funding becomes available) and rail capacity required to deliver a new through platform at the western side of the station.
 - TPO reduces the ability for the Councils own aspirations to deliver improvements to Botley Road underneath the railway as if those works are delivered the junction of Cripsey Road/ Roger Dudman Way and Botley Road will need to change ground levels (reduced) to meet the lower level wider Botley Road and inevitably require removal of some of the trees.

Support:

- 6.2. 66 letters of support have been received for the TPO to be confirmed as made; including 6 from addresses in Cripsey Road, 14 from addresses in Abbey Road and 11 from other addresses. 34 of the support letters included no address. In summary, the main reasons for supporting the order are:
- The trees are important to public amenity in the area; including visual amenity, habitat for wildlife and environmental services such as reducing air pollution, noise and dust;

- The trees are at risk from development of the railway station site and should be retained in accordance with the principles of 'sustainable development'.

7. OFFICER COMMENTS ON ISSUES:

Amenity:

- 7.1. 'Amenity' is not defined in law, so the Council needs to exercise judgment when deciding whether it is within its powers to make an Order.
- 7.2. Government advice is that TPOs should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before the Council makes or confirms an Order it should be able to show that protection would bring a reasonable degree of public benefit in the present or future.
- 7.3. Protected trees can be any size or species.
- 7.4. The extent to which the trees or woodlands can be seen by the public will inform the Council's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.
- 7.5. Public visibility alone will not be sufficient to warrant a TPO. The Council is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:
 - size and form;
 - future potential as an amenity;
 - rarity, cultural or historic value;
 - contribution to, and relationship with, the landscape; and
 - contribution to the character or appearance of a conservation area.
- 7.6. Other factors can also be considered, such as the positive contribution the trees make to environmental quality or biodiversity, but these factors alone are unlikely to merit a TPO.
- 7.7. The lime trees, T.1, T.2, T.3 and T.4, are 4no. very large (around 20metres tall with crown spreads of about 10metres), mature, high quality and value trees, that have pleasing visual form and interest. The trees stand in the highway verge along the east side of Cripsey Road and they are visually attractive and prominent in various wide ranging public views from Abbey Road, Cripsey Road and Botley Road. The tops of some of the tree can be seen above the railway station buildings from Frideswide Square. All of the trees have some dead branches in their crowns, but this is typical for trees of this species and age and is not indicative of any significant ill-health. T.3 has some evidence of root damage and decay, while T.4 appears to have a regrown crown following historic pollarding. Overall however, the age,

health and condition of the trees suggest that if appropriately managed they could make a valuable contribution to public visual amenity in the area for 20-40 years.

- 7.8. The trees in linear area, A.1, are of mixed species of varying age and quality, but are predominantly mature wild cherry trees. Although individual trees in the area are smaller than the lime trees, generally having heights of between 5 and 7metres, the linear area is extensive along the length of Cripsey Road. Collectively, the trees are visually attractive, offering a range of ornamental attributes which vary according to the seasons. They act to screen and/or soften the appearance of the railway, its associated buildings, service and parking areas and also the road of Roger Dudman Way, thus enhancing both the appearance and character of the area for the benefit of amenity. Some of the trees grow in the highway verge of Cripsey Road, but some are on top of a retaining wall and embankment that is between Cripsey Road and Roger Dudman Way (there is a change in levels between Cripsey Road and Roger Dudman Way with the latter on higher ground). The trees that are on top of the retaining wall present various management challenges which possibly limits their life expectancy and amenity value as individuals, but if appropriately managed the important functional screening benefits provided by the trees collectively in the area could be sustained much longer.
- 7.9. The West Oxford Character Statement and Heritage Assets Survey: Part 1 St Ebbe's Suburb and Osney Island identifies 'Pockets of greenery' amongst the Key Historic Character Features of the area. It states; "These help to provide a suburban character; suggesting the countryside is only a street away. A notable tree line marks the former boundary of the station yard (now Roger Dudman Way) along with iron GWR railings. These help to screen the later 20th century railway buildings in views of the Victorian housing preserving the historic character of Cripsey Road." (p80).
- 7.10. While officers are not aware of any protected habitats or species, collectively the trees more generally provide habitats in the urban environment for insects, birds, and other wildlife.
- 7.11. Although the environmental services provided by the trees cannot currently be quantified, collectively the trees potentially benefit air quality locally and also reduce dust and noise for local residents to the benefit of human health and well-being.
- 7.12. For all these reasons officers advise that the trees merit inclusion in the TPO on amenity grounds.

Expediency:

- 7.13. The Oxford Station SPD is evidence that the railway station has potential for development and the trees which are included in the TPO must therefore be

considered to be at risk from development.

- 7.14. In this context the TPO is a valuable tool to manage change in the area. It is not however, intended to obstruct acceptable development in the future.
- 7.15. The 4 individual lime trees and some of the trees in the linear area stand on Highway land and are therefore owned by the Oxfordshire County Council and managed by the Council. It is unusual for the Council to make a TPO to include trees that are already under its control, but nothing prevents a TPO being to protect trees in the ownership of Local Authorities and the County Council has not objected.
- 7.16. Government advice is that the use of 'area' TPO designations should be temporary. Officers consider that the flexibility provided by the area designation, which does not identify specific trees, is appropriate at this time. However, this will be kept under review and it may become appropriate to amend the designation to include groups of specified trees, or individual trees, in the future.
- 7.17. For all these reasons officers advise that it expedient to for the Council to use its powers to make a TPO in this case.

Oxford Station SPD:

- 7.18. The Oxford Station SPD was taken to City Executive Board on 16th October 2017 where members resolved to adopt the SPD in its amended from subject to some additional changes, with delegated authority given to the Head of Planning. Following discussions with interested parties about the proposed further amendments to the SPD the decision to adopt the SPD was taken on the 28th November 2017.
- 7.19. The SPD sets out an indicative Masterplan that was developed in partnership between Oxford City Council, Oxfordshire County Council and Network Rail in conjunction with the train operating companies and the Department for Transport.
- 7.20. The vision for the SPD is that *'the Oxford Station area development will create a distinctive new gateway to Oxford, contributing to a vibrant new quarter and a fully integrated transport hub linking the station area with the City and beyond..'*
- 7.21. The SPD provides advice on some key design principles which would inform the urban form, views and accent buildings; the potential scale and massing of future buildings; the land use mix; public realm and amenity space; together with guidance on pedestrian, cycle and vehicle access and movements and the need for new development to respond positively to climate change. The illustrative masterplan has been developed from the design principles and includes an illustrative layout along with possible variants that would respond to different design approaches to allow flexibility

and the future operational requirements of Network Rail.

- 7.22. Since the SPD is indicative it does not include enough detail about specific developments to be able to assess effects on existing trees; so it is not currently known, for example, how the difference in ground levels between Botley Road/Cripley Road/Roger Dudman Way might be resolved to deliver ambitions for improvements to Botley Road under the railway bridge and what the resulting impact on existing trees might be. Similarly, until there are more detailed designs for a new through platform on the west side of the station it is not possible to know what the impact on the trees might be.
- 7.23. However when granting planning permission for any development a LPA is under a duty to ensure, whenever it is appropriate, that adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.
- 7.24. In the Oxford Station SPD area therefore, the impact of any proposed development on existing trees will be a material consideration for the Council when it decides whether or not planning permission should be granted.
- 7.25. The TPO will ensure that the trees and their amenity value will be appropriately weighed and balanced in the more detailed development planning, design and decision processes. However, it does not *per se* prevent planning permission being granted for development that removes trees included in the TPO, if the Council decides, on balance, that is appropriate and acceptable.
- 7.26. For these reasons officers advise that there is no conflict with the adopted Oxford Station SPD by confirming the TPO.

8. CONCLUSION:

- 8.1. Taking account of the objection and other duly made representations received in response to the provisional Oxford City Council – Cripsey Road (No.1) Tree Preservation Order 2017, and for the all the reasons stated in this report, the officer recommendation is that the Oxford City Council – Cripsey Road (No.1) Tree Preservation Order 2017 should be confirmed without modification.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to confirm this TPO without modification. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to confirm this TPO without modification, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.