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PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE

**TUESDAY 18 JULY 2023
1.30 PM**

Bourges/Viersen Room - Town Hall

AGENDA

Page No

- 1. Apologies for Absence**
- 2. Declarations of Interest**

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification" that has been disclosed to the Solicitor to the Council.

- 3. Members' Declaration of intention to make representations as Ward Councillor**

- 4. Development Control and Enforcement Matters**

- | | | |
|-----|--|-----------------|
| 4.1 | 22/00779/FUL - Westgate House, Park Road, Peterborough, PE1 2TA | 5 - 40 |
| 4.2 | 23/00046/FUL - Elm Tree, Garton End Road, Peterborough PE1 4EZ | 41 - 54 |
| 4.3 | 23/00121/FUL - 1 Padholme Road Eastfield, Peterborough PE1 5EF | 55 - 64 |
| 4.4 | 23/00001/TPO - 76 Guntons Road Newborough Peterborough PE6 7RT | 65 - 80 |
| 4.5 | 23/00004/TPO - Rhine Avenue Peterborough PE2 9SN | 81 - 104 |



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Committee Members:

Councillors: Warren, Iqbal (Vice Chairman), Jones, Hogg, P Hiller, Bond, M Jamil, Hussain, Sharp, C Harper (Chair) and Allen

Substitutes: Councillors: G Casey, Mahmood and Seager

Further information about this meeting can be obtained from Dan Kalley on telephone 01733 296334 or by email – daniel.kalley@peterborough.gov.uk

CASE OFFICERS:

Planning and Development Team: Jim Newton, Sylvia Bland, James Croucher, Matt Thomson, Asif Ali, Molly Hood, Mike Osbourn, Karen Ip, Shaheeda Montgomery, Connor Liken, James Lloyd, Ellie O'Donnell, Keeley Tipton, James Croucher, Mike Osbourn, and James Melville-Claxton

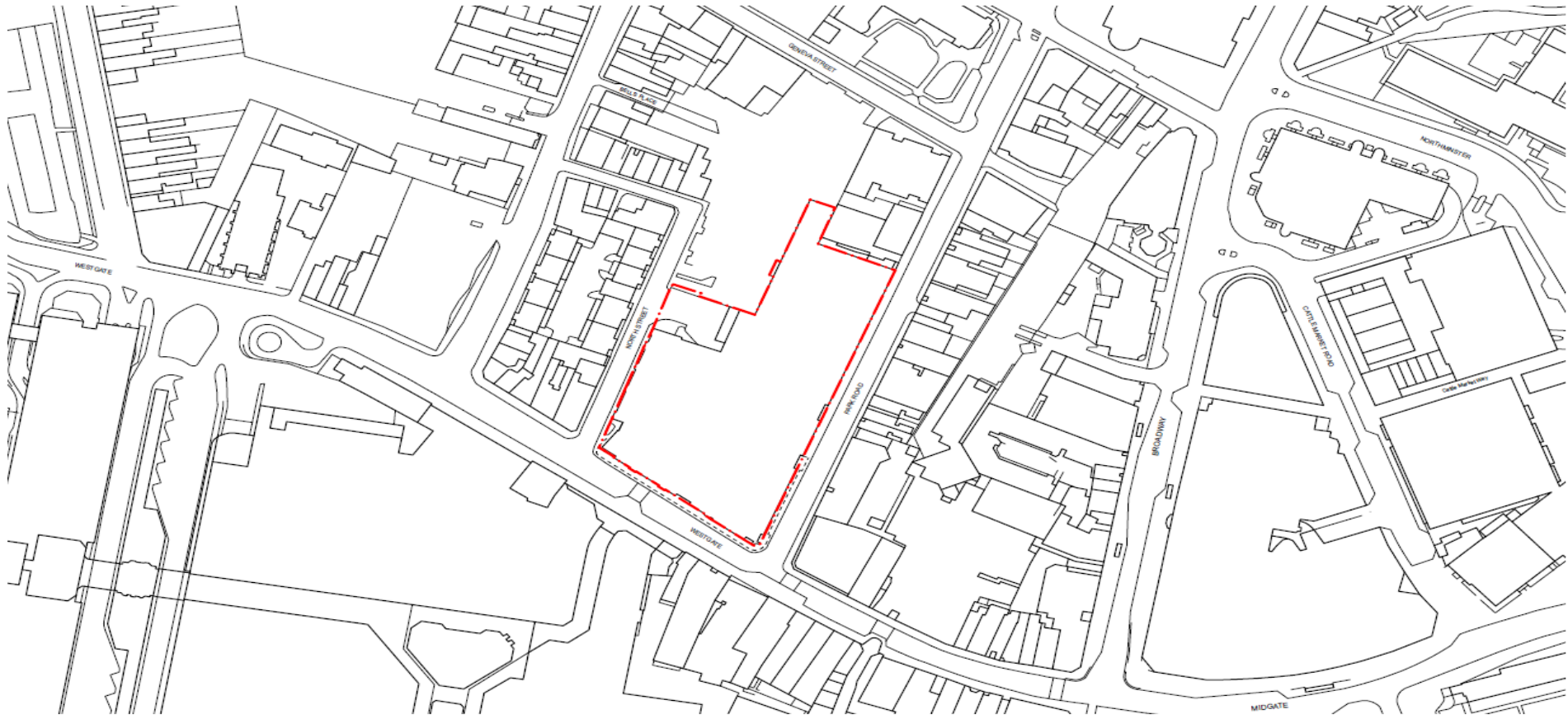
Minerals and Waste: Alan Jones


Compliance: Lee Walsh and Alex Wood-Davis

NOTES:

1. Any queries on completeness or accuracy of reports should be raised with the Case Officer, Head of Planning and/or Development Management Manager as soon as possible.
2. The purpose of location plans is to assist Members in identifying the location of the site. Location plans may not be up-to-date, and may not always show the proposed development.
3. These reports take into account the Council's equal opportunities policy but have no implications for that policy, except where expressly stated.
4. The background papers for planning applications are the application file plus any documents specifically referred to in the report itself.
5. These reports may be updated orally at the meeting if additional relevant information is received after their preparation.

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 Site Application Boundary

Rev	P1	Issued for Planning	Date	13.05.22
	P2	Issued for Planning -scale bar added!TA		20.06.22

PLANNING	50m	Location Plan 1:1250 @A3 Ash Sekula Architects T +44 20 7831 0195 E info@ashsek.com W ashsek.com	
	40m		
	30m		
	20m		
	10m		
	0m	January 2022	BEA 001 P2



Reference: 22/00779/FUL

Site address: Westgate House, Park Road, Peterborough PE1 2TA

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Application Ref: 22/00779/FUL

Proposal: Redevelopment of the former Beales store for a residential led, mixed-use development - part change of use, part demolition and part new build to provide 125 residential units and 846sq m of commercial/retail space

Site: Westgate House, Park Road, Peterborough, PE1 2TA

Applicant: Bispham
Panther (VAT) Properties Ltd

Agent: Mr Sean Hadley
Hedley Planning Services

Referred by: Head of Service for Planning

Reason: Significant public interest

Site visit: 23.06.2022

Case officer: James Croucher

Telephone No. 07920 160079

E-Mail: james.croucher@peterborough.gov.uk

Recommendation: **GRANT** subject to relevant conditions

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

Introduction

This is a full application for the comprehensive redevelopment a 6,100sqm site in the heart of the City Centre partially by way of converting existing buildings and partially through demolition and new build.

The site currently comprises of three main elements:

1. The Victorian Westgate House building, which runs along Park Road and turns the corner onto Westgate;
2. Later twentieth century additions, forming the remainder of the former Beales Department Store and much of the Westgate frontage;
3. An external loading bay area and associated servicing, which is visually prominent on North Street.

Constructed from 1886 onwards in a number of phases, Westgate House was for several decades the Peterborough Anglian Co-operative Store, latterly trading as a Beales department store before its closure in Spring 2023. The building is not listed, but is a locally distinctive building which provides definition and character to the City Centre Conservation Area. The more recent parts of the building are modernist additions which lack local distinctiveness or any notable architectural merit, particularly on the North Street elevation.

Mixed commercial premises lie on the opposite side of Park Road to the east, whilst to the south is the Queensgate Shopping Centre and further mixed commercial uses. To the west the character of North Street is largely defined by the 38 apartments in a converted office building at 7-15 North Street, with the notable exception of The Ostrich Inn at the northern end of the street. A surface level public car park lies to the north-west of the site, whilst to the north-east another converted office building at Geneva House contains 29 apartments.

The Proposed Development

The application proposes 846sqm GIA of commercial/retail employment space and 125 apartments. The submitted plans shows this accommodation in 4 distinct buildings:

(i) The Park Road Building - conversion of the historic former department store:

A cafe and 9 flexible workspace/commercial units are proposed on the ground floor to retain an active frontage onto Park Road. The remainder of the building is proposed to be converted into 49 apartments, including cycle parking and refuse/recycling stores within the building. Existing cellars are not suitable for conversion but are proposed to be reused as plant rooms.

(ii) The Warehouse Building - partial conversion, partial demolition and redevelopment:

This building's external walls and parts of its structure are proposed to be retained, with some new-build elements necessary for its conversion into 12 apartments.

(iii) The Westgate Building - redevelopment following demolition of existing:

The more recent section of the former department store is proposed to be demolished and replaced with a four storey building wrapping around Westgate and North Street, providing 2 retail units on the Westgate frontage and 36 apartments (including some maisonette-type duplexes) on the North Street frontage and across its upper floors.

(iv) The Central Building - redevelopment following demolition of existing:

This completely new-build element is proposed to comprise 28 apartments in a six storey building.

No onsite car parking is proposed, albeit provision for deliveries is made within the proposed site layout and a number of secure undercover cycle parking areas is proposed, along with visitor cycle parking.

2 Planning History

The site has an extensive planning history which mostly comprises advertisements and minor works, but from which the following is most relevant:

P0398/77 (Westgate House - modern extension fronting Westgate and North Street)
Redevelopment of part of department store
Approved 13 June 1977

03/00141/OUT ("North Westgate Development Area")
Redevelopment to provide mixed uses including retail, residential, leisure, healthcare, parking and ancillary facilities.
Withdrawn 10 July 2015

3 Planning Policy

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

Planning (Listed Building and Conservation Areas) Act 1990

Section 66 (in relation to Listed Buildings and their setting)

Section 72 (in relation to Conservation Areas and their setting)

National Planning Policy Framework (2021)

National Planning Policy Framework (July 2021)

Section 2: Achieving Sustainable Development

Section 4: Decision-making

Section 5: Delivering a sufficient supply of homes

Section 6: Building a strong, competitive economy

Section 7: Ensuring the vitality of town centres

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 11: Making effective use of land

Section 12: Achieving well-designed places

Section 14: Meeting the challenge of climate change, flooding and coastal change

Section 15: Conserving and enhancing the natural environment

Section 16: Conserving and enhancing the historic environment

Peterborough Local Plan 2016 to 2036 (2019)

LP01 - Sustainable Development and Creation of the UK's Environment Capital

The council will take a positive approach that reflects the presumption in favour of sustainable development within the National Planning Policy Framework. It will seek to approve development wherever possible and to secure development that improves the economic, social and environmental conditions in the area and in turn helps Peterborough create the UK's Environment Capital.

LP03 - Spatial Strategy for the Location of Residential Development

Provision will be made for an additional 21,315 dwellings from April 2016 to March 2036 in the urban area, strategic areas/allocations.

LP04 - Strategic Strategy for the Location of Employment, Skills and University Development

LP4 a) Promotes the development of the Peterborough economy. Employment development will be focused in the city centre, elsewhere in the urban area and in urban extensions. Provision will be made for 76 hectares of employment land from April 2015 to March 2036. Mixed use developments will be encouraged particularly in the city, district and local centres.

LP4 b) Employment Proposals not within General Employment Areas or Business Parks will be supported provided that there are no suitable sites within allocated sites/ built up area, it is of an appropriate scale, would impact on the viability of an existing allocated site and not result in any unacceptable impact.

LP4 d) Conversions and redevelopment of non allocated employment sites to non allocated employment uses will be considered on their merits taking into consideration the impact on the area, the viability of the development including marketing evidence and the impact of continued use of the site.

LP06 - The City Centre - Overarching Strategy

Promotes the enhancement of the city centre. Major new retail, culture and leisure developments will be encouraged. It is promoted as a location for new residential development and as a location for employment development including mixed use. Improvements to the public realm will be promoted and the historic environment protected.

LP07 - Health and Wellbeing

Development should promote, support and enhance the health and wellbeing of the community. Proposals for new health facilities should relate well to public transport services, walking/cycling routes and be accessible to all sectors of the community.

LP08 - Meeting Housing Needs

LP8a) Housing Mix/Affordable Housing - Promotes a mix of housing, the provision of 30% affordable on sites of 15 or more dwellings, housing for older people, the provision of housing to meet the needs of the most vulnerable, and dwellings with higher access standards

LP12 - Retail and Other Town Centre Uses

Development should accord with the Retail Strategy which seeks to promote the City Centre and where appropriate district and local centres. Retail development will be supported within the primary shopping area. Non retail uses in the primary shopping area will only be supported where the vitality and viability of the centre is not harmed. Only retail proposals within a designated centre, of an appropriate scale, will be supported. A sequential approach will be applied to retail and leisure development outside of designated centres.

The loss of village shops will only be accepted subject to certain conditions being met. New shops or extensions will be supported in connection with planned growth and where it would create a more sustainable community subject to amenity and environmental considerations provided it is of an appropriate scale.

LP13 - Transport

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

LP13c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP13d) City Centre- All proposal must demonstrate that careful consideration has been given to prioritising pedestrian access, to improving access for those with mobility issues, to encouraging cyclists and to reducing the need for vehicles to access the area.

LP14 - Infrastructure

Permission will only be granted where there is, or will be via mitigation measures, sufficient infrastructure capacity to support the impacts of the development. Developers will be expected to contribute toward the delivery of relevant infrastructure.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP18 - Shop Frontages, Security Shutters and Canopies

LP18 a) Shop Frontages (including signage)- Permission will only be granted if the design is sympathetic, it would not harm the character and appearance of the street and advertisements are incorporated as an integral part of the design.

LP18 b) External Shutters- Permission will only be granted where there is demonstrable need in terms of crime; the property is not listed or within a conservation area; the shutter is designed to a high standard and is perforated.

LP18 c) Canopies- Will only be acceptable on the ground floor of a shop, café, restaurant or public house and only if it can be installed without detracting from the character of the building or surrounding area.

LP19 - The Historic Environment

Development should protect, conserve and enhance where appropriate the local character and distinctiveness of the area particularly in areas of high heritage value.

Unless it is explicitly demonstrated that a proposal meets the tests of the NPPF permission will only be granted for development affecting a designated heritage asset where the impact would not lead to substantial loss or harm. Where a proposal would result in less than substantial harm this harm will be weighed against the public benefit.

Proposals which fail to preserve or enhance the setting of a designated heritage asset will not be supported.

LP21 - New Open Space, Sport and Recreation Facilities

LP21 Part A New Open Space, Outdoor Sport and Recreation Facilities- Residential schemes of 15 or more dwellings will be required to make appropriate provision for new or enhanced open space, sports and recreation facilities in accordance with the standards. The council's first preference is for on site provision.

LP21 Part B: Indoor Sports and Recreation Facilities- All residential development below 500 dwellings will contribute to the provision of 'off site' strategic indoor sports and recreation facilities by way of CIL. For sites of 500 dwellings more a S106 Planning Obligation will be sort.

LP21 Part C Designated Sites- Mitigation of Recreational Impacts of Development- Where development has the potential to have a significant adverse effect on the integrity of a designated international or national site for nature conservation as a result of recreation pressure, the development maybe require to provide open space of sufficient size, type and quality over and above the standards to mitigate that pressure.

LP28 - Biodiversity and Geological Conservation

Part 1: Designated Site

Local Sites- Development likely to have an adverse effect will only be permitted where the need and benefits outweigh the loss.

Habitats and Species of Principal Importance- Development proposals will be considered in the context of the duty to promote and protect species and habitats. Development which would have an adverse impact will only be permitted where the need and benefit clearly outweigh the impact. Appropriate mitigation or compensation will be required.

Part 2: Habitats and Geodiversity in Development

All proposals should conserve and enhance avoiding a negative impact on biodiversity and geodiversity.

Part 3: Mitigation of Potential Adverse Impacts of Development

Development should avoid adverse impact as the first principle. Where such impacts are unavoidable they must be adequately and appropriately mitigated. Compensation will be required as a last resort.

LP29 - Trees and Woodland

Proposals should be prepared based upon the overriding principle that existing tree and woodland cover is maintained. Opportunities for expanding woodland should be actively considered.

Proposals which would result in the loss or deterioration of ancient woodland and or the loss of veteran trees will be refused unless there are exceptional benefits which outweigh the loss. Where a proposal would result in the loss or deterioration of a tree covered by a Tree Preservation Order permission will be refused unless there is no net loss of amenity value or the need for and benefits of the development outweigh the loss. Where appropriate mitigation planting will be required.

LP31 - Renewable and Low Carbon Energy

Development proposals will be considered more favourably where they include measures to reduce energy demand and consumption, incorporate sustainable materials, incorporate decentralised or renewable energy or carbon off setting. Proposals for non wind renewable energy will be considered taking account of the impact of the landscape including heritage assets, amenity, highways and aviation. Wind proposals will also only be considered if in addition to these factors the site is in an adoptable Neighbourhood Plan and the proposal has local support.

LP32 - Flood and Water Management

Proposals should adopt a sequential approach to flood risk management in line with the NPPF and

council's Flood and Water Management SPD.. Sustainable drainage systems should be used where appropriate. Development proposals should also protect the water environment.

LP33 - Development on Land Affected by Contamination

Development must take into account the potential environmental impacts arising from the development itself and any former use of the site. If it cannot be established that the site can be safely developed with no significant future impacts on users or ground/surface waters, permission will be refused.

LP46 - City Core Policy Area

Part A General- Within the City Core the council will seek development of the highest quality which strengthens the area including the retail, leisure, tourism and civic focus. New development must improve the townscape and public realm, protect Cathedral views, preserve or enhance heritage assets, protect and enhance existing retail. Additional car parking will only be supported in exceptional circumstances.

Part B: North Westgate Opportunity Area

Planning permission will be granted for comprehensive mixed-use development including retail, employment, housing, office and leisure. The design, layout and access arrangements must enhance the transition between the residential area to the north and the city centre.

Individual proposals which would prejudice the comprehensive development of this area will not be permitted.

Part C: Northminster Opportunity Area

Development should deliver a range of uses that provide high quality office development and approximately 150 dwellings, including student accommodation. Development should protect and enhance the historic environment, particularly the Cathedral Precincts and Peterscourt.

Community Infrastructure Levy (CIL) Regulations 2010

Paragraphs 203-205 of the National Planning Policy Framework: Planning Conditions and Obligations:

Requests for planning obligations whether CIL is in place or not, are only lawful where they meet the following tests:-

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

In addition obligations should be:

- (i) relevant to planning;
- (ii) reasonable in all other respects.

Planning permissions may not be bought or sold. Unacceptable development cannot be permitted because of benefits/inducements offered by a developer which are not necessary to make the development acceptable in planning terms. Neither can obligations be used purely as a means of securing for the local community a share in the profits of development.

4 Consultations/Representations

Anglian Water Services Ltd

No objection subject to conditions.

Waste Management

No objection subject to a Waste Collection Strategy condition

Cambridgeshire Fire & Rescue Service

Having reviewed the submitted Fire Statement, no objection subject to a condition securing fire hydrants.

PCC Strategic Housing

Following receipt of Vacant Building Credit evidence and a Counsel's opinion by the applicant, accepts that there is no affordable housing requirement.

PCC Landscape Officer

No objection subject to contributions towards offsite open space improvements.

PCC Travel Choice

No comments received

PCC Wildlife Officer

No objection subject to a construction management plan (biodiversity) condition

PCC Peterborough Highways Services

No objection in principle to the quantum of mixed-use development proposed or to this being a car-free development. Holding objection raised on a number of matters of detail in respect of cycle parking design & layout, provision for delivery & refuse vehicles, and extent of offsite highway improvement works. The applicant is working through these remaining matters and the final highways position will be reported on the update sheet

Environment Agency

No comments to make.

Archaeological Officer

No objection subject to an archaeology watching brief condition. The recent desk-based assessment (DBA) for the subject site has concluded that the proposed development may alter the fabric of the locally listed historic building (Westgate House). In addition, the DBA has concluded that the service area off North Road may have witnessed limited ground intervention and, therefore, may contain relatively undisturbed buried remains.

PCC Pollution Team

Detailed comments made in respect of noise, odour, contaminated land and lighting. Disappointed that the principles of good acoustic design have not been followed, highlighting that noise is a constraint at this site and an Acoustic Design Statement has not been submitted, in particular with respect to habitable rooms facing The Ostrich Inn, and the stacking & handing of noise sensitive rooms within the new-build elements. Recommends several conditions should the Local Planning Authority be minded to grant planning permission.

Police Architectural Liaison Officer (PALO)

No objection subject to conditions.

Lead Local Drainage Authority

No objection in principle, having received a satisfactory flood risk assessment. Condition required to control matters of detail.

PCC Tree Officer

No objection subject to conditions. A fastigate species is advised for the proposed new street trees on Westgate, which is included amongst the suggested landscaping conditions.

Historic England

No comments to make.

The Wildlife Trusts (Cambridgeshire)

No comments received

Natural England - Consultation Service

No objection, advising that the proposed development is unlikely to have any significant impacts on the natural environment.

Peterborough Civic Society

Welcomes this proposal, which they consider offers positive enhancements to the Westgate area and to the city centre in general.

Retention of original features

There is strong support for the retention, refurbishment and re-purposing of the range of Victorian buildings on Park Road and the corner of Westgate. Returning these buildings to their original footprints and converting them to a mix of retail, food & drink, leisure uses, offices and residential is fully supported and should ensure a sustainable future for these structures.

We are pleased that the memorial clock is to be retained and restored. Originally a memorial plaque went with the clock and was an essential part of the WW1 memorial. The plaque was removed several decades ago but if it can be found we suggest that it is reinstated. There is also a ballroom with stage intact within the existing building range. Consideration should be given to its restoration as a single clear space, perhaps suitable for use as a gym or dance/performance studio.

Active Frontages

The inclusion of retail, food/drink, etc. units on the Westgate and Park Road frontages is supported.

The North Street frontage consists of pairs of front doors to the duplex apartments with the building line at the pavement edge. It is regrettable that this restricts the potential for a reasonably active frontage, perhaps with variety in the treatment of the thresholds, with some narrow gardens areas with railings mixed in with open areas.

Scale and Form

The architectural scale is commended as an acceptable compromise between respecting the scale of the existing buildings and the need for a financially viable development. Ranging in height from the three and a half storeys in Park Road to four on Westgate/North Street to six storeys in the heart of the site, the proposal has scope to produce urban spaces of variety and interest.

There might be an issue of residential privacy in the proposal for the flats on North Street. The distance of 10m from the existing flats on the opposite side of North Street is rather less than what might normally be acceptable.

The view along the west-east axis of North Street from the Lincoln Road approach could be more emphatically focussed on some feature incorporated into the four-storey internal block (former warehouse). While the "green wall" proposed for the otherwise featureless western wall of this block could be very attractive it would greatly benefit for a more imaginative approach than a single species of ivy with only ground planting. It will take many years to cover the wall and even then will be a uniform monoculture.

Movement

The total absence of parking spaces will severely limit the appeal of these dwellings and add to the existing pressures from other significant city centre residential developments with inadequate parking provision. It is unrealistic to assume that none of the residents in 125 units will own vehicles. The residential units would be much more saleable and/or attractive to tenants if some conveniently placed parking spaces were available. In addition, the total absence of parking spaces virtually rules out occupation by persons with compromised mobility and this is hard to accept.

Servicing of the retail units will presumably be from the public highway at points closest to the shop units. This will require alteration to parking and taxi-rank arrangements on Park Road and Westgate, and this should be addressed at an early stage.

Noise issues

Concern has been expressed about the potential for complaints from residents of the nearest flats in the scheme regarding noise emanating from music events at the Ostrich Public House. Regard should be paid to this potential issue by requesting adequate noise surveys.

Conclusion

The Peterborough Civic Society is largely in favour of this proposal but would request that the Applicant address our comments noted above in order to make the scheme as attractive as possible.

PCC Conservation Officer

No objection, following receipt of additional information and revised plans.

There was initially a concern regarding the elevation facing North Street, dominating the area with an unrelieved and bland frontage undermining the setting of the area. Revised plans now show a series of three panels to be recessed to provide some relief to the large mass of the elevation, albeit no further attempt has been made to soften the elevation with window details. This is an improvement upon the previous plans and does to an extent soften the elevation however more could be done as suggested in previous comments.

As discussed previously it is essential that the development maintains an active frontage along Westgate and Park Road. The plans continue to show this, and it is suggested that a shopfront design code be required via condition to ensure that a holistic approach is taken for the building.

On balance the proposal is considered to sustain the character and significance of the Locally Listed building and the setting of the Conservation Area.

NHS Cambridgeshire & Peterborough Integrated Care System

No objection subject to contributions towards primary care and ambulance service provision

Local Residents/Interested Parties

Initial consultations: 212

Total number of responses: 362

Total number of objections: 358

Total number in support: 4

Public consultation - 358 objections received across two rounds of consultation:

- significant and numerous concerns raised as to the prospect of noise complaints from future scheme residents affecting the ability of The Ostrich Inn to continue to run live music events and operate as an important local cultural asset
- Lack of car parking
- No onsite disabled parking

- Absence of provision onsite for deliveries
- Concern over local healthcare capacity
- City Centre not an appropriate location for additional new homes

4 letters of support:

- regeneration is sorely needed
- absence of any noise complaints from existing North Street residents

The Ostrich Inn Public House:

The applicant's initial Noise Impact Assessment was flawed. The applicant's November Noise Impact Assessment gives welcome confirmation on some important points:

- That The Ostrich Inn is not currently having to address any existing noise complaints from local residents.
- There were no noise complaints from local residents on the nights that the applicant's noise survey was carried out.
- The Assessment the importance of PrpPg: Planning & Noise with particular reference to good acoustic design principals.

Local people recognise both that the threat to the future of The Ostrich Inn from the construction of 125 dwellings on the Beale's site is real. Music performances at The Swiss Cottage, The Woolpack and The House of Feasts have been forced to cease following noise complaints (the latter closing completely) whilst The Yard of Ale and Charters both face continuing noise complaints.

The Agent of Change principle dictates that the worst case scenario for existing premises should be fully considered both in terms of sound levels and opening hours - by example it should be noted that The Ostrich Inn currently concludes live music and closes considerably earlier than the Premises Licence for the venue dictates, which may not always be the case in the future.

There are very real concerns that the future of The Ostrich Inn may be hanging on the outcome of a noise assessment for one particular weekend for which in advance they had to try and predict the noise conditions both in terms of band performance and customer behaviour, which would realistically reflect the existing worst case scenarios that are supposed to apply to the premises when the Agent of Change Principle is correctly applied.

In predicting this scenario many factors come into play - not just the nature of the bands playing and of their following, but also what other similar bands are playing at other venues that night, the time of year, the weather, if it's a pay-day weekend, sporting events taking place particularly if Peterborough United are playing at home, and the one off events of birthday groups, stag parties, hen parties, etc, that all significantly affect a city centre "circuit" pub which by its nature sees numerous comings and goings of customers with the door held open for extended time periods. All of these "circuit" customers are in addition to the base group of people who had pre-planned to spend that particular night in the pub.

There were no instructions to the bands to play at anything other than their normal sound levels during the November noise monitoring weekend and door staff were instructed to operate the premises as normal.

Good acoustic design principles were put in place from the outset at the Cavell Court scheme immediately next door to The Ostrich Inn, in contrast to the proposed Beales redevelopment, which may likely explain the lack of any noise complaints from those residents. If acoustic mitigation is not properly installed and tested at the Beales site, it may not deliver the required level of sound attenuation.

The amount of development should be reduced in order to achieve good acoustic design principles, such as the omission of the 28 apartments in the proposed Central Building and a reorganisation of the site accordingly. As a minimum:

- Apartments 117 and 125 (positioned closest to The Ostrich Inn) should be deleted;
- Apartments 63, 64 and 65 within the Central Building should be redesigned;

- The roof terrace on the "Warehouse Building" should be omitted;

- A condition to any granted planning permission that a restriction is put on the use of all roof terraces and balconies on the site after 9pm at night - this would remove the risk of noise complaints from residents at the time when live music events are taking place at the Ostrich Inn. If residents choose to use terraces and balconies beyond 9pm, it would be in the knowledge that they did so in acceptance of any noise impact they might experience from The Ostrich.

A deed of easement is requested in favour of The Ostrich Inn, which would prevent all residents that move into the Beale's development site the right to make complaints against The Ostrich Inn on noise pollution grounds.

In the absence of the above changes to the submitted design, alongside the application of the suggested planning conditions, particularly the granting of a deed of easement, this planning application should be rejected on the grounds of overdevelopment of the site, and the lack of protection granted to the Ostrich Inn under the Agent of Change Principle.

5 Assessment of the planning issues

The main matters for consideration are::

- a) Principle of Development
- b) Layout and design
- c) Heritage considerations
- d) Noise
- e) Highways matters
- f) Amenity of existing and future residents
- g) Drainage
- h) Other matters: contamination, biodiversity, waste & recycling
- i) Affordable housing
- j) Section 106 & CIL

a) Principle of Development

The site falls wholly within the defined City Centre which Local Plan Policy LP6 confirms will be developed and promoted to maintain its position as a centre of regional significance, promoting the City Centre as a location for substantial new residential development (at a range of densities according to location), as well as for employment development. Mixed use development is specifically encouraged, especially (though not exclusively) outside the Primary Shopping Area.

Within the City Centre designation lies the City Core policy area, where Local Plan Policy LP47 confirms that the Council will "seek development of the highest quality" which, in overall terms:

- strengthens the area as the retail, leisure, tourism and civic focus for Peterborough and its sub-region;
- broadens the range of land uses, including more city centre living; and
- enhances the visitor experience for all

Some areas of the City Core are identified in the Local Plan as "Opportunity Areas" including to the east at Northminster and to the west at North Westgate, though this site is within neither. Mixed use redevelopment outside the Opportunity Areas is encouraged nonetheless by Policy LP47, subject to development:

- improving the quality of the townscape, architecture and public realm;
- protecting important views of the Cathedral;
- preserving or enhancing the heritage assets of the area, and their setting, in a manner appropriate to their significance; and
- protecting and enhancing existing retail areas

The first three of these criteria are explored later in this report. In terms of the protection and enhancement of existing retail areas, the entire footprint of the existing building falls within the Primary Shopping Area defined by Local Plan Policy LP12, with the Westgate frontage also being identified in the same policy as a Primary Shop Frontage. The permanent loss of a substantial department store within the Primary Shopping Area therefore needs careful consideration.

The ongoing decline in department store viability across the country has been well-documented, affecting most recently the 125,000sqft John Lewis store in the Queensgate centre which closed temporarily for the COVID lockdown in 2020/21 but which did not reopen once restrictions were lifted. The applicant has submitted details of their attempts to find a new occupier for their vacant department store, as well as details of the financial losses incurred over the final two years whilst it traded as Beales. The information submitted by the applicant confirms that there has been no interest in the site whatsoever from the dwindling number of remaining department store operators, and is considered to have satisfactorily demonstrated that there is no realistic prospect of a department store trading in this location again.

In order to retain an active frontage at ground floor level, flexible-use commercial units are proposed along the Park Road frontage whilst retail units are proposed on Westgate, in accordance with its Primary Shop Frontage designation. The proposed retail uses are acceptable in principle, whilst the flexible-use commercial units proposed in this location would accord with Policy LP4's strategy of mainly focusing employment development in the City Centre, elsewhere in the urban area (within General Employment Areas and Business Parks) and in urban extensions.

In respect of the proposed residential uses on the upper storeys and elsewhere across the site, National Planning Policy Framework paragraph 86 recognises that residential development often plays an important role in ensuring the vitality of centres and says that planning policies should encourage residential development on appropriate sites, a policy aim which is reflected in Local Plan Policy LP47. At a strategic level, Local Plan Policy LP3 relates to the distribution of new dwellings, and seeks to maximise the percentage of the overall growth to locations within the Urban Area.

Taking all of the above into account, the principle of the proposed mixed use development is considered to be acceptable, having regard to the relevant policies in the Adopted Local Plan and the National Planning Policy Framework.

b) Layout and design

The modern (20th century) elements of the building are of no architectural merit and are proposed to be demolished, retaining the Victorian Westgate House building fronting Park Road. Part of the former warehouse (backing onto the North Street public car park) is also proposed to be retained and converted. This approach consisting of part-conversion and part-redevelopment is considered appropriate, with the notable sustainability benefits of reusing existing structures where possible.

The proposed new 4-storey building wrapping around the Westgate and North Street frontages proposes a simple modern design which would contrast with the more ornamented retained facade of Westgate House. Protruding balconies would punctuate the facade, flanked at roof level by a bespoke rooftop copper-clad polygonal lantern on each end of the Westgate frontage. These features would add visual interest and the lanterns would reference the dome feature on the corner of Westgate House.

The proposed new 6-storey building at the centre of the site would equally adopt a modern elevational appearance, with protruding balconies on its eastern facade and an extruded frame sitting on front of recessed galleried accesses on its western facade. The design approach is considered acceptable, particular on the most visible western elevation.

The Civic Society has commended the architectural scale as an acceptable compromise between respecting the scale of the existing buildings and the need for a financially viable development. Ranging in height from the three and a half storeys in Park Road to four on Westgate/North Street

and up to six storeys in the heart of the site, the Civic Society's view is that the proposal has scope to produce urban spaces of variety and interest. Officers share this view, with none of the proposed buildings being overly prominent or out of scale in context.

In terms of external materials, a traditional palette of buff facing brick is proposed, interspersed with sections of dove grey glazed brickwork, and with otherwise blank elevations softened with Boston Ivy (a faster growing, strongly self-clinging form of Virginia Creeper). The general combination of materials is considered acceptable and precise details can be secured by condition.

In design terms the Conservation Officer has noted improvements during application process to the façade facing North Street and, whilst disappointed at the lack of window (or false window) features in a largely blank wall, is nonetheless on balance satisfied that the submitted scheme is acceptable. Conditions in terms of materials and detailed drawings for street-facing windows, balconies, shopfronts (etc) are recommended.

The soft landscape approach consists of several different planes of greening:

- modest lawn areas, planting swathes, rain gardens and hedged semi-private gardens;
- tree planting, including new street trees on Westgate;
- ground-planted vines providing vertical greening to selected walls; and
- private gardens, balconies and roof terraces accessible by individual households and site residents

The Tree Officer has no objection to the proposed landscaping, recommending conditions in respect of the species for the 5 new street trees proposed on Westgate as well as the normal conditions in respect of detailed onsite landscaping specification, establishment and aftercare.

In light of the above, the proposed development is considered to comply with the design quality sections of the National Planning Policy Framework and Policies LP16 and LP29 of the Adopted Peterborough Local Plan (2019).

c) Heritage considerations

Conservation Area

Westgate House is not a listed building, but has been identified as being of local importance. The site is wholly within the City Centre Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out provisions to protect Conservation Areas, requiring that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

The Conservation Area Appraisal & Management Plan (July 2017) notes that the area of Westgate creates a distinct sub-area within the wider Conservation Area, with a different character to adjacent areas. The building stock here is predominantly 19th century, albeit with a significant proportion of 20th century development which has "significantly diluted" its historic character. One facet of this is that small, linear plots have been replaced by larger footprint buildings - with the former Beales store cited as a specific example of this. The appraisal notes that the "high and attractive early 20th century facade of Beales department store" encloses Park Road and contrasts with the smaller predominantly two storey scale of the 19th century buildings on the opposite side of the road.

Indeed, the former Beales store is identified as a prominent landmark building, with especially fine stonework to its upper floors and an attractive turret with a copper roof that signals the entrance on the corner. The modern canopy, dating from the 1970s, is noted as visually competing with the building's detailing. The rear elevation of the former department store is found to be a negative feature in the Conservation Area, and the redevelopment of the adjoining public car park is suggested as one way of screening this.

In this context, the historic 19th century and early 20th century buildings fronting Park Road and wrapping the corner onto Westgate are proposed to be retained as part of the proposed

development, adapted for smaller commercial units on the ground floor and apartments on the upper floors. The Conservation Officer has no objection to the proposed conversion works to this building, or to the demolition and redevelopment of the other more recent (1970s) elements. The Civic Society shares this view, offering their strong support for the retention, refurbishment and re-purposing of the range of Victorian buildings on Park Road and the corner of Westgate, also supporting the return of these buildings to their original footprints and their converting to a mix of retail, food & drink, leisure uses, offices and residential which in the Society's view should ensure a sustainable future for these structures.

The Civic Society is also pleased that the memorial clock is proposed to be retained and restored.

The partial conversion and partial demolition/rebuild of the warehouse element at the rear of the site is similarly acceptable in heritage terms. New shopfronts of a traditional design and appearance are proposed on both the Park Road and Westgate frontages, the detailed design and materials of which should be controlled by condition.

Listed Buildings

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects the setting of a listed building, the Local Planning Authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The closest listed buildings are The Bull Hotel on Westgate (Grade II) which is visually and functionally separated from the application site by both Park Road and Bradfield House), and The Royal Hotel on the south side of Westgate, opposite the junction with North Street. Currently trading as "The Banyan Tree", The Royal Hotel (also Grade II) is set within the modern and to a large extent overwhelming context of the Queensgate Centre to its rear, modern commercial development to its west and the 1970s extension of Westgate House opposite. The proposed removal of the modern extension to Westgate House and its replacement with a contemporary development of appropriate height, bulk, scale, materials and elevational detailing is considered to have no harmful effect on the setting of The Royal Hotel.

Whilst the Grade I listed Cathedral is several hundred meters from the application site, the applicant has been required to test the impact of the proposed development (most notably the proposed central 6-storey element) from a number of identified viewpoints. The Conservation Officer has identified a number of viewpoints where the proposed development might intrude into cathedral views, and the applicant has submitted wireframe visualisations superimposing the proposed development into those views. Having considered this information, the Conservation Officer is satisfied that the proposed development would not cause any harm to views of the cathedral.

In light of the above the proposed development is considered to cause no harm to designated or undesignated heritage assets or their settings, and as such accords with Policies LP19 and LP47 of the Adopted Peterborough Local Plan (2019) and section 16 of the National Planning Policy Framework (2021). In applying the special duties imposed by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, no harm to designated or undesignated heritage assets, or their settings, has been identified.

d) Noise

The application has attracted a large number of objections on noise grounds, with concerns relating to the future of The Ostrich Inn (a live music venue) featuring prominently in consultees' comments.

The Agent of Change Principle

Noise-generating cultural venues such as theatres, concert halls, pubs, night clubs and other venues that host live or electronic music are a valuable cultural and economic asset which should be protected, which requires a sensitive approach to managing change in the surrounding area. Adjacent development should be designed and brought forward in ways which ensure established cultural venues remain viable and can continue in their present form without the prospect of

licensing restrictions or the threat of closure due to noise complaints from neighbours.

The July 2021 National Planning Policy Framework makes it clear that this is the Government's policy. Paragraph 187 says:

"Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed."

Thus, the Agent of Change principle places the responsibility for mitigating the impact of noise and other nuisances firmly on the new development. This means that where new developments are proposed close to existing noise-generating activities, such as The Ostrich Inn, applicants will need to design them in a more sensitive way to protect the new occupiers, particularly new residents, from noise and other impacts.

In order to establish whether the Agent of Change principle has been reasonably and appropriately applied, the two stages of the process are (i) to establish the noise levels which are currently lawfully being produced by the live music venue, and then (ii) reviewing the design of the proposed development to ensure that future residents would not be unreasonably impacted by that noise.

Noise Monitoring

The applicant has undertaken three rounds of noise monitoring (in April, September and November 2022 when live music events were taking place at The Ostrich Inn. The initial monitoring was undertaken during one of the venue's quieter events, whilst ultimately the November monitoring was during a louder event which appears to be more representative of the venue's typical live music act. The Council's Pollution Control team is satisfied that the November monitoring gives an appropriate "worst case" scenario on which to base an assessment of the proposed development's future noise environment.

The applicant has used the louder of the two noise monitoring results to model predicted noise levels (in decibels) at the facades of the proposed new apartments. Unsurprisingly, the modelling shows that the loudest levels would be on the facade of the proposed new North Street apartment building, facing The Ostrich Inn. Slightly lower (but broadly similar) levels are predicted on the facade of the Central Building which faces The Ostrich Inn.

Noise levels predicted in the maisonettes facing The Ostrich Inn would be substantially above acceptable night-time levels and, with their open bedroom windows directly facing the noise source, residents would be unlikely to be able to sleep during noisy music events. The normal solution in such instances is to design a brand-new building like this so that bedrooms are on the far side, away from the noise source, with less noise-sensitive rooms such as kitchens or bathrooms subject to the highest noise levels. The applicant has been invited to redesign their scheme on this basis, but has declined. This is of concern to the Pollution Control Team.

Proposed Mitigation Measures

Instead, the applicant proposes mitigation to the affected maisonettes by way of:

- (i) Acoustic glazing and trickle vents
- (ii) Mechanical ventilation

In practice this means that, during noisy events at The Ostrich Inn, residents would be able to close their windows to reduce noise to within usual and acceptable tolerances, but still ventilate

their homes using the mechanical ventilation. Whilst this solution is technically acceptable and would result in internal noise levels that meet World Health Organisation recommendations, it is unfortunate that the applicant has chosen not to design out this issue altogether by redesigning the proposed new North Street block with bedrooms on the quieter side. In justifying this decision, the applicant points to the number of nights each month The Ostrich does not have live music, or live music of a quieter nature, that there have been no recorded noise complaints from other residents living in the apartments on North Street, that the proposed mitigation measures would result in acceptable internal noise levels, and that future occupiers of their development would move there in the knowledge that there is a City Centre live music venue close nearby.

On balance, given that the technical solution proposed by the applicant would result in acceptable internal noise levels during live music events at The Ostrich Inn, the proposed development is considered to comply with paragraph 187 of the National Planning Policy Framework and Policy LP17 of the Adopted Peterborough Local Plan (2019), which requires "adequate" noise attenuation. Conditions are recommended to control the specification of the glazing and ventilation mitigation measures, as well as a condition that the required level of noise attenuation is demonstrably delivered post-construction by the installed solutions and additional measures are put in place should this fail to be the case.

Handing and Stacking

Also sub-optimal in acoustic design terms is the internal layout of some of the new-build elements of the development, which include the bedroom of one flat abutting the kitchen of another. This should be entirely avoidable in new-build developments, where the appropriate stacking and handing of noise-sensitive rooms should be informed by good acoustic design principles. Again, the applicant has been invited to rectify this design failing by submitting revised plans but has declined to do so, on the basis that there is only a small number of apartments affected and pointing to the Building Regulations as an appropriate alternative control mechanism. Officers are not satisfied with this justification and accordingly a condition requiring details of additional soundproofing between apartments is recommended.

Proposed Commercial Units

The ground floor flexible-use commercial units are welcomed in order to provide an active frontage, retail units where there is a Defined Shopping Frontage, and City Centre employment opportunities. However, in order to avoid undue noise or nuisance to scheme residents, conditions are recommended preventing some specific use (such as gyms) and controlling means of extract from any commercial kitchens.

e) Highways matters

Local Plan Policy LP47 confirms that parking provision is set by Policy LP13, which in turn specifically sets a presumption against the provision of additional car parking spaces within the City Core policy area and confirms that new car parking provision will only be supported in "very exceptional circumstances". This is one of the highest possible policy tests and sets an especially high bar for any onsite car parking provision to be acceptable. Queensgate bus station is a 3 minute walk and Peterborough railway station is 7 minutes, giving excellent public transport accessibility to destinations both within the City and further afield. Consequently, the Local Highway Authority has no objection to this being a car-free development.

253 secure long-stay cycle parking spaces are proposed for residents (a ratio of two spaces per flat), along with 36 short-stay visitor cycle parking spaces in the form of 18 Sheffield stands, of which 16 would be located within the semi-private landscaped areas between the retained Westgate House and the new Central building. 5% of the secure cycle parking spaces would be suitable for large or non-standard cycles.

The proposed site layout has been designed to allow a fire tender to enter and turn within the site, with that area also being suitable for two 7.5t box vans (the type commonly used for removals) to load/unload. Supermarket and other deliveries could also use this area within the site.

In terms of offsite highway works, the applicant proposes:

- the marking of one additional loading bay on Park Road, replacing two existing time-limited car parking bays
- widening of the North Street footway to 2.0m

The Local Highway Authority has considered these proposals and has advised that, whilst there are no objections in principle, matters of detail remain to be resolved in respect of cycle parking design & layout, provision for delivery & refuse vehicles, and extent of offsite highway improvement works. The applicant is working through these remaining matters and the final highways position will be reported on the update sheet.

Subject to the resolution of the remaining matters of detail raised by the Local Highway Authority, the proposed development is considered capable of complying with Policy LP13 of the Adopted Peterborough Local Plan (2019).

f) Amenity of existing and future residents

Existing residents

Overlooking

As the Civic Society has pointed out, the maisonettes proposed on North Street would face the existing windows of the flats on the opposite side of the road at relatively close range, as close as 10m. These are public realm-facing windows though and a review of the approved floorplans for that scheme (14/00761/PRIOR) shows most of the facing windows serve kitchen/lounge/diners, with only 4 bedrooms facing the application site. On balance this level of mutual overlooking is acceptable in a constrained City Centre location such as this, and some new overlooking is to be expected if Policy LP47's aspirations for increased city centre living are to be met.

There would be no change of the relationship of facing windows on the Westgate or Park Road elevations.

Overbearing impact

The existing building already has a dominant effect on North Street and on the outlook of the residents living opposite. There would be no significant adverse effect from the proposed redevelopment of this part of the site compared with the existing situation and indeed, replacing the existing oppressive facade with one that is more modulated could be seen as a benefit.

Overshadowing

The amended bulk and massing proposed on North Street would not cast any significant additional shadow over the apartments opposite than the current building.

Future residents

Daylight and Sunlight

The applicant has been required to submit a detailed Daylight & Sunlight Assessment, which uses sophisticated computer modelling to ascertain whether the proposed apartments and maisonettes would have acceptable levels of internal natural light. The report considers all 125 proposed dwellings, which together accommodate 325 rooms served by a total of 587 windows.

With regard to daylight, the Building Research Establishment's guidelines explain that where daylight targets are met in the winter months, daylight year-round is likely to be adequate. In this case, 176 rooms out of 325 habitable rooms (54%) tested meet or surpass the BRE minimum winter recommendations. Of the 149 rooms which would fall short of their winter Daylight Factor targets, 79 of these rooms would be combined living room/kitchen/dining rooms, and the remaining 70 would be bedrooms. Out of the 79 combined living room/kitchen/dining rooms that do not achieve the 200 lux target, 11 of them would achieve 150 lux or above (the minimum recommended target applicable to living rooms).

In terms of direct sunlight the BRE guidance advises that, in general, a dwelling will appear reasonably sunlit provided:

- at least one main window wall faces within 90 degrees of due south, and
- a habitable room, preferably a main living room, can receive a total of at least 1.5 hours of sunlight on 21 March.

99 of the proposed 125 dwellings are positioned with windows to habitable rooms that face within 90 degrees of due south, of which 90 units (91%) would have a habitable room that passes the sunlight targets set out in the BRE guidelines. All roof top amenity areas would meet or surpass the BRE recommendations for sunlight to outdoor amenity areas.

This means of course that some of the apartments/maisonettes would not meet the BRE daylight/sunlight guidelines. This is to be expected in a constrained City Centre redevelopment such as this and it is noted that the BRE guidelines (which are not in themselves Government policy) are expected to be interpreted flexibly, since natural lighting is only one of many factors in site layout design. Additionally, the scheme seeks to retain and make use of existing buildings and windows on the Westgate and Park Road elevations, which does limit aperture size and thus access to natural light.

Government policy on this is set out at National Planning Policy Framework paragraph 125, which in the context of making efficient use of land advises Local Planning Authorities to take a flexible approach in applying policies or guidance relating to daylight and sunlight, as long as the resulting scheme would provide acceptable living standards. Local Plan Policy LP17 takes a similar approach, requiring "adequate" natural light rather than any set minimum standard.

When considered as a whole, the number of north-only single aspect apartments has been minimised, and some apartments which ostensibly fail to meet the BRE's guidelines are perhaps only 10 or 15 minutes of sunlight per day below the threshold. All residents would have access to sunny rooftop amenity areas and accordingly, the proposed development is considered to comply with the natural light requirements of Local Plan Policy LP17.

Overlooking

Window-to-window separation distances with the scheme are acceptable.

Outdoor Amenity Provision

At ground level landscaped courtyards are proposed which would have some informal amenity value to residents. Residents' roof terraces are proposed at the Westgate and Warehouse buildings, accessible via the stair cores serving those blocks. A smaller residents' roof terrace is also proposed on the Central building. The roof terrace of the warehouse building would be subject to evening noise from The Ostrich Inn when live music is played, but this is when the terrace is expected to have a lesser intensity of usage and indeed, if used in the evening users may wish to be playing music anyway. In order to ensure that the roof terraces are appropriately available without causing amenity or security concerns, and in order to manage the use of the Warehouse building's roof terrace to minimise any potential conflict with The Ostrich Inn's activities, an Outdoor Amenity Space Management Plan condition is recommended. Details of the proposed rooftop play area on the Westgate Building, importantly including safety fencing, should also be secured by condition.

In addition to the communal outdoor areas, most apartments (although not all) would have access to a balcony or terrace. Ground floor apartments would have an equivalent area defined by hedging to provide semi-defensible outdoor space.

In light of all of the above assessment, the proposed development is considered to comply with Policy LP17 of the Adopted Peterborough Local Plan (2019).

g) Drainage

In relation to the City Core policy area, Local Plan Policy LP47 confirms that, due to the sensitivities in this area, particular scrutiny will be given to the sustainability of the area with regard to drainage and surface water flood risk. The Environment Agency was consulted but did not wish to make any comments.

Following the receipt of additional and revised information the Council's SUDS Officer has confirmed that the applicant has provided a satisfactory flood risk assessment. Detailed drawings of the proposed permeable hard surfaced areas and rain gardens can be secured by condition, subject to which the proposed development is considered to comply with Policies LP32 and LP47 of the Adopted Peterborough Local Plan (2019).

h) Other matters: contamination, biodiversity, waste & recycling, fire safety, crime prevention, lighting strategy

Contamination

There is the potential for the site to be contaminated due to previous historic uses, and historic made ground. The proposed development includes the demolition of the more modern part of the building and then redevelopment of the site and accordingly, conditions are recommended in respect of soil investigations and any associated necessary remediation measures in order to comply with Policy LP33 of the Adopted Peterborough Local Plan (2019).

Biodiversity

The Wildlife Officer advises that the proposed development would have only minor negative impacts on biodiversity due to the nature of the current buildings and limited open areas, there is still a small but present risk to various protected species. Proposed compensation planting is welcomed and can be secured by condition, and in order to secure precautionary measures to avoid negative impacts a condition requiring a Construction Environmental Management Plan would be sufficient for the proposed development to comply with Policy LP28 of the Adopted Peterborough Local Plan (2019).

Waste & recycling

The applicant has confirmed that a private waste collection regime is proposed, on a twice-weekly collection basis. The Waste & Recycling Officer has no objection to this, subject to a condition requiring a Waste Collection Strategy.

Fire safety

The applicant has submitted a Fire Statement prepared by a Fire Safety Engineer, proposing residential sprinklers in the converted Westgate House and the new-build Central Building as well as dry risers in every building other than the North Street maisonettes. The Fire & Rescue Service has no objection to the submitted fire strategy, compliance with which can be secured by condition along with a further condition requiring hydrant provision.

Crime prevention

The Police Designing Out Crime Officer has reviewed the proposals and is broadly satisfied. Access control to the proposed apartments (including the cycle stores and refuse stores) via an audio/visual visitor entry system is recommended, details of which can be secured by condition.

The proposed cycle storage locations have been specifically reviewed and Cambridgeshire Constabulary is satisfied with the security of the cycle storage areas, subject to a condition requiring lighting and CCTV coverage. They note however that whilst gated, the cycle storage off Park Road would be visible from the street which would increase the likelihood of crime. An enhanced security door-set in this location (fitted with self-closers and access control measures), as well as obscure glazing or similar to prevent visibility from the street, are all recommended and again can be secured by condition.

Lighting strategy

Cambridgeshire Constabulary have also recommended a Lighting Strategy condition, demonstrating how the proposed bollard lighting in the communal landscaped areas can be suitably augmented with building lights. This approach is supported.

i) Affordable housing

The Government's Planning Practice Guidance confirms that national policy provides an incentive

for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.

In this instance the former Beales store ceased trading in early 2023 and at the time of writing had been vacant for several months. The applicant has submitted a Counsel's Opinion that Vacant Building Credit applies, a conclusion which has also independently been reached by the Section 106 Officer and the Housing Officer. In light of this, no affordable housing is proposed or sought, either onsite or by way of a commuted sum.

Six of the proposed new homes would meet the M4(3) wheelchair accessibility standards, but would not be affordable homes and would be offered on the open market along with the rest of the development.

The Government's Vacant Building Credit policy is an important material consideration that essentially overrides Policy LP8 of the Adopted Peterborough Local Plan (2019) and whilst disappointing, the Council is not in a position to require any affordable housing on this application.

j) Section 106 & Community Infrastructure Levy

Community Infrastructure Levy

A CIL Liability Notice will be produced should planning permission be granted, albeit the residential element of the scheme would attract no CIL payment as there is no CIL liability for apartments on sites of 15+ units.

Section 106 contributions

No onsite public open space is proposed and accordingly the following contributions have been requested in terms of offsite open space improvements:

- £49,968 + 5 years Maintenance costs for enhancements at Stanley Park.
- £22,137 + 5 years Maintenance costs for enhanced play provision in Stanley Park
- £4,8134 + 5 years Maintenance costs for improvements to the Burton Street allotments
- £10,8712 + 5 years Maintenance costs for Natural Green Space improvements at Stanley Park.

These are considered reasonable and meet the relevant tests, and are recommended accordingly.

The NHS has been consulted via the Cambridgeshire & Peterborough Integrated Care System, who advise that the nearest GP Practice operating within the vicinity of the application site is Thomas Walker Medical Centre via its Westgate branch surgery. This practice has a registered patient list size of 26,305, and this development of 125 dwellings would see an increase patient pressure of 300 new residents which would require additional GP/Nurse /Admin support workforce to support increase in appointments and demand. This in turn has been calculated as requiring an additional 20.57 sqm net internal area of primary care floorspace. Consequently a financial contribution of £75,126 has been requested to mitigate the impacts of this proposal, which is recommended accordingly,

The East of England Ambulance Service NHS Trust advises that the proposed development would put increasing pressure and demand on ambulance emergency services around the application site. EEAST does not have the capacity to meet the additional growth resulting from this development and cumulative development growth in the area. A contribution of £14,580 towards additional ambulance infrastructure is therefore requested which again is considered reasonable and meets the relevant tests, and is recommended accordingly.

6 Conclusions

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

- * The principle of mixed use redevelopment on this brownfield City Centre site is acceptable and accordance with Policies LP2 and LP47 of the Adopted Peterborough Local Plan (2019)
- * Subject to the resolution of the remaining matters of detail raised by the Local Highway Authority, the proposed development is considered capable of complying with Policy LP13 of the Adopted Peterborough Local Plan (2019).
- * The development will not have any unacceptable ecological impacts. New landscaping and habitats will be provided. The development therefore accords with Policies LP28 and LP29 of the Adopted Peterborough Local Plan (2019)
- * The site can be adequately drained in accordance with Policy LP32 of the Adopted Peterborough Local Plan (2019)
- * The development will not have any substantial or less-than-substantial effects on designated or undesignated heritage assets and the development is therefore considered to comply with Policy LP19 of the Adopted Peterborough Local Plan (2019)
- * The applicant has satisfactorily demonstrated that acceptable living conditions can be provided for future residential occupiers, having had regard to all material amenity considerations and the Agent of Change principle in respect of noise from a nearby established live music venue

7 Recommendation

The Executive Director of Place and Economy recommends that Planning Permission is **GRANTED** subject to completion of a Section 106 agreement to secure the listed contributions and subject to the following conditions:

If the required Section 106 legal agreement is not completed within a reasonable period, then the Committee delegates the issuing of a notice of refusal to the Executive Director of Place and Economy on the grounds that the development has failed to adequately mitigate its impacts.

- C 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

- C 2 The development must be carried out in strict accordance with the following approved plans/documents:

Approved plans:

BEA-001 Rev P2	Location Plan
BEA-002 Rev P2	Existing Site Plan (inc Roof Plan)
BEA-011 Rev P1	Existing Basement Floor Site Plan
BEA-012 Rev P1	Existing Ground Floor Site Plan
BEA-013 Rev P1	Existing First Floor Site Plan
BEA-014 Rev P1	Existing Second Floor Site Plan
BEA-015 Rev P1	Existing Third Floor Site Plan
BEA-031 Rev P1	Existing Site Sections - 1-1 and 3-3
BEA-032 Rev P1	Existing Site Sections - 2-2 & 4-4
BEA-041 Rev P1	Existing Site Elevations - All
BEA-051 Rev P1	Demolition Site Plan - Basement Floor
BEA-052 Rev P2	Demolition Site Plan - Ground Floor
BEA-053 Rev P1	Demolition Site Plan - First Floor
BEA-054 Rev P1	Demolition Site Plan - Second Floor
BEA-055 Rev P1	Demolition Site Plan - Third Floor
BEA-101 Rev P2	Proposed Site Plan - Block Plan (Inc Roof Plan)
BEA-111 Rev P1	Proposed Site Plan - Basement Floor Plan
BEA-112 Rev P4	Proposed Site Plan - Ground Floor Plan

BEA-113 Rev P2	Proposed Site Plan - First Floor Plan
BEA-114 Rev P2	Proposed Site Plan - Second Floor Plan
BEA-115 Rev P2	Proposed Site Plan - Third Floor Plan
BEA-116 Rev P2	Proposed Site Plan - Fourth Floor Plan
BEA-117 Rev P2	Proposed Site Plan - Fifth Floor Plan
BEA-131 Rev P1	Proposed Site Sections - AA, BB, CC
BEA-132 Rev P2	Proposed Site Sections - DD & EE
BEA-133 Rev P2	Proposed Site Sections - FF & GG
BEA-141 Rev P3	Proposed Site Elevations - Sheet 1
BEA-142 Rev P4	Proposed Site Elevations - Sheet 2
BEA-143 Rev P4	Proposed Site Elevations - Sheet 3
BEA-144 Rev P3	Proposed Site Elevations - Sheet 4
BEA-161 Rev P1	External Materials Study
BEA-201 Rev P4	Proposed Landscape Plan - Ground Level Layout
BEA-202 Rev P2	Proposed Landscape Plan - Roof Level Layout
BEA-203 Rev P5	Proposed Landscape Plan - Cycles and Proposed and Existing Footprint
BEA-501 Rev P2	Proposed Area Schedule

Approved documents:

Landscape Appraisal - N1148-ONE-ZZ-XX-RP-L-0001-P01 (July 2022)
Noise Report - LAE1175.4 dated 06 February 2023
Heritage Statement - Sarah Dyer Heritage 2309 - 001 - June 2022
Fire Report- 28318 - 5 May 2023
Highways Plans/ Documents:2023-01 Parking Stress Survey Analysis 22-070-N ISSUE with Appendices
2023-05 Response to Comments 22-070-N ISSUE with Appendices
Drawings 22-070/TK03 and 22-070/001
Transport Assessment Ref: 22-070-N Rev A
Flood Risk and Drainage Report - SHED Beales FRDA28.4.22 Rev B:
Proposed Drainage Layout
Micro-drainage Layout
SuDS Layout
Exceedance Flows
Proposed Surface Water Drainage Calculations
Statement of Community Involvement - HPS March 2022
Ecology Report - 2153 Rev3
Archaeological desk-based assessment - Ref: 5740
Planning Statement - HPS July 2022
Daylight and Sunlight Study -22062 - 10 January 2023
Shop Front Design Code - September 2022
Phase I Geo-Environmental Risk Assessment - 220120.R.001
Arboricultural Reports:
AIA Exi Beales Store Peterborough 22.04.22-AIA Exi 1.500 A1
AIA R Beales Store Peterborough 25.04.22
AIA TPP Beales Store Peterborough 22.04.22-AIA TPP 1.500 A1
AMS Exi Beales Store Peterborough 22.04.22-AMS Exi 1.500 A1
AMS R Beales Store Peterborough 25.04.22

Reason: In order to ensure that the development complies with that which has been applied for, for the avoidance of doubt and in the interests of good planning.

- C 3 The materials to be used in the external surfaces of the development hereby approved shall be based on those specified on approved drawing reference BEA-161 Rev P1 (External Materials Study). Prior to the commencement of any works above slab level, confirmation of

and samples of the following materials to be used in the external surfaces of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority:-

- Bricks or brickslips (including feature glazed brickslips)
- Cladding (including its RAL)
- Windows and doors
- Balconies
- Rainwater goods
- Copper and associated materials for the rooftop polygonal lantern features on the roof of the Westgate building
- Flues
- Handrails

The development shall thereafter be carried out in accordance with the approved details.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policy LP16 of the Peterborough Local Plan (2019).

- C 4 The materials to be used in the hardsurfacing of the development hereby approved shall be based on those specified on the approved layout drawing numbered BEA-201 Rev P3 (Proposed Landscape Plan - Ground Level Layout). Prior to the commencement of any works above slab level, confirmation of and samples of the materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained thereafter.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policy LP16 of the Peterborough Local Plan (2019).

- C 6 Notwithstanding the submitted landscaping details, prior to the commencement of any works above slab level full details of landscape planting (including but not limited to detailed planting plans showing species, size and density of planting, details of establishment measures including soil volumes, tree/shrub planters, and a detailed maintenance/aftercare schedule) to the following areas have been submitted to and approved in writing by the Local Planning Authority:

- (i) Ground level landscape planting, to be based on approved drawing number BEA-201 Rev P3 (Proposed Landscape Plan - Ground Level Layout)
- (ii) Rooftop landscape planting, to be based on approved drawing number BEA-202 Rev P2 (Proposed Landscape Plan - Roof Level Layout)
- (iii) Green walls ("Vertical Greening"), to be based on approved drawings numbered BEA-141 Rev P3 (Proposed Site Elevations - Sheet 1), BEA-142 Rev P4 (Proposed Site Elevations - Sheet 2), BEA-143 Rev P4 (Proposed Site Elevations - Sheet 3) and BEA-143 Rev P4 (Proposed Site Elevations - Sheet 3) notwithstanding the absence of Green Wall locations shown on drawing number BEA-202 Rev P2 Proposed Landscape Plan (Roof Level Layout)
- (iv) Green roofs on the North Street and Central buildings, based on approved drawing number BEA-202 Rev P2 (Proposed Landscape Plan - Roof Level Layout)

The scheme as approved shall be carried out in the first planting season following the first occupation of the development. Any trees, shrubs or plants that die within a period of five years from the completion of each development phase, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary continue

to be replaced) in the first available planting season with others of similar size and species, unless the Local Planning Authority gives prior written permission for any variation.

Reason: In order to protect and safeguard the amenities of the area, in accordance with Policies LP16 and LP29 of the Peterborough Local Plan (2019).

- C 7 Notwithstanding the submitted landscaping details, no development shall take place above slab level until full details of the 5 new street trees on Westgate in the locations shown on approved drawing number BEA-201 Rev P3 (Proposed Landscape Plan - Ground Level Layout) have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include but not be limited to the species, size, soil planting volume and root protection measures of those trees.

The street trees shall be planted in accordance with the approved details in the first planting season following the first occupation of the development. Any tree that dies within a period of five years from the date of its planting, or is removed and/or becomes seriously damaged or diseased in that period, shall be replaced (and if necessary continue to be replaced) in the first available planting season with others of similar size and species, unless the Local Planning Authority gives prior written permission for any variation.

Reason: In order to protect and safeguard the amenities of the area, in accordance with Policies LP16 and LP29 of the Peterborough Local Plan (2019).

- C 8 Notwithstanding the submitted landscaping details, no development shall take place above slab level until full details of the play area on the rooftop terrace of the Westgate Building (including but not limited to details of play equipment, seating, safety surfacing, safety fencing, auto-closing gates and refuse bins) have been submitted to and approved in writing by the Local Planning Authority. The size and location of the play area shall be based on approved drawing number BEA-202 Rev P2 (Proposed Landscape Plan - Roof Level Layout)

The play area shall be implemented in strict accordance with the approved details and made available for residents' use prior to the first occupation of any dwelling in the Westgate Building and shall be retained thereafter.

Reason: In order to ensure appropriate onsite children's play provision, in accordance with Policy LP21 of the Peterborough Local Plan (2019).

- C 9 Prior to the commencement of development on any of the commercial units shown on approved drawing number BEA-112 Rev P3 (Proposed Site Plan - Ground Floor Plan) details of works to the shop front of each unit shall be submitted to and approved in writing by the Local Planning Authority. Shop front works shall be in accordance with the approved document "Shop Front Design Code" (Ash Sakula Architects, September 2022). Shop front works shall be completed in accordance with the approved details prior to the first occupation of each commercial unit.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policies LP16 and LP19 of the Adopted Peterborough Local Plan (2019).

- C10 Prior to the commencement of any works to the Park Road Building (formerly known as Westgate House) details of the preservation, refurbishment and reinstatement of the protruding public clock feature shall be submitted to and approved in writing by the Local Planning Authority. Works to preserve, refurbish and reinstate the public clock shall be

completed in accordance with the approved details prior to the first occupation of any part of the Park Road Building for the new residential or commercial uses hereby permitted. The public clock shall be retained in working order thereafter.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policy LP16 of the Peterborough Local Plan (2019).

- C11 Prior to the commencement of any works above slab level a glazing scheme shall be submitted to and approved in writing by the Local Planning Authority. Where the rooms are affected by noise from live/amplified music the scheme shall ensure that the internal music noise level does not exceed 27dB LAeq(5min), and shall be developed in accordance with the November 2022 monitoring levels detailed as façade noise levels in Figure 7.2 of LA Environmental Consultants ref: LAE1175.4. The scheme shall also include the assessment and mitigation of lower frequency bass noise. The scheme shall also consider overheating with assessment and mitigation in accordance with Acoustic Ventilation and Overheating Residential Design Guide.

Once the approved details have been implemented a Validation Report shall be submitted to and approved in writing by the Local Planning Authority which demonstrates that the implemented measures have achieved noise attenuation to the internal noise levels set out above and, in the even of any exceedance, any additional mitigation measures required to achieve the maximum internal noise levels.

Thereafter the development shall be implemented in accordance with the approved details, prior to the occupation of any unit to which it relates and shall thereafter be retained and maintained as such in perpetuity.

Reason: In the interest of providing satisfactory amenity for residents in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019).

- C12 Prior to the commencement of any works above slab level a scheme which specifies the provisions for ventilation of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall comply with Building Regulations Approved Document F, and shall also consider overheating in accordance with the Acoustic Ventilation and Overheating Residential Design Guide. Thereafter the development shall be implemented in accordance with the approved details, prior to the occupation of any unit to which it relates and shall thereafter be retained and maintained as such in perpetuity.

Reason: In the interest of providing satisfactory amenity for residents in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019).

- C13 Prior to the commencement of any works above slab level to the Warehouse Building a scheme to provide an acoustic haven on the Warehouse Building roof terrace shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include but not be limited to details of the type, design, materials, elevational appearance, alignment and soft landscaping to acoustic screening, supported by noise modelling data demonstrating how the acoustic haven would mitigate noise from music played at The Ostrich Inn.

The acoustic haven shall be installed in strict accordance with the approved details prior to the first occupation of any dwelling in the Warehouse Building and shall be retained thereafter for the duration of the Warehouse Building's residential occupation.

Reason: In the interest of providing satisfactory amenity for residents in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019).

C14 For the purposes of this condition "Acoustically Upgraded Party Walls/Floors" mean those walls between adjoining apartments where:

- (i) A bedroom shares a Party Wall with the kitchen of the adjoining apartment, or
- (ii) A bedroom shares a Party Wall with the living room of the adjoining apartment, or
- (iii) A bedroom sits immediately above or below the kitchen or living room of the apartment on the adjacent floor.

Prior to the commencement of any works above slab level details of Acoustically Upgraded Party Walls/Floors shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include but not be limited to measures to mitigate airborne and impact noise including enhanced sound insulation over-and-above the minimum required by the Building Regulations, or amendments to room designations on the floorplans to remove conflicting relationships between bedrooms and adjoining kitchens or living rooms.

Development shall be undertaken strictly in accordance with the approved details.

Reason: In the interest of providing satisfactory amenity for residents in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019).

C15 Prior to installation and operation of any mechanical plant details of the make, model, location, sound power level and frequency spectrum data of that mechanical plant shall be submitted to and approved in writing by the Local Planning Authority. The submitted information must demonstrate that the noise rating level from the operation of the mechanical plant does not exceed the background noise level as determined at the nearest noise sensitive premises. The measurements and assessment must be made according to BS:4142:2014. Thereafter the development shall be implemented in accordance with the approved details, including any necessary mitigation, and shall thereafter be retained and maintained as such in perpetuity.

Reason: In the interest of providing satisfactory amenity for residents in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019).

C16 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) none of the commercial units hereby approved shall be used for any indoor sports or fitness activities, including use as a gym.

Reason: In the interest of providing satisfactory amenity for residents in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019).

C17 In the event that the use of any commercial unit hereby approved includes food preparation, no mechanical ventilation or extraction equipment shall be installed until a scheme of odour suppression and noise levels, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with EMAQ Control of Odour and Noise from Commercial Kitchen Exhaust Systems 2018. Thereafter the development shall be implemented in accordance with the approved details, including any necessary mitigation, prior to the occupation of any unit to which it relates, and shall be retained thereafter for the duration of the use of that commercial unit for food preparation. In the event that food preparation ceases within that commercial unit but

recommences at a later date (with or without an intervening use) then the scheme of odour suppression and noise levels shall be reinstated in accordance with the previously-approved details prior to any food preparation use recommencing.

Reason: In the interest of providing satisfactory amenity for residents in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019).

C18 1. Site Characterisation

No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health, property (existing or proposed) including buildings, pets, and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and;

2. Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The remediation scheme shall be implemented in accordance with the approved timetable of works. Within 2 months of the completion of measures identified in the approved remediation scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 5 working days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination development must be halted on that part of the site.

An assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of condition 2.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority in accordance with condition 3.

Reason: In to ensure appropriate ground conditions in accordance with Policy LP33 of the Adopted Peterborough Local Plan (2019).

- C19 No piling or any other foundation designs using penetrative methods shall take place until details including plans and a method statement has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details.

Reason: In order to safeguard the amenity of nearby residents in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019).

- C20 No construction, demolition or associated deliveries shall take place outside the hours of 0800hrs to 1800hrs Mondays to Fridays, and 0900hrs to 1300hrs on Saturdays, and not at any time on Sundays and Bank or Statutory Holidays without prior written approval from the Local Planning Authority.

Reason: to protect occupiers of nearby properties from unreasonable disturbance from works connected with implementation of this permission in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019).

- C21 No demolition shall take place until a Demolition and Environmental Management Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The statement must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting during demolition. The plan shall include but not be limited to:

- a) provision of a plan at not less than 1:500 to show space on site where vehicles of site operatives and visitors can be parked with details of how site operatives and visitors will be required to make use of the parking area provided
- b) location on site for storage of plant and materials used in constructing the development
- c) the erection and maintenance (including removal of any graffiti or fly posters) of security hoarding around the site
- d) any footpath closures or road closures needed during demolition
- e) wheel washing facilities on site
- f) a scheme for recycling waste resulting from the demolition works
- g) Procedures for maintaining good public relations including complaint management, public consultation and liaison
- h) All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays
- i) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from demolition works
- j) Control measures for dust and other air-borne pollutants
- k) Measures for controlling the use of site lighting whether required for safe working or for security purposes.

The measures within the approved Demolition and Environmental Method Statement shall be maintained and adhered to throughout the course of the demolition phase of the development.

Reason: In the interests of protecting the amenity of local land uses or neighbouring residents, the character of the area and highway safety in accordance with Policies LP13, LP16 and LP17 of the Adopted Peterborough Local Plan (2019).

- C22 No development shall take place until a Construction and Environmental Management Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The statement must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting during construction. The statement shall include but not be limited to:
- a) provision of a plan at not less than 1:500 to show space on site where vehicles of site operatives and visitors can be parked with details of how site operatives and visitors will be required to make use of the parking area provided
 - b) location on site for storage of plant and materials used in constructing the development
 - c) the erection and maintenance (including removal of any graffiti or fly posters) of security hoarding around the site
 - d) any footpath closures or road closures needed during construction
 - e) wheel washing facilities on site
 - f) a scheme for recycling waste resulting from the construction works
 - g) Procedures for maintaining good public relations including complaint management, public consultation and liaison
 - h) All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
 - i) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works
 - j) Control measures for dust and other air-borne pollutants.
 - k) Measures for controlling the use of site lighting whether required for safe working or for security purposes.

The measures within the approved Construction and Environmental Method Statement shall be maintained and adhered to throughout the construction phase of the construction of the development.

Reason: In the interests of protecting the amenity of local land uses or neighbouring residents, the character of the area and highway safety in accordance with Policies LP13, LP16 and LP17 of the Adopted Peterborough Local Plan (2019).

- C23 No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:
- a) Summary of potentially damaging activities.
 - b) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction on possible nesting birds and bats that may use the habitat (may be provided as a set of method statements) including ensuring no Non-Native Invasive Species are spread across the site.
 - c) The location and timing of sensitive works to avoid harm to biodiversity features.
 - d) The times during construction when specialist ecologists need to be present on site to oversee works.
 - e) Responsible persons and lines of communication.

- f) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: In order to mitigate the effect of construction works on biodiversity, in accordance with Policy LP28 of the Adopted Peterborough Local Plan (2019).

C24 Prior to the commencement of any works above slab level a Lighting Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Lighting Scheme shall include but not be limited to:

- (i) A plan indicating the locations of the lights, specifications, height, luminance; lens shape/beam pattern and any hoods/shades;
- (ii) Lux level plans in accordance with lighting levels specified in environmental zone E2 of Lighting Professionals document "Guidance Note 01:21, The Reduction of Obtrusive Light";
- (iii) Details of bollard lighting design, appearance and specification;
- (iv) Details of building-mounted lighting design, appearance and specification;
- (v) Details of lighting to rooftop terraces;

The Lighting Scheme shall be implemented in accordance with the approved details, including any necessary mitigation, prior to the first occupation of any unit to which it relates, and shall thereafter be retained and maintained as such in perpetuity.

Reason: In the interest of providing satisfactory amenity for residents in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019); and in the interests of crime prevention in accordance with Policy LP16 of the Adopted Peterborough Local Plan (2019).

C25 Prior to the commencement of any works above slab level a Security and Access Control Strategy to achieve a standard as described within 'Secured by Design Homes 2016' has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall ensure that the development shall achieve the Secured By Design standard and shall include but not be limited to:

- (i) External communal entrance controls
- (ii) Internal segregation controls
- (iii) Door security details
- (iv) Cycle store access control measures
- (v) Bin store access control measures
- (vi) Roof terrace access control measures.

The development shall thereafter be undertaken and retained in accordance with the approved Security and Access Control Strategy, no later than first occupation of the development for residential use.

Reason: In the interests of crime prevention in accordance with Policy LP16 of the Adopted Peterborough Local Plan (2019).

C26 Notwithstanding the details shown on approved drawing BEA-144 Rev P3 (Proposed Site Elevations - Sheet 4) revised details of the external gates to the cycle store on accessed from Park Road shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall illustrate measures to prevent parked cycles being

visible from the public realm. Development shall be undertaken in accordance with the approved details and retained thereafter.

Reason: In the interests of crime prevention in accordance with Policy LP16 of the Adopted Peterborough Local Plan (2019).

- C27 No development above slab level shall take place until a schedule identifying 5% of the residential units being capable of meeting an accessibility standard equivalent to that set out at Part M, Category (3)(2)(a) of the Building Regulations 2010 (as amended) has been submitted to and approved in writing by the Local Planning Authority. The identified residential units shall thereafter be retained in accordance with the above standard for the lifetime of the development.

Reason: In order to meet the residential accessibility standards set out at Policy LP8 of the Adopted Peterborough Local Plan (2019).

- C28 All lifts as shown on the approved plans in Condition 2 above shall be installed prior to the first occupation of the dwelling they serve and thereafter retained in working order, in full accordance with the manufacturer's instructions, for the lifetime of the development hereby approved.

Reason: In order to meet the residential accessibility standards set out at Policy LP8 of the Adopted Peterborough Local Plan (2019).

- C29 No development other than demolition shall commence until details of the implementation, maintenance and management plan for the approved sustainable drainage scheme (as set out in the submitted and approved Flood Risk Assessment) have been submitted to and approved by the Local Planning Authority. The details shall include:

- (i) A timetable for its implementation;
- (ii) Full details of rain gardens;
- (iii) Full details of permeable paving;
- (iv) A management and annual maintenance plan for the lifetime of the development which shall include any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

The scheme shall be implemented and thereafter managed and maintained in accordance with the approved sustainable drainage scheme details.

Reason: In order to mitigate the risk of flooding onsite and elsewhere, in accordance with Policy LP32 of the Adopted Peterborough Local Plan (2019).

- C30 No development above slab level shall commence until a Waste Collection Strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall demonstrate how private waste collection operations will operate on the development and shall include but not be limited to:

- (i) Heads of Terms of a Commercial Waste Collection contract to be entered into by the developer or their agent
- (ii) Frequency of waste collections, such frequency to be not less than twice-weekly
- (iii) Management of refuse bins prior to, during and following each collection
- (iv) Onsite recycling facilities to be provided for scheme residents

- (v) Means of provided refuse storage and collection facilities for residents in the North Street Building, who shall not be provided with individual bins for each maisonette
- (vi) Arrangements for the storage and collection of commercial waste from the commercial units

The development shall thereafter be undertaken and retained in accordance with the approved Waste Collection Strategy, no later than first occupation of the development for residential use.

Reason: The quantum of onsite waste and recycling provision falls below that set out at Appendix E of the Adopted Peterborough Local Plan (2019) and therefore details of private arrangements for the collection of waste and recycling are required in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019)

- C31 No development (including works of demolition) shall comment until an archaeological mitigation strategy, including a Written Scheme of Investigation (WSI) which sets out a Watching Brief, has been submitted to and approved in writing by the Local Planning Authority (LPA). Thereafter no development shall take place other than in complete accordance with the approved WSI. The approved WSI shall be implemented in full.

In the event that significant archaeological remains are found at any time when carrying out the approved development these must be reported in writing within 5 working days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the archaeological remains development must be halted on that part of the site until a further Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be undertaken in strict accordance with the latter WSI.

Reason: To mitigate the effect of the development on the historic environment and to ensure the investigation, recording, reporting and presentation of archaeological assets affected by the scheme in accordance with Policy LP19 of the Adopted Peterborough Local Plan (2019) and Chapter 16 of the National Planning Policy Framework (2021). This is a pre-commencement condition as the WSI must be submitted and approved before any works (including demolition) take place.

- C32 a) Notwithstanding the submitted information, no development above slab level shall take place until provision has been made for fire hydrants in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details.

b) Prior to the first occupation of any dwelling (or building where appropriate), written confirmation shall be submitted to and approved in writing by the Local Planning Authority that the scheme has been implemented in full and is certified as being ready for use.

Reason: In order to ensure that sufficient resources are available for fire-fighting, in accordance with Policies LP16 and LP17 of the Peterborough Local Plan (2019).

- C33 Prior to the commencement of any works above slab level cross section drawings at a scale of 1:5 and elevation drawing at a scale of 1:10 shall be submitted to and approved in writing by the Local Planning Authority for the following street facing elements of the development hereby approved:

- (i) Shopfronts
- (ii) Signage

- (iii) Windows and doors
- (iv) Balconies

Development shall thereafter be undertaken in accordance with the approved details.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policies LP16 and LP19 of the Adopted Peterborough Local Plan (2019).

C34 Prior to the first occupation of any dwelling an Outdoor Amenity Space Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Outdoor Amenity Space Management Plan shall include but not be limited to:

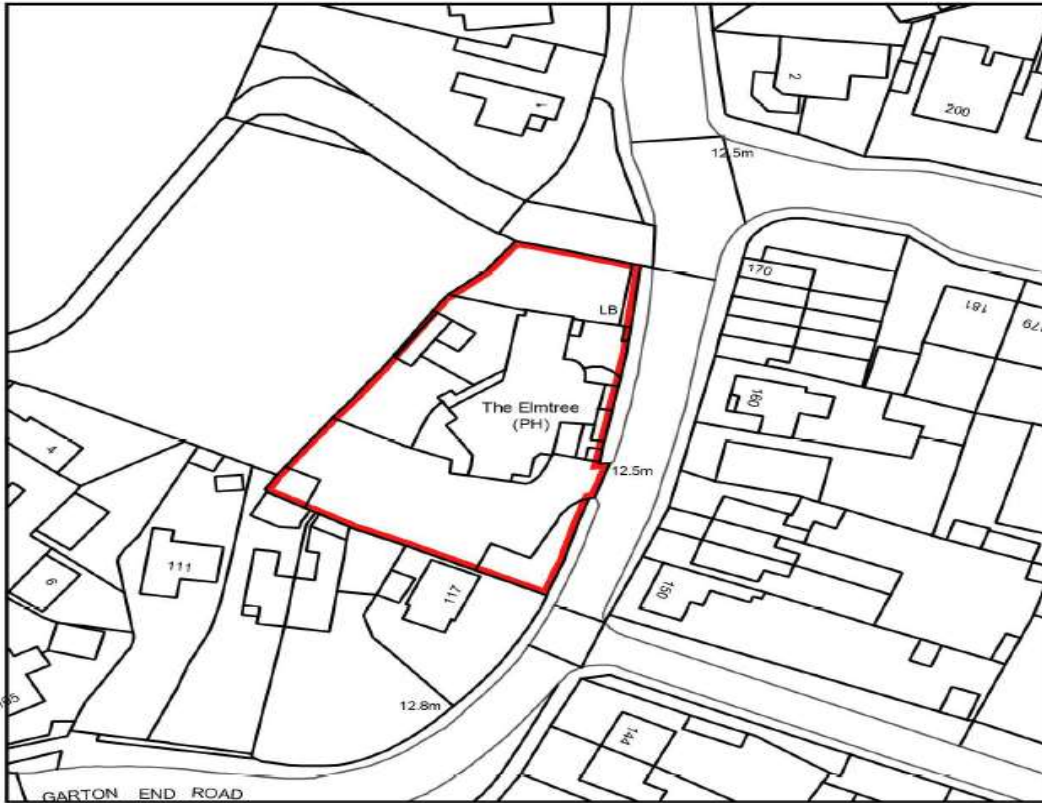
- (i) General hours of use of the rooftop residents' terraces
- (ii) Separate hours of use of the rooftop play area on the Westgate Building
- (iii) Separate hours of use of the rooftop terrace on the Warehouse Building and the means of restricting the use of this terrace during those times when there are live music events at The Ostrich Inn
- (iv) Measures to ensure the proper maintenance of the rooftop terrace landscaping
- (v) Means of controlling public access to the ground level amenity areas

The scheme shall be implemented and thereafter managed and maintained in accordance with the approved Outdoor Amenity Space Management Plan.

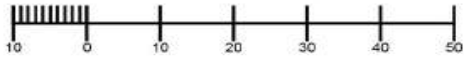
Reason: In order to safeguard the amenity of nearby residents in accordance with Policy LP17 of the Adopted Peterborough Local Plan (2019).

Copies to Councillors -Councillor Amjad Iqbal
-Councillor Mohammed Jamil
-Councillor Alison Jones

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Produced on 18 November 2022 from the Ordnance Survey National Geographic Database and incorporating surveyed revision available at this date.
 This map shows the area bounded by 519596 300797, 519738 300797, 519738 300939, 519596 300939, 519596 300797
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Reference: 23/00046/FUL

Site address: The Elm Tree Tavern, Garton End Road, Peterborough, PE1 4EZ

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Application Ref: 23/00046/FUL

Proposal: Demolition of existing buildings and erection of 7no. three bed homes, landscaping and infrastructure

Site: The Elm Tree Tavern, Garton End Road, Peterborough, PE1 4EZ

Applicant: Mr A Keshwara
Janish Homes Ltd

Agent: Mr Tim Slater
3D Planning Ltd.

Referred by: Councillor (Former) Ikra Yasin

Reason: Concerns in relation to potential impact on traffic in the area, size of the site and the practicality of how this development will work.

Site visit: 03.02.2023

Case officer: Mr Asif Ali

Telephone No. 07572463902

E-Mail: asif.ali@peterborough.gov.uk

Recommendation: **GRANT** subject to relevant conditions

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

Site description

The application site is a public house located on Garton End Road with the junctions serving Newark Avenue and Ascot Drive located in close proximity. To the west of the application site is The King's School Playing fields with residential properties located to the north, east and south of the site, with some commercial/retail units located on Newark Avenue in close-by. The application site is a two-storey building which has been extended over the years, with car parking spaces located to the north and south of the application site. The parking spaces located to the north of the application site uses the access for the playing fields and satellite imagery shows the use of this access for over 10 years.

Proposal

The application seeks the benefit of planning permission for the demolition of existing the buildings and erection of 7no. three bed homes, landscaping, and infrastructure.

The original proposal was revised to better incorporate the parking within the design of the proposal to avoid a rear parking court. The design of the proposed dwellings was also amended to ensure a more in-keeping appearance with the surrounding area with the inclusion of chimney stacks. The landscaping of the proposal was also amended with the use of more appropriate native species which would benefit the local wildlife and biodiversity.

2 Planning History

Reference	Proposal	Decision	Date
99/01322/ADV	Illuminated fascia, amenity and post signs	Permitted	06/12/1999
99/00518/FUL	New paving and fire/access door	Permitted	13/09/1999
90/AD051	Illuminated brewery signs	Permitted	18/06/1990

3 Planning Policy

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

Peterborough Local Plan 2016 to 2036 (2019)

LP02 - The Settle Hierarchy and the Countryside

The location/scale of new development should accord with the settlement hierarchy. Proposals within village envelopes will be supported in principle, subject to them being of an appropriate scale. Development in the open countryside will be permitted only where key criteria are met.

LP08 - Meeting Housing Needs

LP8a) Housing Mix/Affordable Housing - Promotes a mix of housing, the provision of 30% affordable on sites of 15 or more dwellings, housing for older people, the provision of housing to meet the needs of the most vulnerable, and dwellings with higher access standards

LP8b) Rural Exception Sites- Development for affordable housing outside of but adjacent to village envelopes may be accepted provided that it meets an identified need which cannot be met in the village, is supported locally and there are no fundamental constraints to delivery or harm arising.

LP8c) Homes for Permanent Caravan Dwellers/Park Homes- Permission will be granted for permanent residential caravans (mobile homes) on sites which would be acceptable for permanent dwellings.

LP13 - Transport

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

LP13c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP13d) City Centre- All proposals must demonstrate that careful consideration has been given to prioritising pedestrian access, to improving access for those with mobility issues, to encouraging cyclists and to reducing the need for vehicles to access the area.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP17 - Amenity Provision

LP17a) Part A Amenity of Existing Occupiers- Permission will not be granted for development which would result in an unacceptable loss of privacy, public and/or private green space or natural daylight; be overbearing or cause noise or other disturbance, odour or other pollution; fail to minimise opportunities for crime and disorder.

LP17b) Part B Amenity of Future Occupiers- Proposals for new residential development should be designed and located to ensure that they provide for the needs of the future residents.

LP28 - Biodiversity and Geological Conservation

Part 1: Designated Site

International Sites- The highest level of protection will be afforded to these sites. Proposals which would have an adverse impact on the integrity of such areas and which cannot be avoided or adequately mitigated will only be permitted in exceptional circumstances where there are no suitable alternatives, overriding public interest and subject to appropriate compensation.
National Sites- Proposals within or outside a SSSI likely to have an adverse effect will not normally be permitted unless the benefits outweigh the adverse impacts.

Local Sites- Development likely to have an adverse effect will only be permitted where the need and benefits outweigh the loss.

Habitats and Species of Principal Importance- Development proposals will be considered in the context of the duty to promote and protect species and habitats. Development which would have an adverse impact will only be permitted where the need and benefit clearly outweigh the impact. Appropriate mitigation or compensation will be required.

Part 2: Habitats and Geodiversity in Development

All proposals should conserve and enhance avoiding a negative impact on biodiversity and geodiversity.

Part 3: Mitigation of Potential Adverse Impacts of Development

Development should avoid adverse impact as the first principle. Where such impacts are unavoidable they must be adequately and appropriately mitigated. Compensation will be required as a last resort.

LP29 - Trees and Woodland

Proposals should be prepared based upon the overriding principle that existing tree and woodland cover is maintained. Opportunities for expanding woodland should be actively considered. Proposals which would result in the loss or deterioration of ancient woodland and or the loss of veteran trees will be refused unless there are exceptional benefits which outweigh the loss. Where a proposal would result in the loss or deterioration of a tree covered by a Tree Preservation Order permission will be refused unless there is no net loss of amenity value or the need for and benefits of the development outweigh the loss. Where appropriate mitigation planting will be required.

LP30 - Culture, Leisure, Tourism and Community Facilities

LP30a) Development of new cultural, leisure and tourism facilities will be supported in the city centre. Facilities elsewhere may be supported in accordance with a sequential approach to site selection.

LP30b) Development proposals should recognise that community facilities are an integral component in achieving and maintaining sustainable development. Proposals for new community facilities will be supported in principle.

LP30c) The loss via redevelopment of an existing community, cultural, leisure or tourism facility will only be permitted if it is demonstrated that the facility is no longer fit for purpose, the service provided can be met by another facility or the proposal includes a new facility of a similar nature.

LP32 - Flood and Water Management

Proposals should adopt a sequential approach to flood risk management in line with the NPPF and council's Flood and Water Management SPD.. Sustainable drainage systems should be used where appropriate. Development proposals should also protect the water environment.

4 Consultations/Representations

Councillor Ikra Yasin - Park

Objection – Concerns in relation to potential impact on traffic in the area, size of the site and the practicality of how this development will work.

Archaeological Officer

No objection.

PCC Peterborough Highways Services

No objection - Initial concerns were raised with regards the rights of access over The King's School Playing Fields access but on submission of further information no objection was raised.

Cambridgeshire Fire & Rescue Service

Comments – recommend securing fire hydrant provision by condition or Section 106 agreement.

PCC Pollution Team

No objection –

Secure internal layout by condition, and concerns related to bulkhead down to dusk lighting. Also, prudent to consider measures to secure solar panels from pigeons.

Waste Management

No objection.

PCC Wildlife Officer

No objection – initial concerns raised relation to species used within landscaping scheme but revised landscaping scheme addresses those concerns.

PCC Tree Officer

No objection – initial concerns raised in relation to details on landscaping scheme but subject to securing conditions on details of species sizes and tree pit details application is acceptable.

Landscape Officer

No objection.

Police Architectural Liaison Officer (PALO)

Comments – Initially further details were required on the lighting scheme, height of fencing to the rear gardens of Plots 1-3 and side fence adjacent to Plot 1. On submission of further details, the only additional comments raised were in relation to locating the gates as close to the front building line as possible and a possible omission in relation to a gate for Plot 3.

Anglian Water Services Ltd

Does not meet threshold for comments.

Lead Local Drainage Authority

No objection – Further details were required for submission, but on submission of the drainage strategy no objection was raised.

PCC Conservation Officer

No objection.

Local Residents/Interested Parties

Initial consultations: 43

Total number of responses: 38

Total number of objections: 36

Total number in support: 0

38 comments were received during the public consultation from 25 different addresses (36 objecting and 2 neither objecting/supporting). The comments are summarised below.

Objections:

- Why has work started when no decision has been made.
- Work needs to be stopped now.
- Prefer the building to be put to another use.
- If demolished the building should be in keeping with the other properties on Garton End Road.
- Seven properties are too many and the site is being overdeveloped.
- There will be parking issues due to the development size. The surrounding area has a lack of parking, and the proposal will result in additional pressures on parking and congestion.
- Historically for decades a reciprocal arrangement has been in place for residents to park their vehicles on the public house car park.
- Speeding vehicles make entry and exit from the application site dangerous.
- Too many rented properties in the area, these properties should not be low-cost houses for the rental market. Rental properties are not cared for and are bringing down the area visually.
- Properties not in keeping with Garton End Road, Newark Avenue and Elmtree Avenue.
- Existing issues with bins on footpaths, the proposal will cause a similar problems.
- Too many dwellings putting social and physical pressure on the area.
- Traffic movements in and out of the development site is an accident waiting to happen.
- 2 or 3 dwellings would be more appropriate for the site.
- We don't want overspill of parking to the Newark Avenue lay-bys.
- The drains have been blocked and are not visibility draining water.
- Unfortunately, this section of Garton End Road has historic standing water issues during heavy rainfall, this is due to this location being a low point in the Anglian Water system and once their surface water sewer network reaches capacity the system surcharges, this can be reported to Anglian Water direct on 03457 145 145 if it reoccurs.)
- Whose responsibility is the upkeep and maintenance of the Playing Fields access?
- No provision for delivery vehicles.
- Why don't you move the parking to the right-hand side and install a non-circular mini roundabout at the junction of Elmfield Road, Newark Avenue and Garton End Road.
- 3 pair of 3 bed semis would look and fit the site better.
- Visitor parking needs to be considered.
- We experience severe flooding when we have a downpour, Garton End Road was flooded two years ago badly and many times before that too.
- The playing fields should be properly screening from any new dwellings built.
- The proposed installing of soakaways on the site which I believe would only increase the flooding risk in the area.
- Trees and bushes cut down before applying for planning permission.
- This is not a great plan at all the closest pub isn't used by the locals around the Elm Tree. It would ruin shops and small businesses.
- We are losing too many public houses.

Neither objecting/in support of:

- Would improve the streetscene but 3 pairs of semis would be better. 7 houses is too many.
- 4/5 houses would be more appropriate.
- Many near misses, the access may be better located to the rear of the site linking to the playing field access road.
- Pleased the Hornbeam tree is saved but what about the 3 trees cut down, they will never be replaced.
- Put down neutral as the Council is on a course of build, build and build, and not listening to what people say. Surprised the proposal is not for flats.

5 Assessment of the planning issues

The material considerations are as follows:

- a) Principle of development
- b) Design and character of the site and surrounding area
- c) Neighbour amenity

- d) Highway safety and parking provision
- e) Trees and wildlife
- f) Drainage
- g) Pollution control
- h) Other

a) Principle of development

The site is within the urban area of Peterborough where new residential development is acceptable in principle in accordance with Policy LP2, subject to compliance with other Local Plan Policies

The proposal would result in the loss of a public house which is classed as a community facility under the Peterborough Local Plan (2019), as such Policy LP30 would be relevant. Policy LP30 states that the loss of an existing community facility will only be permitted if it is demonstrated that:

k. The facility is demonstrably no longer fit for purpose and the site is not viable to be redeveloped for a new community facility; or

l. The service provided by the facility is met by alternative provision that exists within reasonable proximity: what is deemed as reasonable proximity will depend on the nature of the facility and its associated catchment area; or

m. The proposal includes the provision of a new facility of a similar nature and of a similar or greater size in a suitable on or off-site location.

Further information was requested during the course of the planning application with regards the principle of development in line with Policy LP30 of the Peterborough Local Plan (2019). The Agent provided a Viability Report produced by a commercial property consultancy specialising in the licensed property sector which concluded that the business is unviable based on evidence of turnover for the application site post lockdown. On consideration of the Report Officers are satisfied with its conclusions and it is considered that the evidence demonstrates that the business is not viable. The Report also refers to the number of restaurants, sports clubs and public houses within the area, specifically with regards the public houses referring to The Bluebell and The Hand and Heart within the wider area. It is considered that based on the submitted justification with regards the viability of the application site as well as the existence of alternative provision within the wider area that the principle of development is acceptable subject to material considerations below.

Given the above it is considered that the principle of development is acceptable in accordance with Policies LP2 and LP30 of the Peterborough Local Plan (2019) subject to material considerations as set out below.

b) Design and character of the site and surrounding area

The proposal replaces a two-storey public house which has been historically extended unsympathetically with seven two storey dwellinghouses comprising of 2 pairs of semi-detached dwellings and a block of 3 dwellings.

The Conservation Officer noted no material heritage assets within the vicinity and stated that 'The Elm Tree' is not considered to be a non-designated heritage asset. Nonetheless, the proposal would still need to meet Policy LP16 with regards the design and character impact on the site and surrounding area.

The surrounding area is characterised with various types of built form and characters with detached or semi-detached properties of both two-storey scale as well as bungalows along Garton End Road and Elmfield Road, but there also is a terraced row of 6 properties directly opposite the site with commercial/retail buildings along the junction of Garton End Road/Newark Avenue. Nonetheless the surrounding area does have some common characteristics, and Officers worked with the Agent to alter the design by providing chimney stacks to break up the roof mass of the proposal and provide a feature that is common within the area.

The proposed dwellings are two storey modern dwellings with pleasant brick detailing and architectural features that would be sympathetic to the design and character of the site and surrounding area. A condition would require the submission of the external materials to ensure a high-quality finish.

The parking layout of the proposal was amended, the original proposal included a large parking court to the rear of the site, however, there were concerns from Officers with regards anti-social behaviour given the lack of natural surveillance as well as the poor urban design of the parking court. A revised scheme was submitted which reduced the concentration of the parking in one location, with some parking being provided on the side of some plots and a smaller number of parking spaces provided to the front of the proposed dwellings.

It is considered that the revised scheme with the alterations to the elevations as well as site layout would not result in an adverse level of impact to the appearance and character of the site and surrounding area in accordance with Policy LP16 of the Peterborough Local Plan (2019).

c) Neighbour amenity

The application site is located to the east of The King's School playing fields. It is not considered the amenity of future occupiers of the dwellings or users of the playing fields would be adversely affected from the additional of 7 new dwellings given the number of dwellings already sharing a rear boundary with the playing fields.

Neighbours to the south (Nos. 111-117 Garton End Road)

The proposal would result in dwellings being built on the existing car park close to the neighbouring properties to the south, with the block of three properties (Plots 1-3) being located the closest to the southern neighbours. Plot 1 would be located approximately 3.3m away from the shared boundary at the furthest and approximately 2.3m away at the closest point. No.117 has a large side and front garden with a small area of land located between the shared boundary and an existing outbuilding located on No.117, and Nos. 113-115 have outbuildings that extend along their entire rear boundaries with the application site.

Plot 1 located closest to the neighbouring properties to the south has a separation distance of approximately 19.8m from its proposed rear boundary. The separation distance from the side elevation of Plot 1 to the side elevation of No.117 is approximately 4.3m. Whilst the proposal would result in dwellings being built on land close to their shared boundaries with the application site, it is considered that the separation distances, the orientations of the neighbouring properties to the south as well as the location of these neighbours to the south of the application site would ensure that there would be no adverse level of impact on the amenity of the neighbours to the south. Further, it is considered that No.117 benefits from a large side and front garden and the outdoor amenity space of No.117 would not be significantly impacted by the proposed development. Finally, the proposal includes no first-floor side windows which would result in an adverse level of overlooking and given the orientation of the properties and separation distances there would be no adverse level of overlooking from the first floor and dormer window on the rear elevations of the proposed development.

Neighbours to the north

The neighbours to the north of the application site would still be separated by the access into the playing fields as well as the car parking spaces, however, the proposal would result in Plots 7 and 6 being built outside of the existing footprint of The Elm Tree Tavern. Adjacent to the playing fields access road to the north is a grassed area with No.1 Elmfield Road located to the rear of this area. As such No.1 is located opposite the existing playing fields rather than directly opposite the proposed development. Nonetheless the impact on the amenity of No.1 Elmfield Road was also considered, and it is considered that the separation distances and the proposed relationship would result in no adverse level of neighbour amenity impact on No.1 Elmfield Road as well as other neighbouring properties to the north of the site.

Finally, it is considered that there would be no adverse impact on the properties to the east of the

site which face the application site due to the separation distances.

In light of the above it is considered that the proposed development would not result in an adverse level of impact on neighbour amenity in accordance with Policy LP17 of the Peterborough Local Plan (2019).

d) Highway safety and parking provision

The Local Highway Authority raised no objection with the proposed development, the proposal provides for 15 off-street parking spaces which complies with the parking standards set out within Appendix C of the Peterborough Local Plan (2019). There is also sufficient on-site turning facilities to ensure vehicles entering the site and leave the site in a forward gear.

Concerns were raised with regards the access rights over the playing field road, however, sufficient information was provided by the Applicant as well as satellite imagery from 2005 which showed parking to the northern location with the only point of access via the playing fields road. It is also noted that land ownership is not a material consideration for planning applications and any planning permission does not override or impact any land ownership matters (i.e. easements, covenants etc). A condition will be secured to ensure that parking provision is provided prior to first commencement of use and retained for parking purposes thereafter.

Concerns were also raised by neighbours with regards road safety matters, it is noted that no objection from the LHA was received with regards any adverse highway impact from the proposal. Further, the proposal makes use of the existing accesses that were used by the public house, and in considering the proposed use Officers do not consider that the proposal would result in a significant intensification of the site in terms of highway impact.

An additional condition has been secured for a scheme relating to EV charging points in accordance with Policy LP13 to encourage sustainable travel methods.

In light of the above it is considered that the proposal would be in accordance with Policy LP13 of the Peterborough Local Plan (2019).

e) Trees and wildlife

The Tree Officer and Wildlife Officer objected to the scheme initially due to the landscaping species proposed which consisted of non-native species. A revised landscaping scheme was submitted which was acceptable to the Wildlife Officer and the Tree Officer, however, the Tree Officer required details in relation to species sizes and tree pit details. Therefore, subject to securing the required details by condition as well as securing the landscaping scheme and tree protection details by compliance conditions, the proposal would be acceptable and in accordance with Policies LP28 and LP29 of the Peterborough Local Plan (2019).

f) Drainage

The Council's Drainage team initially objected to the proposal, however, on submission of a drainage strategy the Drainage team raised no objection to the proposal.

In light of the above the proposal would be adequately drained and not increase the risk of flooding on or off site in accordance with Policy LP32 of the Peterborough Local Plan (2019).

g) Pollution control

The Council's Environmental Health and Pollution Control (EHOCC) team raised no objection to the proposal but raised some concerns with regards the internal arrangement of Plots 1-3 with the initial plans showing a bathroom and staircase located adjoining bedrooms in the next plot. However, this has been remedied and the internal arrangement are now appropriately handed. The EHOCC team did request that these details are secured by condition however, Officers consider securing the internal layout by a specific condition in this instance as being unduly onerous and would not be necessary.

Further, the EHOCC team addressed comments from the Police with regards lighting specifically in reference to bulkhead lights placed on walls due to increase in nuisance complaints from the general public. These comments as well as comments from the Police were put to the Applicant with appropriate measures taken to ensure that the proposed lighting scheme does not result in adverse harm on neighbour amenity but balanced with the security needs of the proposal.

h) Other

In addition to the above the Police also raised comments in relation to the location of gates and these were addressed in the revised scheme with an appropriate lighting scheme and gates located as close to the front elevations as possible.

Cambs Fire requested the provision of fire hydrants, a condition has been appended onto the decision notice as it is considered necessary and appropriate to ensure sufficient firefighting equipment is available for future occupier amenity.

The issues raised within the public consultation period not addressed above will be addressed below by topic area:

1. Work already started.

Officers received neighbour notification with potential work starting on site, however, with regards securing fencing, internal works to the Elm Tree Tavern etc, these works would not necessarily require planning permission in their own right. However, the Agent was advised that any works carried out before the grant of planning permission is carried out at the Applicant's own risk.

2. Building put to another use

Officers can only consider the application in front of them, and sufficient information has been provided to demonstrate that the principle of development is acceptable.

3. Historic parking use of the site

During the course of the planning application, Officers were advised that some neighbouring properties have used the application site as car parking under an agreement with previous landowners. This planning permission would not override any formal legal agreements in relation to parking arrangements. But if there is no formal legal agreement then the informal arrangement would not be a material consideration for the planning application.

4. Driver behaviours in the area

Comments mentioned speeding from vehicles along this part of Garton End Road. Any speeding or other illegal driver behaviour on the road would be a police matter.

5. Rental properties

Concerns were raised in relation to the poor maintenance of rental properties and the impact on the area, however, this is based on landlord/renter behaviours which would not be material planning considerations.

6. Bins on footpath

Bin stores have been included as part of the proposed development and any obstruction of the public highway would be an offence under the Highways Act 1980 and a matter for the Local Highway Authority.

7. Drainage issues

The Drainage Strategy was considered by the Drainage team and the scheme has been appropriately assessed to ensure that there is no increase in surface water drainage issues within the area.

8. Upkeep and Maintenance of the playing fields access

This would not be a material consideration for the planning application.

9. Trees and bushes cut down before applying for planning permission

This was noted during the application process; however, no permission would be required for the removal of the trees and bushes on site.

6 **Conclusions**

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

- The proposal is in accordance with Policies LP2, LP8, LP13, LP16, LP17, LP28, LP29, LP30 and LP32 of the Peterborough Local Plan (2019).

7 **Recommendation**

The case officer recommends that Planning Permission is **GRANTED** subject to the following conditions:

- C 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

- C 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Site and OS Location Plan (Drawing number 01H)
Proposed Site Plan - Drainage and Access (Drawing number 03H)
Proposed Elevations and External Views (Drawing number 04C)
Proposed Floor Plans and Section (Drawing number 02F)

Reason: For the sake of clarity.

- C 3 No development shall take place unless and until details of all external finishes have been submitted to and approved in writing by the Local Planning Authority. The details submitted for approval shall include the name of the manufacturer, the product type, colour (using BS4800) and reference number. The development shall not be carried out except in accordance with the approved details.

Reason: For the Local Planning Authority to ensure a satisfactory external appearance, in accordance with Policy LP16 of the Peterborough Local Plan (2019). This is a pre-commencement condition as the materials to be used must be known before any works take place to ensure no detriment to the appearance of the site.

- C 4 The dwellings hereby permitted shall be constructed to achieve the Optional Technical Housing Standard of 110 litres of water usage per person per day as described by Building Regulation G2 (2010 as amended).

Reason: To minimise the impact of the development upon the water environment, in accordance with Policy LP32 of the Peterborough Local Plan (2019).

- C 5 If, during development, contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately, and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the Local Planning Authority. The development shall thereafter not be carried out except in complete accordance with the approved scheme.

Reason: To ensure all contamination within the site is dealt with, in accordance with paragraphs 178 and 180 of the National Planning Policy Framework (2019) and Policy LP33 of the Peterborough Local Plan (2019).

- C 6 Prior to the first occupation of any of the dwellings hereby permitted, the landscaping of the development shall be carried out in accordance with drawing 'Proposed Site and OS Location Plan' (Drawing number 01H).

Any trees, shrubs or hedges forming part of the approved landscaping scheme (except those contained in enclosed rear gardens to individual dwellings) that die, are removed or become diseased within five years of the implementation of the landscaping scheme shall be replaced during the next available planting season by the developers, or their successors in title with an equivalent size, number and species to those being replaced. Any replacement trees, shrubs or hedgerows dying within five years of planting shall themselves be replaced with an equivalent size, number and species.

Reason: In the interest of biodiversity and wildlife in accordance with Policies LP28 and LP29 of the Peterborough Local Plan (2019).

- C 7 Prior to the commencement of the development hereby permitted and notwithstanding the submitted details, the sizes for all planting stock shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall comply with and reference BS8545:2014.

The details shall be implemented in accordance with the approved scheme prior to the first commencement of the development hereby permitted.

Reason: In the interest of landscaping and biodiversity in accordance with Policies LP28 and LP29 of the Peterborough Local Plan (2019).

- C 8 Prior to the commencement of the development hereby permitted, full tree pit details (sections), with dimensions, must be submitted and approved in writing by the Local Planning Authority, showing all installation features, including means of watering, support, protection, together with all products to be used to protect the adjacent features above from damage, such as root barriers, root directors, deflectors, and 'RootSpace'.

The submitted details should also include a plan showing the extent of the above protection barrier/s, including the installation of barrier/s 2m beyond the mature crown spread of the trees in question, together with suitable and appropriate soil volumes required, in cubic meters, for the tree species being planted in each location, in order to sustain the species selected, and to comply with BS8545:2014 and Highways re s.38/s.278 expectations.

Reason: In the interest of landscaping and biodiversity in accordance with Policies LP28 and LP29 of the Peterborough Local Plan (2019). This is a pre-commencement condition because the details to be approved are required to be carried out at the on-set of any groundworks/building works to ensure that the trees are protected.

- C 9 The measures and details as set out within the submitted Arboricultural Report ('BS5837:2012 -Trees in relation to design, demolition and construction. Arboricultural matters in relation to land at The Elm Tree Tavern, Peterborough' from East Midlands Tree Surveys Ltd dated 22nd December 2022) shall be implemented prior to the commencement of any works on site and retained until the completion of the development hereby permitted.

Reason: To protect the trees on site in accordance with Policy LP29 of the Peterborough Local Plan (2019).

- C10 All of the parking spaces as identified on drawing number 01H 'Proposed Site and OS Location Plan' shall be provided prior to the first occupation of any dwelling hereby permitted and shall thereafter only be used for parking purposes in connection with the development hereby permitted.

Reason: To ensure sufficient provision of parking in accordance with Policy LP13 of the Peterborough Local Plan (2019).

- C11 No development above DPC level shall take place until a scheme for electric vehicle charging points or a scheme providing the servicing to allow future installation of electric vehicle charging points has been submitted and agreed in writing with the Local Planning Authority. The approved scheme shall subsequently be implemented prior to the first occupation of any of the dwellings hereby approved.

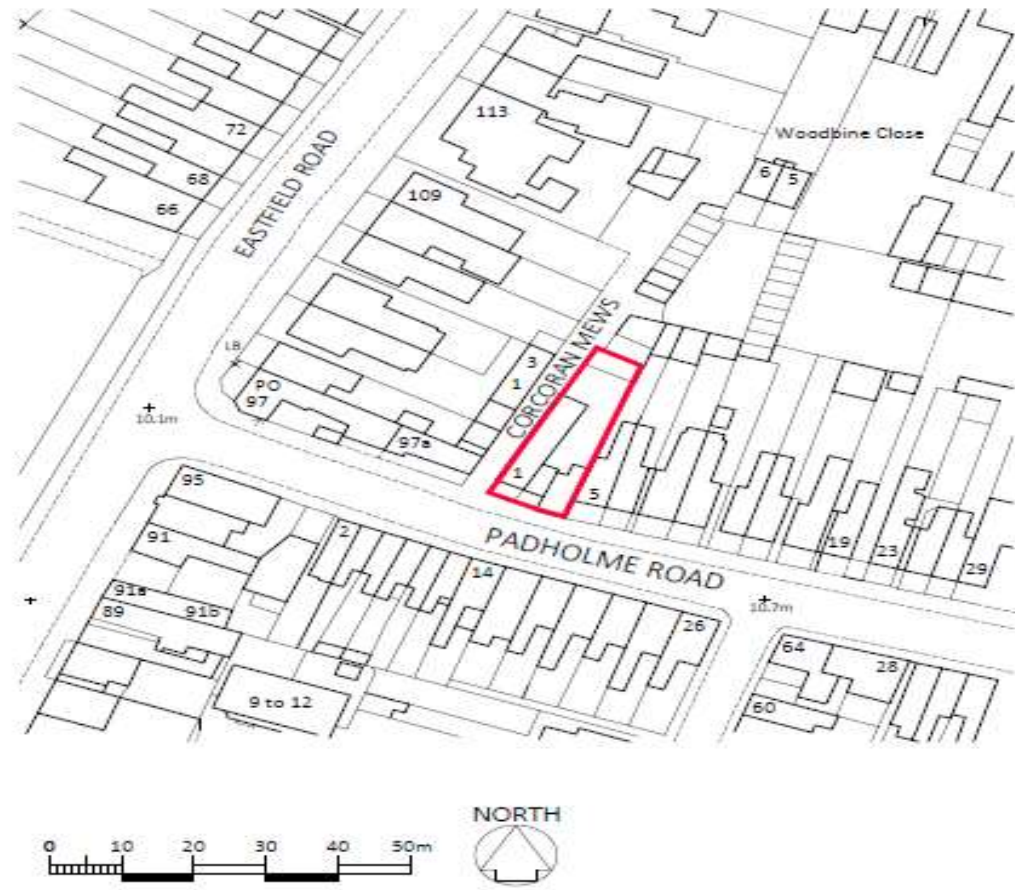
Reason: In the interests of providing future proof parking facilities for users, in accordance with Policy LP13 of the Peterborough Local Plan 2019.

- C12 No development above slab level shall take place until provision has been made for fire hydrants in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details.

Prior to the first occupation of any dwelling to be served by the scheme written confirmation shall be submitted to and approved in writing by the Local Planning Authority that the scheme has been implemented in full and is certified as being ready for use.

Reason: In the interest of community safety and to ensure that adequate supplies are available for firefighting, in accordance with Policy LP16 of the Peterborough Local Plan (2019).

Copies to Councillors - Councillor Muhammed Asif
- Councillor Arfan Khan
- Councillor Mohammed Sabir



Reference: 23/00121/FUL
Site address: 1 Padholme Road, Eastfield, Peterborough, PE1 5EF

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Application Ref: 23/00121/FUL

Proposal: Demolition of dress makers unit and ground floor rear extension of existing dwelling, construction of replacement retail unit with 1 no. 2 bedroom apartment above including associated external works (resubmission)

Site: 1 Padholme Road, Eastfield, Peterborough, PE1 5EF

Applicant: Khalil
Light UK Properties Ltd

Agent: Mr Colan Bartram
PDG Architects Ltd

Referred by: Cllr Qayyum

Reason: Contribution to local economy, student accommodation and could have an effect on decreasing local crime rates.

Site visit: 03.03.2023

Case officer: Miss Molly Hood

Telephone No. 07967 318633

E-Mail: Molly.Hood@peterborough.gov.uk

Recommendation: **REFUSE**

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

Site Description

The application site includes a detached two storey dwelling with ancillary outbuildings along the rear boundary. Furthermore, the single storey outbuilding along the eastern boundary has been historically used for a dressmaking business as approved under P0798-85.

The dwelling and eastern outbuilding are separated by a drive suitable for the parking of one vehicle. The rear curtilage extends to the north of the built form and can be accessed via a side entrance off Corcoran Mews. Within the curtilage there are two mature trees.

The Proposal

Permission is sought for the demolition of all outbuildings within the site, including the dressmaking unit to the east. In addition, the proposal includes the demolition of the single storey utility/garden room at the rear of No.1 Padholme Road.

The application seeks to construction a two storey building with a ground floor retail unit and two bedroom flat above, in the location of the current dress makers unit. Access to the flat is through the amenity space to the rear, which has been sub-divided to provide curtilage for both the existing dwelling and the flat. The side lane, Corcoran Mews, would be utilised for vehicular access into the two new vehicular parking spaces. Each property will have an area for bin storage within the amenity spaces.

This application is a re-submission of the previously withdrawn application 22/00695/FUL. The proposal remains the same, however there a few minor tweaks to the location of bin storage and curtilage layout.

The opportunity was provided to the applicant to amend the location plan to incorporate Corcoran Mews into the red line boundary, along with serving notice on the owner of the private road, given

this is vital to allow the rear parking spaces to function.

2 Planning History

Reference	Proposal	Decision	Date
22/00695/FUL	Demolition of retail unit and ground floor rear extension of existing dwelling, construction of replacement retail unit with 1 no. 2 bedroom apartment above including associated external works	Withdrawn by Applicant	06/09/2022
P0798/85	Use for dressmaking and repair and sale of garments and installation of display window (retrospective)	Permitted	24/10/1985
P0894/88	Demolition of existing shop and erection of new retail unit with flat above	Permitted	10/11/1988

3 Planning Policy

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

National Planning Policy Framework (2021)

- 2 Achieving Sustainable Development
- 5 Delivering a sufficient supply of homes
- 6 Building a strong, competitive economy
- 9 Promoting sustainable transport
- 12 Achieving well-designed places

Peterborough Local Plan 2016 to 2036 (2019)

- LP02 - The Settle Hierarchy and the Countryside
- LP12 - Retail and Other Town Centre Uses
- LP13 - Transport
- LP16 - Urban Design and the Public Realm
- LP17 - Amenity Provision
- LP18 - Shop Frontages, Security Shutters and Canopies
- LP28 - Biodiversity and Geological Conservation
- LP29 - Trees and Woodland

4 Consultations/Representations

Landscape Officer (28.02.23)

No objection. The application falls below the threshold for the requirement of offsite POS PCC s106 contributions and the application would appear to not affect any existing Public Open Space or Amenity Landscaping.

Archaeological Officer (28.02.23)

No objection. The proposal is deemed to have negligible archaeological implications and programme of archaeological works is not justified in this instance.

PCC Peterborough Highways Services (30.03.23)

Additional Information required. Please provide:

- Details of the intended use of the commercial part of the application including the number of employees and their mode of travel to work;
- A parking survey to assess the availability of on-street parking spaces;
- The legal status of Corcoran Mews- The applicant suggests the alley is privately owned,

whereas on legal documents it is referred to as public highway/right of way.

The LHA advised the LPA to refuse permission for the original application (22/00695/FUL) due to concerns with the proposed access and parking provisions. That application was withdrawn later. Although the new proposals include improvements, the LHA would need more information to make a valid assessment of the proposals. A further concern for the LHA is the management of the future customer/client parking. The location of site will encourage the violation of the existing double yellow lines with consequences for road safety.

Cambridgeshire Fire & Rescue Service

No comments received

PCC Pollution Team

No comments received

Waste Management

No comments received

PCC Tree Officer (22.02.23)

No objection on arboricultural/landscape grounds subject to a condition for two ornamental trees to be planted in the rear garden areas.

Local Residents/Interested Parties

Initial consultations: 9

Total number of responses: 1

Total number of objections: 1

Total number in support: 0

The response has been summarised below:

- The retail unit has been vacant for the last 20 years.
- Traffic safety, parking and need for loading area for deliveries.
- Noise and disturbance from customers/deliveries.
- Increase in refuse materials, requires safe disposal and appropriate receptacles for such
- Impact on privacy.
- Parking issues in the area, parked vehicles obstructing the traffic lights or pavement.
- Already a number of retail units and a post office.
- Padholme Road is particularly busy at school times.
- Nature of retail unit or hours are specified.
- The apartment will obstruct light.

5 Assessment of the planning issues

The main considerations are;

- a) Principle of development
- b) Impact on the character of the area
- c) Impact on the amenity of the neighbouring occupiers & future occupiers
- d) Highway safety and parking
- e) Trees and Wildlife
- f) Other matters

a) Principle of Development

The site is located on the northern side of Padholme Road, just beyond the local centre boundary for Eastfield Road. The development includes a two bedroom first floor flat, with no indication if this is to serve a specific target audience. i.e. students or working professionals. Located in the urban

area of the city, the principle of residential development is considered acceptable subject to compliance with other material planning considerations.

The site has an existing single storey outbuilding separating the dwelling of No.1 with No.5, as it runs along the boundary. Historic application P0798/85 granted permission in 1985 for use of the building for dressmaking, repair and sale of garments including the installation of display window (retrospective). Street imagery from 2009 (Google Maps) for Padholme Road doesn't show the retail building in operation since this date and a neighbour response was received advising the retail use hasn't been in operation for at least 20 years.

Application P0798/85 was retrospective, therefore, confirming the use was present on the site and commercial unit established. However, a condition on P0798/85 prevents the change of use of the premises to anything other than a dressmakers, unless planning permission is secured from the LPA. The Officer site visit confirmed the building remains vacant and is not being used ancillary to the residential dwelling.

Policy LP12 seeks a sequential approach is taken for development proposals for town centre uses in an out or edge of centre location. Paragraph 81 of NPPF advises significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

The site is located within the Urban Area but outside the city and local centre to the west. However, permission was received and implemented for a commercial unit on the site. Whilst the unit hasn't been in operation for a number of years, the historic permission was granted and given its retrospective nature it can be certain it was implemented. The building hasn't had any other lawful use and from the Officer site visit it was empty and remains set up as a commercial unit.

As such the sequential test is not necessary given the established commercial unit and the principle of a new commercial unit is acceptable, subject to all other material considerations being met. The proposal references a 'retail' unit, however as established above the existing use is for a dressmakers only and therefore it has been updated accordingly.

The proposed site plan indicates the ground floor unit as a commercial unit, whereas the proposal identifies this as a retail space. Clarification was sought from the agent, on what the specific use of the building will be, in particular to support the assessment for amenity and highway safety impacts. No confirmation was provided. A retail use falls within Class E(a) and therefore it has been assessed on this use only.

b) Impact on the character of the area

The proposal will replace the single storey building with a new two storey unit, comprising retail at ground floor and residential at first floor. The existing two storey dwelling will remain, with alterations predominantly to the rear of the property. The proposal will infill the existing gap between No.1 and No.5 Padholme Road. The scale, design and fenestration placement of the proposal respects the context of the site and surrounding area, ensuring it appears as a continuation of the terraces. The built form will be set back to follow the front elevations of the existing terraces and No.1, reflecting the local pattern of development.

Whilst the front elevation appearance is respectful to the surroundings, the combination of a two bedroom first floor flat, a retail unit and the existing two bedroom dwelling on the site with all the associated infrastructure is considered to result in a proposal which is contrived, cramped and overdeveloped. The amenity space to the rear is split to accommodate two rear amenity spaces, off street parking and residential bin store. It is acknowledged there was a dressmakers business on site, however it remained in operation as one unit. The sub-division into three individual units compromises the design and is considered to form overdevelopment. The volume of development exceeds the capabilities of the sites size resulting in a proposal that fails to function well or deliver high quality.

NPPF paragraph 130 seeks for decisions to ensure development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Whilst the proposal seeks to make efficient use of the land, the volume of development exceeds the capabilities of the sites size resulting in a development that fails to function well or deliver high quality. In the proposals current form, it would fail to comply with policy LP16 and NPPF paragraphs 126, 130.

c) Impact on the amenity of the neighbouring and future occupiers

No.5 Padholme Road

The western elevation of No.5 Padholme Road joins onto the existing single storey retail building and this neighbouring property has no side elevation first floor windows. The flat will join onto the western elevation and remain in line with the existing two storey massing of No.5. The location and massing of the proposal is not considered to result in unacceptable impacts to the amenity of existing occupiers. The rear elevation of the flat will introduce two first floor habitable room windows and whilst this introduces a degree of overlooking that isn't currently present it is not considered to be detrimental to the privacy No.5. The level of views from the rear elevation of the proposed flat is considered to be no greater than what the current levels of overlooking are between all neighbouring properties along the terrace and No.1.

No.1 Padholme Road

The built form of the proposed flat and retail unit is not considered to result in a loss of light, overshadowing or overbearing impacts to No.1. The existing dwelling on site will remain two bedrooms but will accommodate some fenestration changes to allow the first floor flat to join onto the eastern elevation. Whilst bedroom 2 will lose a side elevation window, the room will still have access to natural light and outlook from an existing window at the rear.

The sub-division of the curtilage has not only reduced the size of No.1 Padholme Road's garden from 117sqm to only 40sqm, but also means the kitchen/dining area has a poor relationship with the space. The habitable area of the kitchen/dining has its main window projecting towards the boundary treatment. It is expected that a boundary treatment of a minimum of 1.8m will be required to protect amenity, however this compromises the spaces outlook and the natural light.

Surrounding residents on Padholme Road

The proposal will introduce a first floor with three front elevation habitable room windows, projecting towards the property's opposite on Padholme Road. The new flat will follow the line of fenestration from the existing adjacent properties and its introduction will not be any significantly different in terms of the levels of overlooking or loss of privacy than No.1 or No.5 to the dwellings opposite. The massing or location of the flat is not considered to result in unacceptable harm to the amenity of surrounding occupiers, with a separation distance of 14.6m to the nearest opposite property.

Future Occupiers of first floor flat

Future occupiers of the proposed first floor flat could achieve an acceptable level of amenity. The flat has a private rear amenity space and there are no concerns of overbearing, overshadowing or oppressive impacts, given its elevated position. All habitable rooms have an elevational outlook and access to natural light. Consideration would be required of the potential for noise impacts with the Class E(a) use below. Whilst Pollution Control had no comments to make, matters such as the use class and operational hours could be conditioned to ensure this is appropriate to protect future occupier amenity. Details of the operational hours were sought from the applicant, however this wasn't provided and therefore a full assessment couldn't be carried out.

Retail

There are significant concerns of unacceptable amenity levels from the retail unit to No.1 & No.5 Padholme Road from noise and disruption of not only the public but also the operations/deliveries for the store. It is understood that there was a historic permission for a dressmaker for repairs and

sales, however this has not been in operation for a period of time and the approved use would be unlikely to result in a significant volume of traffic. A general retail use could result in frequent coming and goings with no details have been proposed for the intended use or opening hours. As such significant concerns are raised and in its current form the undefined retail use would be contrary to policy LP17.

d) Highway Safety and Parking

Revisions were sought to the red line boundary of the site to incorporate Corcoran Mews, as this provides access to the two parking spaces to the rear. The LHA initially questioned the legal status of Corcoran Mews as on legal documents it is referred to as public highway/right of way, rather than privately owned. Following further investigation, the agent confirmed it is privately owned. Therefore, advice was given that ownership needs to be served on the owner of the Mews and the red line boundary amended to incorporate. This confirmation of notice served and amended drawing were never received, which therefore means the parking to the rear becomes questionable as the access is not included.

An existing access off Padholme Road is also used in the development, to serve one parking space to the east of the property. The development includes two off street parking spaces for No.1 Padholme and one off street parking space for the 2 bedroom flat. The development complies with the parking requirement for No.1 Padholme Road, however there are concerns with the safety and usability of the front parking space given the proximity to the retail unit and potential conflict with pedestrians. The parking to the rear is accessed via Corcoran Mews, the highways Officer advised this access is substandard and the proposal results in an intensification of the use.

The LHA sought details of the intended occupier of the retail unit, however the business is unknown and as such employee numbers and modes of travel to work cannot be provided.

Whilst the site has an existing use for dressmakers only, it was not a flexible commercial use and therefore any other use requires an assessment against parking policy. In accordance with Appendix C of the Local Plan the minimum for a retail store is 14 sqm. As such the development would require 2 parking spaces. The LHA sought a parking survey to assess the availability of on-street parking, however this survey was not supplied.

The section of the highway forward of the site is double yellow lined and as such is not suitable for vehicles to park on street whilst using the retail unit. The LHA were concerned with the management of the future customer/client parking, as the location of site will encourage the violation of the existing double yellow lines with consequences for road safety. The retail unit will attract customers and is located within an area with parking restrictions and no off street parking provision.

In light of the above, the proposal fails to comply with policy LP13 and Appendix C of the Peterborough Local Plan 2019.

e) Trees and wildlife

The application site contains three mature trees in the rear curtilage of No.1. In order to accommodate the development, these trees will be removed. However, the Trees Officer has no objection to the removal subject to the inclusion of 2no. small ornamental trees. It is recommended replacement trees could be secured via a condition, compliant to Policy LP29.

f) Other matters

Bin storage for the properties for the residential dwelling and flat is indicated within the rear curtilages. Each residence would have their own storage area with an access gate allowing bins to be dragged along Corcoran Mews. The commercial waste is not acceptable situated forward of No.1 Padholme Road. Not only will this be visually intrusive and harmful to the street scene, it is also unacceptable to the amenity of No.1 Padholme Road. The bin storage of the retail unit to the

front of No.1 Padholme Road, will result in noise, odour and poor outlook. The failure to provide storage facilities for the retail unit in a more appropriate location which would be acceptable both in visual and amenity terms, further adds to the conclusion that the proposal is an overdevelopment of the site.

No contribution is required to the Open Space team as the development falls below the threshold for the offsite requirement for public open space and the development appears to not affect any existing public open space.

The scheme is considered to have a negligible archaeological implications and programme of works is not required.

6 Conclusions

The proposal is unacceptable having been assessed in light of all material considerations, including weighing against relevant policies of the development plan and for the specific reasons given below.

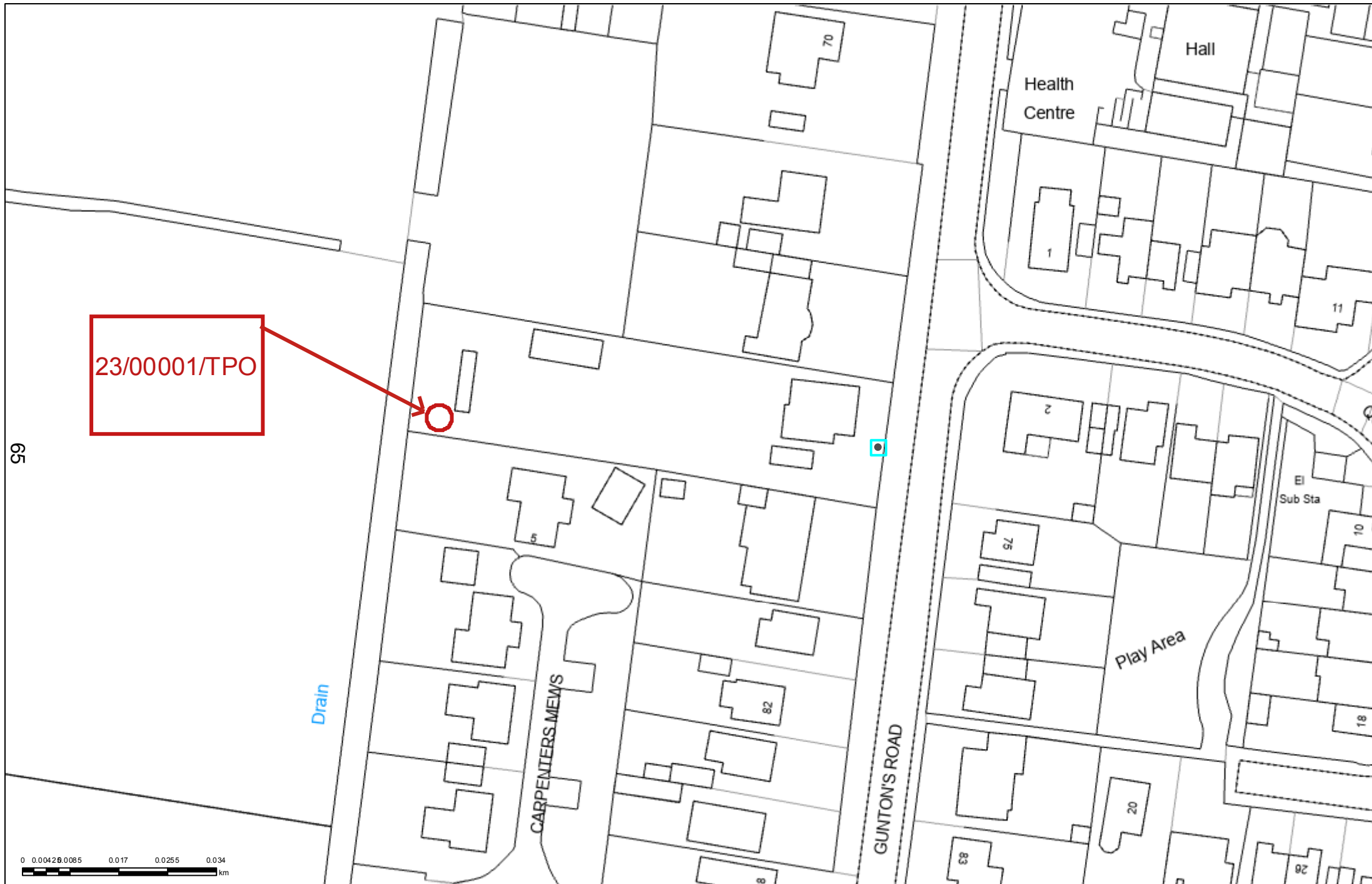
7 Recommendation

The case officer recommends that Planning Permission is **REFUSED** for the following reasons:

- 1 The combination of a two-bedroom first floor flat, a retail unit and the existing two-bedroom dwelling on the site with all the associated infrastructure is considered to result in a proposal which is contrived, cramped and overdeveloped. Whilst there is an existing commercial unit on site, it remains in operation as one unit with the dwelling No.1. The subdivision into three individual units compromises the design, and the volume of development exceeds the capabilities of the site's size resulting in a proposal that fails to function well or deliver high quality. In the proposals current form, it would fail to comply with policy LP16 of the Peterborough Local Plan and NPPF paragraphs 126 & 130.
- 2 The amenity No.1 Padholme Road would be significantly compromised as main window serving the dining/kitchen area will project onto a solid boundary treatment, obscuring light and outlook. In addition, the curtilage of No.1 Padholme has been significantly reduced from approximately 111sqm to only 40sqm and the scale of the remaining amenity space is not well designed or located to deliver acceptable amenity for occupiers. As such the proposal is considered to be contrary to policy LP17 of the Local Plan and paragraph 130(f) of the NPPF.
- 3 There are significant concerns of unacceptable amenity levels from the retail unit to No.1 & No.5 Padholme Road from noise and disruption of not only the public but also the operations/deliveries within the store. A general retail use could result in a variety of businesses operating from the site, with no details on the openings hours or movements. Given the close proximity of the adjacent dwellings, caution should be taken and in its current form the undefined retail use would be contrary to Policy LP17 and paragraph 130(f) of the NPPF.
- 4 The application failed to incorporate the private access road into the development boundary or serve notice on the landowner; given this is a private road and not public highway access to the rear parking spaces cannot be guaranteed and without, the residential units would have an even greater shortfall. As it stands the proposal fails to demonstrate sufficient parking provision for the retail unit and two bedroom flat in accordance with Policy LP13 and Appendix C of the 2019 Local Plan. Highway safety concerns are raised with the substandard access width of Corcoran Mews, potential for pedestrian conflict from the front

parking space and violation of the existing parking restrictions. The proposal is contrary to Policy LP13 of the Peterborough Local Plan 2019.

Copies to Councillors - Councillor Jackie Allen
- Councillor Samantha Hemraj
- Councillor Shabina Qayyum



Planning Committee Location Plan-23/00001/TPO- 76 Guntons Road, Newborough, Peterborough, PE6 7RT

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P & EP Committee: 18th July 2023 **Item No. 4**

PROPOSAL: Confirmation of Tree Preservation Order 23/00001/TPO

SITE: 76 Guntons Road, Newborough, Peterborough, PE6 7RT

REFERRED BY: Head of Planning

CASE OFFICER: Stephen Chesney-Beales - Tree Officer

TELEPHONE: 01733 453465

E-MAIL: stephen.chesney-beales@peterborough.gov.uk

RECOMMENDATION: Confirmation of Tree Preservation Order 23/00001/TPO without modifications.

1. DESCRIPTION OF THE SITE AND SURROUNDINGS & SUMMARY OF THE PROPOSALS

Purpose of Report

A Tree Preservation Order (TPO) 23/00001/TPO 76 Guntons Road, Newborough, Peterborough, was made and served on 8th 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 has been the subject of consultation and because an objection has been received, the Committee are 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 are:

1. The Oak tree T.1 subject of the TPO is worthy of a TPO in terms of its public visual amenity value?
2. Is the making of the TPO reasonable and justified having regard to the objections raised?

The Head of Planning recommends that the TPO is CONFIRMED without modifications.

Site and Surroundings

The property 76 Guntons Road, Newborough is a residential property, located on the edge of the village and the open countryside. The tree subject of the TPO is located within the rear garden adjacent to the boundary of the neighbouring property No.5 Carpenters Mew, a private road. Please see the TPO plan within **Appendix 1**, for reference.

Description of T.1 Oak

The Oak is an early mature specimen, typical of the species, on a single stem. It has been pruned in the recent past to raise the crown over the garden and remove low branch growth back to the boundary line. Please see the photograph in **Appendix 2**, for reference.

2. PLANNING HISTORY

Relevant Planning History

Planning applications relating to this matter include:

17/01902/OUT Land on the west side of Guntons Road, Newborough, Peterborough

Outline planning permission for the erection of 5 self build detached bungalows (with refuge in the roof space) together with associated access, parking and amenity space with all matters reserved except for access.

19/00696/REM Land on the west side of Guntons Road, Newborough, Peterborough

Approval of access, appearance, landscaping, layout and scale for the erection of five self build detached bungalows (with refuge in the roof space) together with associated access, parking and amenity space pursuant to outline planning permission 17/01902/OUT.

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

S.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

A letter raising a number of points of consideration with regards to the TPO was received on 20th March 2023, from Mr & Mrs Hicks of No.5 Carpenters Mews, Newborough. The property is located immediately adjacent to the boundary of the site and tree T.1 Oak, the subject of the TPO. Mr & Mrs Hicks wanted their letter to be considered as an 'objection' to the making of the TPO, please see **Appendix 3**, for reference.

The Council's Tree Officer visited the property and met Mrs Hicks and discussed the points raised in the letter of 'objection'. The Tree Officer e-mailed Mr & Mrs Hicks after his visit, to address the matters raised by way of an e-mail on 28th June 2023, please see Appendix 4 for reference.

The main points of 'objection' relating to the tree subject of the TPO, are outlined below:

The tree branches overhang into the middle of our garden which blocks the light from our bedroom window.

The overhanging branches and falling leaves and acorns propose a health and safety hazard to disabled people, young children and animals that visit us on a regular basis, and to mention to us as we get older

In the autumn and winter when we have high winds the branches are swinging and could very easily snap and fall into our garden, again causing a health and safety hazard.

On the basis of the above we do not understand why there would be a need to be a preservation order on the tree as we had no intention to destroy the tree or the wildlife in its habitat as we are all for this, we just wanted to maintain the overhang of the tree due to the reasons outlined above.

The Tree Officer stated that Mr & Mrs Hicks had followed the advice they had been given and had done nothing 'wrong', however, moving forward he believed it was prudent to ensure the trees' future maintenance and management was subject of a TPO, given its amenity value and the fact that it was identified as a Grade A tree with regards to the development proposals prior to planning consent being granted.

He also stated it was unfortunate, the crown habit of the tree had been 'unbalanced' by the raising of the crown recently, as shown in the photograph he had taken earlier that afternoon. Please see Appendix 2, for reference.

With regards to the points raised in the letter of 'objection', the Tree Officer would point out that the crown spread of the Oak does not overhang into the middle of the garden and would not appear to block any significant amount of light from the bedroom window, given its distance from the tree.

He would also make the point that he does not consider the overhanging branches, falling leaves and acorns to pose a significant health and safety hazard, given the nature of the garden setting and considers the tree to be in a good condition at present and it exhibits no obvious defects that are considered to require attention. Although no tree can be expected to be 100% safe, especially during high wind events, this does not mean that all overhanging branches should be pruned heavily or trees located close to property boundaries removed.

5. ASSESSMENT OF THE PLANNING ISSUES

Local Authorities are guided by Government guidance at: <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#making-tree-preservation-orders>

At PCC an assessment criteria has been developed and covers the considerations detailed below:

Visual Amenity and Visual Impact as a Group

Government advice states - The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public. It also, states that 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.

The Tree Officer considers the Oak has amenity value and appreciates it was identified independently as a Grade A tree worthy of retention with regards to the development proposals prior to planning consent being granted, see above.

Tree Health Considerations

Tree health considerations include visual health, structure, growth, foliage condition, size, past management, future maintenance, future visual impact, maturity, life expectancy and presence of fungi.

The Tree Officer considered the Oak subject of the TPO to be of good health and condition with regards to the above attributes for its age as an early mature specimen with greater than 40 years life expectancy and with no obvious signs of fungi present, at the time of assessment.

Impact Considerations

Impact considerations on the public Highway, services, on walls or buildings.

The Tree Officer considered the impact on all of the above features is low.

TPO Serving Procedure

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

A TPO Assessment was carried using the PCC criteria on the Oak the subject of the TPO and the TPO made accordingly.

Mr & Mrs Hicks' 'objections' have been considered and responded to above.

6. CONCLUSIONS

The Oak subject of the TPO, shown in **Appendix 1**, is considered to offer public visual amenity value to the site and the surrounding area. The tree has been assessed and is considered to be worthy of a TPO and remains under threat from future mis-management, therefore, it is recommended that the TPO is confirmed.

7. Recommendations

The Head of Planning recommends that the TPO is CONFIRMED without modifications.

Copies to Councillors- Councillor Steve Allen
- Councillor Rylan Ray
- Councillor Nigel Simons

TOWN AND COUNTRY PLANNING ACT 1990

76 Guntons Road, Newborough, Peterborough

Tree Preservation Order (23/00001/TPO)

The Council of the City of Peterborough, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

1. Citation

- (1) This Order may be cited as 76 Guntons Road, Newborough, Peterborough, Tree Preservation Order (23/00001/TPO).

2. Interpretation

- (1) In this Order "the authority" means the Council of the City of Peterborough
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

3. Effect

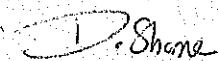
- (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

4. Application to trees to be planted pursuant to a condition

- (1) In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 8th day of March 2023



Authorised by the Council to sign in that behalf

SCHEDULE

Specification of trees

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	E520223 N305633

None

Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>

None

Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>

None

Woodlands

(within a continuous black line on the map)

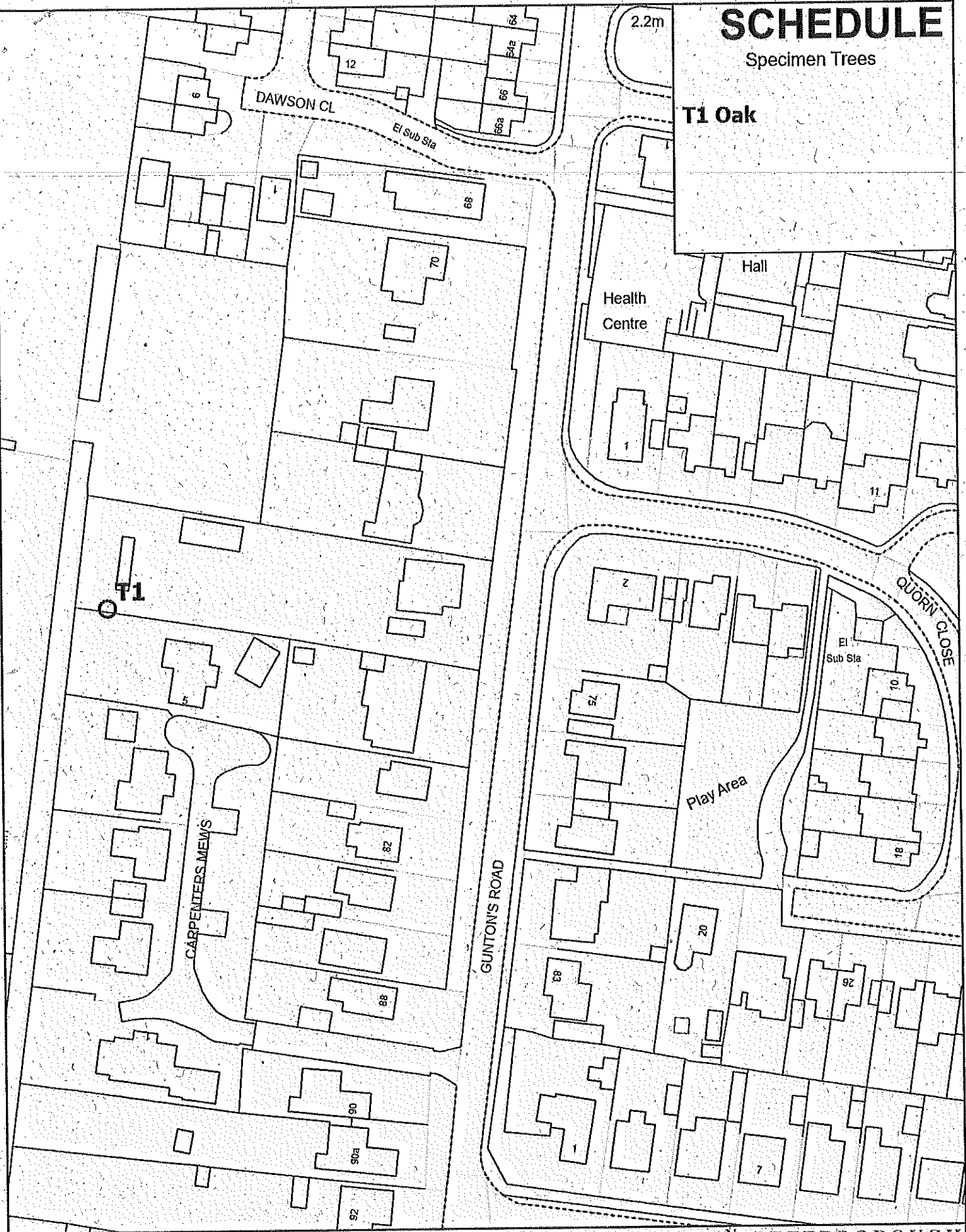
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>

None

SCHEDULE

Specimen Trees

T1 Oak



TREE PRESERVATION ORDER
76 Guntons Road Newborough Peterborough



Scale: 1:1000 Drg.no.TPO23-02
Date: 3rd March 2023 Department

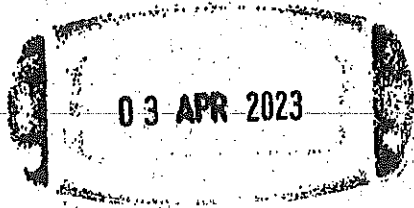
PCCGIS

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Appendix 2



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Mr & Mrs Hicks
Carpenters Mews
Newborough
Peterborough
PE6 7PB

Planning Services
Sand Martin House
Bittern Way
Fletton Quays
Peterborough
PE2 8TY

20th March 2023

Dear Stephen,

Tree Preservation Order 23/00001/TPO

I write in relation to the letter received regarding the above tree preservation order, I would like to inform you that there was a neighbours dispute however this was resolved prior to receiving the preservation order. We feel that having neighbours is more important than the cutting of a tree, however I would like the below points to be taken into consideration:

- There was no intention to cause any animosity with our neighbours.
- We followed all the correct procedures by contacting yourselves (PCC) who advised us to speak with Citizens Advice, to which we then followed their advice on writing a letter to our neighbours and offering them back the tree cuttings.
- The tree branches overhang into the middle of our garden which blocks the light from our bedroom window.
- The overhanging branches and falling leaves and acorns propose a health and safety hazard to disabled people, young children and animals that visit us on a regular basis, and to mention to us as we get older.
- In autumn and winter when we have high winds the branches are swinging and could very easily snap and fall into our garden, again causing a health and safety hazard.
- When the property was being built the builder contacted PCC who gave the builder permission to chop back any overhang into the properties garden, to which we now do not understand how we would have been doing any different by cutting back some branches to prevent the above issues.

On the basis of the above we do not understand why there would need to be a preservation in order on the tree as we had no intention to destroy the tree or the wildlife in its habitat as we are all for this, we just wanted to maintain the overhang of the tree due to the reasons outlined above.

Yours Sincerely

Mr & Mrs Hicks

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Re - Tree Preservation Order (TPO) 23/00001/TPO adjacent No.5 Carpenter Mews,
Newborough, PE6 7PB

Stephen Chesney-Beales <Stephen.Chesney-Beales@peterborough.gov.uk>

Wed 28/06/2023 18:04

📎 1 attachments (5 MB)

23-00001-TPO T.1 Oak.jpg;

Good evening Mrs Hicks

It was nice to meet you this afternoon and discuss the letter you and your husband sent in response to the making of the above TPO and it gave me an opportunity to assess the Oak from your rear garden.

With regards to your letter, the contents of which have been noted, you have followed advice given to you and done nothing 'wrong', however, moving forward I believe its prudent to ensure the trees' future maintenance and management is subject of a TPO, given its amenity value and the fact that it was identified as a Grade A tree with regards to the development proposals prior to planning consent being granted.

Unfortunately, the crown habit of the tree has been 'unbalanced' by the raising of the crown recently, as shown in the photograph I took earlier this afternoon, see attachment.

As discussed, please confirm if you would like your letter considered as an objection to the making of the TPO.

If you object, the matter will be considered by the Council's Planning & Environmental Planning Committee prior to the TPO being considered for confirmation.

If you have any questions or wish to discuss the matter further, please do not hesitate to contact me.

Many thanks & kind regards

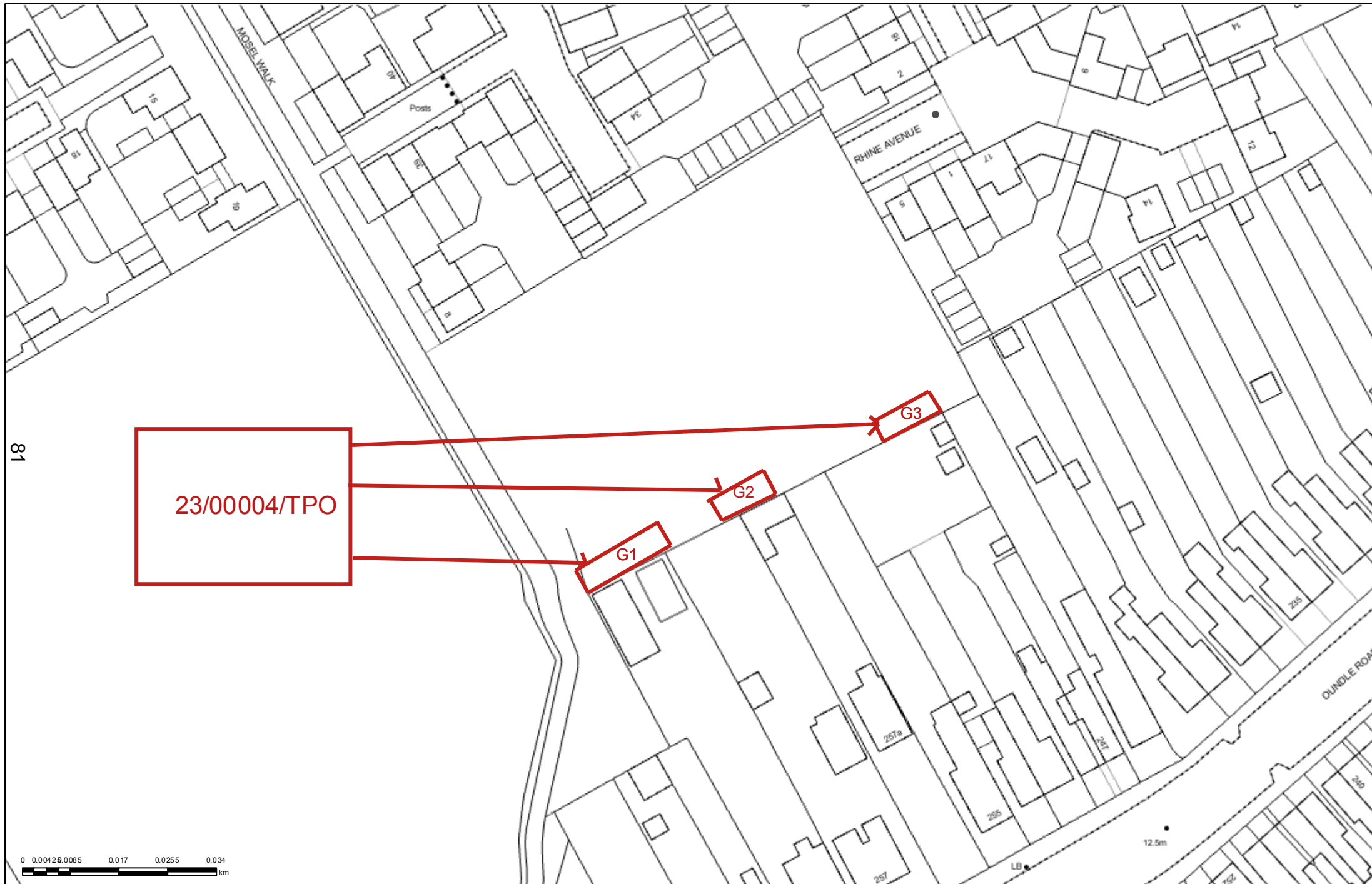
Stephen Chesney-Beales

Tree Officer

07920160206

Planning Services,
Place & Economy,
Sand Martin House,
Bittern Way,
Fletton Quays
Peterborough.
PE2 8TY

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Planning Committee Location Plan-23/00004/TPO- Rhine Avenue, Peterborough, PE2 9SN

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P & EP Committee: 18th July 2023

Item No. 5

PROPOSAL: Confirmation of Tree Preservation Order 23/00004/TPO

SITE: Land at Rhine Avenue, Peterborough, PE2 9SN

REFERRED BY: Head of Planning

CASE OFFICER: Stephen Chesney-Beales - Tree Officer

TELEPHONE: 01733 453465

E-MAIL: stephen.chesney-beales@peterborough.gov.uk

RECOMMENDATION: Confirmation of Tree Preservation Order 23/00004/TPO with modifications

1. DESCRIPTION OF THE SITE AND SURROUNDINGS & SUMMARY OF THE PROPOSALS

Purpose of Report

A Tree Preservation Order (TPO) 23/00004/TPO Land at Rhine Avenue, Peterborough was re-made and served on 16th 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 12th September because of the threat from the proposed development of the site.

The TPO has been the subject of consultation and because objections have been received, the Committee are 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 are:

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. Is the making of the TPO reasonable and justified having regard to the objections raised?

The Head of Planning recommends that the TPO is CONFIRMED with modifications to amend the species of one of the trees within Group G.2 from Norway Maple to Lime, see **Appendix 1** for details.

Site and Surroundings

The land at Rhine Avenue is currently a small Vistry Partnerships (Vistry) housing development, of 12No dwellings, located to the east of the southern end of Mosel Walk footpath and immediately west of No.5 Rhine Avenue, Peterborough, PE2 9SQ. Please see the TPO plan within **Appendix 1** for reference.

Description of Groups G.1, G.2 & G.3

The group G.1 is made up of 2No Sycamore, 2No Norway Maple and 1No Norway Maple 'Crimson King' (with purple foliage), G.2 is made up of 2No Norway Maple and 1No Lime (as modified) and G.3 is made up of 2No Norway Maple. All the trees are semi-mature/early mature in age and all three groups are located along the southern boundary of the site.

2. PLANNING HISTORY

Relevant Planning History

One recent planning application relating to this site includes:

22/00293/FUL Land Off Mosel Walk, Sugar Way, Peterborough

Erection of 12 dwellings with access, car parking, landscaping and other associated works

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

S.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

Two objections have been received with regards to the making of the above TPO.

One, from Mr Smith of No.251 Oundle Road and the second, from Mr Shipton of 257a Oundle Road.

Mr Smith's objections

An e-mail raising 'observations' with regards to the TPO was received on 28th March 2023, from Mr Smith of No.251 Oundle Road, the property is located immediately adjacent to the southern boundary of the site and group G.3 of the TPO. Mr Smith wanted his e-mail to be considered as an 'objection' to the making of the TPO, please see **Appendix 2** for details.

The Council's Tree Officer responded to Mr Smith's 'observations' by way of e-mail on 16th May 2023, please see **Appendix 3** for reference.

The main points of observation/objection, are outlined below:

I have lived at 251 Oundle Road for over 10 years and prior to that 251 Oundle Road for over 20 years. Our rear fence boundaries the Rhine Avenue site and the two remaining Norwegian Maple trees.

You have already allowed two other Norwegian Maples to be cut down and the roots removed. The two remaining both over hang our fenceline and in the last 30 years no one has even approached us regarding maintenance of these trees.

Both I and my wife would like the remaining two Norwegian Maples removing and more sympathetic and urban friendly trees to be planted in their place eg hornbeam, rowan etc

Please take this email as a written request for the removal of these trees

The Tree Officer informed Mr Smith, the Council did not allow the felling of two Norway Maple prior to the making of the TPO, as the trees at the time of felling were not protected, therefore, the Council had no control with regards to the trees.

The Tree Officer confirmed the remaining trees on the site had been protected because of their amenity value and because they provide some screening and a natural break between the long gardens of the properties on Oundle Road and the new development between Mosel Walk and Rhine Avenue.

The Tree Officer advised Mr Smith that if he wished to see the trees removed or pruned an application would have to be made, by him or Vistry, and that now may be the best time to make contact with Vistry to request that the trees are pruned, prior to the sale of the new houses. He also advised that Mr Smith should make contact with Vistry, if he felt the trees were a nuisance and he had concerns about the condition and maintenance of the trees and the potential of future branch failure, which may cause damage to his property.

The Tree Officer recently visited the site and was informed that a small dead branch had fallen from the larger Norway Maple in group G.3 penetrating the roof covering of one of Mr Smith's sheds, located beneath the crown of the tree in question.

The owner of the land/tree is responsible for any such damage and has a duty of care under the Occupiers' Liabilities Act to ensure damage of this kind does not occur. The Tree Officer is aware that Mr Smith made contact with Vistry but has not had a response to date.

Mr Shipton's 'objections'.

A letter raising concerns with regards to the trees protected by the TPO were received on 29th March 2023, from Mr Shipton of No.257a Oundle Road, the property is located immediately adjacent to the southern boundary of the site and two of the trees within group G.2. Mr Shipton was not clear if he wanted his concerns raised as an 'objection' to the making of the TPO. However, the Council's Tree Officer felt it prudent to include the matter in this report for Committee's attention and consideration. Please see Mr Shipton's letter and e-mails **Appendix 4**, for reference.

The Council's Tree Officer responded to Mr Shipton's letter by way of e-mail on 15th May 2023, and subsequent e-mails. Please see **Appendix 5**, for reference.

The main points of 'objection', are outlined below

The trees mentioned in your letter are immediately behind our premises and have been of concern to us over the years. We have had branches falling onto our workshop and causing damage, which prompted us to contact British Sugar, the previous owners, who completely ignored our phone calls and letters, one being hand delivered. Consequently, we hired a professional tree surgeon to prune the branches overhanging our property, even so we still have branches falling onto the roof during high winds and have had to replace four damaged tiles this year alone. The trees have grown so much since the workshop was built that I am now very concerned about the roots damaging my foundations.

My only concern was that the trees are maintained to keep them in a safe condition. If the TPO prevents them being touched in any way whatsoever then yes! I would like my concerns raised as an objection, to make sure that whoever is responsible for them is required to keep them in a safe manner.

The Tree Officer visited Mr Shipton and discussed his concerns with regards to the trees and advised that if he wished to see the trees managed by maintaining the overhanging branches, an application would have to be made, by him or Vistry, the same as he had advised Mr Smith.

Again, the Tree Officer gave the same advice to Mr Shipton with regards to contacting Vistry, if he felt the trees were a nuisance and he had concerns about the condition and maintenance of the trees and the potential of future branch failure, which may cause damage to his property, including the fabric of the adjacent workshop/building. This would include any damage to foundations.

The Tree Officer informed Mr Shipton that the only 'requirement' a tree owner has to maintain a tree in a safe condition, is by way of their duty of care under the Occupiers' Liabilities Act 1984 (OLA), where the law outlines an occupiers' responsibility, known in law as 'the duty of care', to take reasonable care to avoid acts or omissions which he or she could reasonably foresee may result in harm or injury. When an occupier fails to exercise his or her responsibility the result may be a claim for negligence.

The Council would encourage the sound arboricultural management of the tree however it is not in a position 'to make sure' or 'enforce' the OLA or the maintenance of tree/s protected by a TPO. The TPO gives the Council the opportunity to protect the retention of trees and have control over the works to 'manage/maintain' the tree/s in the future.

5. ASSESSMENT OF THE PLANNING ISSUES

Local Authorities are guided by Government guidance at: <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#making-tree-preservation-orders>

At PCC an assessment criteria has been developed and covers the considerations in Point 2 above and detailed below:

Visual Amenity and Visual Impact as a Group

Government advice states - The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

The Tree Officer considers the trees subject of the TPO are clearly visible by the public from publicly accessible viewing points, including from parts of Oundle Road, Mosel Walk footpath, Rhine Avenue and therefore, display significant visual amenity value and visual impact as groups and offer some screening and a natural break between the long gardens of the properties on Oundle Road and the new development between Mosel Walk and Rhine Avenue.

Tree Health Considerations

Tree health considerations include visual health, structure, growth, foliage condition, size, past management, future maintenance, future visual impact, maturity, life expectancy and presence of fungi.

The Tree Officer considered the trees subject of the TPO to be of good health and condition generally despite some deadwood in the crowns of the trees with regards to the above attributes for their age as mature specimens with less than 40 years life expectancy and with no obvious signs of fungi present, at the time of assessment.

Impact Considerations

Impact considerations on the public Highway, services, on walls or buildings.

The Tree Officer considered the impact on the above first three features to be low and high on the later, as there are a number of buildings/structures – workshops/sheds on or adjacent to the boundary that may be impacted upon by the trees subject of the TPO.

TPO Serving Procedure

The Tree Preservation Order (TPO) 23/00004/TPO Land at Rhine Avenue, Peterborough was re-made and served on 16th 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 being built on the site. The original TPO 22/00001/TPO was made on 12th September because of the threat from the proposed development of the site.

A TPO Assessment was carried using the PCC criteria on the trees the subject of the TPO and the TPO made accordingly.

Mr Smith and Mr Shipton's objections have been considered and responded to above.

6. CONCLUSIONS

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

7. Recommendation

The Head of Planning recommends that the TPO is CONFIRMED with modifications, as stated above.

Copies to Councillors - Councillor Andy Coles
- Councillor Alan Dowson
- Councillor Nick Thulbourn

Appendix 1

TOWN AND COUNTRY PLANNING ACT 1990

Land at Rhine Avenue, Peterborough Tree Preservation Order 23/00004/TPO

The Council of the City of Peterborough, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

1. Citation

- (1) This Order may be cited as Land at Rhine Avenue, Peterborough Tree Preservation Order 23/00004/TPO.

2. Interpretation

- (1) In this Order "the authority" means the Council of the City of Peterborough
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

3. Effect


- (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

4. Application to trees to be planted pursuant to a condition

- (1) In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 16th day of March 2023

.....

Authorised by the Council to sign in that behalf

SCHEDULE

Specification of trees

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-----------------------------	--------------------	------------------

None

Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-----------------------------	--------------------	------------------

None

Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
G1	5 trees, consisting of 2 Sycamore & 2 Norway Maple & Norway Maple (Crimson King)	E518181 N297636
G2	3 trees, consisting of 2 Norway Maple (lime) ²	E518202 N297647
G3	2 trees, consisting of 2 Norway maple	E518230 N297661

Woodlands

(within a continuous black line on the map)

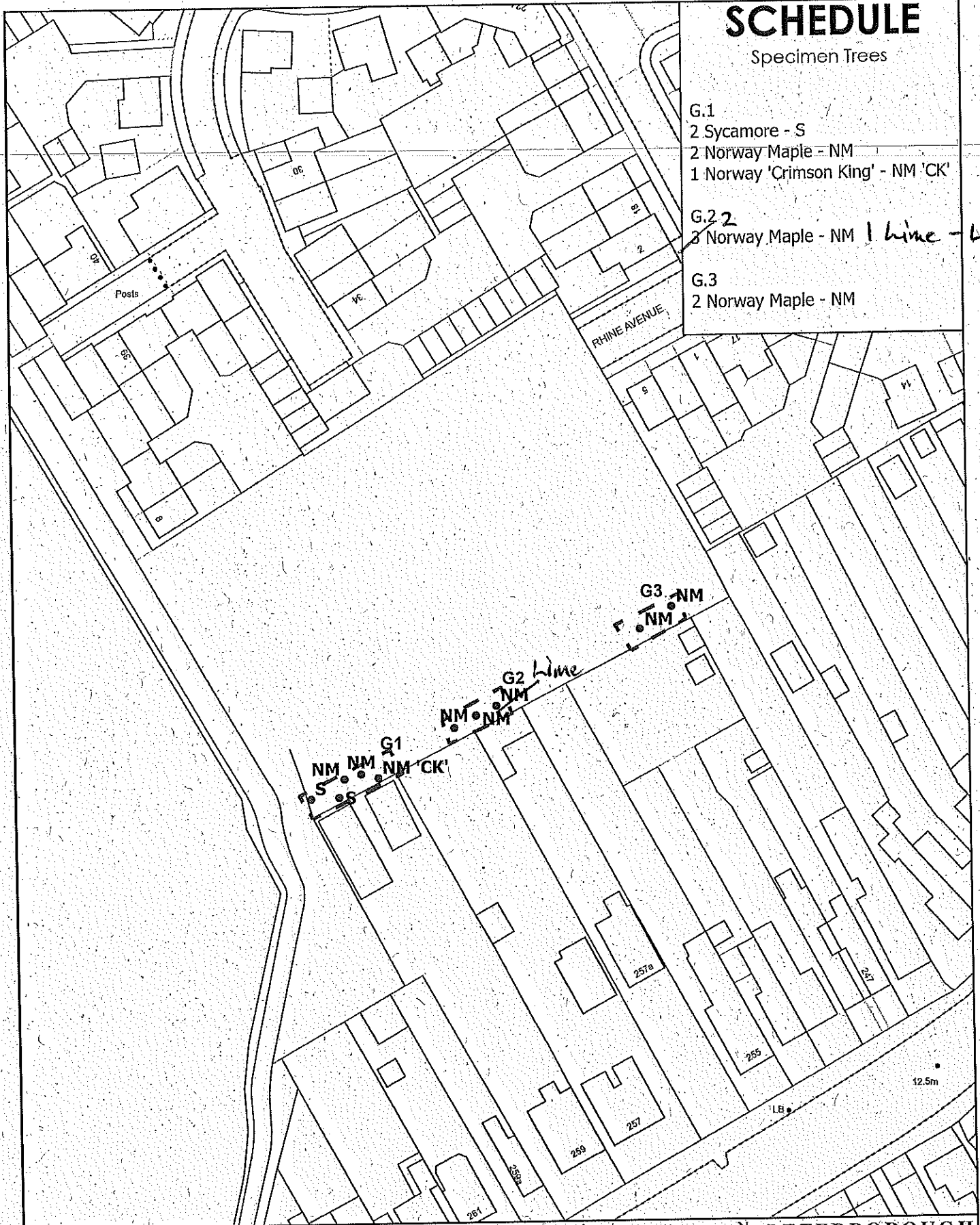
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-----------------------------	--------------------	------------------

None

SCHEDULE

Specimen Trees

- G.1
2 Sycamore - S
2 Norway Maple - NM
1 Norway 'Crimson King' - NM 'CK'
- G.2
3 Norway Maple - NM *1 lime - L*
- G.3
2 Norway Maple - NM



Tree Preservation Order

Land at Rhine Avenue, Peterborough 23/00004/TPO



Scale: 1:800

Date: 17th March 2023

Drawing number: 23/00004/TPO

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Appendix 2

Aneeqa Malik

From: Stephen Smith <
Sent: 28 March 2023 18:34
To: Plng Control Enquiries
Subject: 23/00004/TPO - re letter trees Rhine Avenue

CAUTION: This email originates outside of Peterborough City Council's network. Do **NOT** click on links or open attachments unless you recognise the sender and know the content is safe. Please report any concerns or issues to ICT

Hello Mr Chesney-Beales

Thank you for your letter of 21/03/2023 Ref 23/00004/TPO please can i make the following observations:
I have lived at 251 Oundle Road for over 10 years and prior to that 251 Oundle Road for over 20 years. Our rear fence boundaries the Rhine Avenue site and the two remaining Norwegian Maple trees.

You have already allowed two other Norwegian Maples to be cut down and the roots removed. The two remaining both over hang our fenceline and in the last 30 years no one has even approached us regarding maintenance of these trees.

Both I and my wife would like the remaining two Norwegian Maples removing and more sympathetic and urban friendly trees to be planted in their place eg hornbeam, rowan etc

Please take this email as a written request for the removal of these trees

kind regards

Stephen Smith
Oundle Road
Peterborough
PE2 9QY

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Appendix 3

Kind regards Stephen

On Tue, 16 May 2023 at 18:31, Stephen Chesney-Beales <Stephen.Chesney-Beales@peterborough.gov.uk> wrote:

Good evening Mr Smith

Thank you for your time this afternoon in discussing your e-mail dated 28th March and your observations concerning the above TPO and the trees adjacent to the rear boundary of your property within Group G.3 of the TPO.

As discussed, the trees in question are the responsibility and liability of Vistry Partnerships, who I believe, now own the land/trees, until the new dwellings/land are sold on.

The Council did not allow the felling of the two Norway Maples prior to the making of the TPO, as the trees were not protected, and the Council had no control with regards to the trees at the time.

The remaining trees were protected because of their amenity value and because they provide some screening and a natural break between the long gardens of the properties on Oundle Road and the new development between Mosel Walk and Rhine Avenue.

If you wish the trees to be removed or pruned an application will have to be made accordingly, as discussed in our earlier e-mail exchange, either by Vistry or by you. However, as discussed today, now may be the best time to make contact with Vistry to request that the trees are pruned - maintained, as you expressed, prior to the completion, sale and purchase of the new dwellings?

If you feel the trees present a nuisance please make contact with Olivia Hewitt, the Development Planning Manager at Vistry, at the e-mail address below (don't worry about the name of the business, they are all a part of the same Partnership), and express your concern, stating that you are putting Vistry Partnerships 'on Notice' with regards to your concerns about the condition and maintenance of the trees and the potential of future branch failure, which may cause damage to your property.

I'm sure Olivia will forward your e-mail onto the appropriate part of the business, for a formal response to your concerns. Olivia Hewitt - olivia.hoare@countrysidepartnerships.com

Also, as discussed, please confirm you would like your e-mail above to be considered as a formal Objection to the making of the TPO and considered by the Council's Planning and Environment Protection Committee before a decision is made whether to confirm the TPO.

If you wish to discuss the matter further, please do not hesitate to contact me.

Many thanks & kind regards

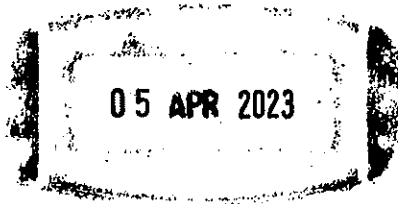
Stephen Chesney-Beales
Tree Officer

Planning Services,
Place & Economy,
Sand Martin House,
Bittern Way,
Fletton Quays

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Appendix 4

Oundle Rd.,
Woodston,
Peterborough.
PE2 9QY



29th March 2023

For attention of Mr Stephen Chesney-Beatles

Dear Sirs,

Your letter ref 23/00004/TPO 23 March 2023

The trees mentioned in your letter are immediately behind our premises and have been of concern to us over the years. We have had branches falling onto our workshop and causing damage, which prompted us to contact British Sugar, the previous owners, who completely ignored our phone calls and letters, one being hand delivered. Consequently we hired a professional tree surgeon to prune the branches overhanging our property, even so we still have branches falling onto the roof during high winds, and have had to replace four damaged tiles this year alone. The trees have grown so much since the workshop was built that I am now very concerned about the roots damaging my foundations.

Yours faithfully

David Shipton

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Appendix 5

Re - Tree Preservation Order (TPO) - 23/00004/TPO Land at Rhine Avenue,
Peterborough

Stephen Chesney-Beales <Stephen.Chesney-Beales@peterborough.gov.uk>

Mon 15/05/2023 19:45

Good evening Mr Shipton

I hope this finds you well?

Please accept my apologies for the delay in responding after our discussions on site at your property a couple of weeks ago now.

Further to your letter dated 29th March concerning the above TPO and our discussion regarding the trees adjacent to the rear boundary of your property within Group G.2 of the TPO, please note that the trees in question are the responsibility and liability of Vistry Partnerships, until the new dwellings/land are sold on.

If as discussed, you feel the trees present a future risk to your property - workshop, due to falling branches, please make contact with Olivia Hewitt, the Development Planning Manager at Vistry, at the e-mail address below (don't worry about the name of the business, they are all apart of the same Partnership), and express your concern, stating that you are putting Vistry Partnership 'on Notice' with regards to your concerns about the condition of the trees and the potential of future branch failure, which may damage your workshop roof or fabric of the building.

I'm sure Olivia will forward your e-mail onto the appropriate part of the business, for a formal response to your concerns. Olivia Hewitt - olivia.hoare@countrysidepartnerships.com

Also, as discussed, please would you confirm you do not wish your letter to be considered as an Objection to the making of the above TPO.

If you wish to discuss the matter further, please do not hesitate to contact me.

Many thanks & kind regards

Stephen Chesney-Beales
Tree Officer

Planning Services,
Place & Economy,
Sand Martin House,
Bittern Way,
Fletton Quays
Peterborough.
PE2 8TY

Re - Tree Preservation Order (TPO) - 23/00004/TPO Land at Rhine Avenue,
Peterborough

Stephen Chesney-Beales <Stephen.Chesney-Beales@peterborough.gov.uk>

Tue 20/06/2023 18:23

Good evening Mr Shipton

I hope this finds you well? Please can you respond to my previous e-mail, below, as I'm not sure if you received it originally?

I hope the information in the e-mail is/was helpful.

Further to our conversation on the day of my visit to your property, you said you did not want your letter to be considered as an Objection to the making of the TPO?

Please would you confirm you do not wish your letter to be considered as an Objection to the making of the TPO, as the matter may be going to the Council's Planning and Environmental Protection Committee for consideration prior to the Committee making a decision to confirm the TPO or not. If you wish your letter to be considered as an Objection, it will be included within the Committee Report accordingly.

If you wish to discuss the matter further, please do not hesitate to contact me.

Many thanks & kind regards

Stephen Chesney-Beales
Tree Officer
07920160206

Planning Services,
Place & Economy,
Sand Martin House,
Bittern Way,
Fletton Quays
Peterborough.
PE2 8TY

Appendix 5

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Hi Stephen

Sorry for not responding to your email. Yes, I did receive it thank you, as expected it did receive the pass the buck response to my further emails to the relevant parties, however, it is still positive to register my concerns to all involved.

Many thanks for your input.

David

> On 20 Jun 2023, at 18:23, Stephen Chesney-Beales <Stephen.Chesney-Beales@peterborough.gov.uk> wrote:
>

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From: David Shipton <
Sent: 22 June 2023 18:47
To: Stephen Chesney-Beales <Stephen.Chesney-Beales@peterborough.gov.uk>
Subject: Re: Re - Tree Preservation Order (TPO) - 23/00004/TPO Land at Rhine Avenue, Peterborough

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Hi Stephen

My only concern was that the trees are maintained to keep them in a safe condition. If the TPO prevents them being touched in any way whatsoever then yes! I would like my concerns raised as an objection, to make sure that whoever is responsible for them is required to keep them in a safe manner.

Many thanks
David

On 22 Jun 2023, at 07:26, Stephen Chesney-Beales <Stephen.Chesney-Beales@peterborough.gov.uk> wrote:

Morning David

Thank you for your prompt reply, much appreciated. Can I just confirm, you do not want to raise your 'concerns', as an objection to the making of the TPO.

Many thanks

Steve

Stephen Chesney-Beales

Tree Officer

Planning Services,
Place & Economy,
Sand Martin House,
Bittern Way,
Fletton Quays
Peterborough.
PE2 8TY

From: David Shipton <
Sent: 21 June 2023 11:16
To: Stephen Chesney-Beales <Stephen.Chesney-Beales@peterborough.gov.uk>
Subject: Re: Re - Tree Preservation Order (TPO) - 23/00004/TPO Land at Rhine Avenue, Peterborough

Re: Re - Tree Preservation Order (TPO) - 23/00004/TPO Land at Rhine Avenue,
Peterborough

Stephen Chesney-Beales <Stephen.Chesney-Beales@peterborough.gov.uk>

Fri 23/06/2023 07:00

To:

Morning Daviu

Thanks again for your prompt reply.

In answer to your question, a TPO does not stop the tree/s in question being managed and maintained, as would be expected normally by a responsible owner. The only difference is an application would have to be made and consent obtained to undertake/carry out any tree works, by the owner or any other interested parties.

In this case, if Vistry are not prepared to manage the trees, the new owners of the houses currently being built, may want to, and the Council is concerned that the trees are retained as a natural screen or 'break' between the new development and the houses on Oundle Road. The gardens of the Oundle Road properties are considered large enough for the tree/s not to be considered an immediate nuisance to the 'liveability' of the houses, but may have some bearing on the boundaries, as discussed.

The only 'requirement' a tree owner has to maintain a tree in a safe condition, is by way of their duty of care under the 'Occupiers Liability Act' where the law outlines an occupiers' responsibility, known in law as 'the duty of care', to take reasonable care to avoid acts or omissions which he or she could reasonably foresee may result in harm or injury. When an occupier fails to exercise his or her responsibility the result may be a claim for negligence. The Council is not in a position to 'enforce' the OLA or enforce the maintenance of tree/s protected by a TPO. The TPO gives the Council the opportunity to protect the retention of trees and have control over the works to 'manage/maintain' the tree/s.

I hope I've answered your question. If you would still like me to include your concerns, as an objection, I will do so, but please confirm this to be the case and details will be provided with regards to the Council's process for dealing with objections, and the Planning & Environmental Protection Committee's site visit requirements and meeting.

Have a good weekend.

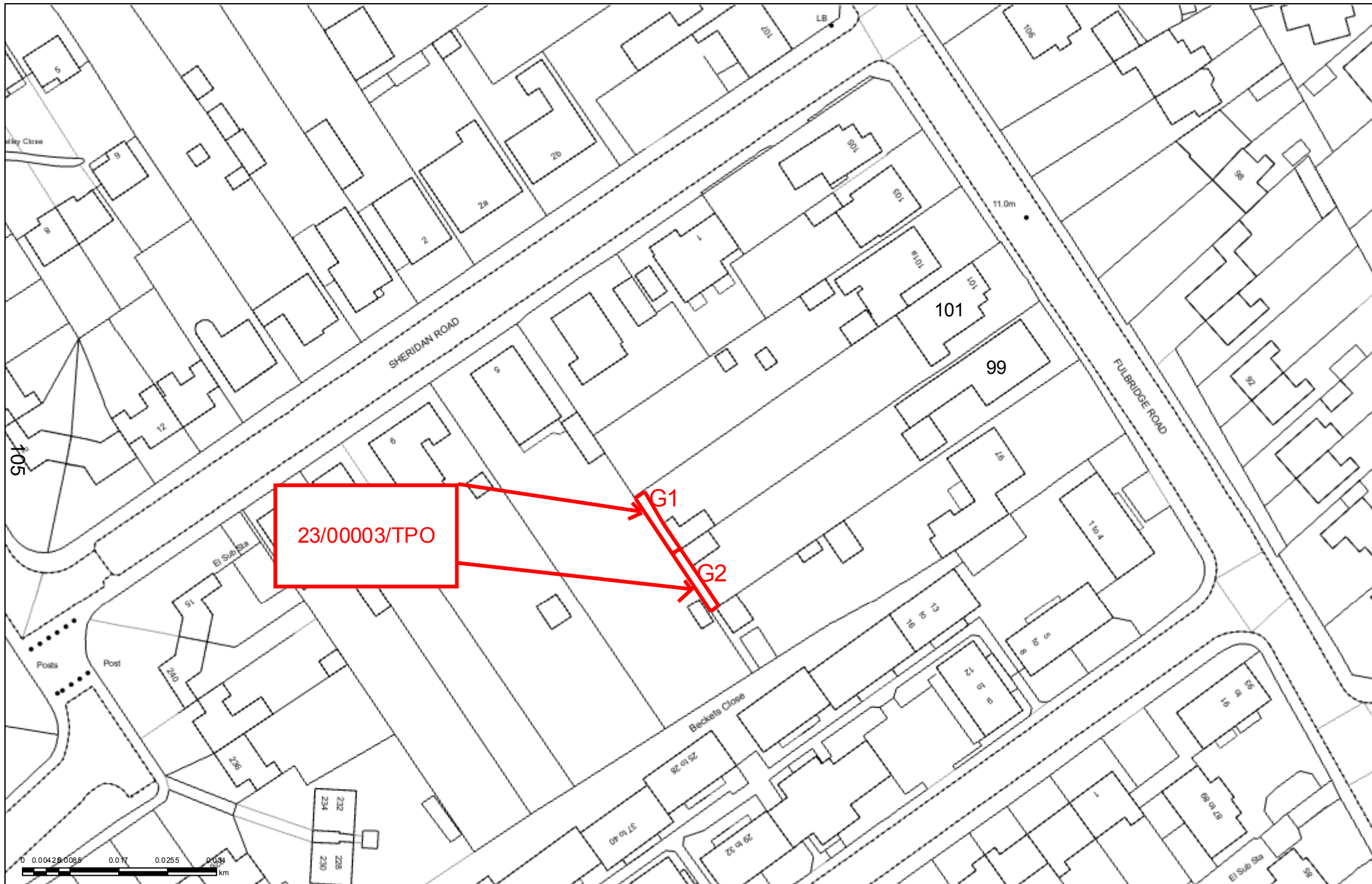
Many thanks & kind regards

Steve

Stephen Chesney-Beales
Tree Officer

Planning Services,
Place & Economy,
Sand Martin House,
Bittern Way,
Fletton Quays
Peterborough.
PE2 8TY

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Planning Committee Location Plan- 23/00003/TPO- 99 and 101 Fulbridge Road, New England, Peterborough PE1 3LD

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P & EP Committee: 18th July 2023

Item No. 6

PROPOSAL: Confirmation of Tree Preservation Order 23/00003/TPO

SITE: 99 & 101 Fulbridge Road, Peterborough

REFERRED BY: Head of Planning

CASE OFFICER: Stephen Chesney-Beales

TELEPHONE: 01733 453465

E-MAIL: stephen.chesney-beales@peterborough.gov.uk

RECOMMENDATION: Confirm – Tree Preservation Order 23/00003/TPO with modifications

1 DESCRIPTION OF THE SITE AND SURROUNDINGS & SUMMARY OF THE PROPOSALS

Purpose of Report

A provisional Tree Preservation Order 23/00003/TPO (TPO) at 99 & 101 Fulbridge Road, Peterborough was made and served on 16th 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 has been the subject of consultation and because objections have been received, the Committee are 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 are:

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

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

Site and Surroundings

The properties of 99 & 101 Fulbridge Road both have rear gardens with boundaries that abut the rear garden of 5 Sheridan Road. All the properties are residential in nature and have large, long gardens of the type typical of the age and character of the properties of the time.

Description of Tree/s

The trees subject of the TPO are all Lombardy Poplar and are within two groups. Group G.1 consists of three trees and G.2 two trees. The trees were described by an independent Arboriculturalist in July 2022 as trees which '*offer a further 20 to 40 years contribution, with good screening and wildlife habitat potential, and are of benefit to the local landscape*'.

Please see Appendix 1 for a copy of the TPO and plan to be modified.

2 PLANNING HISTORY

Relevant Planning History

An outline planning application, 22/01542/OUT for the construction of a single storey dwelling in the rear garden of 5 Sheridan Road was received from the Objectors - Mr & Mrs Clark on 25th October 2022.

The application was Refused on 24th March 2023.

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

Objections

Two objections have been received with regards to the making of the above TPO - one, from Mr & Mrs Clark of 5 Sheridan Road, the second, from Sarah Raucci of 101 Fulbridge Road.

Mr & Mrs Clark's TPO Objection Notice is dated 31st March 2023 and consists of 11No pages, please see Appendix 2

Mr & Mrs Clark raised a number of objections to the making of the TPO and included many references to the refused outline planning application above, Tree Officer responded initially by letter dated 19th April 2023, please see Appendix 3. The Tree Officer clearly stated he would only respond to the points raised in the TPO Objection Notice but would not respond to matters relating to the refused outline planning application.

The main points of Mr & Mrs Clark's objections are outlined below, please note the Point No's below, with reference to the page numbers of the TPO Objection Notice.

Point 1, page 1. – 'Protecting trees & Planning: Note, *The Lombardy Trees are not at risk of removal*:'.

The Council made the TPO, as it considered the trees' may be under threat from development and mis-management affecting their future health and wellbeing. It was considered that the proposed development had created 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.

Current Government guidance 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

Point 2, page 1 - 'Amenity Value: PCC have not fully assessed the amenity value of the trees concerned, prior to actioning a tree preservation order: PCC have not followed the procedural requirements of the Regulations:'.

PCC use an assessment criteria, detailed within section 5 below, which considers the following:

Visual Amenity and Visual Impact as a Group

Tree Health Considerations

Impact Considerations

The application of this assessment criteria demonstrates that the Council have adequately followed procedural requirements.

Point 3, page 2 - *'Section: 201 Direction – As this TPO has been enforced with immediate effect, PCC have failed to note a 201 direction on the notice letter 16th March 2023: 23/00003/TPO, PCC have not followed the procedural requirements of the Regulations:'.*

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 every new copy of a TPO. 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.

Point 4, page 2 – *'Note: A Lombardy Poplar tree, is said to be mature at around 50 years old, all these Lombardy poplar trees at 99 & 101 Fulbridge Road, are 45+ years old. When these trees are approaching the end of their natural lifespan and unlike other species are 'especially prone to breakage'. These tree species are known even with specialist checks are not highlighting internal issues which can cause the tree to fail. These trees are near end of life and present a danger to life and property. Peterborough city council have not issued a report, visual, nor internal testing to determine decayed or diseased prior to notice of a TPO. Peterborough city council, do have a duty of care to residents and we will hold them fully accountable if defects worsen in any way at any time in the future. We will seek redress through courts in order to recover repair costs and case management costs. Although we do not own these trees; under 'Section 1 (3) of the occupier liability act 1984, which states that duty is owed when the occupier is aware of the danger, or has reasonable grounds to believe it exists, knows of has reasonable grounds to believe that the trespasser is near or may come to be near danger and the risk is one which the occupier may reasonably be expected to protect visitors from:'.*

The Tree Officer does not consider the trees to be fully mature or over mature and does not consider the trees to be in an unsafe condition. The Council does not have an obligation to carry out any health and safety inspection of trees or issue a report prior to making a TPO, nor does it have responsibility for the ongoing health and safety inspections of private trees subject of a TPO.

Trees the 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 at 99 & 101 Fulbridge Road, as they always have done. The only difference now is landowners must seek permission from the Council before carrying out any future tree works. There is no cost to apply to carry out tree works and the Council will never knowingly refused health and safety works where justification is proven.

Point 5, page 3 - *'N.B. Expediency All reports note retention of Lombardy trees, topping was suggested only in the first arboricultural report, then removed on 3 additional reports. Again Topping is common practice, in the risk areas i.e. residential for safety and age of tree and species type. - Ref Reading council & Welwyn Hatfield Borough council, and also future note: TPO is being made on grounds of Amenity Value: even suggested Topping heights, would still allow for visual amenity (surrounding bungalows and houses) i.e. suggested cutting from 24 meters to 12 meters would still be very visual*

above all surrounding dwelling type). PCC have note followed the procedural requirements of the Regulations’.

‘Technical grounds: We have had reports from a independent arboriculturist noting in regards to the Lombardy poplar trees: noting dead, dangerous branches, indicating non maintenance, and suggestion to topping these to a safer height, and allowing to re-grow; addressing residential area, safety and concerns...’

The Tree Officer does not consider the ‘topping’ of the trees to be necessary or appropriate currently, therefore, such works are considered to be contrary to good, modern arboricultural practices. However, there may be a need to reduce the trees in height in the future, should their condition decline. The trees in question have numerous dead branches throughout the crowns, typical of the species and age of the trees. The removal of this deadwood is an exempt item from the requirement to seek permission from the Local Planning Authority and thus could be removed with immediate effect by the owner.

The Tree Officer is not aware of any independent arboricultural report, stating the trees subject of the TPO have ‘dangerous branches’. The report from Mr & Mrs Clark’s independent Arboriculturist - Caroline Hall states the trees - ‘offer a further 20 to 40 years contribution, with good screening and wildlife habitat potential, and are of benefit to the local landscape’ and considers the trees to have ‘considerable stature’ and are ‘widely visible from the surrounding area’.

Point 6, page 3 - ‘Note: discussions between all parties boarding garden boundaries of the Lombardy poplars, have not been assessed or considered, example: we have on numerous times tried to enter into good communications with PCC in regard to these trees, but have unfortunately been ignored, we have requested site visits re: trees on and off site including the Lombardy poplars on 101 & 99 Fulbridge Road, but have been ignored. Copies are attached of written requests, same goes for verbal communications’.

The Tree Officer has not been approached by ‘all parties’ ‘on numerous times’ with regards to these trees and the making of the TPO. The only direct communication from Mr Clark with regard to the above planning application was in relation to an e-mail dated 2nd December 2022, which the Tree Officer had not responded to, but had discussed with the Planning Case Officer. The Tree Officer apologised to Mr & Mrs Clark for this oversight in his letter dated 19th April 2023.

The Tree Officer has responded to all formal consultations with regards to the above planning application and discussed the issues with the Planning Case Officer, explaining that his comments would remain the same given the obvious constraints.

Point 7, page 4 – ‘We have advised neighbours and PCC in writing of this risk and further note in this document, that these trees represent a risk. As a result, to date, PCC - have conducted a visit at 101 Fulbridge Road, noted lots of dead wood ‘confirming non maintenance’ not issued a report stating these are safe, but instead issuing a tree preservation order, making maintenance work, ‘apply for’, and adding extra costs. This will prevent future tree management due to costs and process’.

The Tree Officer visited 101 Fulbridge Road and met with one of the owners and made a visual assessment of the trees, subject of the TPO. He did remark on the very obvious dead branch wood within the trees, common for trees of this species and age. He did not make any mention of ‘confirming non maintenance’.

The Tree Officer does not agree that the making of a TPO effects the management or future maintenance of trees, especially when considering the obligations of landowners under the OLA, as discussed in Point 4 above.

Point 8, pages 8 & 9 – ‘We have also attached a survey of views of the neighbours’ (please see Appendix 4) covering there opinions on height, dangerous, Tree preservation orders, and amenity. This concurs with the consensus locally and backs the appeal that a tree preservation order on these Lombardy poplars is unjust and not necessary. It also backs the original arboricultural implications

assessment; planners concerns and local community about the size and dangers these do present in a housing setting’.

The Tree Officer acknowledged the above survey with regards to the views of Mr & Mrs Clark and their neighbours. The Tree Officer responded to Mr & Mrs Clark stating he believes the TPO is justified owing to the trees having significant public amenity value. Within their current rear garden settings, in a residential area it is considered that the risk posed by the trees can be suitably managed by the resident in the form of routine inspections by a competent person and undertaking works where required.

The Tree Officer also wrote to each of the neighbours, 16No. in total, requesting that they respond in writing within 14 days of receipt of the letter, letting the Council know if they wish to object to the making of the TPO, stating the reasons for objecting. The Council did not receive any responses.

Please see a copy of the survey (see Appendix 4) and a copy of the standard letter delivered to each of the neighbours on 19th April 2023 (see Appendix 5).

Point 9, pages 5, 6 & 10 - ‘Leading to our other statement ‘and in reactive response to our challenging of the conduct of the tree officer during this planning application’. We genuinely feel this TPO has been put in, due to challenging the tree officer on why he disagrees with a professional arboriculturist report on the condition of the trees on the site. We don’t have an issue with varying options, but to disagree with a professional report on trees on site, not providing any other independent arboricultural report in argument... nor visiting site to view the trees in person... is unprofessional and not something that would be expected from someone carrying out their duties correctly’.

‘We feel strongly that the tree officer, is abusing his power to invoke a Tree protection order, and not in the ethos and power of regulation 6 of the town and planning (tree preservation) England regulation 2012) on these Lombardy Poplar trees off site without real justification. In all reports the Lombardy trees of site were for retention’.

‘We also feel an abuse of power and misconduct from the tree officer from Peterborough City Council’.

The Tree Officer is not aware of any ‘challenge’ to his conduct in dealing with the above application. The TPO has been made and considered as discussed in the above points. The Tree Officer has made his comments in relation to the planning application in good faith having viewed the site on several occasions adequately from the neighbouring land, with the information available to him and provided by Mr & Mrs Clark’s appointed Arboriculturist. The Tree Officer does not consider this approach to be ‘unprofessional’ given all the trees in question and the proposals can be judged from view points surrounding the site, together with the information available.

The Tree Officer does not consider he is ‘abusing his powers’ or that he has by undertaking the duties and responsibilities of his post, in considering the protection of trees within Peterborough City Council’s district, as the appointed Tree Officer.

The Tree Officer would point out that all the Planning Application’s listed - 10/00358/OUT, 11/00719/OUT, 21/01574/OUT & 22/01542/OUT have all been refused by the Council.

Sarah Raucci’s TPO objection letter is dated 3rd April 2023 and consists of 4No pages, please see Appendix 6 (two of the pages are a copy of the survey of neighbours discussed in Point 8 above, see Appendix 4).

Sarah Raucci raised a number of objections to the making of the TPO, the Tree Officer responded dated 19th April 2023, please see Appendix 7.

The main points of Sarah Raucci’s objections in brief are outlined below, please note the Point No’s below, all the Points are on page 1 of the objection letter.

Point 10. - *'I do not wish these trees to be felled or destroyed at all. My objection rises from the factors that have led to this decision'... 'We have no objection to the planning application but do regard the trees to be important enough to be considered and reduced in height to maintain safety and the health of the trees'.*

The Tree Officer notes the sentiment from Sarah Raucci regarding the trees, however, he considers the trees not to pose an unacceptable risk, yet would encourage the dead branches being removed within the crowns. Although very tall he does not consider it necessary or appropriate currently for the trees to be 'reduced in height', and considers such works are considered to be contrary to good, modern arboricultural practices and will not maintain the trees' health necessarily.

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.

Point 11. - *'I do not believe that the trees bring significant amenity benefit to the local area' ... The public amenity is low'.*

The Tree Officer considers the trees subject of the TPO bring significant visual amenity value to the local area and are clearly visible by the public from publicly accessible viewing points, including from parts of Fulbridge Road, Sheridan Road and from further afield.

Point 12. - *'Please see the attached survey of local residents. The most common factor stated in the survey is that the trees are situated in an inappropriate location'.*

The Tree Officer acknowledged the above survey with regards to the views of Sarah Raucci and her neighbours, in his letter of 19th April 2023. The Tree Officer considers the trees to be acceptable and suitable in their rear garden settings, in a residential area, with large gardens. Please see point 8 above with regards to the survey and the response the Council received.

Point 13. - *'The protection of the trees can prove to be important, but I believe that these trees are not under considerable threat'.*

As in point 5 above - The Tree Officer considers the trees may be under threat from development and mis-management Please see the Government guidance in Point 1. above. Please note Mr & Mrs Clark's independent Arboriculturalist - Caroline Hall states the trees - 'offer a further 20 to 40 years contribution, with good screening and wildlife habitat potential, and are of benefit to the local landscape' and considers the trees to have 'considerable stature' and are 'widely visible from the surrounding area'.

Point 14. - *'Residents at 5 Sheridan Road have clearly compromised with their planning application and the consideration of the trees. They are happy, as part of their application to reduce the tree height to a more manageable height of say, 15 meters. This in turn would be an appropriate height for the trees to begin regrowth (as they are fast growing trees) and maintain the health of them and furthermore their longevity. This procedure would support ourselves in maintaining the trees at a more manageable height'.*

As in Point 5 above - The Tree Officer does not consider reducing the trees in height to be necessary or appropriate currently, therefore, such works are considered to be contrary to good, modern arboricultural practices and will not maintain the trees' health necessarily.

Point 15. - *'Lombardy poplar trees have a general life span of 30-50 years and as I have lived at the above property for 30 years; and the trees were established then, they are more likely at the end of their life span'.*

As in Point 4 above - The Tree Officer does not consider the trees to 'have a general life span of 30-50 years' or that they are 'at the end of their life span'. He does not consider the trees to be fully mature or over mature.

Point 16. – *‘This in turn does not mean that they should be of any less value but I am aware that the trees could potentially begin to fail and the financial burden on myself and my husband to require tree surgeons and appropriate professional evidence or arboricultural consultants could be immense with having to apply all this within the set ‘rules’ of a TPO and my once calming trees are causing me some moderate stress and anxiety and ruining the peaceful enjoyment of my property’.*

The Tree Officer acknowledges that trees can fail unpredictably, however, as a landowner responsible for trees growing on their property, there is an accepted obligation under the Occupiers’ Liability Act 1984 (see point 4 above) with an obvious cost attached in managing and ‘maintaining’ trees whether protected by a TPO or not. The Tree Officer does not agree that the cost is increased immensely because the trees have been protected by a TPO, as there is no fee for a tree work application.

5 ASSESSMENT OF THE PLANNING ISSUES

Assessment of Trees

Local Authorities are guided by Government guidance at: <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#making-tree-preservation-orders>

At PCC an assessment criteria has been developed and covers the considerations in Point 2 above and detailed below:

Visual Amenity and Visual Impact as a Group

Government advice states - The extent to which the trees or woodlands can be seen by the public will inform the authority’s assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

The Tree Officer considers the trees subject of the TPO are clearly visible by the public from publicly accessible viewing points, including from parts of Fulbridge Road, Sheridan Road and Tennyson Road and therefore, display significant visual amenity value and visual impact as a group.

Tree Health Considerations

Tree health considerations include visual health, structure, growth, foliage condition, size, past management, future maintenance, future visual impact, maturity, life expectancy and presence of fungi.

The Tree Officer considered the trees subject of the TPO to be of an average health and condition with regards to the above attributes for their age as early mature specimens with less than 40 years life expectancy and with no obvious signs of fungi present, at the time of assessment.

Impact Considerations

Impact considerations on the public Highway, services, on walls or buildings.

The Tree Officer considered all of the above considerations to be low, at the present time.

TPO Serving Procedure

TPO 23/00003/TPO was served as a result of receiving the above planning application 22/ 01542/OUT to build a single storey dwelling in the rear garden of 5 Sheridan Road, Peterborough. A TPO was considered appropriate and reasonable in the circumstances given that trees may be under threat from development and mis-management affecting their future health and wellbeing.

A TPO Assessment was carried using the PCC criteria on the trees the subject of the TPO and the TPO made accordingly.

Mr & Mrs Clark and Sarah Raucci's objections have been considered and responded to above.

6 **CONCLUSIONS**

The trees subject of the TPO, shown in Appendix 1, are considered to offer significant, public visual amenity value and are clearly visible by the public from publicly accessible viewing points, including from parts of Fulbridge Road, Sheridan Road and Tennyson Road. The trees meet PCC's TPO Assessment criteria, and are 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, it is recommended the TPO is confirmed with modifications.

8 **RECOMMENDATION**

The Head of Planning recommends that the TPO is CONFIRMED with modifications to show the position of the individual trees within the groups G.1 & G.2 to avoid doubt in the future. Please see Appendix 1, for details.

Copy to Councillors: -Councillor Noreen Bi
-Councillor Mohammed Haseeb
-Councillor Asim Mahmood

TOWN AND COUNTRY PLANNING ACT 1990

99 & 101 Fulbridge Road, Peterborough, Tree Preservation Order (23/00003/TPO)

The Council of the City of Peterborough, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

1. Citation

- (1) This Order may be cited as 99 & 101 Fulbridge Road, Peterborough, Tree Preservation Order (23/00003/TPO).

2. Interpretation

- (1) In this Order "the authority" means the Council of the City of Peterborough
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

3. Effect

- (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

4. Application to trees to be planted pursuant to a condition

- (1) In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 16th day of March 2023



Authorised by the Council to sign in that behalf

SCHEDULE

Specification of trees

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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None

Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-----------------------------	--------------------	------------------

None

Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
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G1	3 Lombardy Poplar	E518600 N301651
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G2	2 Lombardy Poplar	E518606 N301641
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Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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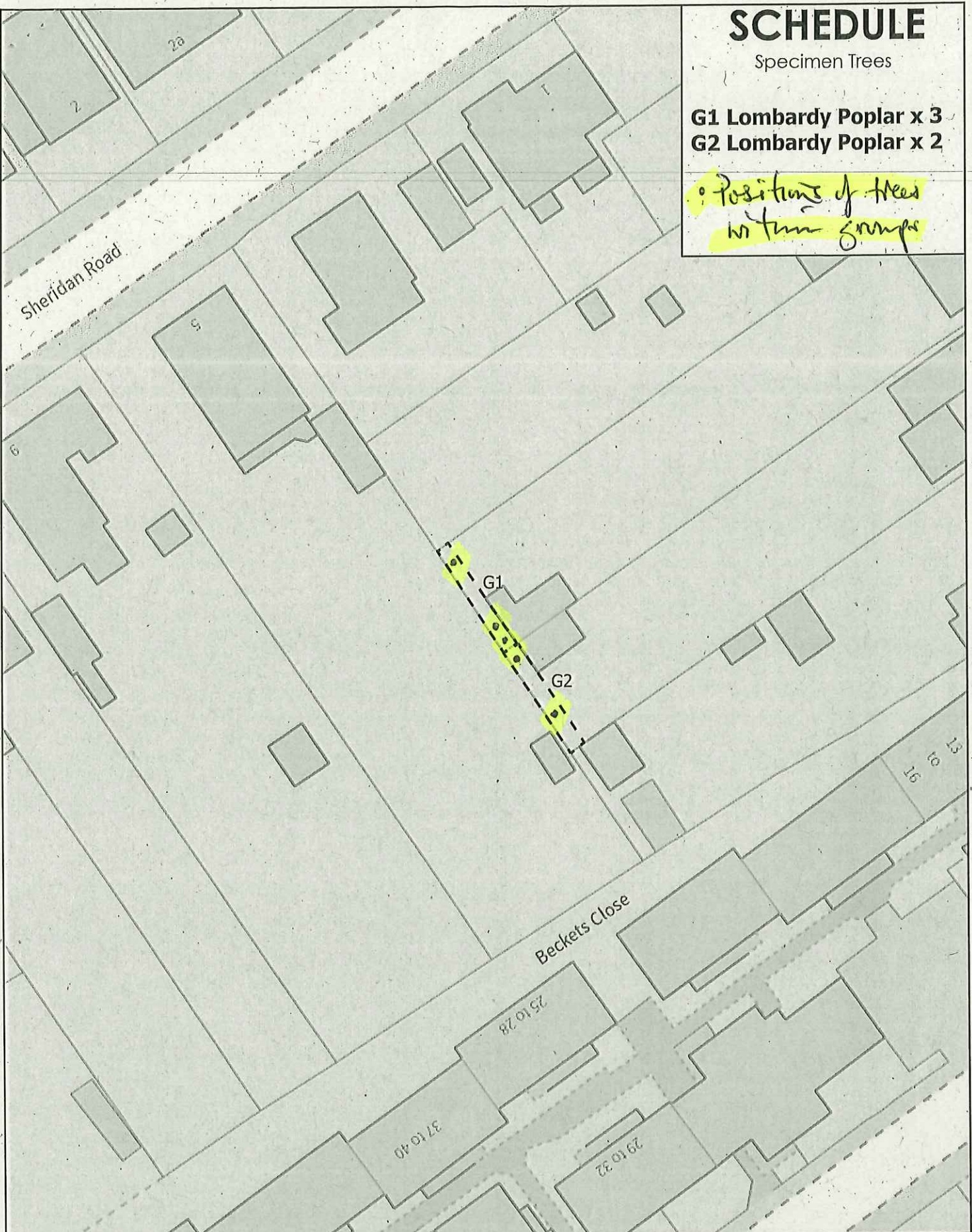
None

SCHEDULE

Specimen Trees

G1 Lombardy Poplar x 3
G2 Lombardy Poplar x 2

*Positions of trees
within groups*



Tree Preservation Order

99 & 101 Fulbridge Road, Peterborough



Scale: 1:500

TPO number: 23/00003/TPO

Date: 14th March 2023

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Peterborough City Council
F.A.O. Head of Planning Services.
Planning Services
Sand Martin House
Bittern Way
Fletton Quays
Peterborough
PE2 8TY



Date: 31.03.23

TPO Objection Notice: cited as 99 & 101 Fulbridge Road, Peterborough, Tree Preservation Order (23/00003/TPO)

Re: **Objection to Tree Preservation Order (23/00003/TPO) 99 & 101 Fulbridge Road.**
Date Served: 16th March 2023 / Provisional protection order.

We are writing to object to the proposed tree preservation order (23/00003/TPO) covering x5 Lombardy Poplar trees as cited 99 & 101 Fulbridge road site location G1 Lombardy poplar x3 & G2 Lombardy Poplar x 2. (Ref copy attached).

TPO: reason and justification: Visual Amenity
Objections.

1 **Protecting trees & Planning:** Town & Country Planning Act 1990 – (tree Preservation) England Regulations 2012 – Note, The Lombardy Trees are not at risk of removal, all correspondence, and documents in regard to the planning applications at 5 Sheridan Road: 22/01542/OUT recent, have confirmed retention of these trees. Therefore, referencing the Town & County Planning Act 1990 – (Tree Preservation) England Regulations 2012 would be in breach of the act. N.B. Government advise in the planning practices (PPG), to LPAs is that they should use TPOs to protect selected trees and woodlands, 'if their removal would have a significant negative impact on the local environment and its enjoyment by the public'. All correspondence confirming retention of these Lombardy polar trees off site from from both owners of the trees namely 101 Fulbridge road & 99 Fulbridge road off site: planning application: at 5 Sheridan Road, in all tree reports – all confirmed these Lombardy polar trees are for retention. (All reports are in annexed). PCC have not followed the procedural requirements of the Regulations.

2 **Amenity Value:** PCC have Not fully assessed the amenity value of the trees concerned, prior to actioning a tree preservation order: PCC have not followed the procedural requirements of the Regulations. Note below.

Amenity 3.2 The Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath, although, exceptionally, the inclusion of other trees may be justified. The benefit may be present or future; trees may be worthy of preservation for their intrinsic beauty or for their contribution to the landscape or because they serve to screen an eyesore or future development; the value of trees may

and confirmed we would replace any trees, and happy to have 106 agreements in tree management and replacement as part of the conditions. – However, we have been ignored.

What the Regulations Require 3.21 Under regulation 3 of the 1999 Regulations, the LPA must, on making a TPO serve on the owner and occupier of the land affected by the TPO: (1) a copy of the TPO, and (2) a notice ('a regulation 3 notice') stating: (i) the LPA's reasons for making the TPO, (ii) that objections or other representations about any of the trees or woodlands specified in the TPO may be made to the LPA, (iii) the date, being at least 28 days after the date of the regulation 3 notice, by which any such objections or representations must be received by the LPA, and (iv) the effect of the section 201 direction if one has been included in the TPO. The LPA must also make a copy of the TPO available for public inspection at the offices of the LPA.

Section 201 Directions 3.19 If it appears to the LPA that a TPO should take immediate effect they may include in the TPO a direction applying section 201 of the Act (a 'section 201 direction'). The TPO takes effect on the date specified in the direction (which usually coincides with the date on which the TPO is made). But the TPO takes effect on a provisional basis only. It still needs to be confirmed by the LPA. If the TPO is not confirmed within six months of the date on which it was made, the provisional protection given by the section 201 direction comes to an end, although the LPA are not prevented from confirming the TPO after the six month period (see paragraph 3.34).

3 **Section: 201 Direction** – As this TPO has been enforced with immediate effect, PCC have failed to note a 201 direction on the notice letter 16th March 2023: 23/00003/TPO, PCC have not followed the procedural requirements of the Regulations.

This is further confirmed immediate effect TPO, on R3 of the Planning application: 22/01542/out
Rejection:

R3 The proposal would impact on the future health and wellbeing of the five mature Lombardy Poplars, from future 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. **The Lombardy Poplars are considered of amenity value and benefit from Tree Preservation Order.** Accordingly, the proposal is contrary to Policy LP29 of the Peterborough Local Plan (2019). Rejection letter dated: 24th March 2023, Tree preservation order: 23/0003/TPO immediate effect 16th March 2023. Applying the TPO as part of a rejection to planning, when it is within its 28 day consultation period? This should have not been the case, and should have not been part of the rejection stating 'benefit from tree preservation order'.

4 **Note: A Lombardy Poplar tree**, is said to be mature at around 50 years old, all these Lombardy poplar trees at 99 & 101 Fulbridge road, are 45+ years old. When these trees are approaching the end of their natural lifespan and unlike other species are 'especially prone to breakage'. These tree species are known even with specialist checks are not highlighting internal issues which can cause the tree to fail. These trees are near end of life and present a danger to life and property. Peterborough city council have not issued any report, visual, nor internal testing to determine decayed or diseased prior to notice of a TPO. Peterborough city council, do have a duty of care to residents and we will hold them fully accountable if defects worsen in any way at any time in the future. We will seek redress through courts in order to recover repair cost and case management costs. Although we do not own these trees; under 'Section 1 (3) of the occupier liability act 1984, which states that duty is owed when the occupier is aware of the danger, or has reasonable grounds to believe it exists, knows or has reasonable grounds to believe that the trespasser is near or may come to be near the danger and the risk is one which an occupier may reasonably be expected to protect visitors from'.

be enhanced by their scarcity; and the value of a group of trees or woodland may be collective only. Other factors, such as importance as a wildlife habitat, may be taken into account which alone would not be sufficient to warrant a TPO. In the Secretary of State's view, it would be inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous. 3.3 LPAs should be able to explain to landowners why their trees or woodlands have been protected by a TPO. They are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way, taking into account the following key criteria: (1) visibility: the extent to which the trees or woodlands can be seen by the general public will inform the LPA's assessment of whether its impact on the local environment is significant. If they cannot be seen or are just barely visible from a public place, a TPO might only be justified in exceptional circumstances; (2) individual impact: the mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The LPA should also assess the tree's particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value as a screen or contribution to the character or appearance of a conservation area. As noted in paragraph 3.2 above, in relation to a group of trees or woodland, an assessment should be made of its collective impact; (3) wider impact: the significance of the trees in their local surroundings should also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.

Expediency 3.4 Although a tree may merit protection on amenity grounds it may not be expedient to make it the subject of a TPO. For example, it is unlikely to be expedient to make a TPO in respect of trees which are under good arboricultural or silvicultural management. 3.5 It may be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate. In some cases the LPA may believe that certain trees are at risk generally from development pressures. The LPA may have some other reason to believe that trees are at risk; changes in property ownership and intentions to fell trees are not always known in advance, and so the protection of selected trees by a precautionary TPO might sometimes be considered expedient.

N.B. Expediency (All reports, note retention of Lombardy trees, topping was suggested only in first arboricultural report, then removed on 3 additional reports). Again Topping is common practice, in the risk areas i.e. residential for safety and age of tree and species type. – Ref Reading council & Welwyn Hatfield Borough council, and also future note: TPO is being made on grounds of Amenity Value : even suggested Topping heights, would still allow for visual amenity (surrounding bungalows and houses) i.e. suggested cutting from 24 meters to 12 meters would still be very visual above all surrounding dwelling types). PCC have not followed the procedural requirements of the Regulations.

Technical grounds: We have had reports from an independent report from an arboriculturist noting in regards to the Lombardy poplar trees: noting dead, dangerous branches, indicating non maintenance, and suggestion to topping these to a safer height, and allowing to re-grow; addressing residential area, safety and concerns from previous planning application comments from: PCC planners and neighbours' concerns.

Note: discussions between all parties regarding garden boundaries of the Lombardy poplars, have not been assessed or considered, example: we have on numerous times tried to enter into good communication with PCC in regard to these trees, but have unfortunately been ignored, we have requested site visits re: trees on a and off site including the Lombardy poplars on 101 & 99 Fulbridge road, but have been ignored. Copies are attached of written requests, same goes for verbal communications. We have during the course of the planning application been considerate to views of PCC tree officer and changed site layouts with 3 options, worked around root protection areas,

7 We have advised neighbours and PCC in writing of this risk and further note in this document, that these trees represent a risk. As a result, to date, PCC – have conducted a visit at 101 Fulbridge Road, noted lots of dead wood 'confirming non maintenance' not issued a report stating these are safe, but instead issuing a tree protection order, making future maintenance work, 'apply for', and adding extra costs. This will prevent future tree management due to costs and process.

Has the council taken independent advice, done a report on these trees confirming their safety? Could we have a copy? As I have a duty of care to protect people on my property, and visitors under Occupiers Act 1984.

We feel this TPO has been, put into place as validation towards the objection of our planning application and in reactive response to our email challenging the conduct of the tree officer during this planning application.

The tree offers under verbiage: noted on the 8th of March on a site visit to 101 Fulbridge road, there is a lot of dead wood in the Lombardy poplar trees, which confirm non maintenance, and also in the planning application note 'Very large poplar trees', the map locations in the TPO order also confirm site locations 'that of being residential' reminder of duty of care to residents.

N.B. Very large trees would encompass 'Risk locations' residential. Failure to manage tree sensibly will likely to increase the risks associated with them, result in reduced amenity values, and possibly increased costs in the long term. These trees have not been managed, adding a TPO will further add to lack of management until failure with high risk to property and life.

On rejected planning application.

We also remind Peterborough City council, your statement in the planning rejection and we quote 'The proposal would impact on future health and wellbeing of five mature Lombardy Poplars, from future pressure to carry out inappropriate and unnecessary pruning or felling, because of the anxiety and apprehension of future occupiers of the proposed dwelling with regards to the close proximity of the very tall Lombardy poplars. The Lombardy Poplars are considered of amenity value and benefit from a Tree Preservation Order'.

The above from a liability point of view, PCC agree the Lombardy poplar trees 'Are very Tall', PCC agree if the planning application was approved, which currently it's not been! Note Close proximity of future occupiers 'meaning new dwelling', so confirm current and any future building's on site is at risk /danger. Current and existing lived in dwelling on site, would be at no less of a distance on any of the site locations from the Lombardy poplars. – This is in writing and PCC have acknowledged the risk these trees pose at the current height.

PCC – in writing, believe coppicing Lombardy trees, not modern practice, which is subjective to individual professional opinion. Please see 'report and action' by 2021: Reading borough council, under good tree management of Lombardy poplar trees, 'by coppicing'. – Copy in annex.

2017: Annex: report and actions on Lombardy poplar trees: Welwyn Hatfield BC

I will explain further,

All Arboriculturist reports, (every revision) clearly stated retention of the x5 Lombardy Poplar trees. The first arboriculturist report contained a "suggestion" that the Lombardy Poplar trees off site within 99 & 101 Fulbridge road, Peterborough, would benefit topping to 12 meters, (Heights confirmed below, from Topical survey, very tall for built up area). The comments were to remove

dead wood and make safe due to overpowering size. I.e., to address previous planners' comments and concerns NB, application 1 year prior ref: 21/01574/OUT, wrong tree setting for built up areas, as known Lombardy poplars are more suited to open fields / woodland settings as wind breaks.

As this was rejected by the tree officer 'topping of Lombardy poplars', it was removed in all other Arboriculturist reports, all of which went to great lengths to note special "No dig" construction methods, including various site layout plot options which would be completely out of Root protection areas, and specialist construction "No dig" on any driveway and parking areas.

Further references: Topical survey Lombardy Poplar Heights mapped. See topical survey.

- G2.70 = Height 22 meters
- G2.30 = Height 24 meters
- G1.20 = Height 12 meters
- G2.60 = Height 23 Meters
- G2.40 Height 22 Meters

All 4 planning applications on the same site, going back to April 2010 have never once alluded to removal of these trees nor has this been an issue to date. Therefore, we can only conclude it is an issue now, due to as mentioned "We feel this TPO has been put in place as validation towards an objection of our planning application". This is why I feel this Tree Protection Order is not just and is unnecessary.

9
Leading to our other statement "and in reactive response to our challenging of the conduct of the tree officer during this planning application". We genuinely feel this TPO has been put in, due to challenging the tree officer on why he disagrees with a professional arboriculturist report on the condition of trees on the site. We don't have an issue with varying options, but to disagree with a professional report on trees on site, not providing any other independent agricultural report in argument... nor visiting site to view the trees in person... is unprofessional and not something that would be expected from someone carrying out their duties correctly.

Which is why we strongly believe the only site visit by the tree officer regarding the Lombardy poplar trees was conducted on Wednesday 8th March 2023, accessed via 101 Fulbridge Road, long after already having made up his mind, (*N. B consultation notes report X2) by way of providing an objection to planning permission and only during the week prior to the planning committee meeting.

The reason I state report X2, is due to both of the (consultation notes reports) on the portal being word for word identical, with the other x2 being the same apart for a added paragraph with the exception of date change or not on 1. The report written 29th November 2022 before his site visit on 8th March 2023 at 101 Fulbridge Road, was resubmitted as a newly dated report, 2nd March 2023, which leads us to believe that this site visit has only been carried out to cover his back and that he has not read nor digested any further communication from us regarding any involvement with the trees for the purpose of planning approval, which we feel is reflected and clear in his objection response to our recent planning application.

We believe any anxiety to be had, is that of the tree officer due to the following, Conversations with neighbours way back at the start of our planning application were had over safety and liability of the Lombardy poplars, and an offer to have these trees coppiced or pruned was made by us at our expense... If, and only if planning was approved for (option 1 (plan A)). This was suggested as part of our planning, however this plan was rejected due to concern for root protection areas, despite RPA, "no dig" construction methods being proposed, so we moved onto other options which would prevent root protection issues. Therefore, retracting our offer to cover

cost of tree management as rendered unnecessary due to new plan options not affecting the Lombardy poplar trees in any way. After all, these trees are not our property and therefore not our responsibility, and it is our understanding that our neighbours only obliged tree management as it was ourselves that would be covering the cost, if it were not for this, we know they had no interest in carrying out professional tree management at their own cost. It was simply conversed and shared as an option to appease concerns over safety and liability for both the neighbour's peace of mind and in support of our planning application... where concerns for falling debris (dead branches) may have been a vindication towards objection for approval.

N.B. 99 Fulbridge road have a very large concrete block and rendered (Concrete slab) shed over the root protection areas of the Poplars, and 101 Fulbridge have a concrete slab and a very large shed over the root protection areas. (Under, permitted development). We are happy to work with root protection areas, specialist construction 'which is common practice' to protect tree roots.

Since then, new residents have moved into no 99 Fulbridge Road, and their recent comments on the portal are of 3 arborist reports carried out by themselves (reports not shared) however they express their liking of the trees and support of nature, and no indication to the desire to remove or reduce their height. So again, no threat to the trees from them either.

These trees have been in situ over 45+ years or more, in the 9 years of our residency of 5 Sheridan Road, we have never witnessed tree management by tree surgeons of these trees, nor has it been suggested or mentioned prior to supporting our (rejected option 1(plan A) planning application as already mentioned. We have however witnessed over the past 9 years, 101 fulbridge road, owners conducting necessary removal of dead branches in way of preserving the trees and for safety reasons. 99 Fulbridge road have not had any work done during this period, that we are aware of. And it is true our neighbours and owners of the trees share our concern for the height, and safety of these trees as there are several dead branches, and we had a very scary incident of a very large branch falling from height into our garden, this along with other fallen branches and report of damage to our garage roof from one Lombardy tree in No. 99, was shared in a correspondence to the Tree officer, however we can stress it has never been discussed or requested for felling of these trees, and we see no reason for that to change. I believe if the owners of the trees wanted them felled/reduced in height, they would have taken this action long before now!

In simple terms, and to be very clear, only necessary removal of dead branches to preserve the trees has and would be carried out in the future by the tree owners... No's 99 and 101 Fulbridge Road.

We believe a TPO will only increase the risk to safety of life and surrounding buildings, as owners will be reluctant to conduct or request permissions and bear the expense for necessary tree management that can easily be carried out by themselves as it has been for many years already.

9 We feel strongly that the tree officer, is abusing his power to invoke a Tree protection order, and not in the ethos and power of regulation 6 of the town and country planning (tree preservation) England regulation 2012) on these Lombardy Poplar trees off site without real justification. In all reports the Lombardy trees of site were for retention.

We would also like noted our disappointment to... the Length of time taken on this planning application submitted 2.10.22 – applied 16th March.... i.e., 5 months after the application in with Peterborough planning department... to then right at the end... invoke a TPO! After we have tried to work around and accommodate the site, different views, and options for root protection areas one of the 'main concern from tree officer.' This feels wholly unfair and reactive and in aim of scraping for planning objections.

We had removed 2 x fruit trees T1 & T2 in our garden to commence with our landscaping plans due to the onset of spring and the length of time it has taken over and beyond the agreed response time for our planning application.

We have justifiable reasons for removing these two fruit trees,

- We had planned for several years prior to planning applications, to extend our patio area to construct a pergola and temporary construction to house our outdoor kitchen, garden furniture and hot tub. With a fence and archway dividing an entertaining space at one end and an allotment with loggeries, wild lawn, trees and shrubs, bird feeders and boxes, rainwater harvesting and composting etc at the other.
- Fallen apples were hollowed and blackened in the core, (fungus of some sort) for the past 2 years fruit produced has been poor.
- Fallen fruit was abundant and due to its poor quality was collected and composted at the back of our garden... this resulted in complaints from residents in Becketts Close due to decay smell, inviting unwanted rodents and insects.
- Our dogs would eat fallen apples that we were unable to dispose of in bins and become unwell.
- The apples disposed of in bins were refused collection due to the excessive weight, refuse collection lorry could not lift them.
- We paid for the additional brown bin collection (2 brown bins) but bins would become laden with apples and other garden waste would build up. We tried composting more, this is something we already actively do, however with already composting large quantities of leaf mulch, weeds and grass cuttings from our very large lawn for the garden allotment, composting the apples with this was not an option, as for reason already mentioned and we also had the concern that the fungus in them would spread to other varied fruit trees in our garden and the allotment fruit and veg.

So, it was decided long ago, these trees would possibly be removed and replaced as part of the landscaping project. Now that we have finally finished the home renovations, we have made a start on the garden before the onset of spring and decided for the above reasons they had to be removed. New trees and shrubs have been planted already in replacement, and more to come.

Further note: Not in conservation area, nor Tree protection orders, further note fruit trees which generally don't fall under these constraints.

Further costly misleading issues with the tree officers conduct...

4 planning applications have gone in at 5 Sheridan Road, (two from previous owners, in 2010 & 2011, where no requirements on tree plans were requested) then two from us as the current owners. Our first planning application in 2021 was submitted, at the time pre-planning applications from Peterborough city council were not being carried out due to covid. So, I submitted an Outline planning application, one of the rejections was we did not submit a tree plan – (AIA, RPA, TOPPO Survey)

Following a discussion with and advice from the tree officer I was clear that I would be re-submitting an Outline planning application, for this, he advised I needed a Tree plan (Topical survey plotting the trees on site) an AIA, arboricultural assessment, An, 'RPA' to show tree Root protection areas. Which I questioned, is this necessary for an outline planning application? I was advised it was. So, we had this done at great cost, to later find that this was NOT all required...so again feel misled by the tree officer.

Consistency **here is not good**: Example: 21/00993/PIP Moggswell Lane, Orton Longueville. Approved 'outline planning permission' very similar splitting of plot to build dwelling– No Tree plan, No

Arboricultural implications Assessment asked for, Apple tree on site, no report needed on condition, age etc, root protection areas. We feel we have been unduly misled and treated differently.

As a result of misleading us, we have incurred extra unnecessary costs, approx.... £1,300 and then to refute and admonish this report without even personally visiting the site until 8th March 2023 is abhorrent. Then abusing powers to invoke Tree preservation orders to block planning.

Upon submitting our planning application on 25th Oct 22, (5 months later the outcome is still pending) The planning application should have been decided within the eight-week time frame, by 20th Dec 22, I chased this and was asked, if I would allow an extension of 4 weeks which I agreed to. I have chased this regularly with very limited correspondence from the case officer. The tree officer made his assessment's as follows, copies attached.

N.B. Three options on site layout were suggested to work around RPA (Root Protection areas) of the Lombardy Poplars off site.,

-option 1, removal T1 apple tree this tree is situated behind a garden fence and not widely visible, and one small fruit tree, (Damson Plum), this would have linked to Tree officers report on the 29th of Nov 22 note specialist measures to protect roots were suggested pile foundations. Due to comments from tree officer on 29th Nov 22, we revised arboricultural assessment, comments on suggested cutting poplars to 12 meters was removed, and clearly noted are recommended for retention, therefore we added site layout...

-options 2, & 3 which were provided to reflect the suggested layout in the tree officers' comments in his report on the 2nd & 17th of March. Despite these options reflecting and being in line with his own comments suggesting what would be more suitable, he has now stated this is not suitable?? Why is his own suggestion in his report comments now not suitable?

We don't have an issue with varying options, but to disagree with a professional report on trees on site, without attending site or providing any other independent arboricultural report and viewing the trees personally... is unprofessional, it is also unprofessional to comment suggestion on what would be acceptable, to then reject a plan based around his commented suggestion, again misleading, and not something that would be expected from someone carrying out their duties correctly and with any quantitative respectability.

And to also state the current location of the trees...the trees are no nearer nor further from the suggested option 3 (Plan C) than they are to the current plot of 5 Sheridan Road, therefore the statement for objection to Option 3(Plan C) is contradictory, is it Okay for trees of this size to be near and existing property but not a new one?? In rejection letter noting 'very tall Lombardy poplars!

We have tried various times to converse with the tree officer with no follow up to emails or calls. And our invites to site repeatedly ignored.

Therefore, we request that the TPO be revoked, so that our neighbours can continue without further hassle and constraints to their daily lives, and our relationship with our neighbours can continue to be one of a friendly nature without the unnecessary ill feeling and controversy this has bought about.

8 We have also attached a survey of views of the neighbours' covering there opinions on height, dangerous, Tree preservation orders, and amenity. This concurs with the consensus locally and backs the appeal that a tree protection order on these Lombardy poplars is unjust and not

necessary. It also backs the original arboricultural implications assessment; planners concerns and local community about the size and dangers these do present in a housing setting.

Detail of communications listed below,

Arboriculturally impact assessments submitted / and revised to work to protect the Lombardy Trees.

- 2.10.22 – Original, Submitted as part of the planning application. (Lombardy poplars – noted retention, RPA protection but no dig construction methods re: foundations and driveways) suggest maintenance that these would benefit by cutting to 12 meters, and to continue to provide amenity value, for safety, and to regrow. Note: Arboriculturist notes: long term management that I put down was to address safety concerns raised in previous correspondence from planners. It is not ideal to top trees in this way I agree, though it is a practice quite commonly used for these types of trees.
- 25.10.22 – Revised – Arboriculturist impact assessment, removal of recommendation to top Lombardy trees. And added two further layout options to work around RPA's Root protection options, including specialist construction methods to avoid root damage.
- 08.12.22 – Revised – site layout to avoid RPA – Arboricultural assessment followed 12.12.22.
- 12.12.22 – Revised – Arboricultural impact assessment updated, Updated site layout to work around tree root protection options.
- 13.03.23 – revised – T1 & T2 were removed – garden landscaping project started (due to onset of spring) - planning application taking too long (5 months and counting) –
 - 17.03.23 – Advised planning application refused via phone.

The above and the reports, clearly show we have in all cases tried to work with the Lombardy Trees – each revision has cost us, and we were ok with working around these views.

Tree officers' notes.

- Tree officers' consultation notes for planning: report on 29th November 2022, no site attendance, rejected removal of two fruit (apple) trees T1 & T2 and rejected against grading from Arboricultural assessment. (I.e., not seen the trees, not been to site and rejecting a specialist's report). Regarding the 5 Lombardy Poplar trees off-site the Arboricultural assessment; Suggested 'for safety to cut to 12 meters and allow to re-grow) ... I did email the tree officer and requested a site visit, - (genuinely feel I questioned this and upset the individual) Email attached – Note no correspondence to email or repeated attempts to return my telephone calls.
- We revised and submitted an updated Arboricultural assessment, giving an option 3 site layout to be outside of the 'RPA' Root protection areas of the offsite Lombardy poplar trees, as well as removing the suggestion of topping the Lombardy trees.
- Tree offers consultation notes after revised plan: Report on 2nd March 2023, - Note, **exactly same report word for word, just changed date at end of report, did the revised report get read? Clearly not! Again unprofessional.** So clearly not looked at the revision, noting Lombardy trees suggested topping, to 12 meters, this was part of a report from a professional on safety, not considered from my correspondence on safety concerns, nor the neighbours noting large branch had fallen causing damage and safety concerns.
- Tree officer visits neighbours: (I understand that he attended a neighbour's site on the 8th of March, 101 Fulbridge road to look at Lombardy poplars. (Did not come to our house, we were working from all day, it would have been good to have a conversation to understand all views prior to conclusion's).
- Phone call with Shaheeda Montgomery chasing planning application– 10.03.23, I was advised that the tree officer was going to put in a Tree protection order on Both Apple trees on site and the Lombardy poplars trees off site.
- We removed the Apple trees – as we wanted to get on with landscaping the garden.
- Tree officers' consultation notes 17th March 2023 – Added a few paragraphs to existing report, noting future pressures – again still not acknowledged that the Lombardy poplars were to remain.

- Tree officers' consultation notes 17th March 2023 – again still referencing disagrees to topping Lombardy poplar trees and grading of apple trees. (Copy and past added a few notes) – did not update date on report.

Previous correspondence:

Fallen parts of the tree branches regular occasions, note one very large branch noted in an email attached, and confirmed by neighbour 101 Fulbridge road.

Damage to garage roof: last year from Lombardy poplar tree: 99 Fulbridge

We also feel an abuse of power and misconduct from the tree officer from Peterborough City Council. We have put in two planning applications at 5 Sheridan Road,

Planning Application's:

- 25th Oct 2022 Application: 22/01542/OUT (Tree plan was submitted)
- 6th Oct 2021 Application 21/01574/OUT (Tree plan was required)
- 3rd June 2011 Application: 11/00719/OUT (Tree plans were not required)
- 8th April 2010 Application: 10/00358/OUT (Tree plans were not required)

Regards

MR & Mrs Clark

03.04.23

Supporting Evidence.

- Appeal Letter
- 2010 Planning Application – (No tree issues on site, mentioned on rejection)
- 2011 Planning Application (No tree issues on site, No mention on rejection)
- 2021 – Planning Application (Noted Tree report required) Noted main concern from neighbours is large poplars and Risk to property and life. N.B. No Tree officer comments on this application.
- 2022 – Application and information required.
- July 22, Arboricultural Implications Assessment – Noting suggested topping Poplar trees – to address planners concerns and make safe large trees in housing area.
- 29.10. 22; Tree offers report notes – not happy with grading & topping suggested to poplar trees
- 02.12.22: Tried to enter discussion with tree officer – invited to site to try and find a suitable way forward. Ignored
- 10th Dec 22, Amended Arboricultural Implications Assessment – removed suggested topping to poplar trees, and added extra site layout outside of root portion areas.
- 2.03.23: Tree officer report – still noting not happy with topping poplars (even though removed from report) – Same report word for word (just updated date) so not read reports.
- 13.03.23 – Amended Arboricultural Implications Assessment, noting T1 & T2 trees removed.
- Evidence on condition of T1 & T2 Apply trees condition.
- 17.03.23 – Tree officer report (TPO noted invoked on poplars) Still noting topping of poplars!
- 17.03.23 – Tree officer further report (another copy and paste) – added a few notes – namely object with T1 & T2 Tree condition (even though removed) – dated 02.03.23
- Public comments from planning portal on trees – N.B. 101 Fulbridge road & 99 Fulbridge road.
- Evidence – natural & historic environmental – Senior Landscape Technical Officer – No objection, Quote 'Furthermore as the application would not appear to not affect any existing public open space or 'Amenity Landscaping we have no comments to make'.
- 24.03.23; Refusal notice, R3 – noting poplars have tree protection order – prior to the 28-day appeal process.
- Not issuing full report on application rejection (as rejection includes tree protection order) which has a 28-day appeal process (TPO Issued 1 week prior to planning refusal) – fully report still not issued two weeks into appeal process – so not allowing the full 28 days to appeal.
- Copy of residents Survey comments on amenity value, and safety concerns for residential area, on the Lombardy poplar trees at 99 & 101 Fulbridge road.
- Example: of Poor consistency on Trees: Planning application Moggswell lane, Peterborough 21/00993/pip
- Examples of recent Councils tree management of Lombardy Poplars @Reading BC & Welwyn Hatfield BC) – evidencing common practice of topping Lombardy poplars – and risks they present.
- Copy of TPO Issued by Peterborough City Council 'PCC'.

Unrestricted

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Appendix 3
Telephone:

07920160206

PETERBOROUGH



E-Mail: stephen.chesney-beales@peterborough.gov.uk

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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Appendix 4

Provisional Tree Preservation Order (23/000037/PO) 99 & 101 Fulbridge Road, 5 x Lombardy Poplar Trees
 Site location: 99 & 101 Fulbridge Road
 Date Served: 16th March 2023 / Provisional protection order:
 NB. Not in Conservation area

Further references: Topical survey Lombardy Poplars Heights.
 G2.30 = Height 24 meters
 G1.20 = Height 12 meters
 G2.60 = Height 23 meters
 G2.40 Height 22 meters

Local Homeowners Views	Do you feel it is justified and necessary to have a TPO Tree protection order on the Lombardy Poplar trees? Y/N	Do you feel the Lombardy Poplar trees offer Amenity value to you? Y/N	Would you be happy to have trees of this height in your garden? Y/N	Do you feel these trees are in the wrong setting? i.e. Built up area, areas, such as and in gardens? Y/N	Do you feel these trees are more suited to non housing areas, such as farm fields? Y/N	Do you feel these trees are safe at the height they are, 12-24 Meters tall? Y/N	Print & sign name	Date	Any comments?
harden Road, Peatborough, PE1 3LG	NO	NO	NO	YES	YES	NO		27/3/23	TREES ARE TOO HIGH FOR SETTING... MANY DEAD BRANCHED NEEDS REMOVED.
harden Road, Peatborough, PE1 3LG	NO	NO	NO	YES	YES	NO		28/3/23	These trees are not suitable for this location I feel that the issues raised are not for the concern of Peatborough
harden Road, Peatborough, PE1 3LG	N/A	NO	YES	YES	YES	NO		30/3/23	
harden Road, Peatborough, PE1 3LG	NO	NO	NO	NO	YES	NO		30/3/23	
harden Road, Peatborough, PE1 3LG	YES	NO	NO	NO	NO	NO		26/3/23	THEY LOOK LIKE THE END OF BRANCHES THAT HIGH.
harden Road, Peatborough, PE1 3LG	NO	NO	NO	YES	YES	NO		27/3/23	LOOK DEAD AND TOO HIGH.
harden Road, Peatborough, PE1 3LG	NO	NO	NO	YES	YES	NO		27/3/23	WOULDNT WANT TO see any of these
harden Road, Peatborough, PE1 3LG	NO	NO	NO	YES	YES	NO		27/3/23	I Feel look too High don't look nice
bridge Road, Peatborough, PE1 3LG								30/3/30	I FEEL THEY ARE TOO HIGH.
ulbridge road, Peatborough, PE1 3LG									
ulbridge road, Peatborough, PE1 3LG	NO	NO	NO	YES	YES	NO		30/3/30	
ulbridge road, Peatborough, PE1 3LG	YES	NO	YES	YES	YES	YES		27-3-23	CONCERNING TREES FOR SAFETY WITH CHILDREN IN THE VICINITY
ulbridge road, Peatborough, PE1 3LG	YES	NO	YES	YES	YES	YES		27-3-23	
ulbridge road, Peatborough, PE1 3LG	NO	NO	NO	YES	YES	NO		27-3-23	
ulbridge road, Peatborough, PE1 3LG	NO	NO	NO	YES	YES	YES		27-3-23	

Telephone: 07920160206
E-Mail: stephen.chesney-
beales@peterborough.gov.uk
Please ask for: Stephen Chesney-Beales
Our Ref: TPO: 23/00003/TPO

Appendix x 5

PETERBOROUGH

CITY COUNCIL

Owners/Occupiers
2 Sheridan Road
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

TO WHOM IT MAY CONCERN

Re - Survey of Local Homeowners Views regarding the making of Tree Preservation Order (TPO) 23/00003/TPO 99 & 101 Fulbridge Road, Peterborough

Further to the above Survey and the making of the above TPO, your views have been submitted with two objection letters.

Please respond in writing within 14 days of receipt of this letter, letting the Council know if you are objection to the making of the TPO, stating the reasons for objecting. Any objections should be received by the Council, no later than 3rd May 2023.

Before responding, please note the following points:

I note the details of the Survey conducted with regards to the views of both you and your neighbours. I can confirm, I believe the TPO is justified, the trees have significant public amenity value and are considered acceptable and suitable in their rear garden settings, given the size of the rear gardens in a residential area. I consider the trees to be safe, despite the dead branches within the crowns and their height.

The trees subject of the TPO remain the responsibility of the landowner, as does any obligation under the Occupiers Liability Act 1984. The only difference now is the landowner must seek permission from the Council before carrying out any works, apart from exemptions. There is no cost in making an application to carry out works to protected trees.

Please note, 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 (TPO) 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.

I believe, the TPO has been made and served correctly regarding the current legislation.

Yours sincerely

Stephen Chesney-Beales
Tree Officer

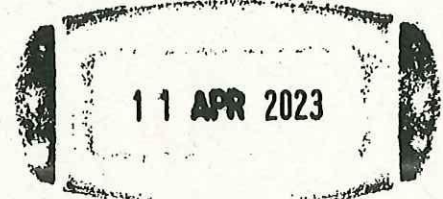
Appendix b

Peterborough City Council
Sand Martin House
Bittern Way
Fletton Quays
Peterborough
PE2 8TY

Fulbridge Road
Peterborough
PE1 3LD

3rd April 2023

Re: Tree Preservation Order 23/00003/TPO



Site Location: Fulbridge Road Peterborough, PE1 3LD
Tree Specification: G1; 3 Lombardy Popular / E518600 N301651

Dear Head of Planning Services,

I am writing to you to object to the TPO on the Lombardy Popular trees on my land.

I fully support the planting, growth and sustainability of trees within the environment and that the value regarding the habitat, ecological and environmental factors should be taken into account.

I do not wish these trees to be felled or destroyed at all.

My objection rises from the factors that have led to this decision.

10 The residents at the property at the back of my property; (5 Sheridan Road) have been submitting planning applications for a while now; which have been subsequently refused.

We have no objection to the planning application but do regard the trees to be important enough to be considered and reduced in height to maintain safety and the health of the trees.

11 I do not believe that the trees bring significant amenity benefit to the local area. We are not in a conservation area and the trees are not significantly rare enough to warrant a TPO.

The public amenity value is low; Please see the attached survey of local residents.

The most common factor stated in the survey is that the trees are situated in an inappropriate location. These types of trees are usually planted as wind breakers on riverbanks or on farms.

13 The protection of trees can prove to be important but I believe that these trees are not under any considerable threat.

14 Residents at 5 Sheridan Road have clearly compromised with their planning application and the consideration of the trees. They are happy, as part of their application to reduce the tree height to a more manageable height of say, 15 meters. This in turn would be an appropriate height for the trees to begin regrowth (as they are fast growing trees) and maintain the health of them and furthermore their longevity. This procedure would support ourselves in maintaining the trees at a more manageable height.

15 Lombardy Popular trees have a general life span of 30 - 50 years and as I have lived at the above property for 30 years; and the trees were well established then, they are more than likely at the end of their life span. This in turn does not mean that they should be of any less value but I am aware that the trees could potentially begin to fail and the financial burden on myself and my husband to require tree surgeons and appropriate professional evidence or arboricultural consultants could be immense with having to apply all this within the set out 'rules' of a TPO and my once calming trees are causing me some moderate stress and anxiety and ruining the peaceful enjoyment of my property.

I fully understand the overall aim of a TPO is to protect the amenity value offered by a tree and that trees play a vital role in protecting the environment; but if you look at mine and the neighbouring properties there is an abundant variety of trees that contributes to this immensely; all without TPO's.

I hope you contemplate my views with removing the TPO in the light that it was granted under imprecise and fallacious meaning.

Kind regards,

Sarah Raucci

Further references; Topical survey Lombardy Poplars Heights.
 G2.30 = Height 24 meters
 G1.20 = Height 12 meters
 G2.60 = Height 23 Meters
 G2.40 Height 22 Meters

Topical Tree Preservation Order (23/00003/TPO) 99 & 101 Fulbridge Road, 5 x Lombardy Popular Trees
 Location: 99 & 101 Fulbridge Road
 Issued: 16th March 2023 / Provisional protection order.
 of In Conservation area

Homeowners Views	Do you feel it is justified and necessary to have a TPO 'Tree protection order' on the Lombardy Poplar trees? Y/N	Do you feel the Lombardy Poplar trees offer Amenity value to you? Y/N	Would you be happy to have trees of this height in your garden? Y/N	Do you feel these trees are in the wrong setting? i.e. Built up area, and in gardens? Y/N	Do you feel these trees are more suited to non housing areas, such as farm fields? Y/N	Do you feel these trees are safe at the height they are, (2-24 Meters tall)? Y/N	Print & sign name	Date	Any comments?
Sherridan Road, Peterborough, PE1 3LQ	No	No	No	Yes	Yes	No		27/3/23	TREES ARE TOO HIGH FOR SETTING...
Sherridan Road, Peterborough, PE1 3LQ	No	No	No	Yes	Yes	No		30/3/23	MANY DEAD BRANCHES NEEDS REMOVING. These trees are not suitable for this location
Sherridan Road, Peterborough, PE1 3LQ	No	No	Yes	Yes	Yes	No		30/3/23	I FEEL THAT THE ISSUES RAISED ARE JUST FOR THE PURPOSE OF REFUSAL
Sherridan Road, Peterborough, PE1 3LQ	No	No	No	No	Yes	No		30/3/23	THEY ARE TOO HIGH & ARE AT END OF GARDEN THAT HIGH.
Sherridan Road, Peterborough, PE1 3LQ	No	No	No	Yes	Yes	No		27/3/23	LOOK DEAD AND TOO HIGH.
Sherridan Road, Peterborough, PE1 3LQ	No	No	No	Yes	Yes	No		27/3/23	WOULD BE WHAT TO REMOVE
2 SHERIDAN RD 3LQ	No	No	No	Yes	Yes	No		27/3/23	I Feel Look Too High do I look nice
Fulbridge Road, Peterborough, PE1 3LQ	No	No	No	Yes	Yes	No		30/3/30	I FEEL THEY ARE TOO HIGH.
Fulbridge Road, Peterborough, PE1 3LQ	Yes	No	Yes	Yes	Yes	Yes		27-3-23	CONSIDERING TREES FOR SAFETY WITH CHILDREN IN THE VICINITY
Fulbridge Road, Peterborough, PE1 3LQ	No	No	No	Yes	Yes	No		27-3-23	
Fulbridge Road, Peterborough, PE1 3LQ	No	No	No	Yes	Yes	Yes		27-3-23	

Telephone:

07920160206

E-Mail:

stephen.chesney-beales@peterborough.gov.uk

Please ask for:

Stephen Chesney-Beales

Our Ref:

TPO: 23/00003/TPO

PETERBOROUGH



S Raucci
Fulbridge Road
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 Sarah Raucci

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.

Please note the making of the TPO and the protection of the trees was not a reason for refusal with regard to the planning application at 5 Sheridan Road, Please note the making of the TPO and the protection of the trees was not the reason for refusal, but as a consequence of the impacts or threat 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'*.

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 and from my site visit to your property, prior to the making of the TPO. I consider the trees have significant public amenity value both to the immediate and the surrounding areas. The trees can be seen from the A47 at this time of year.

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, as stated above, and are considered acceptable and suitable in their rear garden settings, in a residential area. I consider the trees to be safe, despite the dead branches within the crowns and being very tall.

I do not agree or accept that Lombardy Poplar have a life span of between 30-50 years. I do not consider the trees to be fully mature or over mature.

The trees subject of the TPO remain the responsibility of the landowner, as does any obligation under the Occupiers Liability Act 1984. The only difference now is a landowner 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.

Please note, 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.

Also, please note the details within the guide, sent with the copy of the TPO - 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 regarding the current legislation. I do not accept that the TPO was made 'under imprecise and fallacious meaning'.

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.

Yours sincerely

Stephen Chesney-Beales
Tree Officer