

Appendix 3
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PETERBOROUGH



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Please ask for: Stephen Chesney-Beales

Our Ref: TPO: 23/00003/TPO

Mr & Mrs Clark
Sheridan Close
Peterborough
PE1 3LG

Please reply to:
Natural & Historic
Environment Team
Planning Services
Place & Economy
Peterborough City Council
Sand Martin House
Fletton Quays
Peterborough
PE2 8TY

19th April 2023

Dear Mr & Mrs Clark

Re - Objection to Tree Preservation Order 23/00003/TPO 99 & 101 Fulbridge Road, Peterborough

Further to your letter of objection to the making of the above tree preservation order (TPO), the contents of which has been noted, please note the following points in response.

I will respond to your objections with regards to the making of the TPO, but I will not be responding to matters relating to the 'rejected planning application' - 22/01542/OUT, other than to apologise for my oversight in not responding to your e-mail of 2nd December 2022. I did discuss the e-mail and its content with the Planning Case Officer at the time, saying my comments would remain the same given the constraints, but then forgot to respond to you, for which again, I sincerely apologise.

Please note the making of the TPO and the protection of the trees was not the reason for refusal R 3 of the above planning application, but as a consequence of the impacts the Council considered the proposed development may have on the trees *'future health and wellbeing, from pressures to carry out inappropriate and unnecessary pruning or felling, because of the anxiety and apprehension of future occupiers of the proposed dwelling with regard to the close proximity of the very tall Lombardy Poplars'*.

Also, please note from the outset that the making of current TPO's are subject to legislation which came into force on 6th April 2012, as discussed in the leaflet Protected trees - A guide to tree preservation procedures, sent with the copy of the TPO in question. The changes made in 2012 repealed Section 201 from the legislation, therefore, all TPO's take immediate effect and are provisional for six months, in which time they can be confirmed or allowed to lapse after six months.

The making of a TPO cannot be appealed and there is no 'consultation period', but an objection can be made within 28 days to the making of a TPO. The Local Planning Authority (LPA) are duty bound to consider any object before the LPA considers confirming the TPO, allowing it to lapse or revoking the TPO.

All Government advice on TPO's can be found at: <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

In the above guidance it states - *It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.*

With the above in mind, the Council protected the trees subject of the TPO in the interests of visual amenity and for the reasons highlighted within my comments regarding the above planning application.

The amenity value of the trees protected by the TPO were assessed on 13th March 2023, with the information available to the Council at the time, prior to the making of the TPO.

I do not consider that the trees subject of the TPO are fully mature or over mature and I do not consider the trees to be in an unsafe condition. I do not consider the 'topping' of the trees to be necessary or appropriate currently, therefore, I consider such works to be contrary to good, modern arboricultural practices, despite what other LPA's may consider appropriate. However, there may be a need to reduce the trees in height in the future, should their condition decline.

Just because a tree is tall, does not make it unsafe or dangerous. The trees in question have numerous dead branches throughout the crowns, typical of the species and age of the trees, as I have acknowledged in the past, which may present a risk to adjacent landowners/occupiers. This is for the landowners to address, not the Council.

The Council has no obligation to issue a report on the health and safety of the trees prior to making a TPO and has no duty of care for the trees subject of a TPO.

The trees subject of a TPO remain the responsibility of the landowner, as does any obligation under the Occupiers Liability Act 1984 (OLA). The health and safety of the trees in question, remain the responsibility of the landowners, as they always have done. The only difference now is landowners must seek permission from the Council before carrying out any works, apart from special *exemptions. There is no cost in making an application to carry out works to protected trees.

I do not agree that the making of a TPO effects the management or future management of trees, especially when considering the obligations of landowners under the OLA.

I note the details of the survey conducted with regards to the views of you and your neighbours. I can confirm, I believe the TPO is justified, the trees have significant public amenity value and are acceptable and suitable in their rear garden settings, in a residential area, and are considered safe, despite the dead branches within the crowns and being very tall.

*Please note the above guide - Protected trees - A guide to tree preservation procedures for exemptions and further details.

I believe, I have addressed the issues with reference to your objections to the making of the TPO and consider the TPO has been made and served correctly with regard to the current legislation.

If you feel there are any points, I have missed with regards to your objection to the making of the TPO, please do not hesitate to contact me.

With regard to matters relating to the refusal of planning application - 22/01542/OUT, these can be challenged separately by way of an appeal against the Council's decision and the reasons for refusal.

Yours sincerely

Stephen Chesney-Beales
Tree Officer

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