



30th September 2021

Report to: Cambridge City Council
Planning Committee

Joint Director of Planning and Economic Development

Lead Officer: Joanna Davies

Confirmation of Provisional TPO 0021 (2021)

Location: 3 Shaftesbury Road.

Key material considerations: Does the tree offer significant contribution to amenity and/or the character of a conservation area and if yes is there sufficient justification to allow the loss of this amenity.

Provisional TPO expiry date: 27.11.2021

Confirmation of TPO brought before Committee because: Objections to the TPO have been received.

Presenting Officer: Joanna Davies

Executive Summary

1. A TPO has been served to protect a Walnut tree at 3 Shaftesbury Road.
2. As objections to the order have been received the decision whether or not to confirm the order is brought before Committee.
3. Officer recommendation is to confirm the Tree Preservation Order.

Relevant planning history

4. A s.211 notice (works to trees in a conservation area) on behalf of 11 Clarendon Road was received notifying the council of intended works.
5. Works detailed in 21/0523/TTCA comprise a lateral reduction of 5m for safety and bring light to newly planted fruit trees and vegetable patch.
6. 21/0751/TTPO – tree work application, also made of behalf of 11 Clarendon Road was made for a more considered reduction of 1.5m. This application has been granted permission under delegated powers.

Legislation and Policy

7. 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 trees, groups of trees or woodlands the subject of a TPO

Expedience - If there is a risk of trees being cut down or pruned in ways which would have a significant impact on their contribution to amenity it may be expedient to serve a Tree Preservation Order. In some cases, the Local Planning Authority may believe trees to be at risk generally from development pressure and therefore consider it expedient to protect trees without known, immediate threat. Where trees are clearly in good arboricultural management it may not be considered appropriate or necessary to serve a TPO.

Amenity - While amenity is not defined in the Town and Country Planning Act, government guidance advises authorities develop ways of assessing the amenity value of trees in a structured and consistent way. Cambridge City Council Citywide Tree Strategy 2016 – 2026 sets out the criteria for assessing amenity in Policy P2 and considers visual, wider impact, atmospheric, climate change, biodiversity, historic/cultural and botanical benefits when assessing the amenity value of trees.

Suitability - The impact of trees on their local surroundings should also be assessed, taking into account how suitable they are to their particular setting, the presence of other trees in the vicinity and the significance of any detrimental impact trees may have on their immediate surroundings.

Consultation

8. A TPO must be served upon anyone who has an interest in land affected by the TPO. This includes neighbours, who may have a common law right to prune overhang branches back to the boundary.

Representations from members of the public

9. Representation have been received from 3 Shaftesbury Road.

10. The representations can be summarised as follows:

- The tree is self-set.
- Owners often have to remove seedlings.
- Tree is large and overhangs neighbours garden, there are concerns about safety.
- TPO is not warranted because tree is already protected by conservation area location.

The Tree

11. The Walnut is mature specimen located in the back garden of the property.

Officer Assessment

Expedience

12. A s.211 Notice was received detailing works that would be detrimental to the tree's health and therefore contribution to amenity.

Amenity

13. The tree's public visual amenity contribution is limited but the tree contributes significantly to the general greening of the conservation area, and its enjoyment by residents, biodiversity, climate change mitigation, pollution mitigation and it has historic/cultural interest.

Suitability to site

14. No evidence has been presented to suggest that the tree is at risk of part or whole failure or that it is causing damage to the boundary wall. The tree does not dominate the surrounding gardens.

Justification for works proposed

15. Reasons given for the proposed works are not considered to outweigh the originally proposed work would have on the tree's health. The species is prone to decay form large pruning wounds.

Response to objections

16. The self-set nature of the tree does not alter its amenity value or suitability to the site.

17. The inconvenience associated with the removal of seedlings, leaves and fruit would not be materially reduced by the proposed reduction.
18. No evidence has been presented to suggest there is an actual risk of harm of damage.
19. Section 211 of the Town and Country and planning Act 1990 makes it a legal requirement for anyone intending to carry out tree works in a conservation area to notify the local planning authority before works commence. The purpose of the notice is to allow the lpa to assess whether or not trees are worthy of protection in the form of a TPO. The council cannot refuse works detailed in a s.211 notice, it can only serve a TPO on suitable trees where their loss or proposed works to them would have a significant impact on amenity. If the TPO is not confirmed the 5m reduction would be deemed approved. The form used to apply for permission to work on a TPOd tree or notify the lpa of an intention to work on a tree is the same.

Recommendation

20. The Council can deal with this application in one of three ways:
 - (1) Authorise the confirmation of the TPO
 - (2) Authorise the confirmation of the TPO with amendment
 - (3) Authorise the TPO not to be confirmed, which would grant consent for the tree works
21. Officers recommend that Members authorise the confirmation of the TPO

Background Papers

21/0523/TTCA

21/0751/TTPO

Appendices

Appendix A: TPO Plan

Appendix B: Image

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