

Report to Planning applications committee

Item

29 October 2015

Report of Head of planning services

Subject Tree Preservation Order [TPO], 2015. City of Norwich
Number 481; 99 Christchurch Road, Norwich,
NR2 3NG

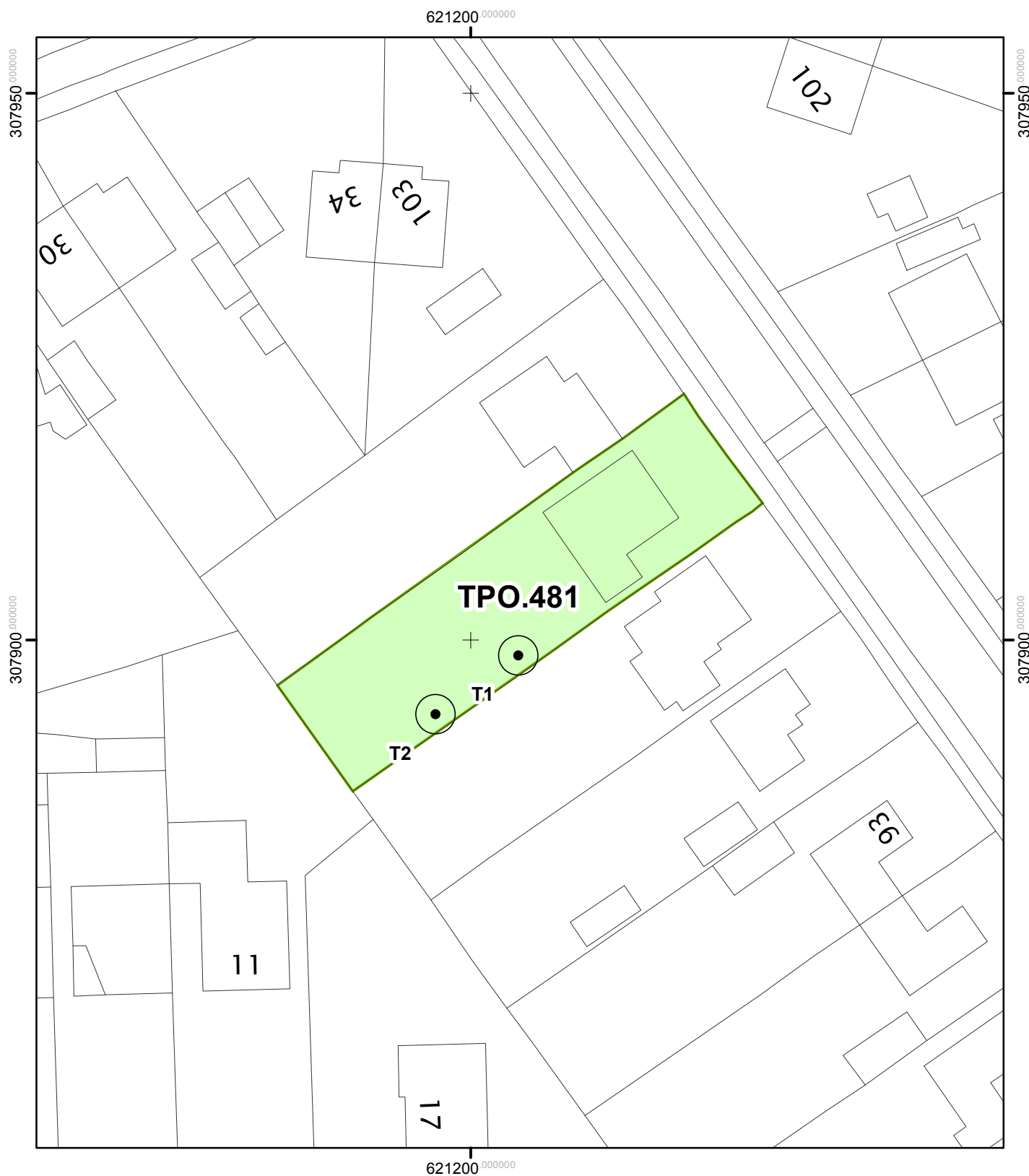
4(A)

Reason for referral Objections to confirmation of tree preservation order
481

Ward:	University
Case officer	Stephen Hayden – tree consultant for Norwich City Council t: 01603 212546

Proposal		
To confirm Tree Preservation Order 2015, City of Norwich Number 481, 99 Christchurch Road, Norwich NR2 3NG without modifications		
Representations		
Object	Comment	Support
3		

Main issues:	Key considerations:
1 Amenity	Impact on local residents Level of amenity for future occupiers
2 Climate change	Trees increase resilience to climate change
3 Air quality	Trees improve air quality
3 Biodiversity & wildlife	Trees aid biodiversity and wildlife
Expiry date	21 November 2015
Recommendation	Confirm TPO 481 without modifications



PLANNING SERVICES

Norwich City Council, City Hall,
Norwich, NR2 1NH
Telephone 0344 980 3333

Date : 21 May 2015

Scale : 1:500

Drawn by : SRB



Background

1. On 3 September 2015, the planning applications committee resolved to defer consideration of Tree Preservation (TPO), 2015, City of Norwich, NR2 3NG to enable members of the committee to conduct a site visit before making a decision on the order.
2. Subsequent to the meeting, arrangements were made with the owners of the site and the tree consultant to hold the site visit at 9:00 on 29 October 2015. The site visit is an informal arrangement for members of the committee who require an opportunity to visit the site to gain further information on the proposal.
3. The chair also considered that there should be a full presentation of the report and advice on the options available to the committee. The tree consultant's recommendation is that the order is confirmed without modifications. However the committee has the option to consider confirming the order with modifications, ie, excluding a tree from the confirmed order.
4. The minutes of the planning applications committee meeting held on 3 September 2015 are available on the council's website:

<https://cmis.norwich.gov.uk/live/Meetingscalendar/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/167/Committee/3/SelectedTab/Documents/Default.aspx>

The site, surroundings and content

5. The mature Scots Pine and Walnut tree are situated in the rear garden of No. 99 Christchurch Road, Norwich NR2 3NG. Both trees are visible from Christchurch Road, Meadow Rise Road and Jessop Road.
6. The location of the trees is shown on the attached plan
7. The trees came under threat when the property was put up for sale; prospective purchasers contacted the council to ask if the trees could be felled.
8. The council's tree consultant visited the site and undertook an assessment of the trees. The tree evaluation method for preservation orders (TEMPO) assessment was used. The assessment has the following classifications:

TEMPO score:	TEMPO Decision guide
0 - 11	Does not merit a TPO
12 - 15	TPO defensible
16 - 25	Merits a TPO

The assessment resulted in a score of 15 for T1 the Walnut and 15 for T2 the Scots Pine which indicated that a Tree Preservation Order was defensible.

9. Tree Preservation Order 2015, City of Norwich Number 481: 99 Christchurch Road, Norwich NR2 3NG was served on 21 May 2015.

10. The Order is provisionally in effect for 6 months from the date on which it was served. During this period the council considers whether the Order should be confirmed that is to say, whether it should take effect formally. Before this decision is made, the people affected by the Order have a right to make objections or other representations about any of the trees covered by the Order.

Representations

11. Notice of the Order was served on the owner of the property and on three neighbouring properties. In response 3 letters of representation have been received objecting to the Order; one from the new owner of the property and two from the adjoining neighbours on Christchurch Road, Norwich. Full details of these letters are available on request. The issues raised and the tree consultant's response are summarised below:

Representation	Response
The trees are barely visible from Christchurch Road, Meadow Rise Road or Jessop Road	The trees are visible from Christchurch Road, Meadow Rise Road and Jessop Road. The Department for Communities and Local Government ("DCLG") guidance – Tree Preservation Orders: A guide to the Law and Good Practice states in paragraph 3.2 "..... the trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath, although, exceptionally, the inclusion of other trees may be justified.....". Given this it was considered expedient, in this case to serve the TPO.
The trees are not of 'significant amenity benefit to the local area'	The trees are mature specimens in good condition, within the rear garden of No 99 Christchurch Road and can be seen from the rear of surrounding properties and from Christchurch Road, Meadow Rise Road and Jessop Road. It is therefore the Council's position that the trees do provide 'amenity' within the locality.
T1 – the Walnut has a large lower branch that hangs over the fence and is of some concern to the owner of No 97	It is agreed that the walnut tree is close to the rear of the dwelling and does need to be managed to reduce any future conflict between the tree and the dwelling and owners. The tree preservation order is not intended to prevent this or any other reasonable management of the tree; it is there to prevent any unnecessary and potentially damaging works. To this end officers will work with the owners to ensure

Representation	Response
	the most appropriate management of the tree(s).
Both trees shed debris - walnuts, cones and needles - which have to be raked off prior to mowing the grass	The shedding of leaves and needles is not considered an acceptable reason for the removal of mature trees. It is part of living with trees within urban environments and considered to be a reasonable burden upon landowners given the overriding benefit trees afford to the public and city in general.
Both trees shade the garden of No 101 - but the dense high shade of the Pine is particular problematic, cutting out sunlight	Again this is part of living with trees in urban environs. However officers will work with the owners of the trees to allow suitable management of the trees to help reduce issues such as shading where possible.
Both trees are 'vastly over-grown'	The trees are mature specimens in good condition.
The debris shed from both trees - walnuts, cones and needles - and the proliferation of young walnut trees, prevent the establishment of a vegetable plot	The shedding of leaves and needles is not considered an acceptable reason for the removal of mature trees. It is part of living with trees within urban environments and considered to be a reasonable burden upon landowners given the overriding benefit trees afford to the public and city in general. The wish to create a vegetable plot is not considered a sufficient reason for removing mature trees.
The canopies of both trees keep rain from the ground and their roots take all the goodness from the soil	This is considered an integral and reasonable part of living with trees within gardens. The overriding benefits that trees provide to the environment are sufficient to ensure their retention where appropriate, irrespective of these sometimes unfortunate implications.
The trees are a hindrance to creating an attractive garden	This is a subjective matter. Trees generate a huge amount of vary varied opinions. However the Council has a statutory duty to protect trees and in this case the trees are of sufficient stature and importance within the local environment that they are worthy of the Tree Preservation Order.

Main issues

Issue 1

12. The loss of these two large, mature trees which are both in good condition and visible from Christchurch Road, Meadow Rise Road and Jessop Road would impact on the amenity of the area for local residents and for future occupiers.

Issue 2

13. The loss of these trees would also contribute to the impacts of climate change. Through photosynthesis trees naturally absorb CO₂ a key greenhouse gas and act as a carbon sink by sequestering it. Also, by a combination of reflecting sunlight, providing shade and evaporating water through transpiration trees moderate the local microclimate and temperature.

Issue 3

14. The trees have a positive effect on air quality by cutting levels of airborne particulates and removing air pollutants.

Issue 4

15. The trees enhance biodiversity by providing habitats for a variety of species and thereby contribute to providing a healthy food chain that is of benefit to birds and mammals.

Conclusion

16. Objections to the Order have been taken note of and whilst officers appreciate the concerns raised it is their opinion that the trees in question make a positive environmental contribution and have sufficient amenity value to validate their continued protection by the confirming of the Tree Preservation Order. However officers do appreciate the potential nuisance the trees may cause and are willing to work with the owner of the trees to secure appropriate tree works to reduce any such nuisance through good management.

Recommendation

17. To confirm Tree Preservation Order 2015, City of Norwich Number 481: 99 Christchurch Road, Norwich, NR2 3NG without modifications.

THE CITY COUNCIL OF NORWICH

FORM OF TREE PRESERVATION ORDER

TOWN AND COUNTRY PLANNING ACT 1990

THE CITY OF NORWICH TREE PRESERVATION ORDER NUMBER 481, 2015

The City Council of Norwich, in exercise of the powers conferred on them by Section 198 of the Town and Country Planning Act 1990 hereby make the following Order –

Citation

1. This Order may be cited as Tree Preservation Order, 2015
City of Norwich Number 481, 99 Christchurch Road, Norwich NR2 3NG

Interpretation

2. 1. In this Order “the authority” means the City Council of Norwich
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.

DATED this 21th May
two thousand and fifteen.

THE CORPORATE SEAL of THE)
CITY COUNCIL of NORWICH)
Was hereunto affixed in the)
Presence of)

.....

Authorised by the Council

SCHEDULE

Article 3

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on Maps	Description	Situation
T1	Walnut	At the rear south-east boundary of No 99 Christchurch Road, Norwich NR2 3NG
T2	Scots Pine	At the rear south east boundary of No 99 Christchurch Road, Norwich NR2 3NG

Groups of Trees
(within a broken black line on the map)

Reference on Map	Description	Situation
None		

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

Reference on Map	Description	Situation
None		

Woodlands
(within a continuous black line on the map)

Reference on Map	Description	Situation
None		

IMPORTANT – THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

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

TREE PRESERVATION ORDER 2015

THE CITY COUNCIL OF NORWICH NUMBER 481

ADDRESS: 99 Christchurch Road, Norwich, NR2 3NG

THIS IS A FORMAL NOTICE to let you know that on **21st May 2015**, the Council made the above Tree Preservation Order.

A copy of the Order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the Schedule and shown on the map without the Council's consent.

Some explanatory guidance on tree preservation orders is given in the enclosed leaflet, **Protected Trees: A Guide to Tree Preservation Orders**, produced by the Department of Communities & Local Government.

The Council has made the Order *in response to enquiries about the removal of the trees while the property is on the market for sale.*

[The Order took effect, on a provisional basis, on **21st May 2015**. It will continue in force on this basis for a further 6 months until the Order is confirmed by the Council, or if the Council decide not to confirm the order, the date on which the Council decide not to confirm the order, whichever occurs first.]

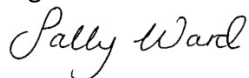
The Council will consider whether the Order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the Order have a right to make objections or other representations about any of the trees, groups of trees or woodlands covered by the Order.

If you would like to make any objections or other comments, we must receive them in writing by **18th June, 2015**. Your comments must comply with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, a copy of which is provided overleaf. Send your comments to the **Tree Protection Officer, Norwich City Council, City Hall, St Peter's Street, Norwich NR2 1NH**. All valid objections or representations are carefully considered before a decision on whether to confirm the Order is made.

The Council will write to you again when that decision has been made. In the meantime, if you would like any further information or have any questions about this letter, please contact **Sally Ward, Landscape Architect, Norwich City Council, St Peter's Street, Norwich, NR2 1NH (Tel: 01603 212766)**.

DATED this **21st May 2015**.

Signed



Sally Ward

Landscape Architect

On behalf of Norwich City Council, City Hall, Norwich, NR2 1NH

COPY OF REGULATION 6 OF The Town and Country Planning (Tree Preservation)(England) Regulations 2012

Objections and representations

6.—(1) Subject to paragraph (2), objections and representations—

(a) shall be made in writing and—

(i) delivered to the authority not later than the date specified by them under regulation 5(2)(c); or

(ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which such objections and representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 30/4/15	Surveyor: Stephen Harrison	99 Christchurch Rd Newell
Tree details TPO Ref (if applicable): Owner (if known):		
Tree/Group No: T1		Species: Wattle
Location:		

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | 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

Healthy Semipalmate Tree High canopy pattern

5

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

4.

4

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 |

Highly suitable
Suitable
Suitable
Barely suitable
Probably unsuitable

Score & Notes

3. Large garden

3

d) Other factors

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

- | | |
|--|--|
| 5) Principal components of arboricultural features, or veteran trees | Score & Notes

 |
| 4) Tree groups, or 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

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- | | |
|-------------------------------|--|
| 5) Immediate threat to tree | Score & Notes
2. Home for sale on engineer's watch |
| 3) Foreseeable threat to tree | |
| 2) Perceived threat to tree | |
| 1) Precautionary only | |

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:

15

Decision:

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 30/4/15	Surveyor: SH	99 Christchurch Rd Nareau
Tree details		
TPO Ref (if applicable):	Tree/Group No: T2	Species: Scot Pine
Owner (if known):	Location:	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenities assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | 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

Mature tree.

5

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

4.

4

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

3 Interior garden

3

d) Other factors

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

- | | |
|--|--------------------------|
| 5) Principal components of arboricultural features, or veteran trees | Score & Notes |
| 4) Tree groups, or 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) | |

Score & Notes

1

1

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- | |
|-------------------------------|
| 5) Immediate threat to tree |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only |

Score & Notes

Down for sale - requires
the tree made

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:

15

Decision: