

# Public Document Pack



<b>MSDC REGULATORY SUB-COMMITTEE</b>	
<b>DATE</b>	Friday, 8 September 2017 at 10.45 a.m.
<b>PLACE</b>	Wesley Hall, School Road, Elmswell

<b>Members</b>		
Paul Ekpenyong	Andrew Stringer	Jill Wilshaw

To all other Members of the Licensing and Regulatory Committee – FOR INFORMATION

To the Ward Members and the Clerk to Tostock Parish Council – FOR INFORMATION

Site Inspection – please see Notes 3 and 4 below

## **A G E N D A**

Page(s)

- 1 **Welcome - Legal Advisor to the Sub-Committee**
- 2 **Election of Chairman for the meeting**
- 3 **Apologies for absence**
- 4 **To receive any declarations of pecuniary or non-pecuniary interest by Members**
- 5 **To receive notification of petitions in accordance with the Council's Petition Scheme**
- 6 **Questions by the Public**
- 7 **Questions by Councillors**
- 8 **MRSC/17/1 - Tree Preservation Order No. MS00413 - Ticehurst Farm, Tostock** 1 - 16

To consider an objection to the above Order and whether in light of the representations made, the Order should be confirmed.

Notes:

1. Procedure note attached.
2. Plan showing the location of the site and Wesley Hall attached.
3. A site inspection for Members of the Sub-Committee will take place prior to the meeting, at 10.00 a.m.
4. Relevant officers together with the objector will also be present at the site inspection, which is not open to the public.

This page is intentionally left blank

# Agenda Item 8

## MID SUFFOLK DISTRICT COUNCIL

From: Arboricultural Officer

Report Number:

**MRSC/17/1**

To: Regulatory Sub-Committee

Date of Meeting:

8 September 2017

### **TREE PRESERVATION ORDER (TPO) MS 413 – TICEHURST FARM, TOSTOCK, BURY ST EDMUNDS, IP30 9PH**

#### **1. Purpose of Report**

- 1.1 To consider an objection to the making of a Tree Preservation Order (TPO) MS 413 and the recommendation that the TPO be confirmed.

#### **2. Recommendation**

- 2.1 That Tree Preservation Order MS 413 be confirmed.

#### **3. Financial Implications**

- 3.1 The Town and Country Planning Act (Trees) Regulations 1999 contain provisions for financial compensation and this may be payable in certain circumstances if consent is refused under the Order for works to protected trees or if consent is granted subject to conditions. This is the case when making any Tree Preservation Order.

#### **4. Risk Management**

- 4.1 The visual amenity of the area could be adversely affected if the tree subject to this provisional TPO were to be removed. Without a TPO, the tree could be lost and this would have a detrimental impact on local amenity.

<b>Risk Description</b>	<b>Likelihood</b>	<b>Seriousness or Impact</b>	<b>Mitigation Measures</b>
The amenity of the area would be adversely affected if the tree were removed. Without a TPO, a good example of a mature English Oak could be lost forever.	Very High	Critical	Confirm TPO
Problems could arise during the course of the TPO e.g. parts or all of the tree could become dangerous due to changes in its condition	Low	Critical	Confirm TPO Provisions in place under TPO arrangements allow appropriate remedial works to be undertaken should they become necessary due to the condition of the tree

## 5. **Equality Analysis**

5.1 There are no equality and diversity implications.

## 6. **Key Information**

6.1 Tree Preservation Order MS 413 was made on 19 April 2017. It has a provisional existence of six months and will expire on 19 October 2017 if not confirmed by this Sub-Committee.

6.2 The tree that is the subject of this TPO is a mature specimen of Wellingtonia (see photo at appendix c) located at Ticehurst Farm, Tostock.

6.3 The tree is an extremely large prominent specimen of high amenity value and a well-established local landscape feature. It appears in good health without any evidence of significant weakness or instability.

6.4 The serving of this provisional TPO has been prompted by the receipt of a Section 211 Notice (Town & Country Planning Act 1990) to fell the tree. This notification has been submitted by the owner due to concern following branch loss caused by Storm Doris. However, there is no current evidence that the tree is hazardous or that its removal is necessary for safety reasons. As a result the Council considers that the tree warrants statutory protection via the serving of a Tree Preservation Order in the interests of maintaining the character and visual amenity of the area.

6.5 One letter of objection to the making of TPO MS 413 has been received from Diane Baully, the owner of the tree. The objection can be summarised as follows: -

(a) Urban Forestry, a local arboricultural company, have advised that the tree is hazardous and that felling it is the best option.

(b) At a Parish Council meeting a unanimous decision was reached that the tree should be felled as it was dangerous.

(c) The tree is not of high amenity value as it can only be seen by the owner and her neighbour.

6.6 Mitigation of the above objections – Mid Suffolk District Council response:

(a) Urban Forestry, when contacted by the Council, have clarified that they did not propose felling the tree but instead recommended a more detailed inspection to identify what remedial works might be required. Any works that are necessary for safety reasons would not be prevented by the TPO.

(b) The Parish Councils comments are recorded at paragraph 10.1 of the report.

(c) The tree is an extremely large prominent specimen and a well-established local landscape feature. It is highly visible within the locality for residents as well as pedestrian and vehicular users of the area.

## **7. Legal Implications**

- 7.1 The imposition of a Tree Preservation Order will impact on the human rights of the individual. The rights affected are particularly, but not exclusively:

Article 1 of the First Protocol (Protection of Property) – The right to peaceful enjoyment of possessions,

Article 8 – The right to respect for private and family life,

- 7.2 However, in such cases the human rights of the individual must be balanced against the rights of the public to expect the planning system to protect a tree[s] when its [their] amenity value justifies such protection.

- 7.3 In this instance, it is your officer's opinion that in this balancing act the protection of the tree should prevail as the position of the tree in the locality has significant amenity value which benefits the whole community.

## **8. Shared Service / Partnership Implications**

- 8.1 There are no Shared Service or Partnership implications.

## **9. Links to Joint Strategic Plan**

- 9.1 Not applicable.

## **10. Consultations**

- 10.1 Tostock Parish Council have asked that a replacement is requested as felling the tree would result in a loss of habitat.

## **11. Appendices**

- (a) Copy of TPO MS 413
- (b) Copy of objection letter from the owner, Diane Bauly, dated 24 April 2017.
- (c) Photograph of the tree taken April 2017.
- (d) Representation received from Cllr Jane Storey and officer response.

## **12. Background Documents**

None.

David Pizzey  
Arboricultural Officer

01473 826662  
david.pizzey@babberghmidsuffolk.gov.uk

This page is intentionally left blank

## Town and Country Planning Act 1990

### Town and Country Planning (Tree Preservation) (England) Regulations 2012

**THE MID SUFFOLK DISTRICT COUNCIL  
TREE PRESERVATION ORDER No. MS00413 2017  
Ticehurst Farm, Tostock, Bury St Edmunds IP30 9PH**

The Mid Suffolk District Council, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order -

#### **Citation**

1. This Order may be cited as the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

#### **Interpretation**

2. In this Order "the authority" means The Mid Suffolk 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, uprooting, wilful damage or wilful destruction of,

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.

**SCHEDULE 1  
SPECIFICATION OF TREES**

**Trees specified individually**  
(encircled in black on the map)

Ref on map	Description	Situation
T1	Wellingtonia Tree	Ticehurst Farm, Tostock, Bury St Edmunds IP30 9PH

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

Ref on map    Description

Situation

**Groups of trees**

(within a broken black line on the map)

Ref on map    Description

Situation

**Woodlands**

(within a continuous black line on the map)

Ref on map    Description

Situation

**TREE PRESERVATION ORDER MS00413**

**Ticehurst Farm, Tostock, Bury St Edmunds IP30 9PH**

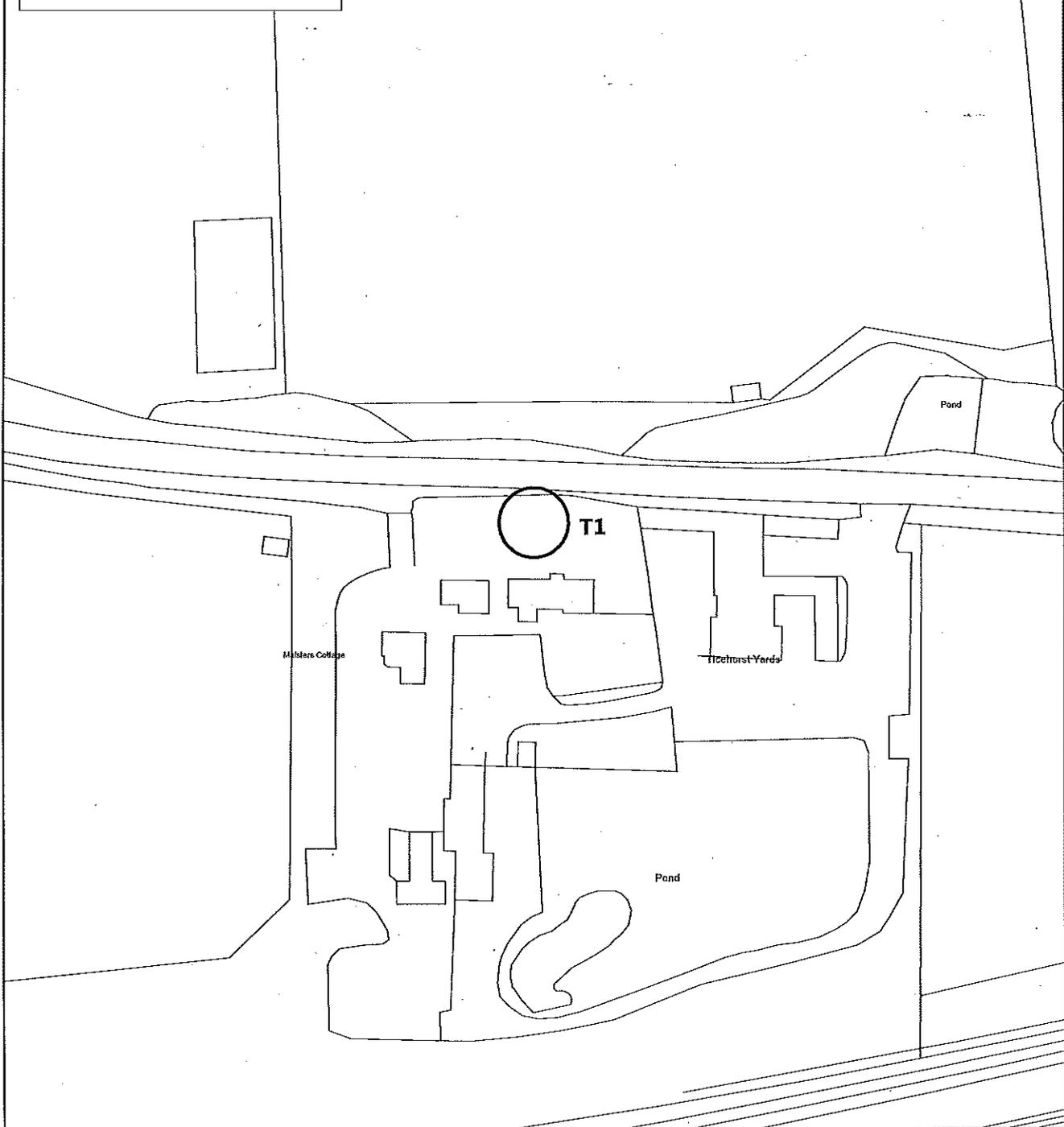
**Statement by Mid Suffolk District Council on the Grounds for making the Order**

The tree subject to this proposed Tree Preservation Order (TPO) is a mature Wellingtonia (T1) located at Ticehurst Farm, Tostock.

The tree is an extremely large prominent specimen of high amenity value and a well-established local landscape feature.

The serving of this TPO has been prompted by the receipt of a Section 211 Notice (Town & Country Planning Act 1990) to fell the tree. This notification has been submitted by the owner due to concern following branch loss caused by Storm Doris. However, there is no evidence that the tree is hazardous or that its removal is necessary for safety reasons. As a result the Local Planning Authority now considers that the tree warrants statutory protection in the interests of maintaining the character and amenity of the local area.

T1 - Wellingtonia



**TREE PRESERVATION ORDER NO. 413**

**Ticehurst Farm  
Tostock  
Bury Saint Edmunds  
IP30 9PH**

OS Grid: TL 95482 63024  
Coordinates: 595482 263024

**Legend**

-  T1 Individual Trees
-  A1 Area of Trees
-  G1 Group of Trees
-  W1 Woodland



**MID SUFFOLK DISTRICT COUNCIL**

131, High Street, Needham Market,  
Ipswich, IP6 8DL  
Telephone : 01449 724500  
www.midsuffolk.gov.uk



**SCALE 1:1250**

Reproduced by permission of  
Ordnance Survey on behalf of HMSO.  
© Crown copyright and database right 2017  
Ordnance Survey Licence number 100017810

**Ticehurst Farm,  
Tostock,  
Nr. Bury St. Edmunds.  
Suffolk.  
IP30 9PH**

24th April 2017.

Dear Mr Pizzey

*As the owner of Ticehurst Farm I object to the TPO – BT00413 – which you wish to place on the sequoia tree I asked to fell.*

*I have, for many years, considered the wisdom of allowing this tree to grow so close to my home. It now stands three times the height of the house and is only 10 metres away from the front wall. After Storm Doris I felt it was time to act and asked David Franklin, arboricultural manager, of Urban Forestry to call and assess the damage. He said all three branches brought down were either diseased or damaged and the void left in the canopy created a vortex for future strong wind damage. He also felt owing to the age of the tree it would be impossible to assess the soundness of the branches remaining even on close inspection. One particular large branch which can be seen from the ground has a large deep fissure running on the underside indicating a fault and would cause considerable damage when it falls bringing down the telephone wires yet again. He said the tree was of low amenity value and growing so close to the house was a danger to the property and felling was the best option.*

*At the annual Parish Council Meeting last week in Tostock village the proposal to fell the tree was raised and it was a unanimous decision that the tree should be felled as it was dangerous. Not one person present felt it should remain standing.*

*You state in your reason for a TPO that the tree is well-established and I would agree with that as it is around 160+ years old but the high amenity value is not true as the only people to see the tree are myself and my neighbour and obviously from the Parish Meeting the village residents are not bothered. I cannot understand why you value a replaceable tree above a Grade II listed house built in 1399. If the tree fell during a hurricane it would flatten the house and kill any people sheltering within, the roots, which I understand, stretch as far as the height of the tree would cause the tarmac on the road to be lifted and my neighbours house would also suffer some root damage.*

*The sequoia tree belongs in parkland where it can be enjoyed by all and not present any danger to buildings and people.*

*Sincerely*

*Diane Bauly*

MID SUFFOLK DISTRICT COUNCIL PLANNING CONTROL <b>RECEIVED</b> 25 APR 2017 ACKNOWLEDGED ..... DATE ..... PASS TO .....
---

This page is intentionally left blank



This page is intentionally left blank

**From:** David Pizzey  
**Sent:** 16 May 2017 12:43  
**To:** Jane Storey (Personal) <[jane-storey@btconnect.com](mailto:jane-storey@btconnect.com)>  
**Cc:** Sarah Mansel <[Sarah.Mansel@midsuffolk.gov.uk](mailto:Sarah.Mansel@midsuffolk.gov.uk)>; Jane Storey <[Jane.Storey@midsuffolk.gov.uk](mailto:Jane.Storey@midsuffolk.gov.uk)>; Philip Isbell <[Philip.Isbell@baberghmidsuffolk.gov.uk](mailto:Philip.Isbell@baberghmidsuffolk.gov.uk)>; A Baully <[dianebaully@btconnect.com](mailto:dianebaully@btconnect.com)>  
**Subject:** RE: Application to fell tree at Ticehurst Farm, Tostock and Tree Preservation Order

Dear Cllr Storey

Thank you for your email regarding this matter.

I do understand your concerns about this tree and the decision to make a Tree Preservation Order (TPO) is not one that is taken lightly. However, when I inspected the tree from ground level I could find no evidence that it is unsafe or unhealthy. A number of branches were blown off during storm Doris but these could all be seen to contain weaknesses that increased the likelihood of such failure during extreme weather conditions. I understand that the tree had not been subject to inspections or management. If this had been undertaken then it is probable these faults would have been identified and the defective parts removed. The condition of trees inevitably changes and it is for this reason that periodic checks are essential.

Regarding absolute safety of the tree, unfortunately this is not something I can guarantee as it is not possible to do so for any kind of structure. Trees, like many things, are essential to our lives but also contribute to the hazards of life. These risks can be managed to within acceptable limits but to eliminate them entirely would involve destroying nearly all trees (it is worth bearing in mind that the risk from trees is much lower than from many other everyday things that are readily accepted on a daily basis). Please be assured that a TPO does not prevent works to make a tree safe, including felling, if this is required. The purpose of the TPO is to ensure such works are necessary and informed by an evidence based approach. In this case I have advised that an additional climbing inspection would be prudent and give this important tree the consideration I think it justifies.

Finally, the decision to confirm this TPO is likely to be taken by members and I will let you know the committee date when it is scheduled. If you have any further questions in the meantime please do not hesitate to ask.

Regards

**David Pizzey**

Arboricultural Officer

Hadleigh office: 01473 826662

Needham Market office: 01449 724555

[david.pizzey@baberghmidsuffolk.gov.uk](mailto:david.pizzey@baberghmidsuffolk.gov.uk)

[www.babergh.gov.uk](http://www.babergh.gov.uk) and [www.midsuffolk.gov.uk](http://www.midsuffolk.gov.uk)

Babergh and Mid Suffolk District Councils - Working Together

**From:** Jane Storey [<mailto:jane-storey@btconnect.com>]  
**Sent:** 12 May 2017 14:38  
**To:** David Pizzey  
**Cc:** Sarah Mansel; Jane Storey; Philip Isbell; A Baully  
**Subject:** Application to fell tree at Ticehurst Farm, Tostock and Tree Preservation Order

Dear Mr Pizzey

'One mans terrorist is another mans freedom fighter'

is an expression that was used by the padre at my husbands Army chapel - one where most of those attending church were bomb disposal officers who had served in Northern Ireland.

I would suggest that this expression could also be used for the feelings that you have towards the Sequoia tree at Ticehurst Farm. You *believe* it to be beautiful and have no reason to suggest it is not healthy. My mother, the owner of this property, *believes* that it is beautiful but also believes, with very good reason, that it is NOT healthy.

According to my research the root system for this type of tree is shallow, around 5 - 6 feet deep. It can spread out for several hundred feet, and depending on the height and age of the tree can spread up to four acres. This tree shakes a lot in the wind - it is UNHEALTHY - otherwise the branches that have come down recently, would not have come down. Nobody can ASSURE us categorically that it is safe. You may well *believe* it to be safe but are you prepared to stake your life on it = as you are asking my mother and other members of my family to do?

The photographs that I have attached illustrate the overpowering effect that this tree has on not only the farm house but also the buildings nearby. They are taken from a neighbouring field and are not a normal view of the tree and buildings. This tree is in the wrong place - it should be in a large park. A similar tree came down in Woolpit and narrowly missed a Grade 2 listed farmhouse. However this tree falls, whichever direction, it will do harm to the Grade 2 listed farm house, also the farm buildings (now offices) and neighbouring properties - putting many peoples lives at risk.

My mothers doctor has a view on this - not only is her health at risk through the worry about the tree but he points out that a tree is much like a human body - once it is diseased then the whole body is at risk. The branches that have already broken off are very large and are obviously showing signs of disease. There are more that can be seen from underneath the tree.

This tree needs to come down before it falls down. To put a Tree Preservation Order on it is surely in contradiction to the aims of English Heritage who seek to protect the building? The Tree Preservation Order is your way of keeping a beautiful tree in place - but at the risk of life and limb? You cannot guarantee that this tree is safe and no tree surgeon would assure us of that either - even those that have been up the tree.

The only way to truly preserve life and limb, and property - is for this tree to be felled. My mother has offered to plant another, but in a more suitable location. Imagine if that tree comes down - it doesn't matter what direction - it will destroy at least two houses, office buildings and, if an estimate of the root system is to be *believed*, it could have a major effect on the Beyton Road and possibly the A14. Several other houses and properties could be rendered unsafe.

I strongly urge you to agree to the felling of this tree, It is a source of considerable worry to my family but in particular to my mother, whi loves underneath it, and my brother, who lives next door. It has no amenity value - nobody at the recent Annual Parish Meeting wanted it kept - it is dangerous.

If your mother lived under such a threat to her life you would feel as passionate about it as I do.

I BEG of you and my fellow councillors NOT to endorse the Tree Preservation Order and to approve the application to fell this tree.

Jane Storey

This page is intentionally left blank

**MID SUFFOLK DISTRICT COUNCIL  
Regulatory Sub-Committee (Trees)**

**PROCEDURE FOR DETERMINING OBJECTIONS TO TREE  
PRESERVATION ORDERS**

1.	Objections and representations are submitted in writing (a requirement of the legislation).	
2.	The appropriate Officer prepares a report for the Sub-Committee to consider.	
3.	A site inspection and Sub-Committee meeting date is arranged and the objector(s) informed. The meeting normally takes place in a local village or community hall, subject to availability.	
4.	The papers for the meeting are sent to the Sub-Committee Members and any person having made objections or representations.	
5.	At the site inspection (held immediately prior to the meeting) the Sub-Committee does not hear submissions from any person having made objections or representations or the appropriate Officer but confines the visit to inspecting the trees and to questions of fact.	
6.	The Sub-Committee meets (in public unless exempt information is under consideration) to consider the report, the objections and representations, and any further written objections and representations.	
7.	Persons interested in the land [ie the owner/occupier of the land on which the tree is planted], objectors and/or agents are entitled to be present at the site inspection, with the consent of the owner/occupier of the land on which the site inspection is taking place [ie the same or neighbouring land].	
8.	The Sub-Committee only considers <u>written</u> representations. Persons who have objected or made representations are not entitled to speak; however, the Chairman may, in his/her discretion, ask such persons to clarify a matter of fact. The relevant Officer may also be asked to clarify a matter of fact.	
9.	The Sub-Committee will usually deliberate the issues in public (unless exempt information is under consideration or the Chairman in his/her discretion considers that Members should retire to take advice). The Sub-Committee makes its decision in the form of a resolution voted upon by the Members to determine the objection(s) in one of the following ways:-  (a) the order is confirmed in its original form. (b) the order is not confirmed (c) the order is confirmed subject to modification(s).	
	<b>NOTE</b> Exceptionally, oral representations may be heard where the Chairman is satisfied in the given circumstances that written objections or representations could not reasonably have been expected.	

This page is intentionally left blank