

## **REPORT OF THE HEAD OF PLANNING AND GROWTH**

### **APPEALS AND REVIEW COMMITTEE 24<sup>th</sup> July 2023**

#### **BOROUGH OF CHARNWOOD (88 Main Street, Newtown Linford) TREE PRESERVATION ORDER 2023 - PROVISIONAL**

#### 1.0 Introduction

#### 1.1 Background

The above order relates to individual trees T1 – Yew and T2 – Spruce and groups of trees G1 – Fir and G2 - Leylandii situated at 88 Main Street, Newtown Linford.

A S211 Notice for tree works including the felling of a group of trees was received on 7 March 2023. It is considered that the trees are in good physiological condition and worthy of retention. A TEMPO assessment was undertaken which resulted in a score of 16 which indicates that the serving of a TPO would be appropriate in this instance.

Consultations with the Chair of Plans Committee and Ward Councillors have been carried out in accordance with the scheme of delegation, and no objections to serving the TPO were received.

To ensure the trees, which make a significant contribution to the visual amenity of the area, are properly protected, and retained in a satisfactory manner, a provisional Tree Preservation Order has been served.

This will allow any proposed works to the tree to be carefully considered and refused if necessary.

#### 1.2 The Site

The site is spacious plot in the heart of the Newtown Loinford conservation area. The trees are located within the southern part of the garden, close to the boundary with No.86a Main Street.

#### 1.3 Condition of the tree

The trees are in a fair/satisfactory condition with good longevity. They are considered to be large and medium specimens clearly visible to the public and important as a cohesive group.

#### 2.0 The Objections to the Order

An objection was received from the agent acting on behalf of the owners of the site. The following points were raised:

1. The original application relates to four elements of work at the property, three of which are reasonable maintenance. T1 Yew had a modest 2m reduction prune proposed to maintain a balanced and naturalistic shape, work which has been carried out in the past. T2 Spruce was also a reduction prune to previous cuts, and again, work which has been carried out in the past. G2 Leyland Cypress hedge has been proposed for a 50% reduction in height. This is a species of notoriously vigorous and problematic growth habit, and as it forms a hedge, I do not believe it can be eligible for a TPO, and furthermore, will require frequent maintenance to due its location within very close proximity to the neighboring property.

2. I have requested on a number of occasions the survey and TEMPO assessment from the planning officer so I can try to understand the rationale of protecting in particular the hedge, and also the modest works for the benefit of the others, but have yet to receive the information, other than the brief comments in the TPO covering letter.

3. The planning officer commented in previous emails that "the degree of pruning was not specified" for these elements. This was indeed specified and noted within the planning application on the portal, which I have checked, and forwarded twice for comment; to which I have eventually received a response, but not to acknowledge or address these pointers.

4. G1 is a group of tall, slender Fir trees and 1 Blue Spruce which were proposed to fell. Individually, the trees are of partial foliage, with the group canopy forming the overall coverage. The height they have now reached is causing significant movement and opening of the canopy and leaving them prone to windthrow. A reduction in height was not considered due to detrimental amenity impact, and therefore suggested removal on the ground over being over mature; and also to allow Yew T1 more space and light as it will have a more viable future than the group G1. As the overall tree cover in the immediate area is good, and that the works would promote the long term well-being of the Yew as well as abating and nuisance to the neighboring properties, I believe this to be a reasonable proposition.

No other representations have been made in relation to the Order.

### 3.0 Response to the Objections

1. The proposed works to T1 Yew and T2 Spruce appear to exceed the pruning threshold guidelines given within *BS 3998 Tree work – Recommendations* and appear to constitute the topping of the trees. Topping is described as the removal of most or all of the crown of a mature tree by indiscriminately cutting through the main stem and is

considered poor arboricultural practice unless good reason is provided. The applicant gave the reason of containment within the S.211 Notification. Topping should only be used as a last resort to retain a valuable tree which would otherwise pose an unacceptable risk to people or property or would be susceptible to loss due to structural collapse. The special protection afforded by Tree Preservation Order would require a subsequent application to demonstrate the unacceptable risk to people or property, or the susceptibility to loss due to structural collapse.

2. A copy of the Tree Officer Report and TEMPO Assessment was sent to Mr Litchfield on 14/06/2023.
  
3. The degree of pruning specified within the original Notification was provided in an unsatisfactory manner, except for the proposal to remove entirely G1 Group, which required no further explanation. Specifications should be accurate and clear to avoid ambiguity which cannot be enforced. As such, specified end results should be stated, such as tree-height or branch-spread which are to remain not amounts to be removed to enable verification. Specifications for percentage reduction, as was the case for G2 Group, are imprecise and unsatisfactory, as stated within the Planning Portal guidance note *Application for Tree Works: Works to Trees Subject to a Tree Preservation Order (TPO) and/or Notification of Proposed Works to Trees in Conservation Areas (CA)*,

With regards to the legality of the Provisional TPO

1 & 4. Where trees are specified within a Group through the group classification, the number of trees in each group must be recorded in the Schedule. To do otherwise may cast doubt on the legality of the Order and invalidate it entirely. As we do not have record of the number of trees in G1 Fir and G2 Leylandii, it would be unwise to include these groups in any Order resolved to be confirmed.

#### 4.0 Conclusion

Removing the Order by failing to confirm it at this Appeals and Reviews Committee would mean the trees would be felled.

The Committee is therefore recommended to Confirm with modification, by removing G1 Fir and G2 Leylandii from the Order.

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