

Report

Planning Committee

Part 1

Date: 6th December 2017

Item No: 5

Subject TPO 4 of 2017 rear of 41 Cae Brynton Road

Purpose To request the authorisation of Planning Committee to confirm a Provisional Tree Preservation Order (TPO) with modifications to the plan and schedule.

Author Tree Officer (TPOs and Private Land)

Ward Gaer

Summary Tree Preservation Order 4 of 2016 was made as a Provisional Order with immediate effect and the tree will be unprotected unless the TPO is confirmed . As two formal objections have been made to the TPO , the details are reported for consideration.

Proposal That Tree Preservation Order 4 of 2017 at the rear of 41 Cae Brynton Road is confirmed.

Action by Head of Regeneration, Investment and Housing

Timetable Immediate

This report was prepared after consultation with:

- Chief Financial Officer
- Monitoring Officer –Law and Standards
- Head of People and Business Change
- Cllrs Marshall, Whitcutt and Wilcox

Background

The order was made on 10 August 2017 to protect a liriiodendron (tulip tree) on land to the rear of 41 Cae Brynton Rd , Newport.

Two objections have been received:-

- Mr RD Crane and Mrs OA Crane 39 Cae Brynton Road Newport NP20 3FY
- Mr Bertie and Miss Underwood 14 Gaer Road Newport
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The main reasons stated with rebuttal are as follows :-

1. Concerns about the size of the tree, potential storm damage in general terms and specifically to a parked car on a private driveway near the tree.

The tulip tree appears to be a large healthy specimen and is one of the most prominent trees of this species with in City of Newport – there are few large tulip trees within the City of Newport and therefore this one is an important specimen..

There is no evidence to suggest that the tree is structurally unsafe or a danger to the public.

The tree owner is aware of their responsibilities regarding the health and safety of the tree and supports the protection of the tree via a TPO.

The TPO has been made in accordance with the Town and Country Planning (Tree) regulations 1999.

2. That some branches overhang the pavement of Gaer Road.

This matter has now been resolved by the tree owner who has had the overhanging branches trimmed back from the pavement and so this is no longer an issue .

3. The amount of leaves that fall in the autumn cause a nuisance.

Leaf fall in autumn is a natural and seasonal occurrence which individuals and the Local Authorities have to deal with. Leaf fall would not preclude a tree from being protected by a TPO.

4. ***Newport City Council welcomes proactive management of trees and woodland and positively supports TPO applications to this effect .***

Financial Summary

- The costs and financial implications: You must discuss financial implications with the Head of Finance and the report must identify from where your proposals will be funded, together with any impact on budgets or any opportunity costs

| | Year 1 (Current) £ | Year 2 £ | Year 3 £ | Ongoing £ | Notes including budgets heads affected |
|-------------------------|--------------------------|-------------|-------------|--------------|---|
| Costs (Income) | | | | | na |
| Net Costs (Savings) | | | | | |
| Net Impact on Budget | | | | | |

Risks

| Risk | Impact of Risk if it occurs* (H/M/L) | Probability of risk occurring (H/M/L) | What is the Council doing or what has it done to avoid the risk or reduce its effect | Who is responsible for dealing with the risk? |
|--|--------------------------------------|---------------------------------------|--|---|
| Tree being felled if TPO is not conformed. | H | H | Provisional TPO on tree which now needs to be confirmed. | Tree Officer(TPOs and Private Land) |
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| | | | | |

Links to Council Policies and Priorities

In accordance with the Town and Country Planning Act 1990.

Options Available and considered

To confirm the TPO

Not to confirm the TPO

Preferred Option and Why

To confirm the TPO to ensure the tree is protected.

Comments of Chief Financial Officer

As noted within the report there are no financial implications to the Council from the issuing of a TPO.

Comments of Head of Law & Standards – Monitoring Officer

A Local Planning Authority may make a TPO if it is expedient in the interests of amenity to make provision for the preservation of trees or woodland. Trees may be preserved for their intrinsic beauty or contribution to the landscape. There should be a reasonable degree of public benefit and TPOs should only be used to protect trees where their removal would have a significant impact on the environment or upon its enjoyment by the public. Before deciding whether or not to confirm a TPO the Local Planning Authority must consider any objections or representations duly made. An Order may be confirmed with or without modification.

Comments of Head of People and Business Change

The TPO is clearly in line with the requirements of the Council under the Well-being of Future Generations Act. There are no specific policy implications arising as a result of granting the TPO and consideration has been given to the two objections received.

Local issues

Not applicable

Scrutiny Committees

Not applicable

Equalities Impact Assessment and the Equalities Act 2010

The Equality Act 2010 contains a Public Sector Equality Duty which came into force on 06 April 2011. The Act identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership. The new single duty aims to integrate consideration of equality and good relations into the regular business of public authorities. Compliance with the duty is a legal obligation and is intended to result in better informed decision-making and policy development and services that are more effective for users. In exercising its functions, the Council must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation and other conduct that is prohibited by the Act; advance equality of opportunity between persons who share a protected characteristic and those who do not; and

foster good relations between persons who share a protected characteristic and those who do not. The Act is not overly prescriptive about the approach a public authority should take to ensure due regard, although it does set out that due regard to advancing equality involves: removing or minimising disadvantages suffered by people due to their protected characteristics; taking steps to meet the needs of people from protected groups where these differ from the need of other people; and encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Children and Families (Wales) Measure

Not applicable

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (section 5). This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the proposed decision.

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Consultation

Cllr Stephen Marshall – no issues

Cllr Mark Whitcutt –no issues

Cllr Debbie Wilcox.-no issues

Background Papers

Not applicable

Recommendation

That Tree Preservation Order 4 of 2017 at the rear of 41 Cae Brynton Road is confirmed.