

**Planning & Environmental Protection Committee
15 October 2024**

PROPOSAL: Confirmation of Tree Preservation Order 24/00002/TPO
SITE: Land rear of 20 Gunthorpe Road, Peterborough, PE4 7TG
REFERRED BY: Head of Planning
CASE OFFICER: Stephen Chesney-Beales - Tree Officer
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RECOMMENDATION: Confirmation of Tree Preservation Order 24/00002/TPO with modifications.

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

Purpose of Report

The Tree Preservation Order (TPO) - 24/00002/TPO Land rear of 20 Gunthorpe Road, Peterborough, was made and served on 17th April 2024 to protect an area of land to the rear of properties both on Gunthorpe Road and Fulbridge Road.

The TPO has been the subject of consultation and because objections have been received, the Committee are required to consider the objections, 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, the subject of the TPO worthy of 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 with the modifications set out in the report.

Site and Surroundings

All the trees in question are located within the area of land marked Area A.1 to the rear of 20 Gunthorpe Road and shown in the modified plan.

Please see the TPO and plan in **Appendix 1** and the modified plan in **Appendix 2**.

Brief description of the trees

The trees subject of the TPO are:

Trees - T.1 Ash, T.2 Elder, T.3 Hawthorn, T.4 Apple & T.5 Hawthorn; and groups of trees - G.1 consisting of 15 Hawthorn, G.2 consisting of 2 Elder, G.3 consisting of 1 Deodar Cedar, 1 Silver Birch, 1 Apple, 1 Hawthorn & 1 Eucalyptus & G.4 consisting of 3 Cherry, 7 Sycamore, 1 Silver Birch & 1 Apple

Please see **Appendix 2**, for reference.

2. HISTORY

Circumstances and reason for making the TPO

The Council were made aware of a number of trees being felled to the rear of 20 Gunthorpe Road on or about 15th April 2024, during the height of bird nesting season, with allegations of birds having been killed in the process.

The local Wildlife Crimes Officer from Cambridgeshire Police and the Woodland Officer from the Forestry Commission were informed, and the matter was being investigated by both parties.

Given the loss of trees in question and the obvious public amenity value of the remaining trees, situated to the rear of the houses on both Fulbridge Road, Gunthorpe Road and the adjacent public open spaces, the Council made the TPO. Owing to restrictions on access to the land an Area order was served with the intention to modify the Order to individual trees and groups, once access was permitted to allow detailed evaluation of the trees, prior to confirmation

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 (T&CPA), 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

A report raising an objection to the making of the TPO was received from Andrew Belson an Arboricultural Consultant dated 9th May 2024, on behalf of the owners of the land. The report was responded to via e-mail by the Tree Officer on 12th September 2024.

Please see **Appendix 3 & 4**, for reference.

The Council's Tree Officer considered the objections within the above report, however, it was not made very clear, as to what the objections were, other than to pick out the points in the sub-sections referenced below, in italics:

The Tree Officer's response to each of the point, are in bold below.

4.5 'the Area does not provide much in the way of amenity, particularly in comparison to the surrounding area'.

The Town & Country Planning Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO.

In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed.

The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath, although, exceptionally, the inclusion of other trees may be justified. The benefit may be present or future; trees may be worthy of preservation for their intrinsic beauty or for their contribution to the landscape or because they serve to screen an eyesore or future development; the value of trees may be enhanced by their scarcity; and the value of a group of trees or woodland may be collective only. Other factors, such as importance as a wildlife habitat, may be taken into account which alone would not be sufficient to warrant a TPO.

The Council considers the trees, subject of the TPO, can be seen by the public from a public place and it is considered that their removal would have a significant impact on the local environment and its enjoyment by the public This is supported by the 67 individuals who have shown support for the making of the TPO, including 17 of whom live in the 23 adjacent properties, supported by 13 individuals that visit the Brookside Methodist Church situated opposite the site.

5.3 The Hawthorn T3 on the southern boundary is a reasonable but unremarkable tree that offers low public visual amenity.

The above statement would seem to contradict the recommendation within sub-section '6.4 I consider that if the TPO is Confirmed, it should only include Ash T1 with the possible inclusion of Hawthorn T3 and Silver Birch T5'.

5.4 Although visible, the Elders T2 and Group 1 on the southern boundary are unlikely to be suitable for inclusion in a Tree Preservation Order.

The above statement, confirms that the Elder T2 and Group 1 (TPO Group G.2) are visible, but gives no reason why they are 'unlikely to be suitable for inclusion in a

Tree Preservation Order’? It should be pointed out that Egrets roost in the Elder T2 particularly.

5.5 T5 – T7 are trees that have been illegally cultivated on the site by trespassing neighbours.

The above statement, seems to suggest because the trees have been ‘illegally cultivated on the site by trespassing neighbours’ they are not worthy of inclusion or protection by the TPO. It is however assessed that T5 Silver Birch, T6 Eucalyptus and T7 Apple (within TPO Group G.3) are all visible to the public from a public place and have amenity value, see below for reference. The LPA have no duty to consider the provenance of these trees.

5.6 Deodar Cedar T4 is not yet visible from a public place but it has significant growth potential and is not a desirable tree on this site.

The Deodar Cedar T4 (within TPO Group G.3) is clearly visible, in front of T6 Eucalyptus, from the Fulbridge Road, between the houses at 410 & 412 and clearly visible from the POS and worthy of inclusion within the TPO.

5.7 Silver Birch T5 is not yet visible from a public place but it may eventually be seen as a skyline feature.

The Silver Birch T5 (within TPO Group G.3) is clearly visible from the Fulbridge Road, between the houses at 414 & 416 and parts of the tree are clearly visible from the POS and worthy of inclusion within the TPO.

5.8 Although the Eucalyptus T6 can be seen as a skyline tree, it has significant growth potential and is not a desirable tree on this site.

The Eucalyptus T6 (within TPO Group G.3) is clearly visible from the Fulbridge Road, between the houses at 414 & 416 and clearly visible from the POS and worthy of inclusion within the TPO.

5.9 Apple T7 is not visible from a public place it is unlikely to have public visual amenity.

The Apple T7 (within TPO Group G.3) is clearly visible from the POS between the above trees Deodar Cedar T4 & Eucalyptus T6 and worthy of inclusion within the TPO.

5.10 Although the Hawthorn T8 can be seen as a skyline tree, it is unlikely to have sufficient public visual amenity to justify inclusion in the TPO.

The Hawthorn T8 (within TPO Group G.3) is clearly visible from the POS to the right of Eucalyptus T6 and worthy of inclusion within the TPO.

5.11 Group 2 comprises 13 Hawthorn, which have varying amounts of Ivy in their crowns. They are not remarkable, nor would they normally be considered suitable for inclusion in a Tree Preservation Order.

All 15No. Hawthorn within Group 2 (within TPO Group G.1) form a cohesive group and collectively are considered to offer amenity and wildlife habitat value, are clearly visible by the public from a public place and contribute to the landscape of the area. This is shown by the aerial view on Page 5 of the above report, and if removed would be considered to have a significant impact on the local environment and its enjoyment by the public, especially the 67 supporters of the TPO.

5.12 Group 3 Cherry and Sycamore seedlings are not suitable for inclusion in a Tree Preservation Order. They are uncounted due to access.

There is no reason why the trees within Group 3 (within TPO Group G.4) cannot be considered 'suitable for inclusion in a Tree Preservation Order', as they form a cohesive group and are considered to offer amenity value. Parts of the trees, especially the tall Sycamore can be seen as a skyline feature. The Cherry can be seen by the public from between the houses on Gunthorpe Road, including between 11 & 12, 6 & 8 and beside 4, together with between the houses on Fulbridge Road, including 426 & 428 and 422 & 424.

5.13 Although the Hawthorn T9 can be seen as a skyline tree, it is unlikely to have sufficient public visual amenity to justify inclusion in the TPO.

The Hawthorn T9 (T.5 within TPO) can be seen clearly from the POS and from between the houses both on Gunthorpe Road and Fulbridge Road, including between 11 & 12 Gunthorpe Road and 426 & 428 Fulbridge Road and worthy of inclusion within the TPO.

6.1 Whilst some of the trees are more clearly seen in the foreground, I do not consider that the TPO made complies with the reason stated for making the TPO.

The TPO is considered to comply with the reason stated within the Regulation 5 Notice, that states, the TPO was made: 'to ensure the continued presence of the tree/trees on this site in the interests of visual amenity'.

6.2 In its present form the TPO is weak, containing a number of trees that offer little or no public visual amenity, and the majority of the trees are not in a suitable condition. However, it is understood that the TPO has been made to safeguard all the trees on site in response to recent management works being carried out on site. Therefore, the motivation and mechanism for making the TPO is understood.

The TPO is not considered to be weak, especially when modified, as all the trees subject of the TPO are considered to have public visual amenity and can be seen by the public, as stated above. The condition, size and form of the trees are considered to be acceptable, given the nature of the site, and the younger trees have the potential to contribute further to the amenity of the site, as they mature. The author of the report has provided no evidence to support the claim that 'the majority of the trees are not in a suitable condition', to be included within the TPO.

6.3 In due course, it is expected that if the TPO is Confirmed, it would be Subject to Modification where specific 'Individual' trees or trees in 'Groups' are protected.

The TPO, if confirmed, will be modified as shown by the plan in Appendix 2.

6.4 I consider that if the TPO is Confirmed, it should only include Ash T1 with the possible inclusion of Hawthorn T3 and Silver Birch T5.

The TPO, if confirmed, will include the above trees T.1 Ash, T.3 Hawthorn and the Silver Birch T5 will be included within Group G.3.

5. ASSESSMENT OF THE PLANNING ISSUES

Local Authorities are guided by Government guidance at: <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#making-tree-preservation-orders>

At PCC an assessment criteria has been developed and covers the considerations detailed below.

Visual Amenity and Visual Impact as a Group

Government advice states - The extent to which a tree can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The tree, or at least part of it, should normally be visible from a public place, such as a road or footpath, or accessible by the public. It also, states that it may be expedient to make an Order if the authority believes there is a risk of a tree being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area.

The Tree Officer considers all the trees subject of the TPO to offer public visual amenity value to the immediate and wider area, as discussed above, and their loss would have a significant impact on the local environment and its enjoyment by the public.

Tree Health Considerations

Tree health considerations include visual health, structure, growth, foliage condition, size, past management, future maintenance, future visual impact, maturity, life expectancy and presence of fungi.

The Tree Officer considers all the trees subject of the TPO to be of an acceptable condition of moderate/average with no apparent health problems or structural defects with greater than 40 years life expectancy and no obvious signs of fungi present, at the time of the assessment.

Impact Considerations

Tree impact considerations on the public highway, services, on walls or buildings.

The Tree Officer considers there are no impacts on the above features.

TPO Serving Procedure

The Tree Preservation Order (TPO) - 24/00002/TPO Land rear of 20 Gunthorpe Road, Peterborough, was made and served on 17th April 2024 to protect an area of land to the rear of properties both on Gunthorpe Road and Fulbridge Road, to ensure the continued presence of the trees on the site in the interests of visual amenity'.

A TPO Assessment was carried using the PCC criteria on the trees the subject of the TPO and the TPO made accordingly.

The objections raised within the above report have been considered and responded to above.

6. CONCLUSIONS

The trees subject of the TPO, as shown on the modified plan in **Appendix 2**, are considered to contribute to the public visual amenity value of the immediate and wider area. The trees have been assessed and are considered to be worthy of a TPO, therefore, it is recommended that the TPO is confirmed with modifications.

7. RECOMMENDATIONS

The Head of Planning recommends that the TPO is CONFIRMED with modifications.

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