

## PLANNING COMMITTEE

6<sup>th</sup> July 2022

---

<b>Application</b>	22/0271/TTPO	<b>Agenda Item</b>	
<b>Date Received</b>	02.03.22	<b>Officer</b>	Joanna Davies
<b>Ward</b>	Petersfield		
<b>Site</b>	St Matthews Centre, Sturton Street		

**Proposal** T1, T2 & T3: London Plane - Reduce height by 5m and spread by 4m balancing crowns of all 3 trees. Prune on a triennial cycle to maintain broadly at reduced dimensions.

**Applicant** Crawford and Company via agent MWA Arboriculture Ltd.

**Application brought to Committee because:** Objections to the proposed removal have been received from residents of Harrison Drive, the proposed works will have significant impact on the contribution the three trees make to the linear group that bounds St Matthews Centre and refusal could have financial implications for the council.

### Executive Summary

1. A tree work application has been received to reduce the height by 5m and spread by 4m of three London Plane trees located within the grounds of St Matthews Centre opposite 193 Sturton Street.
2. The Council may deal with this application in one of three ways:
  - (1) Refuse permission for the works proposed
  - (2) Grant consent for the works proposed, or
  - (3) Grant consent for the works proposed, subject to condition.

3. Officers recommend that Planning Committee refuse consent for the trees' removal pending an assessment of heave and a detailed assessment of costs associated with an engineered solution.

### **Relevant planning history**

NA

### **Legislation and Policy**

4. Town and Country Planning Act 1990 Part VIII Chapter I and Town and Country Planning (Tree Preservation)(England) Regulations 2012  
Tree Preservation Order number 04/2005

### **Consultation**

5. Ward Councillors and neighbours were consulted on the application and a Site Notice was issued for display.
6. Comments have been received from a large number of local residents, Cambridge Past, Present and Future and The Friends of St Matthew's Piece. These can be viewed in full via Public Access using the reference 22/0271/TTPO. Objections are summarised in the below table and a response provided.

<b>Comment</b>	<b>Officer Response</b>
Mature trees are incredibly important for the health of the local ecosystem, for mental health, in capturing storm water, in absorbing carbon dioxide, in providing shelter for wildlife and shade during increasingly hot summers.	Agreed and significant works to them should only be carried out where there is sufficient justification that outweighs any detrimental impact.
The reduction in size of these trees would profoundly undermine the visual symmetry of the two avenues, lessen the beauty of the avenues and be experienced by those who depend on the park as a vital amenity.	The uniformity of the group will be impacted, as viewed from within the park and from Sturton Street especially.
193 Sturton St was constructed in 1995/1996 the foundations should have	NHBC foundation depth calculation, considering mature height of trees,

<p>been designed and constructed to a standard which would have withstood any subsoil shrinkage associated with the long-established plane trees opposite and the applicant has no grounds for damaging a highly valued public amenity just 30 years later.</p>	<p>distance to property, soil volume change potential and water demand, is between 1m and 1.45m. The property foundations are at a depth of 1.45m and 2.1m.</p>
<p>Cambridge City Council has statutory and legal responsibility to nurture the quality of life of all its residents pursuant to the 2018 Cambridge Local Plan, and to adhere to the protections afforded by its policies as well as the Mill Road Conservation Area (dating from 1993, before the house at 193 Sturton Street was built), and the Tree Preservation Orders. Harming any one of these precious trees demands first and foremost coherent, unambiguous and incontrovertible evidence - combined with a through determination of there being absolutely no alternative strategy. In December 2020 Cambridge Council signed up to the National Tree Charter for Trees, Woods and People (2017). This application completely counters the Council's commitment to the Charter</p>	<p>The Council is obliged to consider the merits of any tree work application in accordance with The Town and Country Planning Act 1990 and the 2012 Regulations (The Act)</p> <p>When assessing the impact of any tree work application consideration should be given to all relevant plans, policies and charters. Any such plans, policies and charters do not however outweigh the responsibilities placed on councils under The Act. The council must therefore determine whether or not sufficient justification has been submitted to permit consent for works that will have a detrimental impact on trees of value.</p>
<p>T1, T2 and T3 are an important part of the ecosystem of 24 mature trees surrounding St Matthew's Piece by cutting back a considerable part of the canopy, you are affecting the life support system of all the trees in the immediate vicinity</p>	<p>Works proposed to T1, T2 and T3 will have no material impact of the health of the remainder of the group.</p>
<p>The insurer's Technical Report from Aug 2019 did not detect any movement consistent with subsidence</p>	<p>Tree related subsidence can occur at any time. A lack of history of subsidence does not mean subsidence cannot occur.</p>
<p>The justification of the reduction of these trees is based on very little evidence since the damage as 'Category 2 "slight"' The ground movement reported is small The previous years were wetter than average. There is no justification given for the amount of canopy reduction requested and the proposal appears to be riddled with inconsistencies, and has no obvious evidence that any of the trees are the actual cause</p>	<p>The recommended reduction is intended to broadly accord with the findings of Hortlink 212 (East Malling Research and University of Cambridge, 2004. Controlling water use of trees to alleviate subsidence risk. Project 212 Final Report) and summarised in BRE IP 7/06 which recommends the following: For consistent soil moisture conservation, severe crown reduction of 70–90% of crown volume would have to be applied. Reduction of up to 50% crown volume is</p>

<p>of the problem</p>	<p>not always effective for decreasing soil drying.</p> <p>Soil tests show a clay soil, which will change in volume with increase/reduction in moisture content. Tests confirm a reduction in moisture content in test areas. Root analysis confirms the presents of roots from Plane trees.</p> <p>Level monitoring confirms seasonal movement and apparent recovery to the north of the site following the removal of a False Acacia within the site in June 2021.</p> <p>Along the east elevation level monitoring indicates continued seasonal movement which can be attributed to moisture uptake from the Planes opposite.</p>
<p>Significant reduction in a tree's size can have also a detrimental effect to moisture levels in soil when it's root system releases moisture back into the soil. In a clay soil this particularly causes swelling and damage to foundations and structure supports. This may have a further impact to the property in questions or others in the vicinity.</p>	<p>Healthy trees can be considered to be a biomechanical pump extracting moisture from soil. When the pump is removed or compromised soils previously desiccated by the trees can re-wet and in certain circumstances this can lead to heave. No heave assessment has been provided with the application.</p>
<p>Some of the 8 sample points examined around the property could be interpreted as demonstrating that this is an insufficiently stable property that simply moves in synchrony with the annual cycle of soil drying that has affected, affects and is likely to affect increasingly the entire East Anglian region.</p>	<p>At the depth of the foundations, where soil drying is critical to this form of subsidence, the influence of seasonal drought and the drying effect of the sun are insufficient causal factors.</p>
<p>The list of consultees is patently well below the neighbours and interested parties, i.e. the hundreds of objections (with no one in favour) who fought for our park and the trees at St Matthew's Piece over a 10-month period in 2020-21. This, in and of itself, is sufficient grounds for rejection of the application</p>	<p>The consultation was in accordance council policy. There are no legal requirements for a council to consult on tree work applications therefore the extent of consultation is not a reason for refusal.</p>
<p>The proposal to reduce the size of the</p>	<p>The applicant proposes to maintain the</p>

canopy seems short-sighted and a temporary solution. Trees, once cut back, re-grow. As such, the trees would continue to draw on water and cause problems for the foundations of the house. I'm sure if the house was properly underpinned, it would be a Long-term solution for the house.	trees at the reduced size so control moisture uptake in the long-term.  Underpinning the house would also be a long-term solution.
The trees were there first and there seems to be little real evidence for the claim that damage has been caused by them.	Any justification for tree work is not outweighed by the age of a tree in relation to the age of any property effected.
What is the point of a Tree Preservation Order if, on a flimsy argument, these trees can be so badly damaged	A TPO is served to prevent unjustified and harmful works to trees of value.

## **The site and its surroundings**

7. The subject trees are located on the west boundary of St Matthew's Centre. They form part of a visually significant linear group that bounds the Centre and the adjacent St Matthew's Piece on three sides. The three subject trees are located within the line of 13 trees that run the full length of the combined space.

## **The proposal**

8. It is proposed to reduce the height by 5m and spread by 4m of three London Plane trees that form part of the group that bounds St Matthew's Centre. While the proposal allows the retention of the trees, the reduction will have a material impact on the uniformity of the group and the individual contribution the three trees make to visual amenity and verdant character of the area.

## **Planning considerations**

9. Amenity - Does the tree still make a significant contribution to the character and appearance of the area?
10. Condition/Nuisance – Are the works proposed excepted from the requirement to apply for permission in accordance with 14 and 15 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

11. Justification for Tree Works - Are there sound practical or arboricultural reasons to carry out tree works?
  - i. What is the justification
  - ii. Is there a financial consideration
  - iii. Is there a health and safety consideration
  - iv. Does the nuisance out way the benefit of retention

## **Officer's Assessment of application**

### **Amenity**

12. St Matthew's Centre visually forms part of St Matthews Piece, one of two important public open spaces in the Mill Road Conservation Area. As cited in the conservation area appraisal its mature trees are important in long and short views. The trees are highlighted on the Townscape Analysis Map as Important Trees/Tree Groups.

### **Condition/Nuisance**

13. Section 14.-(1)(a)(ii) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012 states that nothing shall prevent the cutting down, topping, lopping or uprooting of a tree in compliance with any obligation imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.
14. The courts have held that nuisance must be actionable in law, where it is causing, or there is an immediate risk of it causing actual damage. However when deciding what is necessary to prevent or abate a nuisance consideration should be give to steps other than tree work.

### **Justification for Works**

15. It is alleged that the trees are responsible for root induced clay shrinkage subsidence damage to 193 Sturton Street.
16. Expert reports have been received that provide evidence of

- a. Foundations bearing on a clay subsoil with a Low to High potential for volumetric change relating to changes in soil moisture.
- b. Moisture content comparisons suggest moisture depletion on two locations to the west (TP/BH2) and north (TP/BH3) of the property.
- c. Roots from London Plane trees were recovered from samples in TP/BH3. The subject trees are located to the east of the property.
- d. Level monitoring has recorded a pattern of seasonal soil drying below the property foundations.
- e. It is suggested that a root barrier is not a viable option for reducing moisture uptake by the trees because of the proximity to the highway. This option has not however been fully assessed.
- f. Superstructure repairs and decorations are currently estimated to be £8k should the tree works be undertaken. Costs for underpinning in the event the tree works do not proceed are currently estimated to be in excess of £80k.
- g. Seasonal movement that can be attributed to moisture uptake from nearby trees.

## **Observations and Implications**

17. The officer is satisfied that the evidence provided supports the claim that trees are a causal factor in the damage to the subject property and that the remedial work proposed will significantly reduce the trees' capacity to extract moisture from beneath the property foundations. However, no assessment of heave has been presented with the application. Heave occurs when trees that have previously caused a persistent soil moisture deficit are removed allowing a soil to re-wet. If a building is constructed on a desiccated soil, when trees that caused the desiccation are removed, or heavily pruned, heave can occur. If heave is considered to be a potential risk an engineered solution may be required. Such a solution would also mitigate against continued subsidence. In accordance with published guidance, a heave assessment is considered to be essential in this case given the respective age of the trees and damaged property and without such an assessment a tree works recommendation is considered by the officer to be premature.
18. There are two alternatives to tree work, underpinning or the use of a root barrier to restrict root growth in the vicinity of the property

foundations. Both these solutions would have financial implications for Cambridge City Council and/or the property owners. The trees make a significant contribution to amenity, sufficient that consideration should be given to underwriting the cost of alternatives to crown reduction. No assessment has been made of the suitability of a root barrier or the associated costs, but the cost of underpinning has been estimated at £80,000. The trees are located in third party property and significantly contribute to the value of that property as well as the amenity enjoyed by the public. A full assessment of the costs associated with engineered solutions is recommended to allow Cambridge City Council and the property owner to consider the financial impact of alternatives to harmful tree works.

### **Recommendation**

19. Officers recommend that Planning Committee refuse consent for the trees' removal pending an assessment of heave and a detailed assessment of costs associated with engineered solutions.

### **Appendices**

Appendix A: Location Plan

Appendix B: Photographs

### **Report Author:**

Joanna Davies – Tree Officer

Telephone: 01223458522