

**PROPOSED:** Provisional Tree Preservation Order 2\_11 at Bergen House, Wothorpe  
**REFERRED BY:** Head of Planning, Transportation & Engineering.  
**REASON:** Objections have been raised to the provisional TPO.  
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## **1 SUMMARY/OUTLINE OF THE MAIN ISSUES**

Officers have served a provisional Tree Preservation Order (TPO) 2\_11 at Bergen House, Wothorpe following a request from a member of the public and as such, following the public consultation period, objections have been raised.

The main considerations are:

- **Are the trees worthy of inclusion into a TPO in terms of public visual amenity value?**
- **Are the proposals reasonable and justified having regard to the letters of support raised?**

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 2.6.2.1 of the Council's Constitution.

The Head of Planning, Transportation & Engineering recommends that the TPO is CONFIRMED AS MODIFIED.

## **2 DESCRIPTION OF SITE AND SURROUNDINGS**

The trees are located in the gardens of Bergen House, 2<sup>nd</sup> Drift, Wothorpe. G1 (3 Oak), T1 (Oak) and T2 (Horse Chestnut) are in the front garden whilst G2 (4 Willow) is on the western boundary toward the middle of the garden.

All the trees do provide landscape value as a group when viewed from the A43 – Kettering Road and the Public Footpath both on 1<sup>st</sup> Drift and to the east of 2<sup>nd</sup> Drift.

## **3 CONSULTATIONS/REPRESENTATIONS**

### **INTERNAL**

None

### **EXTERNAL**

Mr Andrew Belson on behalf of John Martin and Associates made the following comments:-

1. T1 – Oak, low vigour with early to moderate die back in the upper crown. Specific objection to this tree being in the TPO.
2. T2 – Horse Chestnut, bleeding canker in evidence and tight unions with active reaction growth on the main scaffolds which could lead to failure. Specific objection to this tree being in the TPO.
3. G1 – Oaks, assessed as having poor form and low vigour overall. The most southerly Oak is suppressed and has historic pruning wounds which have resulted in decay points. The opinion is put forward that if the Horse Chestnut (T2) is removed and/or one of the trees in G1, the overall group would be unbalanced. Does not specifically object to these trees being included in the TPO.

4. G2 – Willows, the group cannot be seen from a public place, the roots may be compromised by neighbouring development and all 4 trees have been “topped” historically. Does not specifically object to these trees being included in the TPO.

Motivation for the above objections on the grounds that the trees should not be placed under a TPO due to the lack of sufficient visual amenity value and their overall condition.

## **NEIGHBOURS**

4 letters of support have been received on the basis of:

- Potential loss of “magnificent” trees.
- The detriment to the local wildlife and birdlife if the trees were removed.
- Concerns for the character of the village if the trees were removed.
- Concerns for development pressure and over development if the trees were removed.

## **COUNCILLORS**

Wothorpe Parish Council are in support of the TPO.

## **4 REASONING**

### **a) Introduction**

A Tree Preservation Order is a legal order made by local planning authorities to preserve important trees, groups of trees or woodlands that have a public amenity.

A request for a TPO was submitted surrounding concerns for tree loss linked to the threat of development.

An initial site assessment was made of the trees on site as per “Tree Preservation Orders : A Guide to the Law and Good Practice” and a total of 2 individual trees and 2 groups of trees were included. Trees along the frontage were excluded due to their poor condition.

Under Section 201 of the Town & Country Planning Act, a TPO was served on the 21st Jan 2011.

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 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.***

An initial objection was received to the current form of the TPO on the 17<sup>th</sup> Feb 2011. The points were raised by Mr Andrew Belson on behalf of John Martin Associates and are summarised as “*the trees are not of a high enough quality to be included in a TPO or they have sufficient public visual amenity value (or both) and their inclusion amounts to an unreasonable constraint on the way the land can be used.*”

As per the above best practice, a further site visit was undertaken taking on board comments from the objector.

In response to the objections the Case Officer makes the following points in rebuttal:-

- T1 – Oak, is estimated at 150 years+ old and is exhibiting atypical condition for that age. It is accepted and agreed that this specimen is of low vigour; again due to the age this is deemed to be perfectly normal. One would expect to find deadwood in an Oak of this age, and the amount would seem reasonable. It is not considered that the appraisal justifies felling the tree.
- T2 – Horse Chestnut, it is not disputed that the tree is exhibiting symptoms of Bleeding Canker, but consider that the bleeds are minor which would suggest that this is early infection. There is evidence of dead bark around the lower trunk however there is little sign of the pathogen in the lower scaffolds. Sensibly if the condition worsens then target pruning dead/dangerous material is an option and would be deemed appropriate management under the TPO. Although Bleeding Canker may well kill the tree, this specimen may yet well survive for 20 years+. Latest guidance (Forestry Commission Research) suggests that unless there is an immediate concern about safety, trees with light to moderate bleeding and reasonable crown development can be left in place and monitored. It is considered that felling the tree is disproportionate with regards to the faults identified.
- G1 – 3 No Oaks, following a more in depth assessment, it is agreed that the removal of the poorest specimen (southerly tree) due to its' condition would be acceptable. The other 2 trees however require nothing more than the removal of deadwood in the crowns. Again, the low vigour is attributed to the age of the trees. The objection raised does not however justify removal of the other 2 trees.
- G2 - 3 No Willows can be seen from the Public Footpath to the east and as such form part of the landscape. The description and condition of the trees and would suggest that they could be managed as pollards in future.

The overall landscape value of these trees is considered to be important in terms of scale and as such, the trees contribute to the landscape within 2<sup>nd</sup> Drift as viewed from public footpaths and the A43.

Whilst working as a Consultant on behalf of the Planning Dept, Mr Belson surveyed most of Wothorpe to determine which trees were worthy of inclusion into a TPO. Although this assessment was carried out in Oct 2006, Mr Belson was of the opinion at that point in time that two of the Oaks in G2 were worthy of a TPO (presumably the better two). The Case Officer suggests that due to the age of the trees and the fact that their growth rate has slowed significantly, there would be very little change in the trees' condition within this time frame that would require the trees being felled – supported by the lack of justifiable evidence proportionate to the loss of the trees.

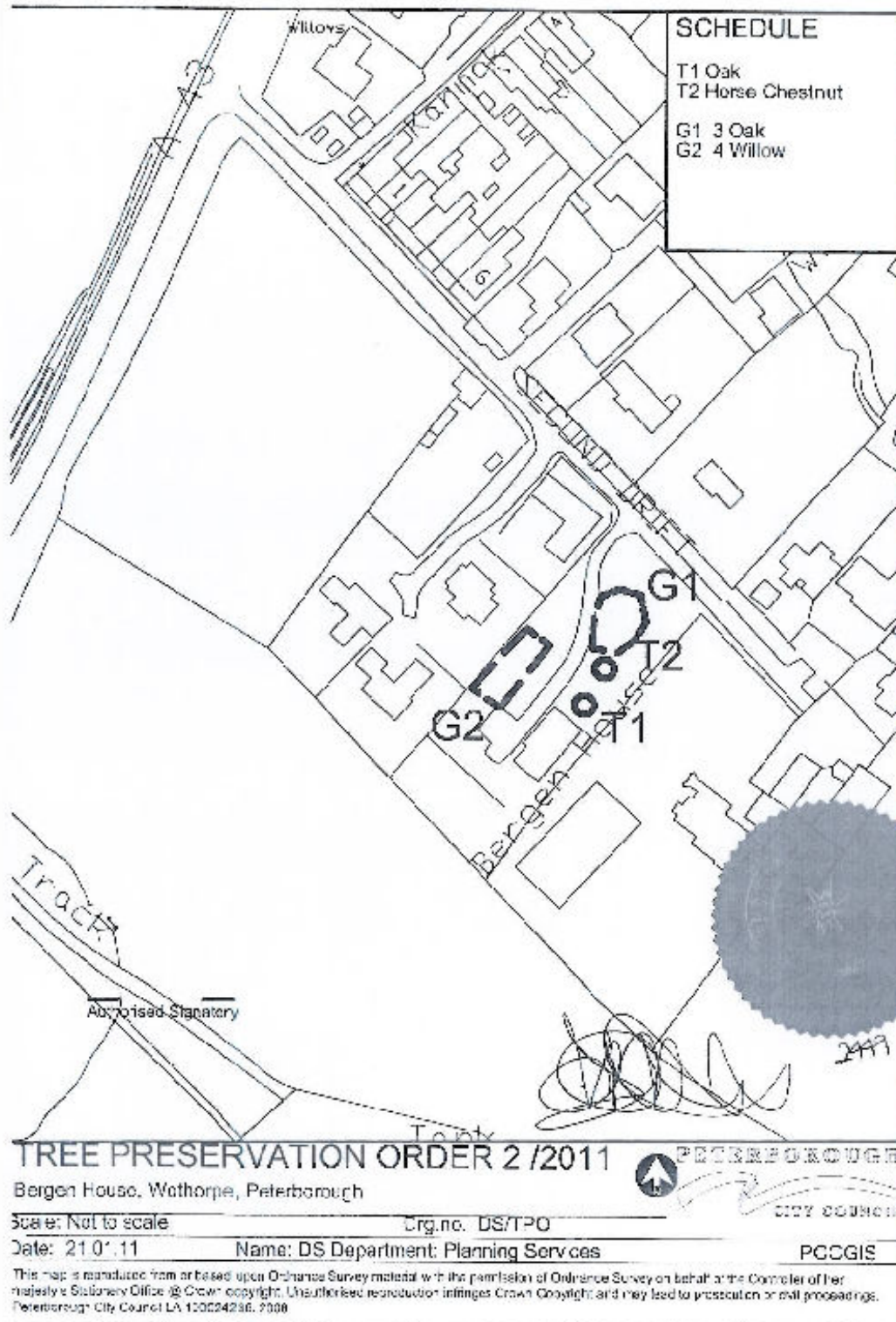
## **5 CONCLUSIONS**

It is the opinion of the Case Officer that the TPO should be confirmed in a modified form (G1 being reduced from 3 Oaks to 2) for the following reasons:-

- The trees offer 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.
- It is the opinion of the Case Officer that trees could provide 20 yrs + visual amenity value based on their current condition.
- One of the Oak in G1 is unsuitable for protection due to its condition.

## **6 RECOMMENDATION**

The Head of Planning, Transport & Engineering recommends that this provisional TPO is CONFIRMED AS MODIFIED i.e. the reduction of G1 from 3 Oak to 2.



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