

Application Ref: T.P.O 7_11

Proposal: Provisional Tree Preservation Order 7_11 at 34 School Rd, Newborough

Referred By: Head of Planning, Transportation & Engineering

Reason: Objections have been raised to the provisional TPO

Case Officer: John Wilcockson

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1 Summary/Outline of the Main Issues

A provisional Tree Preservation Order (TPO) 7_11 at 34 School Rd, Newborough has been served following concerns from a member of the public that the tree was about to be felled. The provisional TPO has been the subject of public consultation and as an objection was received, the Committee are required to determine the application in accordance with para 2.6.2.1 of the Council's Constitution.

The main considerations are:

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

The Head of Planning, Transportation & Engineering recommends that the TPO is **CONFIRMED**.

2 Policy

Decisions must be taken in accordance with the Policy and Legislation below.

Peterborough Trees & Woodlands Strategy 2012, Policy 7.2 - *The Council has powers to make and enforce Tree Preservation Orders (TPO)..... in cases of potential threat it will seek to legally protect trees by use of TPO.....The resource of privately owned trees within the City is a significant asset to its population.*

Town and Country Planning Act 1990(Tree Preservation)(England) Regulations 2012. Section 198 states that LPAs may make a TPO if it appears to them to be:

'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'

3 Description of Site and Surroundings

The tree is a mature Ash (*Fraxinus excelsior*) growing within the front garden of 34 School Road, Newborough, the property is a brick built semi. The tree is approximately 20m high and has a crown spread of approximately 5m from centre point. The main trunk of the tree is located approximately 8 metres north west of the property and is growing within a gravel driveway adjacent to the neighbour's boundary and the adopted footway to the front of the dwelling.

The tree is one of only a handful of mature trees within the street and is visible when approached from both the east & west.

It is considered that the tree provides positive landscape value on School road which is an area that is largely lacking in trees.

4 Consultations/Representations

INTERNAL

None

EXTERNAL

An initial objection has been received from the owner of the property, the following points were raised:

- The owner was informed by the LPA earlier in 2011 that the tree was not protected by a TPO.
- Cost of on-going repairs to driveway and trip hazard caused by roots.
- Blocked salt-glaze drains caused by heave from the growth of tree roots.
- Risk of injury caused by falling branches onto the footpath & road.
- Risk of injury to footpath users from bird droppings.
- Damage to the adopted footpath.
- Tree is too large for it's' location and should be replaced with something smaller.

NEIGHBOURS

No comments received

COUNCILLORS

No comments received

5 Reasoning

Introduction

A Tree Preservation Order is a legal order made by local planning authorities to preserve important trees, groups of trees or woodlands that have a public amenity.

A request for a TPO on the tree was made by a member of the public who thought the tree was about to be felled.

An initial site assessment was made of the tree as per "Tree Preservation Orders : A Guide to the Law and Good Practice" and the tree in question met the requirements for inclusion into the Order in that the tree provides public visual amenity value within the landscape and the loss of the tree would be of detriment to that landscape.

Under Section 201 of the Town & Country Planning Act, a TPO was served on the 23rd November 2011 and the 28 days consultation period took place.

As an objection has been received, the matter has to be considered by the Committee.

In response to the above objections the Case Officer makes the following points in rebuttal:-

a) The owner was informed in 2011 that the tree was not protected.

In terms of the events leading to the TPO being served, when the owner first contacted the Planning Service in 2011, it was the case that the tree was not protected. The Officer that the owner spoke to had inspected the tree in 2003 and recalled at that point in time, the tree was not worthy of inclusion into a TPO. The decision at that stage was based on the tree's poor form following historic pruning that had greatly reduced the visual amenity value of the tree.

A week or so later, the Planning Service received a request from a third party asking that authority to inspect the tree to decide if the tree should be protected by a Tree Preservation Order.

An inspection was duly undertaken of the tree and that confirmed that the tree had positively outgrown the historic poor pruning works. The tree had formed a balanced crown and the re-growth points appeared to be structurally sound. The assessment concluded that the tree positively contributed to the street scene.

b) Risk of damage to persons and property and the associated costs of repair

It is the Case Officer's opinion that the tree could continue to co-exist in close proximity to the property and driveway. It is accepted that tree root damage can sometimes be more than merely superficial. Consideration can be given to the replacement of existing surfacing with a new one engineered to accommodate tree roots. For example a gravel drive is considered to be a relatively low cost solution and any future root growth could easily and relatively cheaply, be addressed by adding further gravel. The evidence of damage can be seen on the owners' driveway.

With regards to the drainage pipe issue, there are frequently problems with the clay pipes and subsidence issues, sometimes as alluded to, roots can expand and also cause a pipe to fail. More often than not, the pipe fails through age or ground movement and the tree roots cause secondary damage. Irrespective of the tree it is considered essential that any leaking pipes are repaired. Once repaired or lined with modern plastic piping it is unlikely that the tree would cause any further problems. There has been no evidence supplied in support of the claims made regarding damage to pipes.

In terms of Health & Safety, the City Council would not refuse any works applied for so long as they are justified and are in accordance with sound arboricultural practice. Applications to prune the tree would be duly considered in light of any supporting justification/evidence provided.

Birds are wild animals and as such, cannot be controlled, it would however be inappropriate to fell a tree just because birds frequent it. Although bird droppings are a nuisance it is considered an issue that is normally tolerated within residential gardens.

Engineering solutions can be found to rectify issues with damage to footpaths.

c) Suitability of the tree species for the location

It is the Case Officers' opinion that there is sufficient space for the tree to be able to accommodate future growth without the need for extensive pruning.

d) On-going discussions

Committee will note that a considerable period of time has passed since the provisional TPO was served. The time has been spent trying to negotiate a position where the visual amenity value of the tree would be maintained whilst at the same time permitting the owner to carry out works to address their concerns.

Unfortunately, it has not been possible to reach an agreed position.

6 Conclusions

It is the opinion of the Case Officer that the TPO should be for the following reasons:-

- The tree offers public visual amenity value and it is considered that the loss would be of detriment to the greater public and the landscape in this location.
- It is the opinion of the Case Officer that tree appears to be in good health and could provide 20 yrs + visual amenity value based on its' current condition.

7 Recomendation

The Head of Planning, Transport & Engineering recommends that this provisional TPO is **CONFIRMED**.

Copy to Councillor David Harrington

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