

Proposed Tree Preservation Order (TPO) No 07/2024 Oak Tree At The Moat House

The council have placed a provisional TPO on an oak tree in the rear garden of our family home on the basis that:

- The tree is prominent in the locality and has significant amenity value
- The tree is clearly visible from the public highway
- The tree is visually important in the local area
- The tree has significant wildlife value

Reason for objection

My objection is that:

1. The council's basis for the TPO is not sufficient to warrant an order and contrary to the legislation governing Tree Preservation Orders.
2. If, despite our best endeavours, this tree does not return to full health, I will be required to go to court and could face up to a £20,000 fine. This would not be a fair or just outcome.

Background

We bought the Moat House (a former Victorian wash house for the Worth Park estate) in June 2022, at which point it had been neglected for several decades and at times used as an illegal HMO [REDACTED]. The former garden was inaccessible due to the overgrowth. In December 2022 we submitted a planning application to restore the property to its former glory and make it our family home. Myself, [REDACTED] and our [REDACTED] children [REDACTED] [REDACTED] currently live in [REDACTED] the now derelict building [REDACTED]. We cleared the overgrowth of the rear garden in late 2022 and now have a lovely garden.

In November 2023 our planning officer advised that everything was agreed in principle and that we could proceed with building control drawings with a view to commencing work in early 2024. Since then, we have reached out to the planning department on many occasions to understand why our application has still not been determined. A revised water neutrality statement was provided in February 2024. A lack of resource is not an acceptable explanation for the delays encountered. Throughout 2024 we were reassured numerous times that our application would be approved imminently and that the planning officer was sorry for the delays experienced. [REDACTED]

[REDACTED] We have raised the matter with council managers including Clem Smith. We do not understand what is delaying our application or when it might be resolved. Our architect tells us he has several other applications which have been outstanding for a similar amount of time. How can this be acceptable? How can residents, builders and architects work like this?

As has been documented in email with the planning department on several occasions, when we bought the property, the tree was close to dead with large amounts of deadwood which would frequently fall and an ivy like web which was wrapped around the full trunk of the tree. Evidence of this can still be seen today. Our tree surgeon and builders have been working

on, and monitoring, the tree over the past two years. The tree is now in much better health, however I would still describe it as “at risk”.

My family and I love the oak tree, it is the centre point of our garden, and we have been doing everything possible to help it recover from past neglect.

I also note that it is necessary for the protection of a tree by a TPO to be considered ‘expedient’. This is a test as to whether the serving of an Order in the public interest is a suitable/appropriate action in the circumstance of a particular case. For example, it is unlikely to be expedient to make a tree the subject of a TPO if it is under good proactive arboricultural management. This tree has been, and continues to be, under the management of All Seasons Tree Surgeons.

My comments on the council’s grounds for the TPO are as follows:

The Tree is prominent in the locality and has significant amenity value

No reason has been given for why the TPO was served. There is no danger to the tree other than risks relating to its neglect by a previous owner, which we are proactively trying to resolve. What is the difference between this oak tree and the thousands of other oak trees within the town that don’t have a TPO?

No inspection has been made of the tree by the council. I would be happy for an inspection to take place. I have previously sought confirmation from the tree officer if he had inspected the tree. No response was received.

‘Amenity’ is not defined in law, so authorities are advised to exercise judgment when deciding whether it is within their powers to make an Order. 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.

The council have not demonstrated that protection would bring a reasonable degree of public benefit. The tree is in the rear garden of a private house and only visibly by a small number of neighbouring properties. It is not prominent in the locality.

The tree is clearly visible from the public highway

The tree is hardly visible at all from the public highway to the front of the property. It is partially visible from a limited number of residential properties to the rear.

There are lots of oak trees in the area (none of which have TPO’s) which are clearly visible from the public highway. This tree is not.

The tree is visually important in the local area

Public visibility alone is not sufficient to warrant an Order. Government guidance advises the council to assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including

- 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.

The tree offers some visual attraction to a small number of neighbours. This is not a sufficient basis to warrant an order.

The tree has significant wildlife value

Where relevant to an assessment of the amenity value of trees, authorities may consider other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

The tree has a wildlife value consistent with an average tree in a residential setting. It is not significant and not a sufficient basis to warrant an order.

Subject access request

[REDACTED]

Summary

There is no risk to the tree beyond correcting past neglect which we are proactively addressing. The council have failed to set out adequate justification to warrant an order for the reasons set out above.

I would welcome the opportunity to discuss this matter in more detail with the Development Control Committee at the right time.

[REDACTED]

Property Owner