DEVELOPMENT CONTROL AND REGULATORY BOARD

20TH SEPTEMBER 2012

REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT

LEICESTERSHIRE COUNTY COUNCIL

REVIEW AND TRANSFER OF COUNTY TREE PRESERVATION ORDERS TO OADBY AND WIGSTON BOROUGH COUNCIL

Purpose of Report

1. To transfer responsibility for the areas covered by the ten County Council (individual and Group) tree preservation orders in the Oadby and Wigston to the Borough Council. This would be achieved by surveying and assessing the existing County Council TPOs to confirm their suitability for continued protection, then revoking these County TPOs in order for them to be replaced immediately with new individual and group TPOs as appropriate by Oadby and Wigston Borough Council.

2. To grant delegated powers to the County Solicitor to revoke County Council Tree Preservation Orders, with a view to a review of all the County Council TPOs being undertaken on a district-by-district basis.

Background

3. TPOs are important tools for maintaining the appearance and landscape character of both the urban and rural environment. Leicestershire County Council was active in making Orders following their introduction in the 1947 Planning Act and 274 Orders were made and confirmed up to 1974. After that date the power to make Orders (in virtually all circumstances) was removed from the County Planning Authorities and transferred to the District Planning Authorities. In the case of Leicestershire it was agreed with the district councils in 1974 that the County Council would continue to administer the Orders made prior to 1974.

4. The youngest County TPO is now over 35 years old and some are over 60 years old. It was found that out of a total of 274 Orders a 170 of the Orders were designated as Area Orders. These Area Orders will only protect trees that were growing on the site when the Order was made and the sites have in most cases been subject to residential development where the site has been subdivided into smaller plots and consequently the map attached to the original Order now bears little comparison with the current layout of the site. In addition there have been many changes in legislation and procedures since the majority of County Orders were made which include:
a) Designation of Conservation Areas where works to any tree with a stem diameter of 75mm at 1.5m height has to be notified (Section 211 Notice) to the district Local Planning Authority (LPA) which has the power to make a TPO should the tree be judged to contribute to the special character of the Conservation Area;

b) Applications for works to district TPOs can be made electronically through the planning portal. This facility has not been made available by the DCLG Planning Portal for County Council TPO applications

5. The Department of Communities and Local Government (DCLG) recommend in the guidance note Tree Preservation Orders a Guide to the Law and Good Practice that Local Planning Authorities (LPAs) keep their TPOs under review and, in particular where trees have been protected by an Area Order that does not identify trees by species, to amend the Orders to protect trees as Individuals or Groups that identify each protected tree by species in the interests of ensuring that owners of protected trees know which trees growing on their property are protected.

6. In the interests of improving service delivery to the public, a briefing note concerning the proposed review and transfer of County Tree Preservation Orders to District Councils was circulated to all 7 District Planning Chief Officers in February 2011. This is attached as Appendix 1 to this report.

7. The responses to the above consultation were collated and set out in a briefing note for the Cabinet Lead Member Environment and Transport in October 2011. This stated that the district councils were in support of the principle that all TPOs should be administered at district planning authority level. The districts expressed concerns that many of the existing County Council Orders consisted of Area Orders that would be difficult to administer as outlined in paragraphs 4 and 5. It was suggested that the County should re-survey its Orders to enable the districts to make new Individual and Group Orders that would be easier to administer.

8. In May 2012, following consultation with Oadby and Wigston Borough Council, it was agreed that a pilot review of the 10 County TPOs in Oadby and Wigston would be carried out.

9. Recent legislation set out in the DCLG document Main Changes to the TPO system in England from April 2012 include a consolidation of legislation that updates the legal framework of all existing TPOs. In addition the procedures for making new TPOs have been streamlined to enable Orders to be made more quickly.

10. A list of County Council TPOs for Oadby and Wigston Borough Council is included in Appendix 2 to this report.
**Proposals**

11. It is proposed that the review of County Council TPOs is undertaken on a district by district basis, starting with the ten in Oadby and Wigston Borough.

12. The procedures for the review are as follows:

   a) The County Council Tree Officer would undertake a survey of the 10 County Council Orders and identify all trees on the sites and assess both their contribution to the amenity of the area and the risk that those trees could be removed or subject to damage. Where trees are located within a Conservation Area they are considered to be subject to protection and the level of risk of loss of those trees would be considered low;

   b) The County Council would then report the tree survey and assessment to Oadby and Wigston Borough Council Planning department with recommendations as to which trees should be protected in the interests of amenity with new Individual and Group TPOs;

   c) Oadby and Wigston Borough Council Planning department to serve new district TPOs where appropriate.

13. Following the serving of the new District TPOs the County Council Solicitor would then revoke the County Council TPOs.

14. The methods for undertaking the TPO review are set out in Appendix 3 to this report.

15. It is intended to monitor the progress of the Oadby and Wigston TPO review and consider extending the review of TPOs to the remaining 6 district council areas subject to the agreement of the district LPAs and approval from the Board.

**Equal Opportunities Implications**

16. There are no discernible equal opportunities implications.

**Resource Implications**

17. The costs of the tree survey work and revoking of the County Council Orders would be covered by existing budgets for the Environment and Transport and Chief Executive's Departments. It should be emphasised that this proposal is being pursued for the reasons of improved service delivery to the public, who can find the current division of responsibilities between County and Districts confusing. There will be efficiencies ultimately but they will be in the long term.

**Conclusion**

18. The proposed review of the County Council's TPOs will enable it to comply with DCLG TPO guidelines and to improve service delivery to the public. The assessment of the Orders and the subsequent making of new individual and
Group Orders will ensure that trees that have amenity value and are potentially under threat are suitably protected.

19. The progress of the Oadby and Wigston Borough Council TPOs review will be monitored and a further report submitted to the Board on its completion.

Recommendations

20. It is RECOMMENDED that consent is GRANTED to:

a) survey and assess the 10 County Council Area Tree Preservation Orders in the Borough of Oadby and Wigston as to their suitability for protecting with new Individual and Group Orders to be made by Oadby and Wigston Borough Council Planning Authority;

b) grant delegated powers to the County Solicitor to revoke the County Council Tree Preservation Orders.

Reason for Recommendations

21. The review of the County Council TPOs will improve service to the public and ensure that trees that have amenity value and are potentially under threat are effectively protected.

Background Papers

Department of Communities and Local Government (DCLG) Tree Preservation Orders A Guide to the Law and Good Practice 2000 and Main Changes to the TPO system in England from April 2012

Circulation Under the Local Issues Alert Procedure

Mr. G. A. Boulter CC
Mr. M.H. Charlesworth CC
Mr. D. A. Gamble CC
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Officer to Contact

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## APPENDIX 1
COMMENTS RECEIVED FROM DISTRICT COUNCIL PLANNING DEPARTMENTS

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>OFFICER</th>
<th>COMMENTS</th>
<th>SUGGESTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blaby District Council</td>
<td>Andrew Senior, Development and Conservation Manager</td>
<td>Agrees that transfer of TPOs would have the benefit of administrative clarity. Concerned that there would be increased costs to the District to administer the Orders and to prepare new replacement Orders.</td>
<td>Suggests that the County Council undertakes the survey and administrative work of preparing new Orders. If unable to then would not support transfer.</td>
</tr>
<tr>
<td>Charnwood Borough Council</td>
<td>Martin Ticknell, Head of Conservation and Landscape</td>
<td>Agrees that transfer of County Orders to the District would be sensible and benefit the public. The administration of the Orders would not have a significant impact on resources. Concerned that the District could not fund the cost of the review and subsequent cost of making new Orders.</td>
<td>Request for further information on the level and period of transitional support that the County could provide.</td>
</tr>
<tr>
<td>Harborough District Council</td>
<td>Adrian Eastwood, Planning Officer on behalf of Brett Culpin, Head of Built Environment Services</td>
<td>Agrees that it would be simpler that all TPO decisions are taken by the same authority.</td>
<td>Suggests that the County Council:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• reviews existing Orders making recommendations to vary or amend them;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• commits to funding the district undertaking the variation and amendment of Orders and making new Orders where necessary;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• commits to providing professional advice without charge on any applications arising from the transferred TPOs.</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Hinckley and Bosworth Borough Council</th>
<th>Telephone comments received from Planning Officer. Written comments to follow.</th>
<th>No objection in principle. Concern about costs</th>
<th>No budget provision. Would request LCC review and amend Orders at LCC cost.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melton Borough Council</td>
<td>Richard Spooner, Conservation Officer</td>
<td>No objection in principle to the transfer of County Orders to the District Council. Concerns raised about the additional cost of professional advice from LCC Forestry team to assess the condition of protected trees that are subject to applications for works.</td>
<td>No budget provision has been made for an increase in the number of Orders. Consequently would require funding from the County to cover the administrative costs of making new Orders.</td>
</tr>
<tr>
<td>North West Leicestershire District Council</td>
<td>Sue Haslett, Head of Planning and Engagement</td>
<td>Willing to accept a transfer of resurveyed County Orders.</td>
<td>The County to cover the cost of resurveying LCC Orders and making new District Orders.</td>
</tr>
<tr>
<td>Oadby and Wigston Borough Council</td>
<td>Chris Forrett, Planning Officer on behalf of Rob Harbour, Head of Built Environment</td>
<td>In principle no objection to transfer of County Orders to the borough subject to resurvey of the Orders.</td>
<td>Suggested that the County resurvey the Orders and the borough would remake the Orders on trees that were worthy of protection.</td>
</tr>
</tbody>
</table>
## APPENDIX 2 LIST OF LCC TREE PRESERVATION ORDERS

<table>
<thead>
<tr>
<th>NAME</th>
<th>DATE</th>
<th>ORDER TYPE</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oadby (Knighton Grange Road)</td>
<td>1974</td>
<td>Area</td>
<td>Located in Oadby Hill Court and Meadowcroft Conservation Area</td>
</tr>
<tr>
<td>Oadby (Glebe Road)</td>
<td>1972</td>
<td>Area</td>
<td>Located in Oadby Hill Court and Meadowcroft Conservation Area</td>
</tr>
<tr>
<td>Oadby (Briar Walk)</td>
<td>1972</td>
<td>Area</td>
<td></td>
</tr>
<tr>
<td>Oadby (Leicestershire Golf Course)</td>
<td>1966</td>
<td>Area, Group and Woodland</td>
<td>Part of Order is administered by Leicester City Council</td>
</tr>
<tr>
<td>Oadby (Ringers Spinney)</td>
<td>1975</td>
<td>Area</td>
<td></td>
</tr>
<tr>
<td>Oadby (New Street)</td>
<td>1972</td>
<td>Area</td>
<td>A proportion of the trees located on Leicestershire Highways land</td>
</tr>
<tr>
<td>Oadby (Knighton Rise)</td>
<td>1973</td>
<td>Area</td>
<td>Located in Oadby Hill Court and Meadowcroft Conservation Area Part in</td>
</tr>
<tr>
<td>Oadby (The Hermitage)</td>
<td>1963</td>
<td>Area</td>
<td>A1 in Oadby Conservation Area</td>
</tr>
<tr>
<td>Oadby (The Oval)</td>
<td>1973</td>
<td>Area</td>
<td></td>
</tr>
<tr>
<td>Wigston (Saffron Road)</td>
<td>1974</td>
<td>Area</td>
<td></td>
</tr>
</tbody>
</table>

On the following maps the LCC TPOs are marked in green with a black dotted boundary line. Oadby and Wigston B. C. Conservation Areas are marked in light brown with a dotted red boundary line.
APPENDIX 3

METHOD OF REVIEW OF LCC TREE PRESERVATION ORDERS

1. It is proposed to review the Orders in accordance with the guidance set out in the booklet *Tree Preservation Orders a Guide to the Law and Good practice* - Chapter 4, Varying and Revoking Tree Preservation Orders, Practical Matters paragraph 4.18.

2. The method for reviewing the Orders is to be carried out using the Tree Evaluation Method for Preservation Orders (TEMPO) that has been devised by Julian Forbes-Laird MICFor., Dip. Arb (RFS) Senior Consultant, CBA Trees. This method is a three-part system:
   - Part 1 Amenity Assessment;
   - Part 2 Expediency Assessment;
   - Part 3 the Decision Guide.

3. The survey work to be carried out by LCC arboricultural staff starting in October 2012 and the draft results to be submitted to the Planning Department Oadby and Wigston Borough Council for their consideration.

4. Following discussion of the survey and assessment of trees Oadby and Wigston Borough Council to make new Orders in accordance with the recent changes set out the Town and Country Planning (Tree Preservation) (England) Regulations 2012 Statutory Instrument 2012 No. 605, with an additional clause that delegates the revoking of the LCC Orders to the Borough Council.