

FILE NUMBER: 09/00501/TRE application to work on a tree protected by a Tree Preservation Order

VALID: 12/5/09

APPLICANT: Mr D Wilkinson

AGENT: Mr J Rowlett

REFERRED BY: Cllr Darren Fower

REASON: Cllr considers that due to the significance of the tree it deserves greater attention.

DEPARTURE: NO

CASE OFFICER: John Wilcockson

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1 SUMMARY/OUTLINE OF THE MAIN ISSUES

Main Issues

09/00501/TRE is a Planning application to fell an Oak tree covered by Tree Preservation Order (TPO)1956.02.

The main considerations are:

- **Likely impact of the proposals on the amenity of the area**
- **Are the proposals reasonable and justified having regard to the reasons put forward by the applicant?**

Recommendation

The Head of Planning Services recommends that the application is APPROVED.

2 PLANNING POLICY

Peterborough Trees & Woodland Strategy (policy 39) states that:

“There will be a presumption against the cutting down, topping, lopping or uprooting of any tree protected by a Tree Preservation Order. The Council will not give consent to fell a tree or woodland protected by a TPO unless it is satisfied that this is necessary and justified. Generally, any such consent will be conditional upon appropriate replacement of the tree”.

3 DESCRIPTION OF PROPOSAL

The proposal is to fell the mature oak tree at 425 Fulbridge Rd, that is contained within G1 of TPO 02/1956 – the group consisting of 2 Horse Chestnut & 2 Oak trees. 1 Oak & 1 Horse Chestnut having been historically felled.

The reason for the proposed works are that the applicant wishes to fell the tree following recommendations and findings by PCC Landscape Officer that the tree is showing visible signs that are considered to be potentially dangerous.

4 DESCRIPTION OF SITE AND SURROUNDINGS

The tree is situated in the front garden of the property and abuts Fulbridge Road. This is a main arterial route through Werrington linking the community to the City Centre - Fulbridge Road is commonly used as one of the "rat run" routes for commuters who live in the rural surroundings. The tree is assessed to be a significant landmark within the street scene of considerable amenity value.

5 PLANNING HISTORY

The tree was included in a TPO on 9th April 1957 and confirmed on 26th June 1957.

Application Number	Description	Date	Decision
TR/014/83	Lop oak tree	10/10/83	Approved
90/TR003	Fell 1 Oak tree	12/3/90	Refused
93/TR029/23	Reduce, reshape & raise over road one oak tree	28/01/94	Approved

6 CONSULTATIONS/REPRESENTATIONS

INTERNAL

None

EXTERNAL

Werrington Neighbourhood Council consider that further investigation is required by an expert to consider options and in particular to reduce the risk to the public whilst retaining the tree. Given the age and significance of the tree proper public consultation should be given to this decision.

NEIGHBOURS

None

COUNCILLORS

Cllr Darren Fower has referred the application to Committee in the event of an Officer recommendation of approval, for the reasons set out below: -

- The felling of the tree deserves greater attention.
- The details considered appear to be one sided.
- The information provided to date raises questions that remain unanswered.
- The Councillor has received no complaints from constituents to date.

7 REASONING

a) Introduction

The Natural Environment Section within the Planning Dept received an anonymous complaint from a member of the public regarding the tree towards the end of February this year regarding the safety of this tree.

Subsequently a site visit was undertaken by the City Council's Landscape Officer, John Wilcockson to determine the extent of the complaint.

The tree in question is a mature Oak with around 50% of the crown dead, much of this dead wood is large enough in diameter to pose a real threat to footpath and road users.

There was also evidence of fungal brackets and basal decay.

Due to the condition of the tree, it was requested that the owner had the tree inspected by a competently trained person with a view to ascertain the extent of the problem.

The owner contacted a local tree contractor who arranged a joint site meeting with the representative of the Local Planning Authority. As a result of this meeting, it was agreed that due to the concerns surrounding the failure of the tree further investigation was needed.

To this end, a Resistograph test (drilling with a probe which gives an indication of decay at the drill point) was carried out by the Natural Environment Team.

b) Findings

Two fungal brackets were found on site at the base of the tree, these have been identified as *Inonotus dryadeus* – this pathogen is a white rot that typically infects the central root system, most of which is directly below the main trunk and never more than 2 metres above soil level. This manifests itself by degrading the structural strength of the infected areas within the tree.

Currently there is evidence of fresh *Inonotus Dryadeus* fruiting bodies.

There is evidence of a decay pocket across the western side of the tree at ground level, this pocket measures 1.1 metres across and following a resistograph test (drilling with a probe which gives an indication of decay at the drill point), this decay was found to be on average 18cm deep. This assessment revealed much of this decay being below ground, which cannot be assessed with the decay detection equipment currently available.

Commonly the infected tree is only supported by stilt-like peripheral roots and in the worst case scenario, the tree is subjected to windthrow. It is considered that a tree prone to the risk of windthrow poses a significant threat to users of Fulbridge Road, a very busy primary arterial road through the city.

In all likelihood, some of the tree roots were no doubt severed by both the creation of the property drive and the formation of the footpath post development. Current thinking and guidance on tree roots has been updated as late as 2005 as there is now a greater understanding of root systems and the damage caused by excavation.

The crown of the tree is particularly thin and is at its' worst on this western side of the tree (which mirrors the position of the decay). The tree has almost developed a full lower canopy which perhaps has led visually to the suggestion that the tree would survive with a crown reduction. The tree is however, typically demonstrating that it is failing to support the upper canopy with the energy required to transport nutrients and water to the outermost extremities.

If a crown reduction is performed at the extent of the newly formed lower canopy, the wound sizes created on the branches would in most cases be in excess of 10 inches. Sound Arboricultural practice recommends a *maximum* of 4 inches in diameter, anything above this size results in the tree failing to successfully compartmentalise (close) the wound at which stage further decay pathogens can enter. A crown reduction in this case would not necessarily provide a guarantee of safety.

Aside from this, a drastic crown reduction in excess of 40% would set a precedent that could find this Department in a position of being unable to defend a large number of potentially mature trees being drastically pruned. If this reduction were to be carried out, the tree would lose its visual amenity value and flowing line of the trees' crown.

The primary reason a Tree Preservation Order is served is for the public visual amenity value offered – this would not be the case if we as a Department were to permit drastic reductions of this nature.

c) Other Issues

In terms of the TPO process, if an Local Planning Authority were to refuse the application, the applicant has a Right of Appeal to the Secretary of State and it is considered that any Appeal Officer would permit the felling of this tree. As a Department, the LPA have already written to the owner of the tree indicating concerns and requested that they have the tree inspected.

Equally, the owners of the tree may claim that the tree falls within the Dead/Dying/Dangerous category of the TPO Legislation and that an application is therefore not required to the LPA. In this instance the owner is only required to give the LPA 5 days' notification.

The application itself was made at the suggestion of this Department to publicise and inform the public of this trees' poor condition and the need for decisive action.

On the weekend of 6th/7th June, Highways Dept were called out to tidy up deadwood that had fallen onto the public highway, they then contacted this office and left a message asking if action was being taken in respect of this tree. If not, they would serve notice on the landowner under section 154 of the Highways Act to request action to remove the risk that is currently endangering the passage of vehicles and pedestrians on the adjacent highway.

d) Policy issues

It is considered that under the Tree & Woodland Strategy, the application to fell meets the requirements due to the nature and extent of the faults of the tree.

8 CONCLUSIONS

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighting against relevant policies of the development plan and specifically:

- The tree is a significant risk to road and footpath users due to the inherent defects identified and as such should be felled.
- If retained, PCC will be liable for any claims for a period of 12 months should any damage or injuries occur to 3rd parties.
- Pruning is not a viable option; any extensive crown reduction in an attempt to retain the tree will leave an unattractive specimen. The primary reason for serving a Tree Preservation Order is for the tree to provide public visual amenity value. There are also no guarantees to the trees' safety thereafter.
- Pruning is only delaying the inevitable and incurring unnecessary additional costs to the owner.

Whilst it is appreciated that the oak has historically been a major land mark feature along Fulbridge Road, the tree is visually demonstrating structural faults that are a major concern.

The Head of Planning Services recommends that this application is APPROVED subject to the following conditions:

- C1** The above treework, to which this permission relates, must be completed no later than the expiration of two years beginning with the date of this decision notice.

Reason: The Local Planning Authority would wish to review the decision and the proposal after two years from the date of this consent so that it may take into account the growth pattern and condition of the tree(s) at that time....

- C2** A replacement tree of a size and species to be agreed in writing with the Local Planning Authority shall be planted in the first planting season (December to February inclusive for deciduous trees and October to March for evergreen trees) following removal of the tree the subject of this application.

Reason: To ensure continuity of tree cover in the interest of visual amenity, in accordance with the Policy 39 Peterborough Tree and Woodlands Strategy 1998.

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