

**MINUTES OF THE PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE
MEETING
HELD AT 1:30PM, ON
WEDNESDAY, 16 AUGUST 2023
BOURGES/VIERSEN, TOWN HALL, PETERBOROUGH**

Committee Members Present: Harper (Chair), Iqbal (Vice Chairman), Jackie Allen, Hiller, Hussain, Jamil, Mahmood, Sandford and Sharp.

Officers Present: Phil Moore, Development Management Team Leader
Darren Sharpe, Natural and Historic Environment Manager
Stephen Chesney-Beales, Tree Protection Officer
Daniel Kalley, Democratic and Constitutional Services Manager
Joanna Turnham, Planning Solicitor

12. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Dennis Jones, Hogg, Andrew Bond and Warren. Councillors Mahmood and Sandford were in attendance as substitutes.

13. DECLARATIONS OF INTEREST

Cllr Mahmood, declared an interest in item 4.1 as he had been in close contact with the applicant and would not take part in the item.

14. MEMBERS' DECLARATION OF INTENTION TO MAKE REPRESENTATIONS AS WARD COUNCILLOR

There were none.

15. PLANNING AND ENFORCEMENT MATTERS

At this point Cllr Mahmood stood down due to an interest declared in 23/00003/TPO - 99-101 Fulbridge Road, New England, Peterborough PE1 3LD.

15.1 23/00003/TPO - 99-101 FULBRIDGE ROAD, NEW ENGLAND, PETERBOROUGH PE1 3LD

The Committee received a report, which sought confirmation of a provisional Tree Preservation Order 23/00003/TPO (TPO) at 99 & 101 Fulbridge Road, Peterborough which was made and served on 16 March 2023 as a consequence of an outline planning application to build a single storey dwelling in the rear garden of 5 Sheridan Road, Peterborough.

The TPO had been the subject of consultation and because objections had been received, the Committee was required to consider the objection, before determining the confirmation of the TPO, in accordance with para 2.6.2.2 (f) of the Council's constitution.

The main considerations were:

1. Were the trees subject of the TPO worthy of inclusion in a TPO in terms of their public visual amenity value?
2. Was the making of the TPO reasonable and justified having regard to the objections raised?

The Head of Planning recommended that the TPO was CONFIRMED with modifications to show the position of the individual trees within the groups G.1 & G.2 to avoid doubt in the future.

The Tree Protection Officer introduced the report and highlights from the update report. It was also confirmed that the item was being presented to the Committee under the Town and Country Planning Act and the TPO expired on 16 September. Members also confirmed that they were satisfied that they had been provided with enough time to read the information to consider the recommendation

The Committee **AGREED** that the speaking time would be extended to 10 minutes for Mr Clark and 5 minutes for Mr Palmer.

David Clark and Ray Palmer addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- It had been a stressful time, and it was felt that views of the objectors had not be considered during the process.
- It concerned Mr Clark that the section of the update report which contained information to a related planning application, had been provided to the Committee at short notice.
- There had been four planning applications, which had not mentioned the trees in question as an issue. However, there had been an application which contained the trees in 2021, which was rejected due to a risk to the trees, however, a topographical survey and had been conducted and submitted.
- The application process had taken five months, which included an arboriculture report and submitted again in October in 2022, which should have been completed by now.
- The Objector had felt that he had followed all the steps required for his application and had submitted a detailed arboriculture report and map to protect the trees, which was subject to the TPO.
- The Government rules had not stated that only amenity should be considered in planning applications and that the objector felt that the TPO was being used to block his application.
- The trees had never been at risk of removal.
- It was felt that the tree preservation order had been placed incorrectly as the Tree Officer believed that the Lombardy Poplar Trees were not mature, however, local history confirmed that they were and could be quite a dangerous tree when aged.
- The arboricultural report stated that the trees would be topped for maintenance purposes, however this approach was subjective.
- There were 109 Lombardy Poplar trees in Peterborough, however, none of them were protected by a TPO.
- There had been a recent case in Welwyn Hatfield where the LA had removed 300 trees and Reading Borough Council that had topped a significant amount due to the risk of the species.
- The objector was aggrieved by the imposition of a TPO because there had been four applications previously agreed in the same area without any concern raised about the trees.

- There was no risk identified at the outline stage of Mr Clark's application, however, there appeared to be one later due to a risk of trees.
- The Objector felt that his independent arboriculture tree report had not been considered in its entirety and that some of the information had been discredited. Furthermore, the trees proposed for the TPO confirmation were marked to remain in the Objector's planning application.
- The previous development applications approved for Sheridan Way were 10 years ago, and trees were 45 years old at that time and of large stature.
- The Objector's concern was that reports would need to be produced to apply for the trees to be topped, at great expenses to him and his neighbours.
- There was an anxiety felt by the Objector and neighbours with the height and length of the trees and the risks involved. It was also felt that if the trees were to fall, they would pose a threat to his current property. In addition, there had been an incident where a large branch had fallen off the tree marked for a TPO, which nearly hit his son.
- It was felt that the TPO was not necessary as no other reasons other than amenity had been identified. The Lombardy Poplar trees were a danger and more suited to farms, fields and outer boundaries of the city.
- The Objector had not owned the trees and his concern was in relation to the imposition on neighbours, however, he would not allow his children to play in the garden on a windy day due to the risk of branches or a tree falling.

Ray Palmer

- The Objector was the longest resident of Sheridan Road.
- The objector had a long-standing career as a magistrate, chairman of the Peterborough Bench, Councillor and Leader of Peterborough City Council and was used to reading many reports.
- It was felt that the TPO report was biased.
- A letter sent to a resident in relation to the TPO was not clear as to what the application was for.
- There had been previous housing development applications to extend number 3 Sheridan Road and it had been unclear why a TPO had not been placed for that application.
- Following a survey undertaken on Sheridan Road, 17 people had not wanted a TPO placed on the Lombardy Poplar trees and it was felt that they should be felled due to their size.
- There was a petition to support that people had not wanted the TPO imposition.
- The Objector questioned whether it was proper that a council should make such a TPO application, and its elected members determine that application; as it was felt that there was a conflict of interest.
- The Objector requested that the Council should support the residents of Sheridan Road and not allow the TPO confirmation.
- The Arboriculturist had disagreed with the views of the Objectors in her report and felt that the trees were a benefit to the local landscape. However, the Objector reiterated that the residents had not wanted the trees and that there was no benefit to the area.
- Since the report, the Objector had spoken to neighbours in Sheridan Road about the trees and there had been no response a petition raised. Furthermore, the Objector confirmed that a letter had not been received by residents of Sheridan Road, in relation to the TPO confirmation.

The Planning & Environmental Protection Committee debated the report and in summary, key points raised and responses to questions included:

- The Officer had written to all residents that were included in the survey and hand delivered the letter, a copy of the invitation and TPO to each property that were affected by the application.
- The amenity benefit was in relation to the trees and that they had to have public visibility and be seen from a publicly accessible place. Furthermore, certain trees with significant amenity value were at risk of development pressures and anxiety; therefore, S198 of the Town & Country Planning Act 1990 would apply in this TPO case.
- A TPO tree work application requires an expert report to indicate if a tree might be dangerous. In this case, there has been no indication to say that the tree was in a dangerous condition, in addition, no notification had been received from the owner of 101 Fulbridge Road.
- The significant amenity impact of the Lombardy Poplar trees had been supported by an arboriculturist's report commissioned by Mr Clark, the objector. The report also stated that the trees could be seen from a long distance away and the act stated that this could include any part of the tree for it to qualify as an amenity visual impact.
- The TPO was implemented seven days before Mr Clark's planning application was determined as the Tree Officer decided that the trees would be potentially under threat by the proposed development options. Furthermore, the Arboricultural report commissioned by Mr Clark stated that the proposed dwelling near the Poplar trees would create shade over the garden and driveway during the day for whichever development option was chosen. Therefore, there would be significant risk from pressure to remove or reduce the size of the Lombardy Poplar trees, which was why the imposition of a TPO was necessary to ensure that correct management would be in place. If Mr Clark's planning appeal was upheld however, the proposed dwelling would be built and the TPO would be more relevant to the management of the surrounding Poplar trees.
- There were 97 protected Poplar trees in Peterborough, and this was not to be confused with the figures quoted by Mr Clark, which had been taken from the Tree and Woodland Strategy, which had only included the Council's own trees. Furthermore, there were 335 Tree Preservation Order in Peterborough, of which, 97 were Poplar tree species, some of which would be Lombardy Poplar.
- Members were advised that it was uncertain why the Lombardy Poplar trees were not protected prior to 2021 because of similar planning applications for Sheridan Road.
- Members commented that there would be some benefit for the Council to know the location of all trees in Peterborough, broken down by species for future reference.
- The location of Poplar trees had been known to the Council; however, the data could not be broken down by species at the present time.
- The concern for the Tree Officer was that any dwelling built near the Poplar trees would create a risk, from pressure to remove or reduce the size of the trees, and therefore amenity value, which was the point of the TPO application. Furthermore, under section 198 the Council had a duty to protect trees where necessary.
- Planning conditions were not robust enough to protect trees effectively in terms of their retention as the trees were not on land owned by the applicant for the dwelling.
- Mr Clark could potentially build a dwelling in Sheridan Road that may present anxiety for residents because of the surrounding trees and therefore, the Council had a duty to control what happens, which was why the TPO was necessary.
- The TPO would not prevent future maintenance of the trees, just prevent them from being removed without authorisation, and therefore some Members felt it was necessary.
- Members raised concerns about a TPO because of a planning application and would not want that to set a precedent going forward for similar applications.

- Although Members appreciated that the Lombardy Poplar trees had biodiversity value, they questioned how much benefit they had for the area, given the size of them.
- Some Members felt that two years ago, the TPO was not necessary. Furthermore, the tree protection treatment should have been to determine under Mr Clark's application.
- Some Members felt that the reason the TPO was not put in place could be because it had not been brought to Officer's attention until Mr Clark's application.
- Members felt that the amenity value of the trees would not just be for the residents of Sheridan Road, but for all members of public who viewed the trees from a distance and on balance, the TPO should be supported.
- The TPO would stop the residents from topping the trees and it was a concern for some Members. Furthermore, the trees posed a threat to residents in Sheridan Road for fear of toppling over, which was a similar situation across other areas of the City, where people would be afraid to use their gardens. It was therefore felt by some Members that they could not support the Officers recommendation.
- Some members felt it was important that previously submitted planning applications, which had been refused, did not question the trees.
- Some Members felt that Officers may have had a different view many years ago in relation to the tree treatment, as they were not as mature at the time of assessment.
- Clarification was provided over the treatment of trees that were subject to a TPO and that any resident who felt a topping exercise was required, could pursue this by way of application to the Local Planning Authority.
- The independent arboricultural report was entirely in favour of Mr Clark's application and a tree treatment plan had been proposed by him, so the imposition of a TPO should not make a difference to his plans. The TPO was for Council Officers to make a judgement on the treatment of trees and for that reason Members were minded to agree with Officer recommendation.
- There were conflicted views in relation to the value of the trees as some wanted to protect them, some wanted to remove them. Furthermore, unless Officers knew there was a risk to trees, they would not take any action as it would be impossible to do so for the whole of Peterborough.
- The issues had been brought to the attention of Officers which was why they had requested to protect the trees on Fulbridge Road with a TPO in this case, which Members supported. Furthermore, once a tree had been protected by a TPO, there would be a process to follow in the treatment to remove or top out.

RESOLVED

The Planning Environment Protection Committee considered the report and representations. A motion was proposed and seconded to **CONFIRM** the TPO. The Committee **RESOLVED** (4 For, 3 Against and 1 Abstention) to **CONFIRM** the Tree Preservation Order 23/00003/TPO.

REASON FOR THE DECISION:

- The trees subject of the TPO, were considered to offer significant, public visual amenity value and had been clearly visible by the public from publicly accessible viewing points which included parts of Fulbridge Road, Sheridan Road and Tennyson Road.
- The trees met PCC's TPO assessment criteria, and were considered under threat from the proposed development, therefore, the making of the TPO was considered appropriate and reasonable in the circumstances.
- In order to safeguard the visual amenity value of the trees and their contribution to the wider landscape, the TPO was confirmed with modifications to show the position of individual trees within the groups G.1 & G.2 to avoid doubt in the future.

At this point Cllr Mahmood returned to the Committee meeting.

15.2 23/00001/TPO 76 - GUNTONS ROAD, NEWBOROUGH, PETERBOROUGH, PE6 7RT

The Committee received a report, which sought a Tree Preservation Order (TPO) 23/00001/TPO 76 Guntons Road, Newborough, Peterborough, was made and served on 8 March 2023 to protect an Oak tree on the request of the owners of the tree and because of the threat of mis-management.

The TPO had been the subject of consultation and because an objection had been received, the Committee was required to consider it, before determining the confirmation of the TPO, in accordance with para 2.6.2.2 (f) of the Council's constitution.

The main considerations were:

1. The Oak tree T.1 subject of the TPO was worthy of a TPO in terms of its public visual amenity value?
2. Was the making of the TPO reasonable and justified having regard to the objections raised?
3. The Head of Planning recommended that the TPO was CONFIRMED without modifications

The Tree Protection Officer introduced the report and highlights from the update report.

The Planning & Environmental Protection Committee debated the report and in summary, key points raised and responses to questions included:

- The unbalance on the tree had been created by the developer by removal of the crown and branches from the boundary which they were entitled to do.
- The age of the Oak tree was 45-50 years, and some neighbouring trees were 100 years old.
- The objection received against the TPO was in relation to tree branches which had overhung, blocked light to a window and would be a danger to old and disabled people and children, however, this had not been the view of the Tree Officer as there had been some distance from the objecting property and any debris could be cleared away easily. Furthermore, the Tree Officer's opinion was that the tree was of no significant health and safety issue.
- To crown the tree and remove branches continuously would cause an unbalance and this would not be appropriate for such a young tree.
- Members were in agreement with the Tree Officer's appraisal and would support the recommendation to place the TPO.

RESOLVED

The Planning Environment Protection Committee considered the report and representations. A motion was proposed and seconded to **CONFIRM** the TPO. The Committee **RESOLVED** (Unanimous) to **CONFIRM** of Tree Preservation Order 23/00001/TPO.

REASON FOR THE DECISION

- The Oak subject of the TPO, was considered to offer public visual amenity value to the site and the surrounding area.

- The tree had been assessed and was considered to be worthy of a TPO and remained under threat from future mis-management, therefore, it was agreed that the TPO was confirmed.

15.3 CONFIRMATION OF TREE PRESERVATION ORDER 23/00004/TPO - LAND AT RHINE AVENUE, PETERBOROUGH, PE2 9SN

The Committee received a report, which sought a Tree Preservation Order (TPO) 23/00004/TPO Land at Rhine Avenue, Peterborough was re-made and served on 16 March 2023 to show the individual trees subject of the TPO within each of the groups G.1 to G.3, to ensure there was no doubt which trees were protected in the gardens of the new houses currently being built on the site.

The original TPO 22/00001/TPO was made on 12 September because of the threat from the proposed development of the site.

The TPO had been the subject of consultation and because objections had been received, the Committee were required to consider it, before determining the confirmation of the TPO, in accordance with para 2.6.2.2 (f) of the Council's constitution.

The main considerations were:

1. The three groups of trees G.1, G.2 & G.3 subject of the TPO are worthy of a TPO in terms of their public visual amenity value?
2. Was the making of the TPO reasonable and justified having regard to the objections raised?

The Head of Planning recommended that the TPO was CONFIRMED with modifications to amend the species of one of the trees within Group G.2 from Norway Maple to Lime

The Tree Protection Officer introduced the report and highlights from the update report.

Stephen Smith, addressed the Committee and responded to questions from Members. In summary the key points highlighted included:

- The objector had heard the issues raised in previous TPO considerations in relation to amenity, mismanagement, anxiety and apprehension, however, nothing had been mentioned about the duty of care to the citizens of Peterborough.
- The tree for TPO consideration was 60ft high and 40ft wide and was not easy to maintain. With the imposition of a TPO, there would be a cost of circa £3000 involved, which could cause friction between the relationship of neighbours.
- British Sugar had planted the trees but had not maintained them.
- If the trees were removed and replaced with a sympathetic species with a five to seven metre boundary, it would provide a sustainable solution.
- The trees were in the wrong place in a small garden and consideration had not been given to the people who had to live around them.
- There was a British standard around the maintenance and pruning of trees when a TPO was imposed, which would require specialist equipment.
- Currently, the TPO meant that the objector would not be able to cut the branches that overhung his garden.
- Vistry the property developer, should be held to account over the maintenance of the trees and meet the costs involved.

The Planning & Environmental Protection Committee debated the report and in summary, key points raised and responses to questions included:

- The Tree Officer clarified that there was no charge imposed by the Local Authority to cut back a tree with a TPO. Furthermore, Officers would provide advice to a BS 3998 standard on the processes.
- There would be restrictions in terms of cutting big branches off a tree and Officers would advise that it was pruned in a sympathetic manner to maintain its health.
- The objector, Mr Smith had cut back the branches to the rear of his boundary line.
- The property developer, Vistry, had in fact submitted an application to reduce the trees, and because of the recent meeting with them, the Norway Maple would be reduced in height and width. Furthermore, the works would restore the crown shape of the tree. .
- The tree adjacent to Mr Smith's property had not needed any work as he had taken it upon himself to carry out the maintenance.
- Liability due to tree damage to surrounding properties would be the responsibility of the land/tree owner Vistry, who would be required to resolve any issue that occurred.
- Members commented that the TPO had retained the tree/s and improved the sustainability.
- The whole point of a TPO was to improve the amenity and provide a screen between the development and Oundle Road to a reasonable standard.
- There had been no maintenance of the trees to date..
- The trees differed in age, but some were thought to be around the 50-year-old mark.
- Because of the engagement undertaken, Vistry had made a tree work application and had taken responsibility to ensure the tree maintenance would be in place in future, which included the one behind Mr Smith's property.
- Online guidance and sketches were available on the Council's website in relation to the trees subject to a TPO, which would be available at the time of maintenance application.
- Trees had been graded for retention at the time of a housing development application. However, the trees in group G1 were shown to be removed, therefore, the TPO was made. The TPO was re-made to make it clear which trees would be in residents gardens in relation to the boundaries.
- Members felt that the TPO should remain , and Council policy had been clear on their amenity value.
- The developer had submitted an application to carry out some maintenance work and it was positive to have the TPO imposed.
- Some of the views made by the objector suggested that a TPO would be a burden on him, however, it was hoped that the liaison work undertaken by Officers with Vistry, had demonstrated the Council's commitment to provide support to residents.
- Members were encouraged by the proposed tree maintenance by Vistry for the future residents.

RESOLVED

The Planning Environment Protection Committee considered the report and representations. A motion was proposed and seconded to **CONFIRM** the TPO. The Committee **RESOLVED** (7 For 2 Against , 0 Abstentions) to **CONFIRM** the Tree Preservation Order 23/00004/TPO.

REASON FOR DECISION

1. The trees subject of the TPO were considered to offer significant public visual amenity value to the site and the surrounding area.
2. The trees had been assessed and were considered to be worthy of a TPO and remain under threat from development pressures and future mis-management, therefore, it was agreed that the TPO was confirmed with modifications to amend the species of one of the trees within Group G.2 from Norway Maple to Lime.

Chairman
1.30pm - 3.45pm

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