

PLANNING & ENVIRONMENTAL PROTECTION COMMITTEE

16 AUGUST 2023 AT 1:30PM

- 1 Procedure for Speaking
2. List of Persons Wishing to Speak
3.
Briefing Update

UPDATE REPORT & ADDITIONAL INFORMATION

PETERBOROUGH CITY COUNCIL

PUBLIC SPEAKING SCHEME - PLANNING APPLICATIONS

Procedural Notes

1. Planning Officer to introduce application.
2. Chairman to invite Ward Councillors, Parish Council, Town Council or Neighbourhood representatives to present their case.
3. Members' questions to Ward Councillors, Parish Council, Town Council or Neighbourhood representatives.
4. Chairman to invite objector(s) to present their case.
5. Members' questions to objectors.
6. Chairman to invite applicants, agent or any supporters to present their case.
7. Members' questions to applicants, agent or any supporters.
8. Officers to comment, if necessary, on any matters raised during stages 2 to 7 above.
9. Members to debate application and seek advice from Officers where appropriate.
10. Members to reach decision.

The total time for speeches from Ward Councillors, Parish Council, Town Council or Neighbourhood representatives shall not exceed ten minutes or such period as the Chairman may allow with the consent of the Committee.

MPs will be permitted to address Committee when they have been asked to represent their constituents. The total time allowed for speeches for MPs will not be more than five minutes unless the Committee decide on the day of the meeting to extend the time allowed due to unusual or exceptional circumstances.

The total time for speeches in respect of each of the following groups of speakers shall not exceed five minutes or such period as the Chairman may allow with the consent of the Committee.

1. Objectors.
2. Applicant or agent or supporters.

PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE – 18 JULY 2023 AT 1:30 PM

LIST OF PERSONS WISHING TO SPEAK

Agenda Item	Application	Name	Ward Councillor / Parish Councillor / Objector / Applicant
4.1	23/00003/TPO - 99 -101 Fulbridge Road, New England, Peterborough PE1 3LD	David Clark/Mr Raymond Palmer	Objector(s)
4.2	23/00001/TPO - 76 Guntons Road Newborough Peterborough PE6 7RT		
4.3	23/00004/TPO - Rhine Avenue Peterborough PE2 9SN	Stephen Smith	Objector

BRIEFING UPDATE

P & EP Committee 16 August 2023

ITEM NO	APPLICATION NO	SITE/DESCRIPTION
1.	23/00003/TPO	99-101 Fulbridge Road

The following comments have been received from Ward Cllr Asim Mahmood:

- *TPO in this location is not reasonable or justified and does not take into consideration the objections raised by residents.*
- *The council has a duty of care to its residents, due to the height of these trees given the risk of high winds and more importantly the nursery children of 101 Fulbridge road who use the garden where the trees are present and I do not agree with the assessment made by the officer that the trees in question are not Mature*
- *Can the officer say with confidence that the Landowners will seek permission from the Council if the TPO is granted for trees that are already unmaintained and I have seen first-hand branches falling off.*
- *Taking onboard the views of the local residents. As the Ward Councillor I do not believe that these trees bring significant visual amenity value to the local area and does not warrant a TPO*

Tree Officer comment:

With regards to the first comment: The TPO 'objections' are being considered by the P&EP Committee, before the TPO is considered for confirmation. It should be pointed out that only two objections were received in the statutory 28 day period for objections, one from Mr & Mrs Clark and one from Sarah Raucci.

With regards to the second comment: 'As stated in the Tree Officer's report, the Council does not have a duty of care with regards to the trees' the subject of the TPO, as the trees remain the responsibility of the tree/land owners' and their obligations under the Occupiers' Liability Act 1984, as they always have been. The Tree Officer does not consider the trees to be fully mature or over mature, or 'near end of life' and 'present a danger to life and property' which was the reference used (see Point 4 of the report).

With regards to the third comment: It is the tree/land owner's responsibility to seek permission to maintain the trees. The removing of dead branches is exempt from consent (an application), the only obligation under the T&CPA 1990 is to give the Council five days notice, before undertaking such works. If the works are considered necessary because of an immediate risk of serious harm, the works can be undertaken, as soon as practicable, but evidence will normally be required by way of photographs or a report to demonstrate that the works were necessary, in such circumstances.

With regards to the fourth comment: The Tree Officer considers the trees do have significant, public visual amenity value to the immediate and wider local area. 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' (see Point 5 of the report).

The Tree Officer considers the trees meet PCC's TPO assessment criteria, 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 (see Point 1 of the report). The making of the TPO was considered appropriate and reasonable in the circumstances.

Additional comments have been submitted by Mr Clark: (Info attached as annex 1)

Tree Officer comments:

The comments are duly noted, however, the Tree Officer considers all of the points raised have been addressed within his report, including Appendix 3, given that the points raised relate to the refused outline planning application, which the Tree Officer clearly states in his report, he would not respond to. This remains the case (see Para 4 Mr & Mrs Clark's TPO Objection Notice).

The following comments have been received from Mr Palmer:

My name is Ray Palmer, I live at 2a Sheridan Road, and I have lived there for more than 45 years and I am the longest resident in the road.

I find it strange that members are asked to make a decision on an application that is submitted by the authority they were elected to.

I submit these trees should never have been allowed to grow this high, especially in an urban residential area where the majority of surrounding properties are of a single story.

What is the purpose of this application? I support the view of the lady at 101 Fullbridge Road (nursery) that it is to frustrate the planning application on the back land development behind number 5 Sheridan Road. Which I will add is the only property to have suitable access to back land in this vicinity.

A TPO does not have to be associated with a planning application, so the question is why has this application emerged at this time when there have already been 4 planning applications on this back land and one application at number 3 Sheridan Road, planning officers and inspectors could have, and should have seen these trees and made a TPO before this date.

I would ask you to refuse this application and show support for the residents in Sheridan Road and Fullbridge Road, as 85% of the people objected to it, as indicated by the petition included in the report to which I have signed.

If you approve this application, there is no where the residents can go other than a judicial review, whereas if you refuse it, the council can go to an appeal.

Tree Officer comments:

The comments are duly noted, however, the Tree Officer considers all the relevant points raised have been addressed within his report, especially with regard to the Council making 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 (see Point 1 of the report). Please note: Appendix 5, which is the response to the Neighbour Survey, of which Mr Palmer was apart, and which no residents responded to within 14 days with any objections (see Point 8 of the report), including Mr Palmer.

Additional comments have been submitted by Mr Clark: (Info attached as annex 2)

Tree Officer comments:

The comments are duly noted, however, the Tree Officer considers most of the points raised have been addressed within his report, including Appendix 3. The Tree Officer confirms he will not respond to points raised relating to the refused outline planning application (see Para 4 Mr & Mrs Clark's TPO Objection Notice), the subject of an Appeal

With regard to the above submission, last paragraph on page 1. The Tree Officer apologises for the oversight with regard to the incorrect Site Location address on the Formal Notice, however, the letter(s)

clearly reference the correct TPO and the correct TPO was attached in each case. Legal have confirmed this is not a concern.

The Tree Officer would point out, with regard to the first two paragraphs on page 2, that the TPO in question was made on 16th March 2023 (before the refusal of the planning application 22/01542/OUT dated 24th March 2023) and was made for the reasons stated above.

The Tree Officer would point out, with regard to the second paragraph on page 4, that the detail with regard to the 'annex below there is 692 variants of Poplar tree...' This matter was responded to on Friday 11th August with Mr Clark, via e-mail.

The Tree Officer would point out, with regard to the last paragraph on page 4, that the views of the neighbours in question were not disregarded, to the contrary, each neighbour was written to (see Point 8 of the report). All the letters were hand delivered including Mr & Mrs Clark's and Sarah Raucci, as were the TPO's and the letters with reference to both Committee meetings.

The Tree Officer would point out, with regard to the fourth paragraph on page 5, that Mr & Mrs Clark's 'TPO Objection Notice' (Appendix 2), included the 'complaint' referenced above, which is included within the report (see Point 9 of the report).

2.	23/00001/TPO	76 Guntons Road
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No Further Comments

3.	23/00004/TPO	Rhine Avenue
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The following comments and photographs have been received from Mr Smith: (annex 3)

My reasons are:

1. The two trees are huge and in themselves cause safety issues with their branches falling off and damaging my property.
2. These trees have never really been maintained and again to expect a domestic owner to part with £2,000 – £3,000 every five to eight years for maintenance is unrealistic.
3. One tree is over 50ft in height. Aerial tree maintenance is required and I don't really know how you expect a domestic owner to fulfil this operation.
4. The trees take an awful lot of water from the ground leaving the ground dry and barren and difficult for domestic owners to grow plants and shrubs with copious watering needed, which will be metered and cost lots of money.
5. When these trees where part of the British Sugar Sports Field they were in there right element, but in a small domestic back garden they are a risk to the property, the children of that property and owners, let alone neighbours. I have at present a broken branch puncturing my shed roof.
6. I have been in touch with Olivia Hewitt, the Development Planning Manager at Vistry Partnerships through email on 16th May 2023, but there has been no acceptance of email, in fact purely radio silence. Presumably because of the cost of maintaining these trees.
7. Your TPO Officer Stephen Chesney-Beales believes that it would be easy for anyone to maintain these trees given the TPO requirements. I think that this assertion in itself is at least unrealistic given the

size of the trees and the equipment and safety requirements required for maintaining trees of this magnitude.

Please, please, please, remove these trees and replace them with a more sympathetic smaller type which can be easily maintained.

I have appended some pictures for reference.

Tree Officer comment:

The comments are duly noted, however, the Tree Officer does not consider the two Norway Maple within Group G.3 to be 'huge', as one is quite small and the other larger, but more 'unbalanced'. The trees can be managed by means of reasonable pruning in the future, if considered necessary, much the same as many other privately owned trees close to shared boundaries are. There will always be a cost incurred whether the tree/s in question are covered by TPO or not, unless the owner/neighbour takes on the work themselves, as Mr Smith has done in the past.

The Tree Officer does not consider the water demand of the trees to be an issue in this case, and please note, the developers retained the trees on site within the gardens of the proposed new houses.

The Tree Officer considers his report addresses the issue of the tree/landowner's obligation with regards to maintaining the trees in a safe condition by way of their obligations under the Occupiers' Liability Act 1984 (OLA).

The following comments and photographs have been received from Mr Smith: (annex 4)

Tree Officer comment:

The comments are duly noted, the Tree Officer confirms that Vistry/Countryside Partnerships are responsible for the trees the subject of the TPO at present and have a duty under the OLA, above, and when the houses are sold the new owner/s will be responsible for the trees and have a duty under the OLA.

The Tree Officer does not consider the size of the trees relative to the (size of the) gardens to be an issue subject of the TPO confirmation. Given the planning application for the development of the site had been made and approved with the trees subject of the TPO retained on site, within the proposed gardens. If the current or future owners or adjacent property owners wish to remove the tree/s, should the TPO be confirmed, an application can be made to remove the tree/s, any such application will be dealt with on its merits.

The Tree Officer is not in a position to comment on the construction companies (Vistry/Countryside Partnerships) disregard to the state of the trees or their alleged negligence.

The Tree Officer can inform Committee that a Tree Work Application has been submitted to prune all the trees subject of the TPO, however, the details of the pruning works have not been confirmed to date.

The Tree Officer can confirm that Peterborough City Council (PCC) has no responsibility for the care or any action with regards to the trees subject of the TPO, other than to consider them worthy of protection with a TPO and make the TPO in question, as detailed within the report.

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