

DEVELOPMENT CONTROL COMMITTEE SUPPLEMENTARY AGENDA - APRIL 2024 APPENDIX B

SURVEY DATA SHEET & DECISION GUIDE

Date: 29.03.24	Surveyor: Laurence M. Leone, TechArborA
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Tree details	
TPO Ref (if applicable): 24/00185/NTPOR	Tree/Group No: 1 Species: London Plane (Platanus x hispanica)
Owner (if known): Southend City Council	Location: Footpath close to the junction of Chichester Road with Tylers Avenue, Southend-on-Sea, Essex

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable |

* Relates to existing context and is intended to apply to severe irremediable defects only

Score & Notes	Tree is approximately 125-150 years old, in good condition, and generally free of defects. It is healthy and expected to reach normal longevity and size for the species.
<u>5</u>	

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

Score & Notes	London Planes generally have a lifespan of 200-300 years. Therefore, the tree has a life expectancy of 100+ years. While some pedestrian movement has been difficult for several years, this could be mitigated with an improved highway layout or the owner dedicating a nominal piece of land of the adjacent vacant site to the Council.
<u>5</u>	

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes	Tree is large and clearly visible to the public.
<u>5</u>	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes	Tree is historically important and has been an integral part of Southend's green heritage, landscape and street scene for 125-150 years.
<u>3</u>	

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes	Tree is currently facing an imminent threat of being cut down based on advise from Highways. Also, foreseeable threat from adjacent site development at 7 Tylers Avenue, SS1 2BB.
5	

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total:
23

Decision:
Definitely merits TPO

From: [Redacted]
 Subject: [Redacted]
 Date: [Redacted]
 To: [Redacted]
 Cc: [Redacted]



Hi Laurence,

I have reviewed the Southend Council report regarding the request to apply a preservation order to the Platanus situated within the footpath close to the junction of Chichester Road with Tylers Avenue and have compiled the following appraisal and recommendations.

My Assessment of the tree

I must stress that this assessment has been based using a desk top study utilising pictures within the aforementioned Southend On Sea City Council report and street view images but to verify my opinion I am happy to take your guidance or attend and complete a full visual tree inspection. From the evidence that I have seen the tree in question had no signs of dysfunction, the tree has been subject to little to no pruning, The branches to the Eastern aspect where slightly elongated resulting in a minor asymmetric crown, I would imagine that this is an effect of phototropism but in its current state my recommendation would be to monitor the issue. The tree is located to in the centre of the foot path (footpath is approximately 3.3m) and based on my approximate measure of footpath width I would estimate that the tree is approximately 1m DBH resulting in approximately 1m either side of the tree stem off usable foot path for pedestrian use the surface is porous as a result in the surface material change from modular paving to self-binding cedec surface.

The junction which the tree is situated is a busy carriage way consisting of two-lane traffic measuring approximately 7m with an approximate 2m of space utilised by advanced warning chevrons for the pedestrian crossing island.

The Southend On Sea City Council Report

A preservation order can be requested by any person when a tree is deemed under threat of removal, due to the evidence presented within the report I would confirm that the tree is subject to potential removal and as such meets would meet this test. As a result of such a request an assessment should be undertaken to establish if the tree "expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area" (section 198 Town and Country Planning Act). To ensure consistency in the application of assessments to measure trees attributes in

order to merit statutory protection it is common practice for Local Authorities (LA) to utilise the Tree Evaluation Method for preservation Orders (TEMPO). The appraisal method adopted for the evaluation of the said tree was undertaken using the TEMPO within section 7.4 the report states "The TEMPO assessment undertaken here identifies that the subject tree scores zero "dead, dying, dangerous" under the amenity section of the TEMPO guidance. It also scores a zero "unsuitable" for retention and suitability for a TPO. Subsequent parts of the TEMPO checklist thereafter become not applicable. The Parks TEMPO assessment had regard to the hazard this tree's context causes for users of the public footway due to increase in size of the trunk which is now restricting the footway width for pedestrians as outlined by the Highways service."

Sections 7.7 and 7.8 of report then quotes the Equality Act 2010 in relation to the LA's statutory duties in relation to ensuring that the footpath is easily accessible for all people especially those with disabilities. There is a clear issue in relation to this which is evidenced in my assessment above.

Conclusion.

The Council undertook the appraisal of the said tree to apply a preservation order as documented in the report however I feel that the Council has acted un-reasonably in the appraisal of the tree. When undertaking the part 1 within the amenity assessment of the TEMPO question a) asks the question of the trees condition and suitability for a TPO the tree is classified using one of the five terms (as described within the TEMPO guidance note for users:

- GOOD - Trees that are generally free of defects, showing good health and likely to reach normal longevity and size for species, or they may already have done so
- FAIR - Trees which have defects that are likely to adversely affect their prospects; their health is satisfactory, though intervention is likely to be required. It is not expected that such trees will reach their full age and size potential or, if they have already done so, their condition is likely to decline shortly, or may already have done so. However, they can be retained for the time being without disproportionate expenditure of resources or foreseeable risk of collapse.
- POOR - Trees in obvious decline, or with significant structural defects requiring major intervention to allow their retention, though with the outcome of this uncertain. Health and/or structural integrity are significantly impaired, and are likely to deteriorate. Life expectancy is curtailed and retention is difficult
- DEAD DYING / DANGEROUS - Tree with no indication of life. Trees showing very little signs of life or remaining vitality, or with severe, irremediable structural defects, including advanced decay and insecure roothold. Death or catastrophic structural failure likely in the immediate future, retention therefore impossible as something worthy of protection

The report classified the tree as being "dead, dying, dangerous" in section 7.4 the justification for said classification in section 7.4 "The Parks TEMPO assessment had regard to the hazard this tree's context causes for users of the public footway due to increase in size of the trunk which is now restricting the footway width for pedestrians as outlined by the Highways service" this refers to the potential hazard of reduction of usable foot path resulting in risks to those traversing the said foot path. This classification and justification is a misinterpretation of the terms as stated above in terms above taken from the TEMPO guidance document which should be assessing the vitality of the tree and in the case of the dead dying / dangerous section as a severe defect that is irremediable or a structural defect that poses an imminent threat that could result in death or damage to property. The Council classifying the tree in this way

means that from the period of the initial assessment in 2021 resulting in "Local ward members, previous portfolio holders for Highways & Environment, Senior Management in highways and parks were consulted 2021 and agreed the removal of the tree." they have potentially neglected duty of care in leaving a potential hazard for this period. From my experience of undertaking visual tree inspections should any characteristic as

described in the TEMPO guidance note "Tree with no indication of life. Trees showing very little signs of life or remaining vitality, or with severe, irremediable structural defects, including advanced decay and insecure roothold. Death or catastrophic structural failure likely in the immediate future, retention therefore impossible as something worthy of protection" this would require immediate action.

The mention of the Equality Act 2010 in sections 7.7 and 7.8 is very much warranted, this is because of the impact that the stem of the said tree has on the users negotiating the footpath. In instances such as this there is a number of options that should be observed through design and mechanical solutions before resulting in the decision to fell a tree, I feel that these are documented within the report apart from one. Removal of the tree is in relation to the Councils obligation to maintain a clear accessible path for all to achieve this the optimal foot path width is 2m in the current state this is not achievable with the tree in situ. However I feel that with considerate designing of the property to be constructed on the vacant site adjacent to the tree there could be an opportunity to create the required space to allow the tree to remain in situ.

Recommendations

My first recommendation would be to address the issue around the Councils decision to not apply a preservation order to the said tree, this in my opinion requires investigating and another appraisal undertaken, I would be happy to do an independent appraisal utilising my experience and knowledge of visual tree assessment and undertaking preservation order appraisals along with reviewing planning applications in relation to trees. Should the trees vitality be assessed as advised within the guidance note then there would be a different outcome in relation to scoring which could be evaluated in conjunction with the Council appraisal.

Secondly, there is obvious restrictions to a design solution when looking at a build out option into the highway due to the level of traffic and size of traffic relating to delivery vehicles and busses. Following review of the documents associated with planning application 23/00264/OUTM the layout of the proposed construction would allow space to be allocated for the safe passage of pedestrians, from looking at the potential constraints within the site it may also make sense for the Southend City Council to negotiate with the said developer to relinquish the footpath space on a temporary basis during the construction which will remove the risks of pedestrians negotiating the footpath around the ongoing construction site thus reducing the potential risk for the developer and the public. The pictures below show the recess which could incorporate the space required for the safe navigation.



PIC1. Taken from the planning application freely available on the planning portal Shows the area to NW of the site to be proposed for public realm use.



PIC2. Taken from the planning application freely available on the planning portal shows again the area to accommodate public realm



PIC3. Taken from the planning application freely available on the planning portal shows again the area to accommodate public realm.

I would strongly advise the Council and developer to explore the aforementioned suggestion of utilising space created through development to be utilised to give required clearance of the tree ensuring minimum foot path width is maintained as when looking at the construction plans there is minimal biodiversity gains that I could see and as a result of the Environment Act all development sites are required to provide net gain of at least 10% with the tree removal I would campaign that the removal of said tree should contribute to the impact of the development thus be included in any mitigation measures as a result.

Thirdly if not already done so I would recommend that both CAVAT and Helliwell assessments are undertaken on the tree as soon as possible. This will then give a monetary value to the tree along with a value to the habitat that the tree provides and should the case go to appeal this would add weight to the argument. Should the appeal for the tree to remain not succeed then there would be a value attributed to the loss of the tree that can then be pursued to undertake planting within the City to mitigate the loss of said tree.

Finally looking at the planning portal I can see that this case has been decided so the above recommendations should be pursued with urgency to ensure that the tree is to remain. The best way to escalate this is through Councillors and MP's stating the above advice and guidance along with the precedent that the LA has towards excessive felling of trees in recent years.

As mentioned happy to help and discuss further if required or undertake a full VTA, CAVAT, and Helliwell assessment of said tree.

Kind Regards

Paul Smith Cert.Arb MCIHort TechArborA
Senior Environmental Advisor
Environmental Sustainability
National Highways