

25/00025/TORDER

Objector Mr and Mrs Wilson

Location The New House, Station Road, Upper Broughton, LE14 3BQ

Objection To the Upper Broughton No.1 Tree Preservation Order 2025

Ward Neville and Langar

THE SITE AND SURROUNDINGS

1. The 3 Silver Birch trees are located in the front garden of The New House, a 1970's property with some modernisation located on the northside of Station Road within the Conservation Area. The property has generous gardens to the front and rear. The trees are located in an area of lawn, to the side is the access driveway to the property and beyond this is an old outbuilding at the front of the neighbouring property. Upper Broughton is an attractive rural village with a strong character and the roadside trees make a positive contribution to this.

DETAILS OF THE TREE PRESERVATION ORDER

2. This report is brought to Planning Committee for Members to consider as an objection has been received following the making of a provisional Tree Preservation Order (TPO) for which a valid objection has been received following the service of notice to the owners.
3. The Tree Preservation Order (TPO) was made following a Conservation Area tree notice to fell 3 trees on the grounds that they were causing damage to the drive, concern over their age, continuing safety and interference with the phone line. The notice stated their intention to replant with 3 young trees.
4. Officers considered the existing trees to enhance the street scene due to their roadside location and were concerned that whilst an offer to plant replacements was made there was no way to enforce this through a Conservation Area notice and the loss of 3 trees would be detrimental to the area.
5. The TPO was made on the 5 February 2025. Under the Town and Country Planning (Tree Preservation) (England) Regulations 2012 the Order takes effect provisionally and needs to be confirmed within 6 months of the date it was made. The Council has a duty to consider all objections and representations that have been made before deciding whether to confirm the Order.

SITE HISTORY

6. The Council have granted the reduction of the trees approximately every 4 years since 2008 through conservation area consents through the following reference consents –

Ref. 08/00134/CONARE
Ref. 12/00020/CONARE
Ref. 16/00177/CONARE
Ref. 21/00055/CONARE

CONSULTATION

7. The Ward Member was not consulted prior to the making of the provisional TPO as immediate action was required. The six week timescale for considering the conservation area tree notice had lapsed and the trees could have been felled, hence the need to make the TPO as soon as was reasonably practical.

OBJECTION

8. Objections to the TPO have been received from the owners of the land on which the trees are situated for the following reasons:
 - The principal reason for removal is because their roots are beginning to lift the driveway surface, despite their being a sub-base of at least 15 inches, and the damage has been increasing over the past 2 years. In addition, the telephone wire is at risk of being fouled once more by branches of one of the trees.
 - The TPO prevents work to the trees which are large, at least 50 years old, and have long outgrown the site and need to be removed.
 - The Council made the TPO after the 6-week conservation area notice and the owners believe the Council has let them down as work has been delayed despite a tree surgeon being booked to do the work.
 - The owners like the trees which are 3 different varieties of Birch which enhance the garden and local area, the original notice promised to plant 3 replacements which is still their intention. They are honorary members of the Nottinghamshire Fungi Group and appreciate the beneficial role of Birch and mycorrhizal fungi.
 - After the TPO was made we were advised by Mr Pettit at a site meeting that an application to remove one of the trees and appropriate replacement planting may be looked on favourably, but they feel this would look odd with one young sapling set against 2 huge trees. Planting 3 young trees would be the better option and would immediately enhance the area.

APPRAISAL

9. The 3 trees are located in the front garden in a triangular pattern, so all trees are located a different distance from the drive. At the site visit the raising of the drive was pointed out and it is possible to ascertain some signs of root growth under the tarmac, but the lifting is currently very minor. This was one of the reasons why at the site meeting a phased approach to removal and replacement was suggested so the tree closest to the drive could be removed first.
10. A TPO would require an application to be made to undertake work to protected trees although there are some limited exemptions such as the removal of deadwood. It would be possible to apply to prune the trees to keep them clear of phone lines or even remove them. Whilst each application is decided on its own merits, the Council has allowed repeat pruning since 2008 and it would

seem reasonable to allow work to keep phone lines clear from obstruction or damage.

11. It is not considered that all 3 trees are outgrowing the location to the point that all 3 require removal. The trees could be retained by allowing continuing work to prune them. The trees may well be 50 years old but could have a remaining useful lifespan of around 20-30 years.
12. The TPO was made after the 6 weeks' notice period so there was a period of time in which the tree owners could have removed them, but the Council can make a TPO at any point in time. When considering a Conservation Area tree notice, the Council can only make a TPO to retain the trees, or simply allow the work to proceed, it cannot enforce any replacement planting. Residents of the Borough often propose replacement planting in such notices and the Council has no way of knowing, or ensuring, that this will take place.
13. On this occasion given that all 3 trees were proposed to be removed and due to their prominent location, it was considered that a TPO would be a suitable way of ensuring replacement planting took place, although Officer's preference is to see at least some of the trees retained for some time.
14. The Committee needs to decide whether the TPO should be revoked or allowed to lapse, this would allow the owners free reign to fell and replace as they wish. Or alternatively to confirm the TPO which would make it permanent and require the owner to submit applications to prune or fell.
15. As noted above it has been suggested that a phased approach to removal and replacement planting could be achieved, this would alleviate the concerns in regard to the driveway whilst maintaining mature trees to enhance the character of the area and to develop a mixed age range of trees which would be more resilient. Officers do not believe such an approach would look out of place but nevertheless at present the trees are worthy of protection and the only way to secure the replacement planting would be through an application for works to trees. If future applications for works to trees were refused there is also a right of appeal to the Planning Inspectorate.

RECOMMENDATION

It is RECOMMENDED that the Upper Broughton No.1 Tree Preservation 2025 is confirmed.