

& EP Committee: 15th December 2020

ITEM NO 3

PROPOSAL: Confirmation of Tree Preservation Order 20/00001/TPO

SITE: 45 Peterborough Road, Castor, PE5 7AX

REFERRED BY: Head of Planning

CASE OFFICER: Stephen Chesney-Beales

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RECOMMENDATION: Confirm – Tree Preservation Order 20/00001/TPO

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

Purpose of Report

A provisional Tree Preservation Order (TPO) 20/00001/TPO at 45 Peterborough Road, Castor was made and served on 15th July 2020 following a planning application (20/00775/FUL) to build a four-bed detached dwelling with integral garage in the rear garden.

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. 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 without modification.

Site and Surroundings

The property 45 Peterborough Road, Castor is a Grade II Listed Building and all of the buildings are within the Castor Conservation Area. The entire garden area is within the curtilage of the listed building, however it is outside, but directly adjacent to the Castor Conservation Area.

Description of Tree/s

The trees subject of the TPO are predominantly maturing Sycamore consisting of ten trees T.2-T.11, a significant, mature Apple T.1 and a group G.1 consisting of four Sycamore and two mature Hazel - Cobnut. The Sycamore were described within an independent Arboricultural report, supplied by the applicant as part of the planning submission, as trees

with 'potential to offer a further 20 to 40 years contribution, with good screening and wildlife habitat, and are of benefit to the local landscape.'. It went on to say, two of the Sycamore T6 & T.11 'have exceptional stature.'

Please see **Appendix 1** for a copy of the TPO.

2. PLANNING HISTORY

Relevant Planning History

A planning application, 20/00775/FUL for the construction of a four-bed detached dwelling with integral garage was received, from the Applicant Mr Huckle via an Agent, and validated on 12th June 2020. The application recommended the removal of eight significant trees, seven of which are located adjacent to the eastern boundary. This application is still under consideration and yet to be determined.

A provisional TPO secures the protection of the trees for up to 6 months from the date of making the TPO and thus it deemed appropriate to proceed with confirmation of the order prior to the conclusion of the planning application, to ensure the trees remain protected

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

An objection to the TPO was received, via e-mail on 29th July 2020, from the property owner of 45 Peterborough Road, Castor - Mr Huckle. Mr Huckle raised a number of objections, please see **Appendix 2** for details.

The main points of Mr Huckle's objection are outlined below:

Point 1. - with regards to the trees being in the rear garden and viewed from the public highway -

It is considered that large parts of all the trees protected, can be seen from a public viewpoint, i.e. from a public - highway, footpath, or publicly accessible place. This is clearly exhibited in the selection of photographs attached within **Appendix 3** where the trees demonstrate a significant impact on the local environment.

Point 2. - with regards to the trees being viewed from land to the rear of the property, and in terms of importance to the landscape -

The Tree Officer confirms that all trees are visible from a public place.

Point 3. - with regards to future developments, there are sufficient boundary trees to screen the land -

It is the opinion of the Tree Officer that without protection, the current screening would be lost, or significantly compromised if development were to proceed as originally intended. In accordance with government guidance Peterborough City Council (PCC) considers it expedient to serve the TPO, as there are perceived risks to the trees as a result of development pressure now and in the future.

Point 4. - with regards to serving a TPO in the interests of amenity and serving the TPO to solely prevent any future development -

All TPO's are made in the interest of public visual amenity, this can be demonstrated by the photographs in **Appendix 3**. The TPO has not been served with the sole purpose of preventing development, but because the trees are considered to be under threat from the proposed development, and because the trees offer significant public visual amenity value to the area, especially as they are situated adjacent to Castor Conservation Area boundary.

Point 5. - with regards to pointing out the trees are located outside the Castor Conservation Area but within the designated village envelope -

The trees are not in the Castor Conservation area and not protected by growing within a conservation area, and therefore, considered under threat from the proposed development and the reason the TPO was served.

Point 6. - with regards to TPO trees applying to trees within private gardens -

TPOs can be served on either private or public land. The decision to serve a TPO is based on the threat rather than land ownership.

Point 7. - with regards to entering the property unannounced -

A site visit was undertaken unaccompanied having first spoken with a relative of the applicant in the neighbouring property. The Tree Officer would however happily have served the TPO based solely on his observations - from a public place.

Point 8. - with regards to feeling unfairly treated, and with restrictions being placed upon your property -

The Tree Officer sympathised with Mr Huckle's feelings, however, as stated above, PCC has a duty and a right to protect trees in such circumstances, it is not personal.

Point 9. - with regards to the proposed TPO relating to all the trees of merit in the rear garden -

Please note the previous comments above, and that only 17 trees of the 31 plus trees identified within a Tree Survey by an independent Arboriculturist have been included within the TPO.

Point 10. - with regards to the point raised regarding concern that all trees within group G.1 were not perceived of equal value -

The trees are specified within the TPO as G1, consisting of 4 Sycamore and 2 Hazel, all of the trees within the group are considered worthy of inclusion and are considered to have public visual amenity value, please see the photograph in **Appendix 3** for details.

Point 11. - with regards to the worthiness of the Apple within the TPO -

TPO's can be served on any species, age or size of tree. It is because the Apple is very old, healthy and has not been pruned or managed for fruit and located immediately adjacent to the Castor Conservation Area boundary with the Village Hall, Milton Lane and Castor Barns, and has significant public visual amenity value, that it has been include within the TPO. It's also clear that the tree has 'value', as it has been retained in place, and a wooden building built specifically around the tree.

Point 12. - with regards to the Sycamore trees and their nature, and dying, dead and low branches -

A tree work application or 5 Days Notice can be made at any time to address these problems, and this had been communicated to the owner via email. A TPO does not stop appropriate management of any tree however does require consent to be granted for certain tasks.

Point 13. - with regards to the way this TPO has been carried out -

The serving of the TPO was not a blatant attempt to thwart the current planning application, but an accepted, recommended and reasonable way for PCC to protect trees with amenity value, when considered under threat from proposed development.

5. ASSESSMENT OF THE PLANNING ISSUES

Assessment of Trees

Government guidance recommends LPA's develop ways of assessing the 'amenity value' of trees in a structured and consistent way.

To this end PCC use an assessment criteria which considers the following:

Visibility, the trees subject of the TPO are clearly visible by the public from publicly accessible viewing points, displaying significant visual amenity value and contributing to the local environment, and have;

Individual Impact, due to their size and form, that has a visual impact on the landscape character of the area, and a;

Wider Impact, on the surrounding area, by contributing significantly to the character and appearance of the local environment and landscape, adjacent to the Castor Conservation Area in particularly, together with their intrinsic value.

Summary of Planning Issues

The objections to the TPO are understandable as outlined in the Points above however, it does not detract from the fact that the trees subject of this provisional TPO are both in good

condition, have a long life expectancy and have the potential to be under threat from being pruned inappropriately or felled if the TPO is not confirmed.

The issues regarding the planning application on this site are not to be considered within this committee report, however it should be noted that if PCC in future decides, following a balanced judgement, that the development should be consented then the loss of trees to enable the implementation of any full planning permission is permissible e.g the TPO is overridden, if a tree must be removed to make way for parts of a new building for which planning permission has been granted.

Overall, the objections and their implications do not outweigh the detrimental impact to the landscape if the trees were inappropriately pruned or felled.

6. CONCLUSIONS

The trees subject of the TPO, shown in **Appendix 1**, are all considered to offer significant, public visual amenity value from the public places, as shown in the photographs in **Appendix 3**. All the trees included were assessed to be worthy of TPO status and under threat from the proposed development both directly and indirectly, therefore the serving of the TPO was considered appropriate and reasonable in the circumstances, in order to safeguard the amenity value of the trees and the contribution they make both to the Castor Conservation Area and the wider landscape, it is therefore recommended the TPO is confirmed without any modifications.

7. RECOMMENDATION

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

Copy to Councillors: Peter Hiller and John Holdich OBE

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