

**AGENDA ITEM NO. 14**

**PLANNING COMMITTEE**

<b>Date</b>	<b>3 JUNE 2015</b>
<b>Title</b>	<b>TPO 03/2014, 1 Ash, 2 Foxglove, 3 Hornbeam, 1 Weeping Willow, 1 Persian Ironwood, 3 Silver Birch and 1 Sycamore trees on land at and to the rear of 33 Gaul Road, March</b>

**1. PURPOSE**

**The purpose of this report is to advise members of the current situation in respect of confirmation of a Tree Preservation Order (TPO) at 33 Gaul Road, March, and to determine an appropriate course of action.**

**2. SUMMARY**

Matters relating to the issue and confirmation of a TPO are normally dealt with by delegated powers and only where objections to the Order are received are some matters referred to this committee.

The grounds for making the Order are that there is a number of individual trees within the tree population that are either making a significant contribution to local amenity or capable of contributing in the near future as they mature and/or the site is developed

It is considered that the loss of these trees would have a significant adverse effect on local amenity and therefore they merit the protection of a TPO.

The decision to seek the retention of these trees was made in December 2014.

The trees subject to this TPO are located within the garden area and to the rear of 33 Gaul Road, March.

**3. RECOMMENDATION**

**It is therefore recommended that members confirm the TPO in respect of the specified trees at 33 Gaul Road, March.**

<b>Portfolio Holder(s)</b>	Not applicable
<b>Report Originator</b>	Sheila Black, Planning Delivery Team Leader
<b>Contact Officer(s)</b>	Graham Nourse, Head of Planning
<b>Background Paper(s)</b>	-

## 1. BACKGROUND

- 1.1 During consideration of planning application F/YR14/0776/F it became apparent that development on the land would involve the loss of a significant number of trees some of which were considered worthy of protection due to their amenity value in the area. Therefore the Local Planning Authority sought to issue a TPO. The Order was subject to a 28 day period for the receipt of any objections prior to final confirmation.

## 2. OBJECTIONS

- 2.1 A report from Andrew Belson, Arboricultural Consultant, on behalf of the applicant was received on 29 December objecting to the TPO which was made on 12 December 2014. This objection relates to trees T01 – T09 but does not object to trees T10, T11 and T12. The objections are set out below with counter comments from the Council's Arboricultural Officer.
- 2.2 The neighbouring property at 8 Park View East, has also raised an objection to the imposition of the TPO. Their concern relates to the tree T12 (sycamore) located on their eastern boundary. This tree is alleged to be causing problems with the roof of No. 8 Park View East together with issues relating to the roots being close to their foundations.

## 3. COUNCIL'S ARBORICULTURAL OBSERVATIONS ON ABOVE OBJECTIONS.

- 3.1 The Council's Arboricultural Officer responds to the above objections as follows:
- a) **Tree T01 Ash** - Both agree that this tree is not suitable for retention due to the presence of *Inonotus hispidus* on the main stem. This fungus is particularly damaging on ash and renders the tree liable to premature stem failure. **Remove tree from schedule.**
- b) **Tree T02 Foxglove tree** – The applicant's Arboricultural Consultant claims the tree has a lack of visual amenity and is in unsuitable location. It should be noted that document Tree Preservation Orders: A Guide to the Law and Good Practice does not define 'amenity', however, it states that
- 'The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath, although, exceptionally, the inclusion of other trees may be justified. The benefit may be present or future; trees may be worthy of preservation for their intrinsic beauty or for their contribution to the landscape or because they serve to screen an eyesore or future development; the value of trees may be enhanced by their scarcity; and the value of a group of trees or woodland may be collective only.'*
- The foxglove tree is partially masked by existing vegetation, however the tree is likely to take on much greater significance in the future and will be a prominent feature in the road particularly as it is a flowering specimen. The placement of a TPO does not prevent the neighbouring property from carrying out some pruning to maintain clearance to their property as the need arises. **Retain tree as part of the Protection Order.**
- c) **Trees T03, T04, T05 Hornbeam** – Similar to b) above it is claimed that there are no public visual amenity to these trees. However part of this group is currently partially visible from Gaul Road.

Any future development of the site is likely to require the removal of some or all vegetation to the front and possibly along The Chase and will lead to this group of trees becoming much more prominent and visible to pedestrians. **Retain trees as part of the Protection Order.**

d) **Tree T06 Weeping willow** - is a former pollard but this work is historical and the attachment of the re-growth to the original limb is now well established due to the thickening of the stem over time, therefore the likelihood of failure is reduced. A crown reduction of this tree could be allowed but re-pollarding is not justified. This is a large tree and prominent being visible from Gaul Road and The Chase.

The presence of a woodpecker hole does not imply imminent failure of the tree, the hole is a nest chamber and may be used by other wildlife particularly bats. It is entirely appropriate to place a TPO on a mature tree and assuming this tree is in the last 1/3 of its safe useful remaining life, still has in excess of ten years to contribute to local amenity. **Retain tree as part of the Protection Order.**

e) **Tree T07 Persian ironwood** - is a small specimen and currently of little public benefit, unless the site is developed when it might become more visible. However it will remain of limited visibility; the tree was initially selected as it is an unusual specimen in Fenland. **Remove from schedule.**

f) **Trees T08, T09 Silver birch and Foxglove trees** - both these trees are situated toward Beck Close and are currently of limited visibility. However any development of the site could open up the area and provide views to the trees from The Chase. The trees have the potential to increase significantly in size increasing their visibility and also provide screening to properties in Beck Close. **Retain tree as part of the Protection Order.**

g) **Trees T10, T11** - no objections received to the retention of these two trees. **Retain as part of the Protection Order.**

h) **Tree T12 Sycamore** - The residents at 8 Park View East have objected to the inclusion of this tree in the TPO. The Council's Arboricultural Officer met with the occupiers on site to discuss their concerns. Their issues can be summarised as follows:

- Lack of light to the front garden has led to numerous plant losses and they cannot enjoy their garden as is their right.
- Poor lighting to front study requiring lights are required even during the day when working.
- Concerns over the potential for the tree to damage the foundations of the property.
- Branches from the tree growing over the roof and potentially causing damage to the tiles, guttering and fascias. The branches have been pruned in the past but grow back rapidly requiring regular expenditure.
- Debris and mess from the tree and constant weeding of germinating sycamore seeds.
- Tree not of amenity value as it is hidden by trees in the park and the view from Park View East is limited.

The response to the above from the Council's Arboricultural Officer is as follows:

The tree is prominent and visible from Park View East, from within the park and from The Chase. Certain views from the park are not prominent as the tree does blend into the park trees. He agrees that the tree is very close to the property and its retention would necessitate an ongoing financial commitment by the residents to keep the tree pruned back from their property. The tree does shade the garden and prevent them from landscaping it as they would wish. The property is north facing and therefore there would be limited light to the front irrespective of the tree, however, a certain amount of ambient and reflected light is likely to be blocked. It is unlikely that the tree would cause damage to the foundations of the property. The proximity of the tree to the property would have required the foundation type to be appropriate for the situation and this would have been noted by Building Control.

In summary, the tree can be regarded as a nuisance to the residents that is costing them money and preventing their enjoyment of their home. The residents would be happy to see a replacement tree planted on the site but further from their property to prevent any future issues. **Retain tree as part of the Protection Order but agree its removal and replacement in an alternative position.**

#### 4. CONCLUSION

- 4.1 Following receipt of the above objections to the confirmation of TPO 03/2014, the proposed Order has been reviewed and it is recommended that trees T1 and T7 are removed from the schedule accordingly.
- 4.2 With regards to T12 adjacent to 8 Park View East, it is considered that as the tree has high amenity value in this particular location, it should be retained as part of the Order but if an application to fell it is received, the Local Planning Authority would accommodate such a request with the proviso that a replacement tree, located further away from 8 Park View East would be acceptable. Until such an application is received, it is recommended that the tree should remain on the Order.
- 4.3 The placement of a TPO does not prevent tree works or even removal, but gives the Local Planning Authority control over 'inappropriate' works.
- 4.4 Having given due consideration to both the representations made and the further observations of the Council's Arboricultural Consultant, Officers are satisfied that the TPO should be modified by the deletion of trees T1 and T7 and an amended plan is attached hereto.

This procedure is laid out in the Town and Country Planning (Tree Preservation) (England) Regulations 2012, Part 2, 7(4).

- 4.5 It is therefore recommended that the TPO is confirmed, as amended, in accordance with the Order TPO 03/2014.

