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Please ask for: Richard Kay
Our Ref: Bretton Oak Tree - Petition
Your Ref:



Please reply to:

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

Mr Hopkins
(sent by email only)

Date 29th November 2021

Dear Mr Hopkins

Re: Your Petition – “Save Bretton Oak Tree”

Thank you for taking time to raise a petition on our website, and more broadly helping to raise awareness about the proposal to fell a mature oak tree in Bretton. Your involvement has helped prompt a wide debate on the issues involved.

Your petition seeks the council to “*retain the Oak Tree on Blind Lane, Ringwood, Peterborough*”, and I am advised that well over 500 validly made signatures have been received (I understand the figure is currently close to 700, with the petition officially closing on 30th November).

I understand that you have been previously notified by Philippa Turvey (Democratic and Constitutional Services Manager) that should 500 valid signatures be received, then the option exists to debate the petition at a meeting of Full Council on 8 December 2021. Having passed the necessary threshold, I understand from Philippa that you have requested to take up that option of a debate at Full Council.

However, prior to such a debate at Full Council, our petition rules explain that an appropriate officer of the council should respond to the petitioner in the first instance, and that response should form part of the papers (alongside the petition) that is presented in advance to Full Council or Cabinet. This letter is, therefore, that response. I appreciate some of the content of this letter you may already be aware of, but nevertheless, it is worthwhile setting out the details in full.

First, some preliminary background. The case revolves around two trees in close proximity to each other, to the rear of 9 Barnard Way. One tree (T1 on the map below) within a private garden, the second (T2) on the boundary of private garden and council land. Originally, the second tree was assumed to be in the private garden (and therefore responsibility of the home owner), but as of January 2021 it was established to be the responsibility of the council.

The first tree (T1 in the private garden) has been lawfully felled in the past 18 months. This letter (and your petition) therefore focusses on the second (T2 – council owned) tree. The Map below is an extract of the tree works application as submitted and publicly available.



In terms of the application and consent process, I can clarify as follows.

T2 tree identified on the above map is protected by *TPO 06/0004/TPO ref T8 Oak* in 2006 (which, incidentally, superseded an earlier 1970's revoked *TPO ref 70/00002/TPO ref tree T47*).

Permission to build 9 Barnard Way property was granted planning permission in 1998 (ref application 98/01011/FUL). It is evident from the case files that full consideration of the mature oak trees was taken within the planning consideration and decision process, with such considerations concluding, in accordance with national guidelines of that time, that the proposals as consented should not cause a conflict with the trees.

Some 20 years later, an application to fell the two trees was received on 21 May 2020 (application ref 20/00652/TRE).

The application stated that the “*tree works are proposed as a remedy to the differential foundation movement at the insured property and to ensure the long-term stability of the building*”. Put simply, the application was on the basis that there is evidence beyond reasonable doubt that the two trees are causing, and will continue to cause further, damage to property, at 9 Barnard Way. The applicant was PRI Insurance Services on behalf of the implicated property owner.

Consultation on the proposal duly took place (including Bretton Parish Council on 27.05.20). No responses were received. The application was also advertised on the council's standard 'weekly list' (i.e. a list the council publishes weekly of all planning and similar applications received that week).

The application was determined on 16 July 20 with consent given for two Oak trees to be felled. T1 (on the map earlier in this briefing) subsequently has been felled. T2 not felled, but has valid consent to do so for 2 years (i.e. until July 2022).

Where council trees are to be felled, a 'felling notification' is issued. This is separate to any trees work application, as described above. In this case, and as part of our routine felling notification processes, the following occurred:

- Site notice attached to the tree on or around the 6th April 2021 and replaced at least once.
- Letter to adjoining residents April 2021 (9 & 10 Barnard Way, 3 Barnard Crt, 1,2 & 10 Ringwood).

- Published on the Council website April 2021.
- Letter via email to relevant Councillors

Thus, in short, for the oak tree in question, a valid application was submitted, due process to consult was undertaken, and a valid decision to fell was reached. That consent to fell remains valid.

I next turn to the financial value of the tree, a matter you raise in your petition. Your petition states: “*This tree has an approx. CAVAT value of over £300,000.*” I can confirm the accuracy of this point. For the benefit of wider readers of this letter, once it is published, a financial value of a tree can be calculated using a system known as CAVAT (community asset value for amenity trees). CAVAT provides a method for managing trees 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. In this case, the CAVAT value of the tree is estimated in the region of £330,000. This, of course, is not a ‘cash value’ (in that it cannot be bought or sold for £330,000), but is an estimate as to its wider non-tradeable value. In this case, it is of course a considerable sum, and was taken into account as part of the deliberations.

I would next like to touch upon the age of the tree. Whilst your petition does not suggest a specific age for the tree, it does state that the tree is “*One of the last standing Oak Trees from the original Grimeshaw Woods (14th century)*”, thereby implying the tree is perhaps 600-700 years old. This approximate age was also widely reported in the press. However, it is not deemed to be an accurate estimate.

As part of the assessment process, the tree in question has not been assessed to be ‘Ancient’ (a term defined by national policy). Nevertheless, I acknowledge it is of a large size and thus may be referred to as ‘notable’ (a description which is agreed by the Woodland Trust on its website). With a girth (circumference) of approx. 5.2 metres, it has an estimated age of approximately 300 years (see - <http://www.wbrc.org.uk/atp/Estimating%20Age%20of%20Oaks%20-%20Woodland%20Trust.pdf> for how this is calculated). Whatever true age the tree has (and of course nobody can be certain of this), I think there is widespread acceptance that the tree is a significant landscape feature. As such, every effort has been made to retain it.

Once the ownership of the tree was confirmed as being the council’s, the council considered a number of options. A summary of the five substantive options considered are in the table at Appendix 1 of this letter.

On the basis of the evidence, risks, liabilities and costs, the decision to fell (option 3) was determined.

Having carefully considered your petition, and considered other representations the council has seen or read in the press or on social media, as well as taking account the substantial costs involved in retaining the tree when balanced against the very difficult financial constraints the council operates in, it is the opinion of officers that, and with great reluctance, the decision to fell remains the most appropriate way forward. As such, I cannot recommend to Councillors that your petition request be agreed to.

I appreciate this is not the response you wanted to read, but I hope this comprehensive letter of explanation helps in some way to understand the very difficult decision the council faced.

Yours sincerely

Richard Kay

Head of Sustainable Growth Strategy

Appendix 1: Options considered

Option description	Tree retained (Y/N/partial)	Cost to implement	Risk of option failing to achieve intended outcome	Additional comments
<p>Retain the tree. In doing so, council to accept all future liability for damage caused by the tree on nearby properties (accepting this liability is a legal requirement).</p> <p>The evidence suggests that underpinning of at least one property is highly likely, and potentially could extend to 5 properties over the life of the tree.</p>	Yes	<p>The claimant's insurers suggest (as part of the applications files) that this option would cost in the region of £75K. However our Independent Structural Engineer has considered this to be a substantial underestimated. Indeed, PCC has direct evidence of having underpinned a property close to this location at a cost of £200k, and such a property was smaller than those associated with this tree. As such, it is not unreasonable to assume that retaining the tree in this instance would lead to a potential liability of over £200k per property, and that up to 5 properties could potentially be affected (at present, only 1 property is confirmed as affected, but the 'zone of influence' of the tree roots potentially extends to five properties)</p>	<p>Provided the full extent of the property and other built structures within the property are fully underpinned there is limited scope for this action failing.</p>	<p>Research has shown that Oak trees can have a potential to damage properties up to 30 metres away from it (DF Cutler & IBK Richardson). Having plotted this distance on a map it can be seen that up to five properties may be influenced by the tree in the future. These risks may be low for some of the properties, other than the neighbouring property, but demonstrate the future risks that must be considered.</p>
<p>Prune the tree.</p>	Partial	<p>The cost to prune the tree would be approx. £1,000 each time it was pruned (i.e. every two years)</p>	<p>Published research (known as Hortlink 212) concluded that pruning was not generally effective in reducing moisture demand of trees except for a very short period. In essence, for pruning to be effective for anything more than the first season. There is a high risk that pruning would fail to abate the nuisance.</p>	<p>In order to be effective the tree would require extensive and frequent pruning (negating the majority of the amenity value the tree currently holds).</p>

<p>Fell (with replanting nearby): Felling would allow the soils underneath the building(s) to stabilise during the first winter after felling. Six selected trees have been agreed to be replanted with a height of 3-3.5m at the time of planting.</p>	No	<p>Cost to fell the tree approx. £2,000 Security measures £3-5,000 (estimate) Cost for replacement trees £4,980</p>	No risk of failing to abate the nuisance.	
<p>Construct root barriers</p>	Yes	<p>It is estimated that the installation of a root barrier would be in the region of £30-40K + compensation costs + future liability costs. Such barriers would need installing in at least two (potentially more) private gardens. Agreement and Compensation for such measures would therefore need to be agreed with all such property owners (such agreement may not be forthcoming). If the root barrier fails, PCC would be liable for future damage costs to the property (see option 1). The total cost is therefore unable to be quantified, but potentially the highest of all options.</p>	<p>The effectiveness, nationally, of a root barrier has not yet been fully proven, however they can be considered as an option where future services or normal gardening activities would not likely breach the barrier. The problem with this site is that the barrier would need to be installed at a considerable depth and length and would need to span two private residential gardens. Permissions and compensation would have to be negotiated with the residents if this approach were to be progressed. It is therefore a high risk of failure, despite considerable cost, and not under the control of PCC to implement.</p>	<p>After installation there would be no ability for the council to control or monitor potential damage (accidental or otherwise) or breaches of the barrier, yet potentially (highly likely) remain liable for any future damage to the property if the roots breached the barrier. The council would have no control over maintenance or repair of the root barrier, or ability to monitor whether it was damaged.</p>
<p>Do / spend nothing at all, even though damage to private property has occurred.</p>	n/a	n/a	n/a	<p>This is not an option. PCC is responsible for the tree and any damage it causes. PCC has a legal duty to abate the nuisance arising from the tree. Also, as it is known that further future damage will be beyond any reasonable</p>

				doubt occur to property if the tree remains, then all such costs must be met ourselves. Such costs will not be covered by insurance as we will not have not taken action to mitigate or prevent it i.e. it is uninsurable.
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