Allerdale Borough Council

Tree Preservation Order Confirmation: TPO/2019/0004

Development Panel Report

Reference Number: TPO/2019/0004
Location: Land adjacent to Old Pumhouse, Papcastle Road, Pap castle, Cockermouth.
Proposal: Confirmation of tree preservation order for Sycamore, Scots Pine & Horse Chestnut.

RECOMMENDATION

THAT THE TREE PRESERVATION ORDER NO.4 OF 2019 FOR THE SYCAMORE (T1), SCOTS PINE (T2) AND HORSE CHESTNUT (T3) AT LAND ADJACENT TO THE OLD PUMPHOUSE, PAPCASTLE ROAD, COCKERMOUTH BE CONFIRMED.

1.0 Introduction

1.1 A Tree Preservation Order was made on the 11th March 2019 following the receipt of a Section 211 Notice to carry out various works to trees on the land adjacent to Old Pumphouse, Papcastle Road, Papcastle, Cockermouth. Officers considered that the three trees merited protection following the legal process explained in this report.

1.2 This matter is being reported to the Panel as a co-owner is Councillor Ellis.

2.0 Site

2.1 The site is a small wooded area on sloping land to the rear of a stone wall which forms the boundary to Papcastle Road. It is currently used as garden/amenity space and is within shared ownership of the occupiers of the Pumphouse.

2.2 The river runs to the South of the site with further wooded areas to North West. The trees provide an attractive feature to the area when viewed from both Papcastle Road and the access road adjacent to the River.

2.3 The Pumphouse, which the site serves as amenity space, is divided into five residential properties.

2.4 The site falls within the Papcastle Conservation Area which ensures that all trees are within it are protected by Section 211 of The Town & Country Planning Act.
2.5 The trees subject to this report are:-

- Mature Sycamore which is situated at the top of the land next to the Pumphouse
- A large Scots Pine located to the West of the Sycamore between other established trees
- Horse Chestnut situated towards the bottom of the site immediately next to a stone wall which forms a boundary between the site and the adjacent wooded area.

2.6 The Sycamore and Scots Pine are highly visible from various points on Papcastle Road, with all three trees being visible from the access road adjacent to the river.

3.0 **Legal background**

3.1 The primary legislation relating to Tree Preservation Orders is the Town and Country Planning Act 1990 as amended by section 192 of the 2008 Planning Act. The 1990 Act provided the ability for secondary legislation to be made setting out the statutory framework for the making and confirming of Tree Preservation Orders. Currently this is the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into force on 6 April 2012.

- Pressure on slope
- Doubts regarding the root stability of Scots Pine
- Health of trees

4.0 **Policy and Guidance Framework**

4.1 Following the publication of the first National Planning Policy Framework (NPPF) in 2012 the government commenced the on-line National Planning Practice Guidance (NPPG) to replace guidance such as circulars. The NPPG is a live document that can be updated. At the time of this report it advised that:-

"Local planning authorities can make a Tree Preservation Order if it appears to them to be ‘expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.’"

4.2 Authorities can either initiate this process themselves or in response to a request made by any other party. When deciding whether an Order is appropriate, authorities are advised to take into consideration what ‘amenity’ means in practice, what to take into account when assessing amenity value, what ‘expedient’ means in practice, what trees can be protected and how they can be identified."

**Amenity**

4.3 It is noted that ‘Amenity’ is not defined in the primary or secondary legislation so a judgement has to be made. The NPPG advises that 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. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future. It cites various criteria which can be used by councils to make the judgement:-

- **Visibility** - The extent to which the tree can be seen by the public. It should normally be visible from a public place, such as a road or footpath, or accessible by the public.

- **Individual, collective and wider impact** - Public visibility alone will not be sufficient to warrant an Order. The Council also needs to consider size and form; future potential as an amenity; rarity, cultural or historic value; contribution to, and relationship with, the landscape; and contribution to the character or appearance of a conservation area.

4.4 Where relevant the Council may also consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

**Expediency**

4.5 It may be expedient to make an Order if the Council believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. However, it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the Council may believe that certain trees are at risk as a result of development pressures. As explained in this report, this is the case here.

**History**

5.1 A Section 211 Notice (CAT/2019/0001) was received on 22nd January 2019 for various works to the trees within the site;

- Heavy pollarding of Sycamore
- Removal of 2 pole stage Beech trees
- Crown lift to Horse Chestnut to above height of boundary wall
- Crown reduction of Oak tree
- Removal of Scots Pine

5.2 A letter was sent to the applicant on 11th March 2019 confirming the LPA had no objections to the removal of the 2 Beech Trees and the proposed works to the Oak Tree. A Tree Preservation Order was made in respect of the Sycamore, Scots Pine and Horse Chestnut trees.

5.3 Officers used TEMPO (Tree Evaluation Method for Preservation Orders) to assess the trees for their amenity value. The value is explored in more detail in the
assessment section of this report. The expediency was judged to be there due to the clear intentions for works to the trees as detailed in the Section 211 Notice.

5.4 The Order was then made on 11\textsuperscript{th} March 2019 and, as per the 2012 Regulations and the necessary publicity undertaken.

5.5 Following the expiration of the publicity period and consideration of all representations received, the Council can confirm the Order, either without modification or with modification, to provide long-term tree protection. They may also decide not to confirm the Order, which will stop its effect. The Council cannot confirm an Order unless they have first considered any duly made objections or other representations.

6.0 **Representations**

6.1 Owners - Four letters of objection have been received from owners of the site which relate to;

- Essential maintenance required for long term stability of site.
- Health & safety concerns for residents and members of the public.
- Stability of slope upon which the trees are situated.
- Cost of future insurance.
- Expense in relation to future maintenance of bank.
- Effect on river bank wall.
- Potential damage to boundary wall.
- Future maintenance of trees.
- Specialist advice received prior to submission of Section 211 Notice.
- Pressure on slope.
- Doubts regarding the root stability of Scots Pine.
- Health of trees.

7.0 **Assessment**

**Amenity**

7.1 The trees are considered to be prominent features visible within the street scene and from public vantage points on Papcastle Road. They are of semi-mature age class and are considered to be in good condition. Although there are other trees on the site, the overall amenity value is as a group and it is considered that the loss of the trees or any substantial pruning works would significantly lower the amenity to which they contribute. Whilst other trees on site are not included in the tree preservation order, they are protected by virtue of them being within the Papcastle Conservation area and the trees subject to the TPO form principal members of this group of trees which are considered important for their cohesion.

7.2 The TEMPO assessments carried out resulted in a score of 17 for the Sycamore and Scots Pine – definitely merits TPO and a score of 13 for the Horse Chestnut –
TPO defensible. This score was reached following the following criteria; (listed with scores and definitions).

<table>
<thead>
<tr>
<th>Sycamore</th>
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</thead>
<tbody>
<tr>
<td><strong>Part 1: Amenity assessment</strong></td>
</tr>
<tr>
<td>a) Condition and suitability of TPO – score of 3 (fair/satisfactory)</td>
</tr>
<tr>
<td>b) Retention span (in years) &amp; suitability for TPO – score of 4 (40 – 100 very suitable)</td>
</tr>
<tr>
<td>c) Relative public visibility &amp; suitability for TPO – score of 4 (large trees or medium trees clearly visible to the public)</td>
</tr>
<tr>
<td>d) Other factors – score of 1 (trees with no additional redeeming features)</td>
</tr>
<tr>
<td><strong>Part 2: Expediency assessment</strong></td>
</tr>
<tr>
<td>Score of 5 – immediate threat to tree inc. S.211 Notice</td>
</tr>
<tr>
<td><strong>Part 3: Decision guide</strong></td>
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<tr>
<td>Total score of 17 – definitely merits TPO</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Scots Pine</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part 1: Amenity assessment</strong></td>
</tr>
<tr>
<td>a) Condition and suitability of TPO – score of 5 (good)</td>
</tr>
<tr>
<td>b) Retention span (in years) &amp; suitability for TPO – score of 2 (20 – 40 suitable)</td>
</tr>
<tr>
<td>c) Relative public visibility &amp; suitability for TPO – score of 4 (large trees or medium trees clearly visible to the public)</td>
</tr>
<tr>
<td>d) Other factors – score of 1 (trees with no additional redeeming features)</td>
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</table>
The trees were protected following the submission of a Section 211 Notice to carry out works to them which had the potential to cause detriment to both their health and the public amenity they provide. Following the serving of the TPO, officers have met with occupants of the Pumphouse and an application for works to a lesser extent has been applied for to the trees under planning reference WTPO/2019/0017. Officers have recommended approval for these works with the decision resting with the Development Panel.

**8.0 Conclusion**

The trees are considered to make a significant contribution to amenity, meet the decision criteria under the TEMPO assessments and are potentially under threat. It is therefore recommended that the TPO be confirmed.
RECOMMENDATION

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