

REPORT OF THE HEAD OF PLANNING AND REGENERATION

APPEALS AND REVIEW COMMITTEE, 17 November 2020

BOROUGH OF CHARNWOOD (land adj river view Barrow-upon-Soar) TREE PRESERVATION ORDER 2020 - PROVISIONAL

1.0 Introduction

1.1 Background

A planning application, P/20/0768/2, to erect 2 metre high close board fence along the road side was received. The installation of fencing would adversely impact the visual landscape /townscape amenity of the area, by requiring the removal of two ash trees and associate understory. The wooded area consists of mixed deciduous trees including high canopy and understory species, extending from the road edge down to the river. It provides considerable visual amenity for the housing opposite, contributes significantly to the character of the street scene and is also of biodiversity value.

It is considered that even if the current planning application was to be refused there would still be a significant threat to the removal of the trees.

1.2 The Site

The site is overgrown derelict land between two domestic properties on the bank of the River Soar.

1.3 Condition of the trees

The area presents both along the river and the Riverview road as regenerated with a range of tree present including willow maple and ash. It had been used as a garden/allotment with mooring separate from both adjacent properties. The land is in a state of disrepair and derelict. This allowed for succession regeneration as scrub woodland. Species of value which regenerated include *inter alia* ash, willow, hawthorn maple as well as assorted fruit trees.

2.0 The Objections to the Order

An objection to the Order was received by email.

Objection - Mr Tindle

The objection asserts that:

1. The process to create the TPO was defective.
2. That the methodology to assess amenity was defective.
3. That the trees within the area do not merit clarification as amenity.
4. that the nature of self-set trees in other words natural succession regeneration is somehow considered of less importance

5. that the Order would impede bringing the site back into effective appropriate management
6. That the Order would prevent development
7. That the area TPO should not be used.
8. That the trees prevent resident from appreciating the river view and that this was a matter of local concern
9. That clearance of the road site trees and overgrown hedge and the erection of a 1.8 high close boarded fence would improve the amenity
10. That bushes, shrubs and hedges cannot be protected
11. That the land should not be described as 'woodland'

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

3.0 Response to the Objection

1. The process is to visit the site locality assess the amenity and landscape street value. Because the land is not covered by any other constraint or a conservation area designation the only means of protecting the trees was to create a TPO. Had I requested access onto the land for the purposes of evaluating individual or groups of trees to create a TPO this would have alerted the owner and they could easily then have cleared the trees. Therefore the process was correct.
2. That the methodology to assess amenity was defective. There is no prescribed method for the evaluation of amenity. There are several created including Helliwell and TEMPO. However they are cumbersome and in the case of TEMPO it is in reality an arboricultural assessment. Whereas CAVAT assigns a monetary value to trees. It is entirely acceptable for an authority to draw up its own method. The creation of TPO is not in law predicated on the carrying out of an arboricultural assessment. So what does 'amenity' mean in practice? 'Amenity' is not defined in law -this relies on professional judgment. There is no prescribed method for assessing amenity. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Reasonable degree of public benefit in the present or future 'Amenity' means a desirable or useful feature or facility of a building, place or...tree, or group or tree or area...or woodland. Amenity is a quality which strongly correlated to aesthetic appreciation of a scene. Amenity therefore is a quality which is capable of evaluation that is being assigned a value.

A TPO protects a tree on the following grounds:

- Amenity value - Public benefit Test No1
- Expediency - Test No2

The method I use broadly looks at how trees groups or an area presented in landscape terms. Whether a tree is planted or self-set/ naturally regenerated is neutral in terms of this evaluation. In the case of this site I evaluated the likely effect in landscape terms of the proposed fence. The proposal would have removed all the trees and other vegetation along the perimeter by the road. Historically this was

hedge bounded by post and chainlink or wire fence. Both of these options still allow for a soft natural perimeter which provides nesting and forage for wildlife. The proposed fence would effectively 'canalise' the road and present as a harsh rigid manmade structure. This would degrade the environmental quality of the road.

Factors which may be taken into account are:

- Visibility or perception- public enjoyment /benefit
- individual or collective attributes of the trees:-
 - size and form;
 - rarity, cultural or historic value;
- future potential as an amenity;
- Effect of tree(s)
 - contribution to landscape such as landscape setting of listed buildings, and / or other structures of merit,
 - contribution to the character or appearance of a conservation area
- Nature Conservation
- Climate Change

Our current method for evaluation of Amenity broadly looks at the following attributes:

SPECIES:

AGE CLASS: Young/ Early mature/ Mature /Over-mature/Veteran/ Ancient

CHARACTER DESCRIPTION/STRUCTURE: e.g. multistem /maiden /bifurcated .. Fastigated/ columnar/ broad crown ...dominant and/or high canopy or understory and/or suppressed

HEALTH/ CONDITION: poor/ fair/ good/ very good/ excellent

Has the tree been worked before? What kind of tree work? Was it beneficial or adverse?

AESTHETIC VALUE: high moderate low

AESTHETIC FORM : typical /exemplar... atypical or defective

PUBLIC AMENITY - VISIBILITY: low/moderate/ high ...prominent

PROPOSAL EFFECT /IMPACT: works excessive, unwarranted, unnecessary damaging, detrimental or necessary, appropriate reasonable and proportionate

ISSUE: is there structural damage? Is it significant? Is the location of the tree compromised?

EXPEDIENCY TEST: is it expedient and necessary to create TPO e.g. Is the tree under good management? Is there a direct threat to the tree? What is the level of the threat? Is it immediate, imminent latent or potential?

When evaluating an Area for TPO we look at the overall contribution tree collectively make to a locality.

3. The trees of the site from where they are visible along Riverview and along the river Soar present a soft green natural scene which provides habitat and forage for wildlife including birds. It has aesthetic amenity value for its contribution to the street scene landscape and riparian landscape.
4. It is irrelevant whether a tree was deliberately planted or establishes via natural regeneration / succession.

5. The Order does not prevent the management of the site. The application process allows for a wide range of works including, if justified, the removal of trees. Such work could include for pollard or coppice management of Willow.
6. The Order does not prevent the development of the site. Should the owner wish to develop the site and should the proposal accord with policy the presumption would be in favour of development though the existence of the TPO would give focuses for the protection of key trees as well as boundary treatment. If a proposal even sought to remove most of the tree but include proposal of an improvement in design and provision of tree consent or conditional consent could effectively remove the TPO.
7. In the circumstances, the use of Area type TPO is appropriate and the site owner was advised they could submit a tree survey to allow selected trees to be specified in an Order.
8. That the trees prevent resident from appreciating the river view and that this was a matter of local concern. The objection report presents conflicting perceptions of neglect and management and of retention of tree and then of a desire to cut down or remove trees. The simple fact is the proposed fence would prevent views of the river. A more naturalised solution would be to manage the perimeter boundary as laid hedge with wire or chain link to one side– this would provide a physical barrier to prevent trespass and allow for a soft natural appearance with the added benefit of habitat for small song birds.
9. Clearly, the environmental quality of the street would be significantly adversely affected if the soft hedge and trees were removed and replaced with a hard and harsh fence of 1.8m height.
10. It is absolutely true that bushes, shrubs and shrub hedges cannot be protected by the Order. However if a hedgerow consists of trees they can be protected by the Order.
11. The land presents the landscape characteristic as early succession scrub woodland. In habitat terms it would if not managed revert to temperate forest which is woodland. Therefore, the use of the descriptive term is correct for the characteristic which presents. This is evident from the aerial photography from Google Blue Sky imagery 2020.

As well as the email communication which Mr Tindle cites, I also spoke to Mr Tindle on the telephone. I suggested he survey the trees on his site so that the Order could be more fine grained and so that the perimeter vegetation along River View could be protected and he conveyed his desire to retain trees on his land. No survey was received. Had he done so this would allow for the creation of a more fine-grained TPO.

The committee is therefore recommended to confirm the Order without modification.

Contact Officer:

Nola O'Donnell MAgSc Dip (hons) LA CMLI

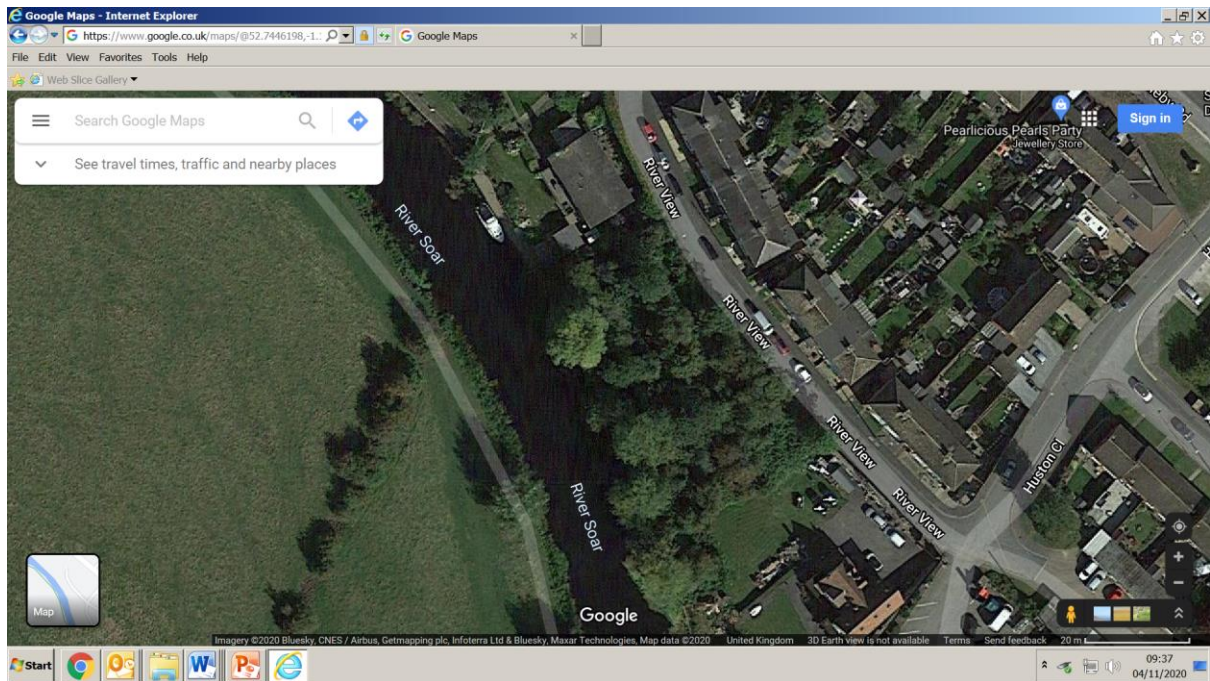
Senior Landscape Officer

Tel: 01509 634766

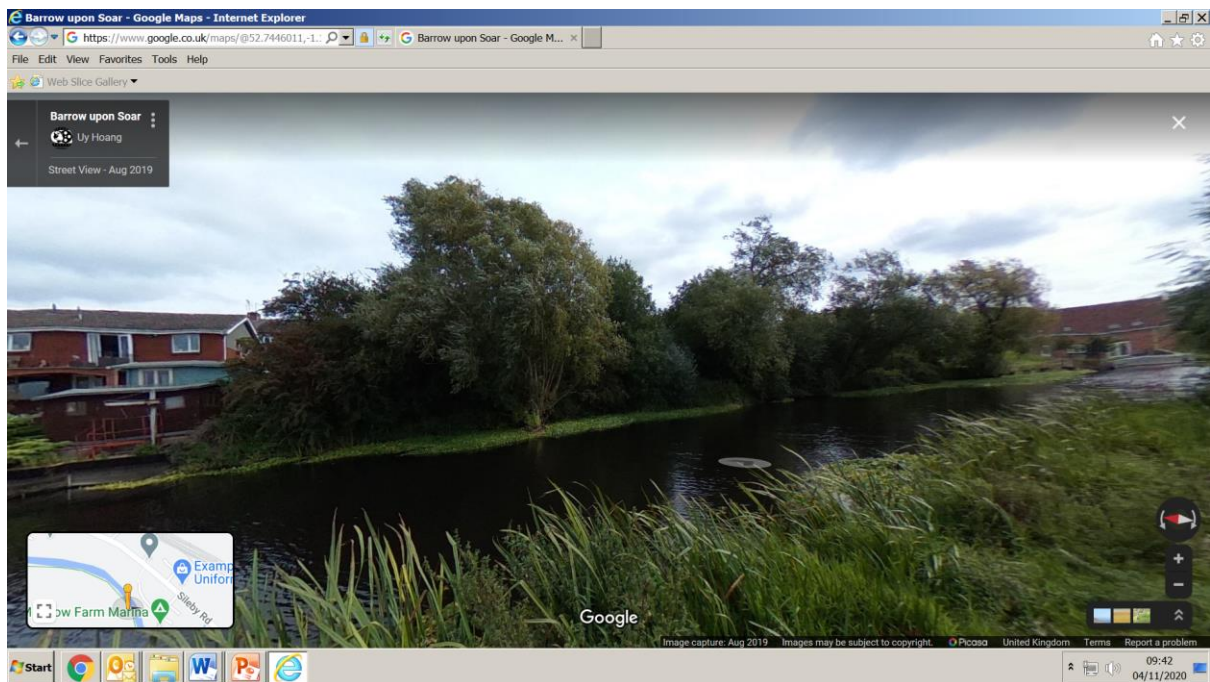
trees@charnwood.gov.uk

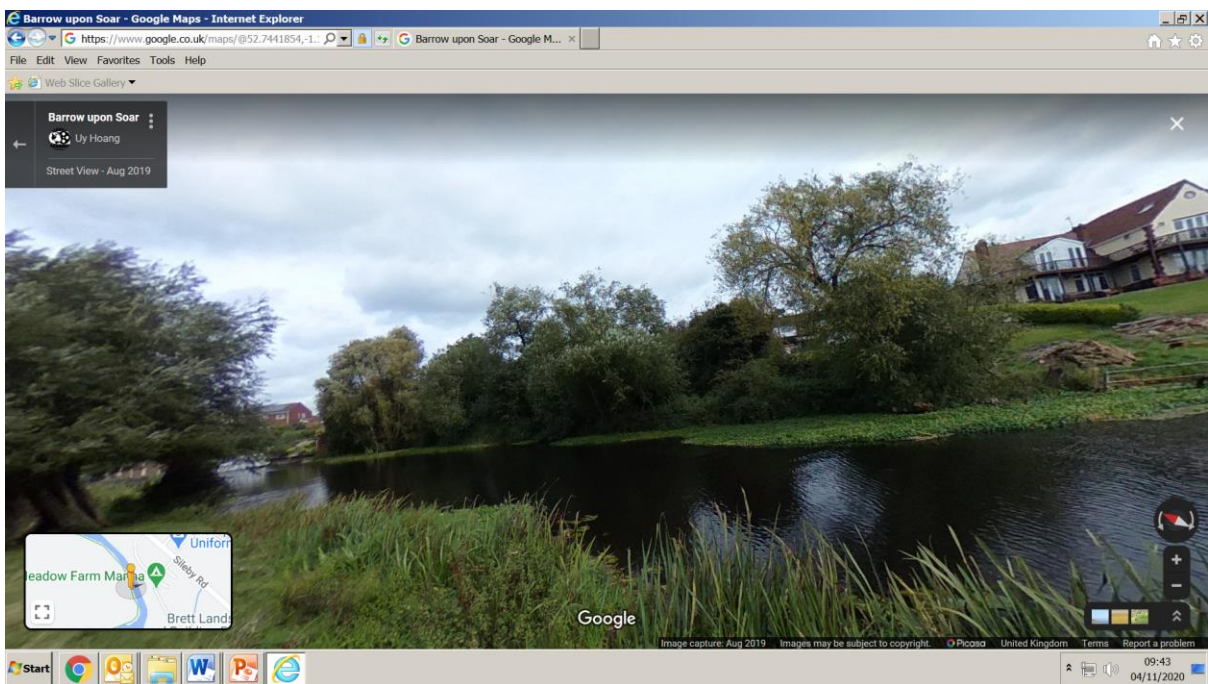
APPENDIX A - PHOTOGRAPHS

Aerial



Images from Google Streetscene for view from public path on western bank of River Soar





From riverview

