

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.

Risk Description	Likelihood	Seriousness or Impact	Mitigation Measures
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.