



Planning Committee Date	29 th March 2023
Report to	Cambridge City Council Planning Committee
Lead Officer	Joanna Davies
Reference	TPO/13/2023
Site	1 Brunswick Walk
Ward / Parish	MAR
Proposal	Confirmation of provisional TPO
Presenting Officer	Joanna Davies
Reason Reported to Committee	Objection received to provisional TPO
Recommendation	APPROVE the confirmation of TPO/13/2023

1.0 Executive Summary

- 1.1 Following receipt of section 211 Notice 22/0765/TTCA, a TPO was served to protect trees on the rear boundary of 1 Brunswick Walk.
- 1.2 The current provisional TPO protects a Cherry tree that contributes significantly to the verdant character of the conservation area.
- 1.3 An objection to the TPO has been received.
- 1.4 Officers recommend that the Planning Committee approve the confirmation of TPO/13/2023 subject to amendment.

2.0 Site Description and Context

None-relevant		Tree Preservation Order	X
Conservation Area	X	Listed Building	X

*X indicates relevance

- 2.1 1 Brunswick Walk is a Grade II listed house located in the Historic Core Conservation Area.
- 2.2 The rear garden of the house backs on to Brunswick Gardens and vegetation within the garden contributes to the verdant character of road.
- 2.3 The Conservation Area Appraisal recognises the importance of trees visually and for wildlife and that they act as '*foils for buildings*' softening their impact.

3.0 Relevant Site History

Reference	Description	Outcome
21/04173/LBC	Demolition of existing extensions, single storey rear extension and altered access from Brunswick Gardens	Refused
21/04172/HFUL	Demolition of existing extensions, single storey rear extension and altered access from Brunswick Gardens	Refused
22/0765/TTCA	Fell, Cherry, Walnut, Elder, Privet, Apple, Laurel, Bay and Beech	Part approval/Part objection

- 3.1 22/0765/TTCA was submitted following a tree team objection to 21/04173/LBC and 21/04172/HFUL on the grounds that the proposal required the removal of trees that made a significant contribution to amenity and the character of the conservations area.

- 3.2 21/04173/LBC and 21/04172/HFUL were refused by virtue of excessive height scale and massing, proposed fenestration on the southern flank wall of the first elevation and the impact on the cherry protected by TPO/13/2023.

4.0 Legislation and Policy

- 4.1 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 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.

5.0 Consultations

- 5.1 As soon as practicable after making an order, a TPO must be served on anyone who has an interest in land affected by the TPO. This includes neighbours, who may have a common law right to prune overhanging branches back to the boundary and agents who have sought permission for tree works.
- 5.2 TPO/13/2023 was served on the owner/occupier and their arboricultural consultant (agent).

6.0 Third Party Representations

- 6.1 An objection has been received from Hayden's Arboricultural Consultants on behalf of the property owner.

6.2 The objections raise the following issues:

- The trees' retention is not compatible with the proximity to the rear boundary wall
- In the coming years the trees will cause damage to the boundary wall.
- It is not considered to be good arboricultural practise to protect trees that will be a future cause of nuisance or have the potential to compromise the structural integrity of adjacent structures
- The TPO was backdated to 15th February but not served until 16th.
- Email from officer of 16th February did not include a copy of the TPO.
- The Hard copy was received on 20th February, was incorrect and not signed or sealed
- To date (10th March 2023) the owner has not received a copy of the TPO

6.3 No comments were submitted in support of the TPO but an objection was received from a local resident to the removal of trees as set out in s.211 notice 22/0765/TTCA. It is the council's formal objection to the removal of trees, set in this s.211 Notice that resulted in the serving of a TPO.

6.4 The objection raised the following issues:

- The application should be refused on the basis of the loss of trees in the conservation area. A TPO on the larger trees should be outcome.

7.0 Member Representations

7.1 Cllr Copley made a representation objecting to the s.211 Notice and the removal of trees due to the contradiction with biodiversity and climate change mitigation.

7.2 The above representations are a summary of the comments that were received. Full details of the representations are available on the Council's website.

8.0 Assessment

8.1 Planning Background

In September 2021 concurrent listed building and householder applications, 21/04173/LBC and 21/04172/HFUL, were made for the demolition of existing rear extensions and outbuildings (sheds). Single storey rear extension including altered access from Brunswick Gardens and two storey rear extension including the remodelling of existing roof pitch and new pedestrian access from Brunswick Walk.

8.2 A consultation request was issued to Streets and Open Spaces. Because the proposal required the loss of most of the vegetation in the rear garden and some of that vegetation made a positive and material contribution to amenity and the verdant character of the conservation area the application was not

supported. At this point trees in the garden were already protected by their conservation area location, which ensured that they would remain to be a material consideration when determining the planning applications.

- 8.3 In July 2022 Section 211 Notice, 22/0765/TTCA, was submitted for the removal of 9 trees. The reasons provided for the works are as follow.

T1 Winter flowering Cherry - Fell - Semi-mature tree is growing from base of boundary wall and will in time structurally damage the wall if not removed.

T2 Walnut - Fell - Immature tree is growing from base of boundary wall and will in time structurally damage the wall if not removed.

T3 Elder - Fell Small tree with limited visual amenity rubbing and over hanging wall.

T4 & T5 Japanese Privet - Fell Two small trees leaning heavily and in poor condition

T6 Crab apple - Fell Small tree with limited visual amenity

T7 Laurel - Fell Young tree with high growth potential that needs to be controlled

T8 Bay - Fell Small tree growing close to wall with limited visual amenity

T9 Beech - Fell Small tree growing close to wall with limited visual amenity

The number of trees within the limited rear garden of the property are becoming overbearing and if not managed/removed will in the near future damage the boundary wall.

- 8.4 Photographs showing the position of the trees in relation to the rear boundary wall were submitted with the s.211 Notice and these can be viewed via public access. The photos of T1 and T2, the two trees made the subject of a TPO, are also included at Appendix 1 along with a picture of the trees taken from Brunswick Gardens during our site visit.

- 8.5 As the Council cannot refuse or approve works to trees detailed in a conservation area notification (s.211 Notice) a TPO was served to protect two of the 9 trees, the removal of which the tree team had a formal objection to because the trees contributed significantly to the character of the conservation area.

- 8.6 The original TPO was not confirmed before the deadline which meant that if the protection for the trees was to continue a new TPO needed to be served. The request was made on 15th February and the TPO was served late morning on 16th February. The replacement TPO was not served in time to continue the protection for T2, which was felled in the morning of 16th February. The removal of the tree is not considered to constitute an offence because it was felled immediately after the original TPO lapsed and immediately before the new was TPO served.

- 8.7 The TPO can been confirmed with an amendment to reflect the loss of T2.

- 8.8 **Response to Objections**

8.9 Objections are summarised and responded to in the table below:

Objection	Officer Response
The trees' retention is not compatible with the proximity to the rear boundary wall and in the coming years will cause damage to the wall. It is not considered to be good arboricultural practise to protect trees that will be a future cause of nuisance or have the potential to compromise the structural integrity of adjacent structures	The proximity of the trees to the garden wall was considered when determining the S.211 notice and a TPO's expediency. As both trees, T1 and T2, were not damaging the wall at the time of the application wall damage was not considered to be an immediate risk. Therefore, the positive contribution the trees made to amenity and the character of the conservation area was considered to outweigh any potential future nuisance and it was considered expedient to protect the trees in the knowledge that should the relationship between the trees and the wall change and the removal of one or both trees become necessary, the long-term amenity afforded to the character of the conservation area could be protected through a requirement to replace them.
The TPO was backdated to 15 th February but not served until 16 th .	The TPO was requested and made on 15 th February and, in accordance with regulation 5 of The Town and Country Planning (Tree Preservation)(England) Regulations 2012, "served as soon as practicable after making the order".
Email from officer of 16 th February did not include a copy of the TPO.	The TPO was served by technical support officers. The officer email of 16 th was intending to explain the re-serving of a lapsed TPO.
The Hard copy was received on 20 th February, was incorrect and not signed or sealed	The TPO was incorrect because T2 was removed under the supervision of the arboricultural consultant. As soon as TPO/13/2023 went live tree works were halted. The TPO can be amended at confirmation to reflect this.
To date (10 th March 2023) the owner has not received a copy of the TPO	The TPO was served on the owner/occupier. Following receipt of the objection an additional copy has been issued.

9.0 Recommendation

9.1 **Approve** the confirmation of TPO/13/2023 subject to:

The removal of T2 from the schedule and TPO Plan.

Background Papers:

The following list contains links to the documents on the Council's website.

- [22/0765/TTCA | T1 Winter flowering Cherry, T2 Walnut, T3 Elder, T4 & T5 Japanese Privet, T6 Crab apple, T7 Laurel, T8 Bay and T9 Beech - all trees to Fell. | 1 Brunswick Walk Cambridge Cambridgeshire CB5 8DH \(greatercambridgeplanning.org\)](#)
- [21/04173/LBC | Demolition of existing rear extensions and outbuildings \(sheds\). Single storey rear extension including altered access from Brunswick Gardens and two storey rear extension including the remodelling of existing roof pitch and new pedestrian access from Brunswick Walk. | 1 Brunswick Walk Cambridge Cambridgeshire CB5 8DH \(greatercambridgeplanning.org\)](#)
- [21/04172/HFUL | Demolition of existing rear extensions and outbuildings \(sheds\). Single storey rear extension including altered access from Brunswick Gardens and two storey rear extension including the remodelling of existing roof pitch and new pedestrian access from Brunswick Walk. | 1 Brunswick Walk Cambridge Cambridgeshire CB5 8DH \(greatercambridgeplanning.org\)](#)