

Tree Preservation Order 37 - Revocation

Ward:	Stoneleigh Ward;
Contact Officer:	Steven Lewis/Ruth Ormella

1 Plans and Representations

- 1.1 The matter is referred to the Planning Committee in the absence of Delegated Authority and for consideration to the Planning Committee.

2 Summary

- 2.1 TPO. 37 (Tree Preservation Order 37) was created in 1970 and relates to properties 50, 18, 21, 22, 24 Woodstone Avenue, 18A Richlands Avenue, 56, 52, 48, 44 Rosedale Road. This TPO was updated in 1995 with a further TPO (TPO no.303) being placed within the area, protecting those trees that remained.
- 2.2 The records of TPO. 37 are incomplete, with history information missing on a number of trees. The file is also absent of the necessary confirmation letters and accompanying minutes being inaccurate as it records the order as unopposed, where the file indicates that there was a valid objection.
- 2.3 An application was received to amend TPO. 37 in May 2018, seeking to remove a record of an Elm Tree within the curtilage of 18a Richlands Avenue.
- 2.4 Upon a recent inspection of the properties and trees contained within TPO. 37 it is apparent that many of the trees no longer exist and those that do remain are covered by the newer TPO 303 which has a complete record.
- 2.5 It is recommended that the original order TPO 37 be revoked.

3 Site description

- 3.1 The Tree Preservation Order no.37 covers the specific and scheduled trees within the following properties
- 50, 18, 21, 22, 24 Woodstone Avenue
 - 18A Richlands Avenue
 - 56, 52, 48, 44 Rosedale Road
- 3.2 The trees were located within residential gardens of properties.

4 Proposal

- 4.1 The Council is in receipt of an application relating to Tree Preservation Order no. 37 which relates to the Rosedale Road and Woodstone Avenue area in Stoneleigh. The application has been made by the owner of 18A Richlands Avenue, whose property is identified in the property schedule of the Tree Preservation Order. The application seeks to remove the legacy record of an Elm Tree covered by TPO no. 37.

5 Comments from third parties

- 5.1 Not applicable

6 Consultations

- 6.1 Not applicable for this stage of this matter.

7 Relevant history

- 7.1 The history record reveals that TPO 37 was made in 1970

Date	Activity
26/01/1970	Planning Committee agreed to making TPO 37 - Rosedale Road and Woodstone Area
27/02/1970	TPO made covering 1 Elm T2 and 2 Poplars G2 at 18a Richlands Avenue
03/03/1970	Objection to order made by occupant of 44 Rosedale Road (T10 blown down)
01/06/1970	Planning Committee confirmed TPO 37 as an unopposed order
1995	TPO review undertaken of the area
02/04/1996	New TPO No.303 made that protected trees in the area but not in the garden of 18A Richlands Avenue
12/09/1996	TPO 303 confirmed with Modifications

8 Legislative Framework

- 8.1 The Town and Country Planning (Tree Preservation) (England) Regulations 2012 provides for the making, amending and revoking of Tree Preservation Orders.
- 8.2 Relevant to this report is section 11 that states:
Revocation of tree preservation orders

11. Where an authority revoke an order they shall—
- (a) endorse the original order with a statement to the effect that the order has been revoked, specifying the date of the revocation;
 - (b) notify the persons interested in the land affected by the order that the order has been revoked; and
 - (c) withdraw from public inspection the copy of the original order made available in accordance with regulation

9 Considerations

- 9.1 An application to amend the Tree Preservation Order was received by the Council in May 2018 (ref 18/00263/TPO). It was submitted by the owner of the property 18a Richlands Road.
- 9.2 The application was made invalid upon receipt as it was unclear how the Local Planning Authority should proceed with amending an order where there was no evidence of the loss of trees. The application remains invalid, however the assessment that is required to address the proposed revocation has been undertaken, enabling this report.

History

- 9.3 18a Richlands Road was granted planning permission in 1967 and built in 1968, prior to the placing of any Tree Preservation Order on the site and adjacent properties. The trees located at 18a Richlands Avenue included two individual Elm trees and one group containing two poplar trees.
- 9.4 A Tree Preservation Order was placed upon the site and other properties in 1970.
- 9.5 The Poplar Trees with the land of 18a Richlands Avenue were granted permission to be felled in 1974, subject to the replanting of two Maples. There is no record of the Elm tree subject of the requested having being consented for felling or being removed from the site.
- 9.6 The Borough conducted a TPO review in 1995 and subsequently placed an order (Number 303) which covered trees in the area but not within the garden of 18a Richlands Avenue and many of the other properties included in the 1970 TPO.

Tree Preservation Order no. 37 record

- 9.7 The record pertaining to TPO 37 is incomplete. The current Tree Preservation Order record includes TPO Document under Seal and evidence of minutes from the Planning Committee.

- 9.8 The file is absent of the necessary confirmation letters to the subject properties outlined in section 3 of this report. The minutes are also inaccurate as it records the order is unopposed, whereas the file also indicates that there was a timely objection from 44 Rosedale Road, as tree T10 had blown down.
- 9.9 There is no explanation of the absence of confirmation letters and through time spent it is difficult to explain how records were kept and maintained. Notwithstanding this, the Council has maintained the Land Charges Register on the basis of TPO 37 being lawfully made.
- 9.10 In 1995 the TPO was reviewed, leading to the making of TPO 303 in 1996 for which there are full records and details of all subsequent decisions.

Current position of the trees covered by TPO 37

- 9.11 Council's Arboriculturalist attended the affected properties on 7th November 2019 and collated his findings into the following table. In summary those findings are that where there is a tree that is protected, the new TPO 303 accurately details that and provides the protection

Tree No on map.	Species	Situation	Relevant Planning History	Current status	Proposed Action
T1	Silver Birch	50 Woodstone Avenue	Consent granted for felling in 1986 but covered by order 303 made April 1996	There appears to be a semi-mature Birch growing in this position as a replacement tree so the reference in the new TPO 303 is correct.	The record for the previous tree T1 TPO37 be deleted
T2	English Elm	18a Richlands Avenue	None	Elm missing no replacement but established Cypress hedge growing in its place.	The record for the previous tree T2 TPO37 be deleted
T3	English Oak	18 Woodstone Avenue	Tree also protected by order 303 (T3) but permission granted for felling in 2015 subject to replanting.	Oak tree has been removed and a replacement Field Maple has been planted	The record for the previous tree T3 TPO37 be deleted. A file note should be made for TPO 303 that the tree T3 has been replaced by a Field Maple.
T4	English Oak	21 Woodstone Avenue	Tree also protected by order 303 (T4)	Oak tree still present	The record T4 TPO37 be deleted
T5	English Oak	22 Woodstone Avenue	Tree also protected by order 303 (T5)	Oak tree still present	The record T5 TPO37 be deleted
T6	English Oak	24 Woodstone Avenue	Tree also protected by order 303 (T6)	Oak tree still present	The record T6 TPO37 be deleted

T7	English Elm	56 Rosedale Road	Letter on file advising T7 was replaced by a Silver Birch in 2001	Elm missing and no apparent sign of the replacement Birch	The record for the previous tree T7 TPO37 be deleted
T8	English Elm	52 Rosedale Road	None	Elm missing – possible small leaf Eucalyptus planted as replacement further up garden	The record for the previous tree T8 TPO37 be deleted
T9	English Elm	48 Rosedale Road	None	Elm missing no sign of a replacement tree	The record for the previous tree T9 TPO37 be deleted
T10	English Elm	44 Rosedale Road	Letter pre- TPO confirmation in March 1970 that the Elm T10 had blown down prior to the making of the order	Elm missing – there was no replanting requirement	The record for the previous tree T10 TPO37 be deleted

- 9.12 Any trees identified in TPO 37 that required protection are secured by TPO 303 as part of the 1995 / 1996 review. All other trees identified in the original order TPO 37 have been surveyed and confirmed as no longer existing. As such it is identified that there are a number of properties that continue to be identified as being affected by TPO 37 for which there is no longer any reason.

Revocation and Process

- 9.13 Within The Town and Country Planning (Tree Preservation) (England) Regulations 2012 there is provision to make, amend and revoke Tree Preservation Orders.

- 9.14 Section 11 of the Order deals with revocation, setting out the requirements as being:

- Endorsement of the original order and specification of a date of revocation
- Notification of the persons interested in the land affected
- Withdrawal of the original order from public inspection

- 9.15 Upon formal revocation, the Land Charges Register for affected properties is updated.

10 Conclusion

- 10.1 It is concluded that TPO 37 has been acting on as though it was lawfully made and confirmed. Council's files have all of the evidence that the TPO.37 was made under seal and reported to the Planning Committee.

10.2 In 1995 the TPO area was reviewed and a new TPO 303 was made and confirmed and continues to provide the protection for those trees which remain in the area.

10.3 Summary of Site Inspection findings in relation to TPO 37 are:

T1 – Deleted

T2 – Deleted

T3 – Is protected by TPO 303

T4 – Deleted

T5 – Deleted

T6 – Deleted

T7 - Deleted

T8 – Deleted

T9 – Deleted

T10 – Deleted

11 Recommendation

11.1 That the Local Planning Authority is authorised to undertake the process of notification and communication with all affected properties as set out in the legislation of the Council's intention to revoke TPO 37.

11.2 In the absence of any objection to the proposed revocation, that Revocation Order be made.

11.3 In the event an objection is received to the proposed revocation, a report considering the objection shall return to Planning Committee for final decision.