

Land Adj. 17 Riverview, Barrow upon Soar, Leicestershire –**Area A1.****Background.**

The land in question was originally attached to 230 Sileby Road, Barrow Upon Soar, LE12 8LT. The land was used always as a residential garden area containing a ‘paddock like’ grassed area. The majority of the area intermixed with small fruiting/working trees and a vegetable patch. (Please see attached pictures)

In terms of ‘vegetation’ there was:

- Row of Willows running along the river edge,
- Sparse hawthorn hedge set about 6-8ft back from the river edge,
- The top hedge adjacent to the road was predominately Hawthorn and was layed multiple times to provide a barrier alongside a 3ft Chain link fence. Unfortunately, now degraded and dead, mainly ivy and bramble make up the only barrier intermixed with a few self-set trees and remaining parts of the fence.
- On the gradient down from the road there was (is) a specimen Hawthorn. Note: A resident directly opposite this tree repeatedly approached the owner to have the tree removed. This has been refused several times.
- No Ash trees or other ‘self-sets’ were present on the land at the time and have therefore all grown once the land fell into disrepair.

On the passing of the property owner the land (AREA 1) was annexed from 230 Sileby Road and ownership passed to the 2 daughters. At this point a separate pedestrian access was gained to the land.

The land was then used as a working/recreational garden area for a few years, with a landing stage / mooring.

Unfortunately, due to health issues on behalf of 1 daughter and economic issues on behalf of the other. The Garden fell into disrepair and became an overgrown piece of land somewhat dominated by self-set trees, unkept fruit trees and bramble.

The roadside barrier has degraded allowing unauthorised access from the road, including fly tipping, vandalism, trespass, illegal fishing and removal of trees (police notified) hence the recent application (P/20/0768/2) to install a secure barrier on the land boundary.

Ownership of the land passed to the current owner Mr. Jack Tindle early in 2020, a direct blood descendant of the family that have owned the area for more than 70 years without need of it protecting.

Jack is a qualified Arborist and is well respected in the area and he holds a level 3 Sub Dip in Arboriculture and a LANTRA Certificate of Competence in Professional Tree Inspection and has performed Tree Inspections and reports for several Councils and Schools.

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Basis of Objection.

Firstly, the owner would like to raise a concern about the process by which the TPO came about. It would appear the Tree Officer was asked by the Planner responsible for P/20/0768/2 to assess the area in terms of 'Amenity Value' in regard to the erection of a fence on the roadside boundary. It would appear the planning application was delayed for a period of time to allow the TPO to be processed. This TPO is focussed on the whole of the area not just the roadside boundary. There was no recourse to the owner for the delay neither was an extension applied for with the applicant.

The basis for the TPO is seen to be focused on the 'Amenity Value' of the site to the residents on Riverview and members of the public from the other side of the river. No consideration was given to the 'Amenity Value' for the owner. We have spoken to the Tree Officer via email who did say that 'The TPO was created in the basis of Amenity and the perceived risk and impact to the street environment to protect public amenity'. Unfortunately, there is no agreed method to calculate the 'Amenity Value'. Authorities are required to develop means of assessing amenity value in a structured and consistent way.

Amenity has been described several ways

- Pleasant circumstances or features, advantages." (Ellis & Ruislip-Northwood UDC ([1920]) & FFF Estates v Hackney LBC ([1981]
- "Visual appearance and the pleasure of its enjoyment". (Cartwright v Post Office (1968)
- "The pleasantness or attractiveness of a place". (The New Oxford Dictionary of English, 1st Edition, 1998).

The owner contends in its present form AREA 1 does not meet any of these definitions and therefore its 'Amenity Value' is low. The implementation of the Area TPO seriously inhibits the owner meeting these definitions. The use of the area classification is now discouraged by the Secretary of State and is recommended for use only as a temporary or emergency measure.

Government guidance requires that TPOs should only be served on trees and woodlands where their removal would have a significant negative impact on the enjoyment of the local landscape by the public. The owner contends the clearance of the land back to its previous state and the removal of trees with no significant value would have a significant positive impact of the local landscape.

Amenity Value - Residents

Historically, the 'Amenity Value' given to the residents was of a clear piece of land used as a garden area, as per the background and **Photographs**. We understand it may 'look' like a wooded area from aerial maps and from distant inspection but in reality; it is merely an overgrown garden mostly containing dangerous or heavily vandalised trees and undergrowth.

Some years ago, Loughborough Echo ran a front-page article called 'NO More Riverview'. This was based on the residents objecting to the height of the hedge, the height of the understory and the height of the Willows obstructing the view across the fields / flood plain. It did state the view of the river was also obstructed but this has only been visible from the upper floor of the properties.

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Attempts have been made to obtain a copy of this article, but due to Pandemic restrictions we haven't been able to, nevertheless the article is stored as part of the archives at a local university.

It would appear the Residents are not bothered about the 'Amenity Value' as a recent application P/20/0768/2 to erect a solid boundary along the land in question resulted in no objections from the residents or any other consultees (including the Canal and River Trust). Although the application was refused it would appear by default the residents would have preferred a solid boundary than a green overgrown 'mess'. Alongside this we have spoken on a personal basis to multiple residents on the street who would be more than happy if the area was 'cut down' or 'dealt with' so they could regain their views

Amenity Value – Footpath Users.

The Officer has stated the trees along the River bank of the property are to give 'Amenity Value' to the footpath users on the opposite site. These trees are predominately Willows and they obscure a significant proportion of the land behind. There is a conflict here between what has been historically stated by the residents - they require the Willows to be lower so the vista across the fields is available, the landowner would like them at a height that protects his privacy up to the top level of the property. The Canal and River Trust would like them maintained to give the optimum protection to the River Bank and River Users. Added to this there will be the opinion of a Tree Officer.

Conclusion

These trees have been managed and worked on since the land and neighbouring property was made residential over 70 years ago, with no need for a TPO. They are currently in a potentially dangerous state and do need remedial works, we are unable from a health and safety stand point due to ground conditions, escape or rescue routes to work on any of the trees on the land, alongside this with the trespassing and vandalising, we are unable to a) get the land insured and b) provide our duty of care to the public.

The owner of the Land wishes to return it to its previous state condition, primarily in the first instance into an area clear of the invasive vegetation; brambles and self-set saplings across all levels alongside vandalised and dangerous trees. This will require the use of mechanisation due to the ground conditions, slope and proximity to water/lack of escape route and this is in direct conflict with the conditions of the Area TPO, which protects ALL TREES irrespective of size and location. This will prevent the use of any mechanisation due to the random location of self-sets across the site. To enable clearance to happen a Council Tree Officer will be required to survey the site and indicate which trees are excluded from the Area TPO, the land owner considers this will be virtually impossible as the current condition of the land would prevent this type of access and even be considered asinine.

TPO guidelines state that no bushes, shrubs or hedges can be protected under a TPO the grey area occurs with how you classify it as such. As per the **Photographs**, 90% of what is on site originated as part of a hedge, or working fruit trees (which are rarely subject to TPO and can be pruned without permission)

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Although the land owner objects the need for a TPO to be made on land or trees under his care and also objects the classification of the area as woodland, it is not recognised by land registry as such. If the land was a ‘woodland’ The TPO regulations state, A woodland TPO should not be used as a means of hindering beneficial management, which may include regular felling and thinning. While LPAs may believe it expedient, as a last resort, to make TPOs in respect of woodlands they are advised (whether or not they make a TPO) to encourage landowners to bring their woodlands into proper management, we would be unable to do so with the current format of the TPO.

The owner would quite happily have multiple specimen trees on site which would benefit from a TPO after a thorough site visit and survey, along the boundaries of the site, where trees have always stood. This includes the willows on the riverside boundary and a hawthorn and an Ash on the roadside. We reject that trees in the centre of the site provide enough nor a wanted amenity value to be retained OVER the owners and his families ‘Amenity Value’ and usability of the land. To do this, some form of clearance would be needed to be carried out to allow safe access to survey and come to a collective decision this would not be possible safely under a blanket or area TPO. Most trees from a site visit carried out 6+ months ago by the land owner, discovered multiple trees had been cut down and heavily vandalised, the land owner can accept no responsibility for trees damaged by 3rd parties while the roadside boundary remains unsecured and has informed the police multiple times.

If the counterproposal of a singular TPO to trees along the boundaries of site/in the highest visual area cannot be agreed we would have to reject the TPO in its entirety and pursue this matter with the courts so that this land can be enjoyed, used and maintained by the owner and his family for generations to come.

As suggested LPA guidelines, we look forward to seeing the Tree Officers views on the above and have an opportunity to also comment on those prior to a decision being made on the TPO.

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Photographs



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