

Item No. 7

Planning and EP Committee 29 January 2019

Reference:	18/00004/TPO
Proposal:	Confirmation of Tree Preservation Order 18/00004/TPO
Site:	460 Oundle Road, Peterborough, PE2 7DE
Site visit:	07.12.2018
Case officer:	Mr Bryan Clary
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Recommendation:	CONFIRM Tree Preservation Order 18/00004/TPO

1 **Description of the site and surroundings and Summary of the proposal**

Purpose of Report

A provisional Tree Preservation Order (TPO) 18/00004/TPO 460-474 Oundle Road, Peterborough, PE2 7DE has been served following concerns that one of the five trees was under threat of removal. The provisional TPO (see **Appendix 3**) has been the subject of public consultation and as an objection was received regarding the confirmation of T4 Lime and T5 Beech. The Committee are therefore required to determine the application in accordance with para 2.6.2.2 (f) of the Council's Constitution.

The main considerations are:

- Are the trees subject to the objection worthy of inclusion into a TPO in terms of public visual amenity value?
- Is the proposal reasonable and justified having regard to the objections raised?

The acting Director of Growth and Regeneration recommends that the TPO is CONFIRMED with the modification that T4 Lime is NOT CONFIRMED

Site and Description of the TPO

The provisional TPO consisted of five trees in the front gardens or to the front of the properties of 460 to 474 Oundle Road:

There have been no objections received regarding T1 Lime, T2 Horse Chestnut or T3 Lime. The objection received only relates to T4 Lime and T5 Beech:

- T4 lime is located close to Oundle Road within the curtilage of 262 Oundle Road but close the boundary with 460 Oundle Road.
- T5 Beech is located on the front boundary of Oundle Road within the curtilage of 460 Oundle Road.

Description of T4 Lime and T5 Beech

T4 Lime

Mature. Pollarded at around 7-8m with a full crown resulting from the previously pruned pollard heads.

A recent inspection of T4 Lime out of leaf has identified decay at the point of previous pruning in the upper crown. Substantial tree surgery is required in the future to maintain the structural integrity of the tree i.e. reducing the height of the pollarded tree, thereby, it's public amenity would be irreparably compromise this tree.

It is therefore recommended that this tree be excluded from any confirmed Tree Preservation Order.

T5 Beech

Mature albeit it with further growth potential. There is a low brick wall immediately adjacent to the tree which is bowed close to the main stem. The main stem forks at around 3.-4m with a relatively upright crown. No discernible defects were noted therefore the tree has a long life expectancy (conservatively 80+ years).

2 Planning History

Not applicable.

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise:

- Town and Country Planning Act 1990, Section 198 states
198.— Power to make tree preservation orders
(1) If it appears to a local planning authority that **it is expedient in the interests of amenity** to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.
- The Town and Country Planning (Tree Preservation) (England) Regulations 2012

4 Consultations/Representations

Objection to T4 Lime and T5 Beech

An objection to the TPO dated 14 October from the resident of 460 Oundle Road by letter. The objection refers to only to T4 Lime and T5 Beech. A letter responding to the objection points was sent by the LPA dated 10 December 2018 (please see **Appendix 1** for these letters).

As outlined in Section 2 it is agreed that T4 Lime should be removed from any confirmed Order. Therefore this report limits responses to those elements pertaining to T5 Beech only.

Objection 1: A large proportion of the garden is tree covered and this will increase as the tree grows

PCC Response 1: T5 Beech still has growth potential, however, its size or potential size is not out of place with regard to other large trees along the Oundle Road corridor. The Beech is located to the north of the dwelling therefore issues relating to shading are unlikely to be considerable. Located at the front of the property any loss of light is not considered a dis-benefit to justify the trees removal.

Objection 2: Falling branches

PCC Response 2: Except during severe weather or where the tree is defective it is uncommon for branches to fall from trees without a reason. It is the landowner's duty to ensure that their trees are safe. It is advised that trees are inspected regularly to identify unsafe branches. It should be noted that no permission is required to remove deadwood branches from protected trees which is the most common kind of branch to fall from a tree. Equally consent will not normally be withheld for the removal of branches that are proven to be structurally unsound.

Objection 3: Seasonal nuisances i.e. bird droppings, leaves, honeydew and other tree debris

PCC Response 3: Seasonal nuisances are common to all trees to varying degrees and are considered a reasonable 'nuisance' given the benefits trees provide. As per PCCs Tree and Woodland strategy and industry best practice seasonal nuisances are not sufficient reasons to severely prune or remove trees that are subject to, or have sufficient amenity, quality and longevity to merit a TPO.

Objection 4: The right to maintain the tree(s) as per the owner's wishes

PCC Response 4: The presence of a TPO does not prevent the appropriate management of trees. If the requested tree works are justified/appropriate and to best industry practice and/or to the British Standard then it is unlikely trees works would be refused.

Objection 5: Damage to the boundary wall brickwork

PCC Response 5: This point was not covered in the objection letter response from the PCC which was an oversight. This historic damage to the wall may be attributed to the tree, however not proven. Irrespective of the presence of the tree it likely that the wall will need to be repaired/replaced. The wall is of no historic value and does not provide a significant contribution within the street scene. The boundary wall is assumed to offer no security to the property (as it is a low wall only) and serves the purpose of delineating the boundary of the property. The Local Planning Authority would raise not objection to the loss of the wall (its removal would not need planning permission) or its rebuild with simple modification to tolerate the future growth potential of the tree. Alternatively other materials to brick may wish to be considered that allow greater tolerance of the tree at reduced cost.

5 Assessment of the planning issues

Assessment of T5 Beech

Local Authorities within the best practice guidance 'Tree Preservation Orders – A Guide to the Law and Good Practice' are encouraged to develop systems to appropriately assess trees to ensure that the serving of TPOs is transparent and open to scrutiny. At PCC an assessment criteria has been developed which in its first section assesses the public amenity and the value a tree holds and later assesses the quality of the tree.

An evaluation of T5 Beech was made and the tree is assessed as having high amenity value as it is on the roadside boundary of Oundle Road and therefore is highly prominent. The tree is healthy has a life expectancy and likely contribution exceeding that of the minimum of at least 20 years by at least three or four times. Mr Larty has requested to '*retain the right In the future to significantly cut back the growth or remove T5*'. Detrimental significant pruning or the loss of the tree or would have had a negative impact on the immediate landscape therefore the expediency of the TPO is justified.

Objections from 460 Oundle Road

The objections are concise and logical. However, the objections outlined above do not detract from the fact that T5 Beech has high amenity value, is in good condition, has a long projected lifespan and meets the criteria to merit protection of a TPO.

T5 Beech has the potential to be under threat in the future and could be detrimentally pruned or felled if the TPO is not confirmed.

The issues with regards to the nuisances that T5 Beech create are noted but these are no more than other protected trees within the City. With regard to the proximity of the tree to the wall and the damage caused it is noted that the wall arguably requires removal or repairing regardless of the outcome in respect of the provisional TPO. Repairs are possible and roots could be bridged to make a longer lasting structure or a different material such as a wooden fence could be used to provide a property boundary. Finally, the presence of a TPO will not prevent reasonable and appropriate tree management.

Overall, the objections and their implications do not balance the detrimental impact to the landscape with inappropriate pruning or felling.

6 Conclusions

T1 Lime, T2 Horse Chestnut and T3 Lime are not under objection and there is no reason forwarded to why these trees should not be within a confirmed TPO.

T4 Lime should be removed from the confirmed TPO.

T5 Beech is highly prominent, has a long life expectancy and has no obvious structural defects. The tree makes positive contribution to the amenity value of the area.

The objections outlined and primarily those regarding safety, shading and seasonal nuisances these are no more than to be expected by any other tree subject to a TPO. The resident will be able to apply for tree works thereby preventing inappropriate pruning or tree removal.

7 Recommendation

The Director of Growth and Regeneration recommends that Tree Preservation Order 18/00004/TPO is confirmed with the modification that T4 Lime is removed.