

AGENDA ITEM NO. 6

PLANNING COMMITTEE

Date	13th September 2017
Title	TPO reference: 02/2017 10 Claygate, Whittlesey

1. PURPOSE

The purpose of this report is to request authority from members to confirm Tree Preservation Order (TPO) 02/2017 10 Claygate, Whittlesey and endorse the suggested way forward with regard to securing appropriate replacement trees.

2. SUMMARY

Matters relating to the issue and confirmation of unopposed TPOs are normally dealt with by delegated powers, however when objections to the making of a TPO have been received it falls outside the scheme of delegation and as such this matter is duly referred to Committee for authority to proceed with confirming the order.

It is also necessary to alert Committee Members to on-site discussions between the tree owners representative and the Council’s Arboricultural Officer. These discussions have facilitated an in-principle agreement to the felling of the Sycamore and the planting of replacement trees. However procedurally there is no mechanism to move straight to this outcome hence the need to confirm the current TPO.

3. RECOMMENDATION

It is therefore recommended that members authorise that TPO 02/2017 is formally confirmed.

Forward Plan Reference No. (if applicable)	Not applicable
Portfolio Holder(s)	Not applicable
Report Originator	Alison Callaby, Development Officer
Contact Officer(s)	Alison Callaby, Development Officer
Background Paper(s)	TPO 02/2017

1. BACKGROUND

- 1.1 An application was submitted on 5th April 2017 which sought consent to fell a sycamore tree within the front garden of No 10 Claygate, a Grade II listed dwelling within the Whittlesey Conservation Area. The justification given was that the tree was outgrowing its current location and its roots were lifting the adjacent footpath and had been found under the interior floors of the listed dwelling. It was also noted that debris from the tree was falling on the roof and the overcasting shadow was causing excessive damp and rotting of the thatch.
- 1.2 An assessment of the tree by the Council's Arboricultural Officer noted that
- 'The tree is a mature sycamore that makes a positive contribution to the amenity and character of the area. The tree is considered to be under threat and should be protected to ensure continued tree cover at the site'
- 1.3 A TPO was subsequently raised on 26th day of April and as required by the Town and Country Planning (Tree Preservation) (England) Regulations 2012 a copy of the order was served on persons interested in the land affected by the Order; a site notice was also displayed.
- 1.4 In response to the making of the Order the following representations have been received:

Objection 1: Maintenance contractor employed on property renovation

- Tree roots are affecting building foundations
- Property is of great historic value and they cannot believe that the sycamore is being put before the property's well-being and longevity
- Concerned about what the tree is doing to undergrown drains, electric and sewers
- Tree enormous for the small area

Objection 2: Property Owners

- Object to the TPO on the grounds that it poses a significant threat to their property given it has not been maintained by the past owners.
- They propose to remove the tree and plant a mutually acceptable tree
- Replacement tree proposed as current tree is affecting property as follows:
 - Roots are affecting drainage and growing under and up through cottage floor and causing damp, also causing rotational movement
 - Leaf fall precludes under-planting and causes problems for thatched roof
 - Seeds in plant in thatch causing growth which in time causes water penetration and potential damage to their listed building
 - Water run off to thatched roof is too great
 - Leaves fall onto public footpath
- Do not consider that a root barrier will prevent the above problems
- Does not consider that the relevant specialists are conversing to create a beneficial plan

2. ASSESSMENT

- 2.1 The above objections/representations have been duly considered by the FDC Arboricultural Officer and following a site meeting with the Owners agent it has been agreed that there is scope to plant replacement trees on the site. It has been proposed that 1x Magnolia Kobus be planted to the front of the site and 1x Davidia involucrata to the rear of the site. This

replacement planting schedule has been agreed by the FDC Arboricultural Officer in principle.

- 2.2 However there is no mechanism to secure these replacement trees or modify the order to the extent required to facilitate this. Accordingly the only way forward procedurally is for the Order to be confirmed and the applicant to re-apply to fell the Sycamore covered by the TPO specifying the replacement trees, their position and dimensions.
- 2.1 It should be noted that the replacement trees planted by virtue of such a condition are not automatically protected by the original Order; however they will be protected by virtue of their location within the Conservation Area and there is scope ultimately to vary the original Order formally to secure the replacement trees longevity. Regrettably the TPO procedures do not allow for the variation of the order from the outset and the stages outlined above need to be followed.

Appendix 1 – TPO 02/2017

**TOWN AND COUNTRY PLANNING ACT 1990
The Town and Country Planning (Tree Preservation) (England)
Regulations 2012**

FENLAND DISTRICT COUNCIL TREE PRESERVATION ORDER TPO02/2017.

(TPO At 10 Claygate Whittlesey Cambridgeshire)

The Fenland District Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as the Fenland District Council Tree Preservation Order TPO02/2017.

Interpretation

- 2.(1) In this Order “the authority” means the Fenland District Council
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect


- 3.(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destructionof,
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 26th day of April 2017

The Common Seal of
Fenland District Council
was hereunto affixed in the presence of -


.....
Authorised signatory

Reference: TPO02/2017



CONFIRMATION OF ORDER

This Order was confirmed by Fenland District Council *without modification*

on the..... day of 20

OR

This Order was confirmed by Fenland District Council *subject to the modifications*
indicated by

on the..... day of20

Signed on behalf of Fenland District Council

.....
Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Fenland District Council

on the..... day of20

Signed on behalf of Fenland District Council

.....
Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by the Fenland District Council

on the..... day of20

by a variation order under the reference number
a copy of which is attached

Signed on behalf of Fenland District Council

.....
Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by the Fenland District Council

on the..... day of20

Signed on behalf of Fenland District Council

.....
Authorised by the Council to sign in that behalf

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually

(coloured green and encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T01	Sycamore	526836 East / 297420 North

Trees specified reference to an area

(within a dotted black line on the map)

None

Groups of Trees

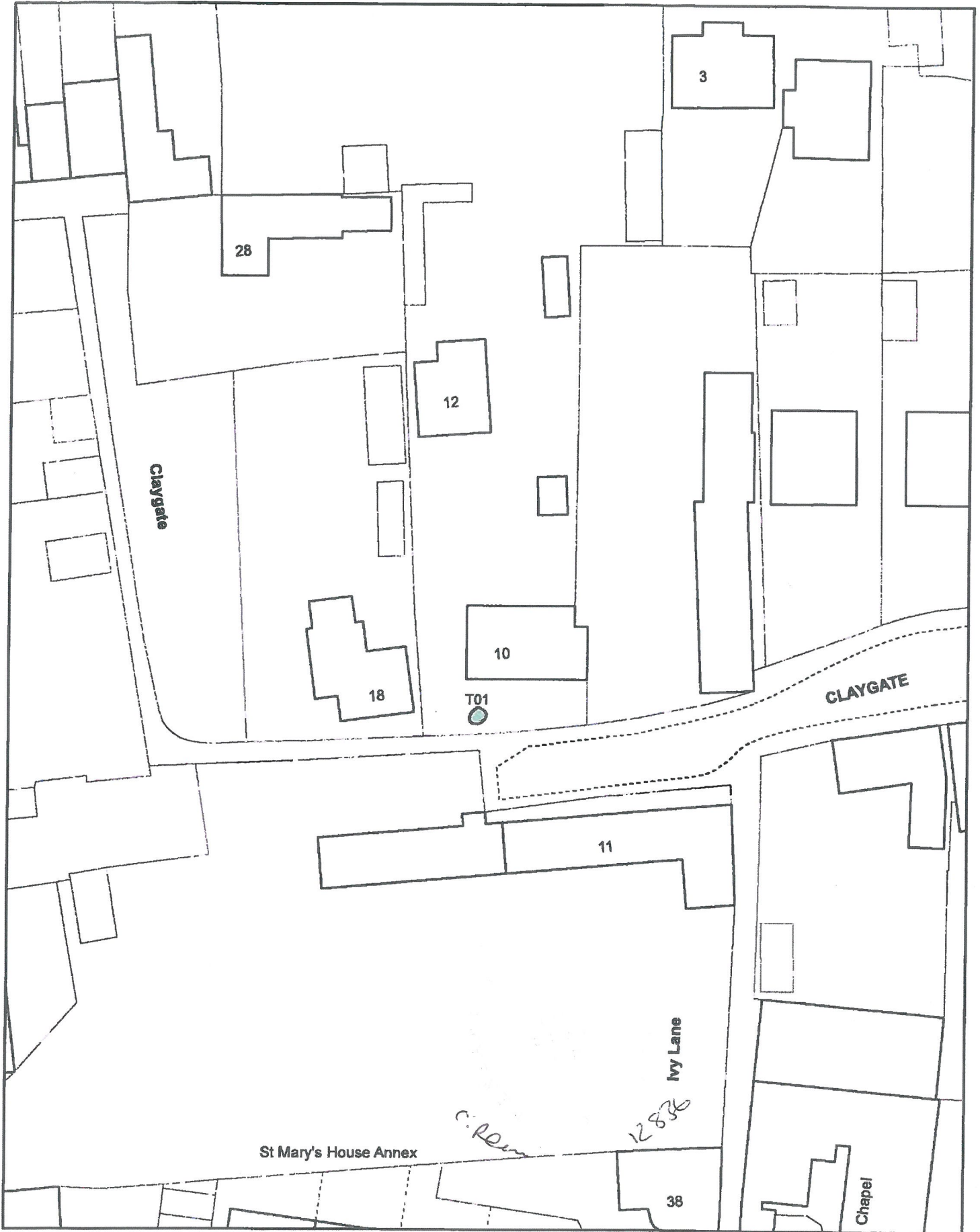
(within a broken line on the map)

None

Woodlands

(within a continuous black line on the map)

None



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Scale = 1:500

TPO02/2017
TPO At 10 Claygate
Whittlesey
T01 Sycamore

