

Reference	TPO/17/00028
Report Title	Confirmation of Tree Preservation Order No. 28 2017
Location	Rear Garden of 65 Upper Queens Road, Ashford. TN24 8HL
Parish Council	
Ward	Ashford Stour

Introduction

1. The Joint Development Control Manager and the Head of Development Management and Strategic Sites have delegated authority to deal with all matters relating to Tree Preservation Orders. However, in order to comply with Human Rights Legislation, it is considered inappropriate for the same officer to make and then confirm Orders under delegated powers where an objection has been received. For this reason the following Tree Preservation Order, which is subject to an objection, is being reported to this Committee with a view to seeking authority for confirmation.

The Order

2. The Order was made on 5th December 2017 to protect two Beech trees within the rear garden of 65 Upper Queens Road on the boundary with 63 Upper Queens Road. A location map may be found in annex 1 a.
3. The Beech trees are two large specimens of approximately 50 years age that possess significant landscape presence in the designated Ashford - Queens Road Conservation Area (CA).
4. The trees' protection is expedient in view of the receipt of a Section 211 Notice under the Town and Country Planning Act 1990 (Tree Preservation) (England) Regulations 2012.
5. The notice was registered as application number 17/00254/TC and sought to pollard the trees at 2.5 metres height. This management was considered to be contrary to BS3998:2010 Tree work – Recommendations - as the trees had not been previously managed as pollards. Furthermore, it is well held that Beech do not cope with heavy pruning and are very likely to die as a result of this particular type of treatment.
6. Under the legislation surrounding a Section 211 Notice, the Council has two options:

- a) To raise no objection to the works;
 - b) To serve a Tree Preservation Order.
7. In this case, following the industry standard TEMPO (Forbes Laird –Tree Evaluation Method for Preservation Orders) Assessment, which acts as a decision guide aid for the serving of a TPO, a score of 19 was derived - any score exceeding 16 fits into the classification 'Definitely Merits TPO'. A copy of the assessment may be found in Annex 1d.
 8. The important considerations as defined by Planning Guidance (Tree Preservation Orders and trees in conservation areas) when making and serving a TPO are;
 - Expediency;
 - Visibility;
 - Amenity;
 - Individual, collective and wider impact.
 9. The purpose of the TPO is to control the management of the trees to ensure that the works undertaken meet with BS3998:2012, whilst respecting the rights and property of the adjacent owners.

Representations

10. Following the serving of the TPO, a letter of objection dated 9th December 2017 was received from the resident of the adjacent property No.63 found to the west of the application site. Following a reply written by the Tree Officer, a further response dated 22nd December 2017, was received from the same neighbour. The main points set out within both correspondence are as follows:
 - The trees are dangerously inappropriate for their location as Beech is a shallow-rooted species at increased risk of being uprooted in a severe storm;
 - The proximity of the trees to the dwellings poses an immediate and future concern to the drainage and the fabric of the dwellings;
 - The trees are not particularly visible;
 - The trees give rise to hazardous mess caused by roosting pigeons;

- The trees do not give reference to the trees in Lime Grove or Upper Queens Road;
 - It is not reasonable to expect private householders to be a component of the Ashford urban forest without taking account of their personal perspective and circumstances.
11. In addition, the owner of 65 Upper Queens Road, emailed to advise that the trees were incorrectly plotted on the Order. This point was also echoed by the single objector that T2 within the order is within the rear garden of 63 Upper Queens Road. The description may be amended to read 'Rear garden of 63 Upper Queens Road', in the event that it is concluded that that particular tree is located within that garden. The Order can be modified accordingly. Whilst there is a slight discrepancy within the map, for the purposes of the Order, which according to the legislation does not have to be plotted with..."pin point accuracy"... the trees intended to be the subject of the Order cannot be mistaken for any others. Revision of the map is not necessary as the discrepancy is small and would not give rise to ambiguity, in my view.

Assessment

12. The visibility of the trees when assessed by the Council's Tree Officer was correctly evaluated using the TEMPO system as 'Large trees with limited view only'. From Upper Queens Road only the very tops of the trees are visible, save for a glimpse through the shared passageway between nos. 63 and 65. From Lime Grove and the access road to Haven Thorpe and the Chimes, more visibility is enjoyed even as winter silhouettes. On this basis the score given concluded "suitable" for a TPO. Visibility is one component of three in the wider TEMPO amenity assessment, the additional categories are Condition and Suitability and Retention Span. The trees score very highly in terms of Condition and Suitability receiving the maximum score of 5, this is derived from the trees' good physiological condition and their good structural condition. The Retention Span category is scored as 4 as it can reasonably be expected that the trees will live for another 40 – 100 years. When the three amenity categories are considered as a composite the trees are seen to amply satisfy the Amenity evaluation
13. The expediency test is met with the proposed tree works application 17/00254/TC under Section 211. If the works had been undertaken to pollard the tree to 2.5m height it is almost certain that the trees would have died. On this basis the score given concluded "very suitable" for a TPO.
14. In terms of the collective and wider impact, the trees should be seen in the context of the wider Ashford - Queens Road Conservation Area with the adjacent Lime Grove development, which is characterised, by a tree-rich and

leafy public and private realm. The area both on its own and when knitted to the contiguous Belmore Park development to the west and Canterbury Road Cemetery to the east, forms a significant tract of the Ashford urban forest. Annex 1c, photos 1 and 5, show the vantage points of views whilst photo 6 illustrates the considerable urban forest asset in the Upper Queens Road, Magazine Road and Canterbury Road Area.

15. The neighbour feels that the private owners should not be a component of the urban forest unless due consideration is given to their rights to maintain their property as advised by a qualified arboricultural professional. It has been established, that these trees may be reasonably maintained with due reference to the species and context, but this must be qualified by BS3998:2010. The urban forest is a concept that highlights the importance of trees within urban areas in the frame of the benefits that they bring (called ecosystem services) such as carbon capture, pollution reduction, shading, flood mitigation, temperature moderation and biodiversity. The private realm is an essential constituent in the overall total. Ashford has areas of significant tree cover within the town and the northern area of the town is a vital component of this, thus the removal of mature trees must be given due consideration, and in this case the trees may be seen to be worthy of retention. Visual amenity is a by-product of a high quality urban forest.
16. In response to the other matters raised by the representations, I have the following comments:
17. Beech is known to be shallow rooted but this does not mean that it should not be retained proximate to dwellings. Indeed, there are many larger beech trees adjacent to dwellings or public-use buildings that have stood for many years both before and after the 1987 storm event. It would not be appropriate to remove or risk manage all trees that could fall in a 1987 scale storm event. The loss to the landscape would be unacceptably high.
18. The proximity of the trees to the windows, guttering and roof of the adjacent dwellings that the neighbour the neighbour highlights as a material concern may be remedied by making a Tree Works Application. Such applications are considered in the context of the customer's requirements and due reference to BS3998:2010 Tree Work – Recommendations.
19. Whilst reference to the "*hazardous mess caused by roosting pigeons*" is appreciated as a nuisance in terms of the neighbour and his family's use of their garden, in the wider context of such an approach, it could be advised that if trees were removed for this reason there would be a significant impact on the landscape quality of the town.

20. In terms of the character of Upper Queens Road, it is inevitable that some trees will require removal over time owing to disease, decay, failure of stems, pavement heave and many other reasons – tree stocks are dynamic living assets. Where possible, replacement of the highway trees has been instructed by KCC, and the age range of the trees adjacent to the road has been increased. These will mature over time and reinforce the leafy aspect.
21. Understandably, the neighbour is concerned regarding his responsibilities as an owner of trees. This may be addressed by having the trees periodically inspected, and any necessary works tabled through a tree works application.
22. In conclusion, following the TEMPO assessment taking into account condition, retention span and relative public visibility it may be seen that the trees are a significant amenity asset; furthermore, they are a component within the wider Ashford Urban Forest. The works as proposed under application 17/00254/TC would almost certainly result in their demise and for those reasons the order was served. The reasonable management of the trees is not precluded by the order and a tree work application to undertake pruning may be submitted at any time.

Recommendation

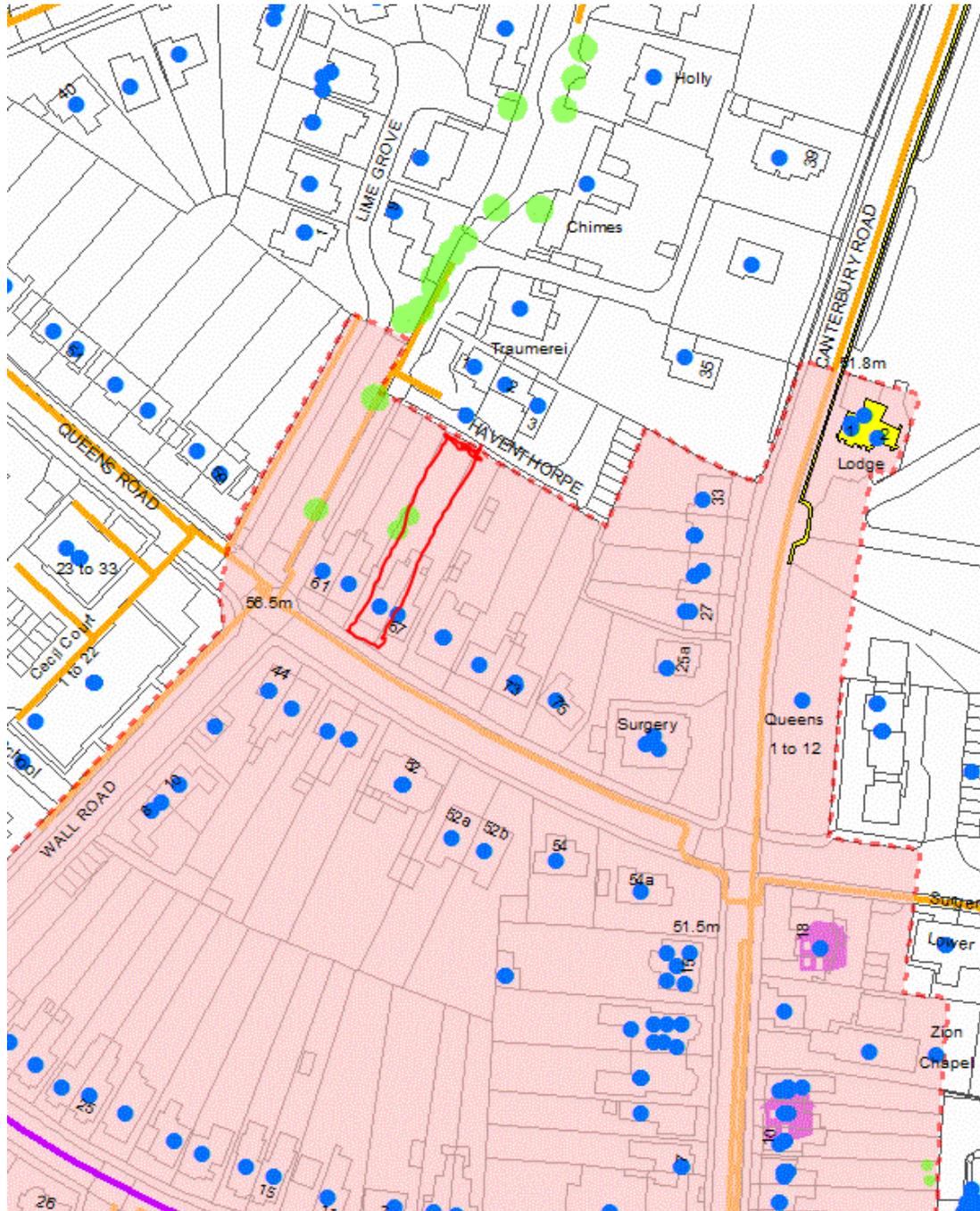
To confirm the order notwithstanding the objection with a modification of the situation of T2 to read as 'Rear garden of 63 Upper Queens Road

Contact Name: Phillip Cook

Telephone: (01233) 330206

Email: phil.cook@ashford.gov.uk

Annex 1a
Location Map with Conservation Area and TPO Trees



Annex 1b
TPO no.28, 2017 as made 5th December 2017

TOWN AND COUNTRY PLANNING ACT 1990

**ASHFORD BOROUGH COUNCIL
TREE PRESERVATION ORDER NO. 28, 2017
65 Upper Queens Road Ashford TN24 8HL**

Ashford Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order:-

Citation

1. This Order may be cited as Ashford Borough Council Tree Preservation Order No 28, 2017 - 65 Upper Queens Road Ashford TN24 8HL

Interpretation

2. (1) In this Order "the authority" means Ashford Borough Council.
(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 regulation 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 05 December 2017

THE COMMON SEAL OF ASHFORD BOROUGH COUNCIL

was affixed to this Order in the presence of -

Mayor



Solicitor



SCHEDULE

SPECIFICATION OF TREES

Trees specified individually
 (encircled in black on the map)

Reference on map	Description	Situation
T1	Beech	Rear garden of 65 Upper Queens Road
T2	Beech	Rear garden of 65 Upper Queens Road

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

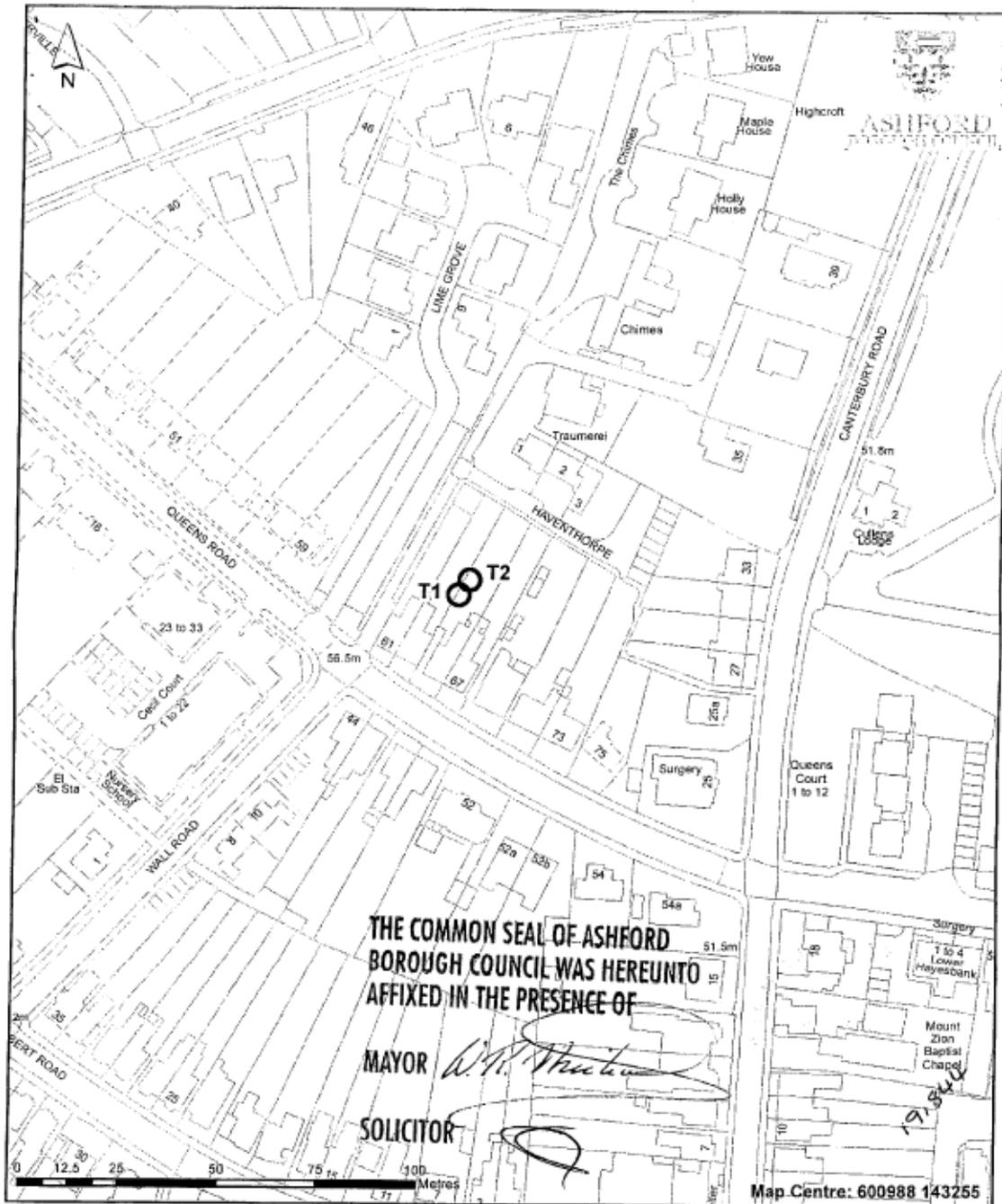
Reference on map	Description	Situation
		None

Groups of trees
 (within a broken black 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



ASHFORD BOROUGH COUNCIL
TREE PRESERVATION ORDER NO 28, 2017
65 Upper Queens Road, Ashford, TN24 8HL

December 2017 Scale: 1:1250

Planning and Development
Civic Centre
Tannery Lane
Ashford
Kent
TN23 1PL

Annex 1 c

Photo I – TPO Beech trees taken from Haven Thorpe Access Road, a map showing the viewpoint is below Photo 1.

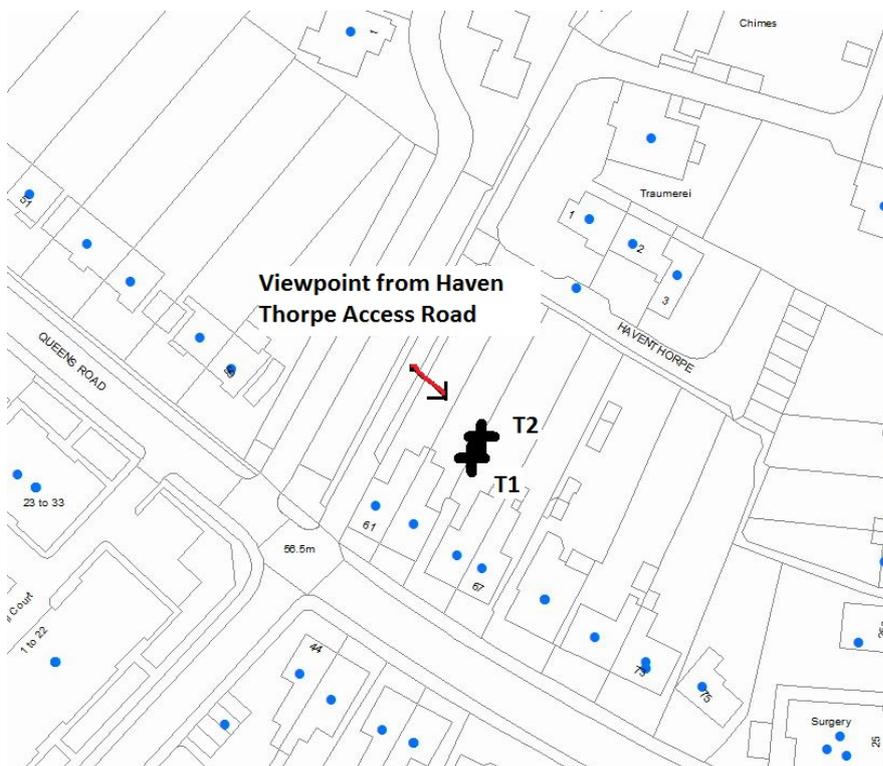


Photo 2 – TPO Beech trees taken from passageway between 63/65 Upper Queens Road



Photo 3 – View from Garden of 65 Upper Queens Road



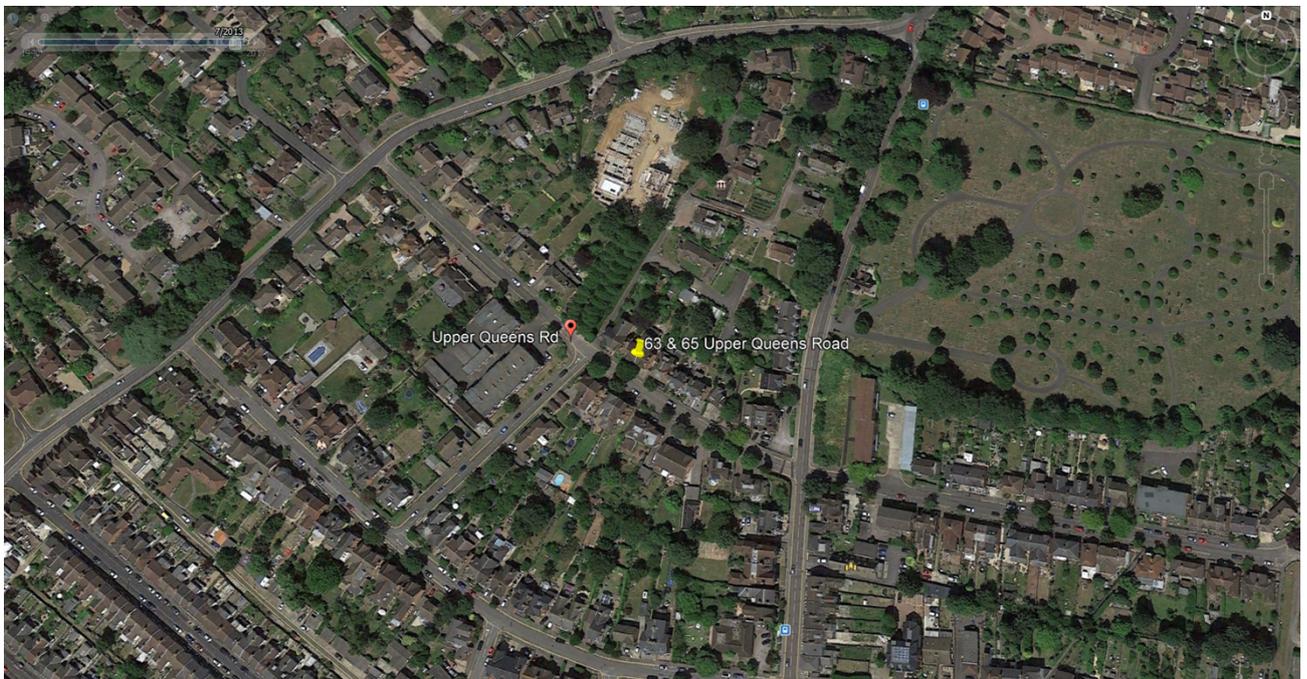
Photo 4 – Street Scene, Upper Queens Road Looking East



Photo 5 – View of the trees from Wall Road Looking East Across Lime Grove Access Road



Photo 6 – Google Earth July 2013 Showing Extent of the Urban Forest in the Upper Queens Road, Albert Road, Lime Grove, Magazine Road and Canterbury Road Cemetery Area.



Annex 1 d
 Copy of TEMPO (Forbes Laird –Tree Evaluation Method for Preservation Orders)
 Assessment Sheet

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date:	1/12/2015	Surveyor:	Paul Cook
Tree details		Tree/Group No:	Species: Beech
TPO Ref (if applicable):		Location:	65 Upper Qus Rd - Rear garden
Owner (if known):			

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	Score & Notes	5
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			

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

5) 100+	Highly suitable	Score & Notes	4
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			

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	Score & Notes	3
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		

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	Score & Notes	2
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		

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

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

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total:	19	Decision:	YES.
1-6	TPO indefensible				
7-11	Does not merit TPO				
12-15	TPO defensible				
16+	Definitely merits TPO				