

Application Ref: TPO 5_2013

Proposal: Provisional Tree Preservation Order

Site: 15 Park Crescent, Peterborough, PE1 4DX

Referred by: Director of Growth and Regeneration

Reason: Objections have been raised to the provisional TPO

Case officer: Mr John Wilcockson
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Recommendation: That the TPO is **CONFIRMED**

1 SUMMARY/OUTLINE OF THE MAIN ISSUES

Officers have served a provisional Tree Preservation Order (TPO) 5_2013 at 15 Park Crescent, Peterborough following the submission of a Section 211 Notice of intent to carry out works to a tree in a Conservation Area which threatened the loss of a Cedar tree. Following the public consultation period, objections have been raised.

The main considerations are:

- **Is the tree worthy of inclusion into a TPO in terms of public visual amenity value, condition and health?**
- **Are the proposals reasonable and justified having regard to any representations received?**

An objection has been raised in respect of the Tree Preservation Order and Committee are asked to determine the application accordingly in accordance with para 2.5.1.2.(f) of the Council's Constitution.

The Director of Growth and Regeneration recommends that the TPO is **CONFIRMED**.

2 DESCRIPTION OF SITE AND SURROUNDINGS

The tree T1 (Cedar) is located to the front of the Care Home at 15 Park Crescent, Peterborough PE1 4DX.

The tree is in good condition and health and provides significant public visual amenity value as viewed from Park Crescent and contributes significantly to the appearance of the conservation area. The tree is therefore considered worthy of protection by way of a Tree Preservation Order.

3 CONSULTATIONS/REPRESENTATIONS

INTERNAL

None

EXTERNAL

Mr Simarjit Barjwa of Peterborough Care Ltd (the owner of the tree) made the following comments during the consultation on the provisional Tree Preservation Order:-

- The tree is too large and too close to the building.
- The tree sheds needles that create a slip hazard for pedestrians especially in winter.
- The tree causes access problems for emergency services.

NEIGHBOURS

None

4 REASONING

a) Introduction

A Section 211 Notice - 13/01264/CTR was submitted to fell the tree by Peterborough Care Ltd on the 21st Aug 2013. In terms of a Conservation Area Notice, the Local Authority first and foremost have to consider the importance of the tree in the public landscape (i.e. tree can be seen from a public place, not a private garden) and would the works be a negative affect on that landscape.

The officer made an assessment of the tree as per “Tree Preservation Orders: A Guide to the Law and Good Practice” and concluded that the tree was in good health and that it made a significant contribution towards the visual amenity of the area and the conservation areas and therefore concluded that the felling of the tree was not appropriate. Given this, the importance of the tree was highlighted to the Care Home and in line with best practice guidelines, discussions were entered into with a view to the Notice being withdrawn. Ultimately, the Care Home refused to withdraw the Notice. As a Section 211 Notice cannot be refused, the only recourse to the officer was to protect the tree by way of a Tree Preservation Order (TPO). A provisional TPO was served on the 16th September 2013 and consulted upon.

At the same time, a CAVAT (Capital Asset Value for Amenity Trees) Assessment was also carried out, This provides a basis for managing trees in the UK as public assets rather than liabilities. It is designed not only to be a strategic tool and aid to decision-making in relation to the tree stock as a whole, but also to be applicable to individual cases, where the value of a single tree needs to be expressed in monetary terms. It is intended particularly for councils and other Public Authorities and primarily for publicly owned trees. It is established in the Town and Country Planning Act 1990 Section 198, that trees have value as a public amenity and therefore local planning authorities are given a duty to protect trees in the public interest. The legislation itself does not specify how amenity is to be assessed, leaving it open for the value of trees to be expressed in the most appropriate way for the intended purpose, and not necessarily in monetary terms. Because CAVAT is specifically designed as an asset management tool for trees that are publicly owned, or of public importance, it does express value in monetary terms, and in a way that is directly related to the quantum of public benefits that each particular tree provides. Applied to the tree stock as a whole it enables it to be managed as if it were a financial asset of the community. Applied to single trees it gives a value that is meaningful in itself but allows a comparison to be made with the value of other public trees. CAVAT works by calculating a unit value for each square centimetre of tree stem, by extrapolation from the average cost of a range of newly planted trees, and then adjusting this to reflect the degree of benefit that the tree provides to the local community. The adjustment is designed to allow the final value to reflect realistically the contribution of the tree to public welfare through tangible and intangible benefits. The CAVAT assessment placed a value on the tree of £225,000.

b) Considerations of Representations Received on Provisional TPO

Under the DETR guidance, people affected by the order have a right to object or make comments on any of the trees or woodlands covered before the Local Planning Authority (LPA) decide whether the order should be made permanent (Confirmed), the following advice is provided to LPA's regarding objections:-

If objections or representations are duly made, the LPA cannot confirm the TPO unless they have first considered them. To consider objections and representations properly it may be necessary for the LPA to carry out a further site visit, which would in any case be appropriate if the LPA had not yet assessed fully the amenity value of the trees or woodlands concerned. Any objection or representation made on technical grounds (for example, that a tree is diseased or dangerous) should be considered by an arboriculturist, preferably with experience of the TPO system.

Discussion between the LPA and any person who makes an objection is encouraged. Discussion can lead to a greater mutual understanding of each side's point of view. This in turn can help clarify the main issues which will have to be considered by the LPA before they decide whether to confirm the TPO. Alternatively, discussions can lead to the withdrawal of objections.

As reported in Section 3, two representations have been received and these are responded to below:

Needle Drop Causes Health & Safety Risk - It is not considered proportionate to fell a tree on the basis of needle drop - frosts & icy weather events account for a small percentage of days through a calendar year.

Tree Restricts Access by Emergency Vehicles - If there were issues in terms of emergency services and it was considered the tree to be a serious issue in terms of access, it is suggested that this problem would have been identified by the emergency services by now. As the emergency services have not identified that there is a problem, this claim is unsubstantiated and it is not therefore considered proportionate to fell the tree on this basis.

Tree is too close / big in relation to the building - There has been no evidence provided to suggest that there is structural damage to the property and officers would agree to works to provide adequate clearance from the building.

Tree does not contribute significantly to the visual amenity of the area - The tree itself is considered to be an important feature within the landscape of one of Peterborough's oldest streets, a street that is to a degree defined by its trees. The tree is also an important part of the appearance of the conservation area.

Tree is not balanced - A tree is a self-optimised structure, it is growing into a shape and size that it needs to be to sustain itself - the term "balanced" is a human need and has no bearing on sound Arboricultural practices. The visual amenity this tree provides is considered to be important in terms of the surrounding landscape and is of significant benefit to the public.

5 CONCLUSIONS

It is the opinion of the Case Officer that the TPO should be Confirmed 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.
- There has been no substantiated evidence to support the felling of this tree.
- It is the opinion of the Case Officer that tree could provide 50 yrs + visual amenity value based on its current condition.

6 RECOMMENDATION

The Director of Growth and Regeneration recommends that this provisional TPO is CONFIRMED.

Copies to Cllrs P Kreling, J Peach, J Shearman

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