

23 JUN 2015

367 Eastfield Road
Peterborough
PE1 4RD

Natural & Historic
Environment Team
Growth and Regeneration Directorate
Peterborough City Council
Town Hall
Bridge Street
Peterborough PE1 1HF

22 June 2015

DELIVERED BY HAND

Your Ref: 15/00001/TPO

Dear Sirs

Tree Preservation Order 15/00001/TPO**Site Location: 367 Eastfield Road Peterborough PE1 4RD**

I refer to my earlier objections raised by email of 12 May 2015 and your response by letter dated 22 May 2015 (received 23 May 2015). I subsequently emailed some initial observations to you on 27 May 2015 to which you responded by email dated 2 June 2015.

You advised that, in view of the delay in delivering the formal notification of the imposing of the Tree Preservation Order, the objection period was extended until today's date. I therefore now write to put forward my formal further objections, in the light of the previous correspondence.

For the avoidance of doubt, and for the sake of completeness, I will reiterate my former comments in this letter, except where your response has dealt satisfactorily with these.

Turning first to the TPO Assessment Criteria, you sent me the completed assessment which I have read in detail, without having the benefit of expert advice in the limited amount of time available. I note your comment that a primary consideration is whether or not the tree is visible to the public and acknowledge that this is the case. However, given that the tree is not only highly visible to the public, but also situated at the very edge of the public highway, I am very surprised that you do not give an equal consideration to health and safety for the public. This means that I might be placed in the position of bearing liability for any accident, injury or damage that may occur to third parties (including passers-by, as well as invitees onto my own property).

I have set out in table form below the assessment criteria points where I do not agree with your assessment and therefore challenge that the tree reaches the required threshold.

No.	Criterion	PCC	Proposed	Reason
1.2	Presence of other 'local' trees	2	1	There are more than 10 other trees in the immediate vicinity i.e. within 250 metres.
1.3	Visual impact close by	3	2	In criterion 3.15 'future visual impact' you have graded this 2. Therefore criterion 1.3 should match this

3.2	Visual health close to	3	1	The incidents where branches have fallen off and your own previous assessment that the tree had been incorrectly lopped thus damaging its health suggests that 1 is the correct assessment.
3.3	Main stem structure	3	1	As stated in previous comment (3.2) the structure is not currently in a good state
3.5	Forks	2	1	For the reasons stated above, the forks are weak.
3.6	Main branch structure	2	1	As stated in previous comment (3.2) the structure is not currently in a good state
3.7	Extension growth	3	1	The branches that have fallen off are extension growth which suggests that this is poor.
3.8	Foliage condition	3	1	The appearance of the foliage is certainly no more than average and the previous year the foliage was very poor indeed.
3.11	Maturity	3	1	This is a well-matured tree and therefore the assessment at 3 is too high.
3.12	Past management	2	1	Your own previous assessment was that the previous management had been inappropriate (see criterion 3.2)
3.13	Life Expectancy	2	1	The current condition of the tree (as exemplified by your previous comments on the poor tree surgery) makes it unlikely that it will survive for more than 10 years.
3.14	Future maintenance	2	1	Given your comments on previous management, the level of future maintenance is likely to be high

This brings the total to a figure well below the threshold of 50 points.

The previous correspondence with the Council (since 2012) was with the then Landscape Officer John Wilcockson, following an incident when a branch overhanging the pavement fell to the ground in a heavy storm, narrowly missing a pedestrian. This resulted in my having the tree professionally pruned, but the outcome of the assessment by the City Council was that this had not been correctly carried out. I am not of course a professional in this field and relied entirely upon the advice I was given. I draw to your attention that, had I been so minded, I could have had the tree felled at that stage instead of attempting to preserve it, as no Tree Preservation Order was in force..

ownership?

For the above reasons, and especially in view of the fact that my intention to retain the tree has not changed, I object to the Tree Preservation Order becoming permanent. Were it to do so, then this would severely hamper my ability to maintain the tree in a safe form and arguably increase my potential liability towards third parties as set out above - the question then arises of whose liability it would be if anything were to happen!

Please acknowledge safe receipt of this communication.

Yours faithfully

Salim R Ebrahim

My objections to the imposition of the Tree Preservation Order (including those previously made) are as follows:

1. The sudden imposition of the Order is not in accordance with the stance previously taken by the Council, which was that it was not necessary to make such an Order unless it was my intention to fell the tree. This was not and is not my intention and there has been no further discussion with me or action on my part which might lead the Council to suppose that my intention has changed.
2. There have been three or four instances in the last few years where the National Grid have been obliged to dig up the pavement outside my front boundary in an effort to locate faults in the supply which it is thought may possibly have arisen as result of the presence of so large a tree and its roots. The pipework is not plastic (a point you made in your email dated 2 June 2015) and I attach a photograph (Document A) taken when the work was in progress which illustrates this. It appears to me that the continued existence of the tree may be, wholly or partly, the cause of the problems.
3. The branches have been the source of a hazard to passing buses, especially during storms. I attach recent photographic evidence (Document B) taken last weekend, of the leaves and branches brought down by passing vehicles. You mention that a reasonable proposal to alleviate this hazard would not be refused. At the very least I would, left to myself, have had the branches lopped at that side so as to avoid collision with vehicles. The continual buffeting of the branches weakens them and makes it more likely that they will fall without warning with potentially disastrous results. I note the exemption referred to on your letter dated 22 May 2015 but that the works permitted without formal consent may not be sufficient.
4. The flags of the pavement outside the front boundary are now increasingly uneven, with several protruding a number of centimetres above the level of the others. This has apparently been caused by the roots of the tree. I attach photographic evidence of this (Document C), including a recent repair carried out by the Highway Authority which remedies one particular instance but in fact serves to highlight the problem generally. I consider that the degree to which the paving flags are already raised constitutes a hazard to passers-by.
5. Points 2,3,and 4 above are potentially sources of legal liability to me as the houseowner, and the imposition of the Order makes it impossible for me to alleviate my liability. You have mentioned that my liability continues irrespective of whether or not a TPO is in existence. However at the moment the stance you have taken does not give me any expectation of being able to minimise my liability in the future.
6. As mentioned, I have taken steps to ensure that the revised plans for the reconstruction of the front boundary wall include measures for retaining the tree. This was my reason for contacting the Council on 15 April 2015. My present plans are to retain the gate pillars and to install along the front boundary (up to the similar pillar at the far end of the boundary) a fence composed of metal rails which will not penetrate far below the surface (no footings required) and therefore cannot cause any damage to the tree.
7. Finally, I consider that your policy regarding the imposition of TPOs is inconsistent since the officer previously responsible appeared to be of the opinion that this was a 'marginal' case, otherwise no doubt a TPO would have been imposed at that stage. It is only since my contact with you in April 2015 that the Order has been made. I also question whether the same criteria are applied to trees on land within Council



B



C



This page is intentionally left blank