

**NORTH WALSHAM – TPO 21 0985 - Land South of Norwich Road North
Walsham**

Ref No. TPO/21/0985.

Officer: **Simon Case (Senior Landscape Officer)**

PURPOSE OF REFERRAL TO COMMITTEE - To consider whether to confirm a Tree Preservation Order (TPO) to protect a Group of trees at the above site.

BACKGROUND

Local residents contacted the Council concerned about the potential for an area of trees and natural scrubland to be removed by the developer of the above site prior to any proper assessment of the amenity and biodiversity value.

The Officer discussed the issues with Landscape colleagues who had been dealing with the developer on the proposed development and considered it expedient to serve an Area TPO to protect amenity and biodiversity.

There were concerns about how the developer had considered trees on other developments in North Norfolk especially in terms of how the developer was not always prepared to provide information of biomass regarding trees prior to removal. In light of the public representations and previous experience, Officers wanted to take a precautionary approach to protect trees on the site and to ensure that a proper understanding of the biomass equivalent was understood as part of future wider biodiversity net gain opportunities linked to residential development proposals.

This precautionary approach was supported by Local Ward Councillors prior to issuing the TPO.

REPRESENTATIONS

Objections to the Order:-

One letter of objection to the Order has been received from the agent of the developer. (See Copy at **Appendix A**)

The main objections are:

The TPO is not conducive to the development of the site in accordance with the site allocation and adopted and emerging Development Plans

At present the TPO seeks to protect large areas of the site in the absence of Arboricultural information. This information has been subsequently submitted.

The Arboricultural report demonstrates that many of the trees are not of significant quality. The proposed road will only affect poor quality trees. The Order should be amended only to protect the better trees across the site.

The Order should be redefined with the Arboricultural evidence to allow development to advance.

In Support, a petition signed by 696 members of the public has been received asking the Council to protect the Nursery Drive “woodland”.

APPRAISAL

In response to the objections the following comments are made:

When a site is allocated for development it should not be considered as a blank canvas for developers where National Planning Policy can be ignored. As with all development sites, natural features should be a consideration of any planning and any development should demonstrate Biodiversity Net Gain (BNG). The emerging Local Plan requires the Biomass equivalent of any trees removed for development to be replaced.

Whilst some of the trees may be considered to be of poor quality, as a group they provide valuable biodiversity in the form of habitat and their amenity should be judged as a group. This is acceptable within the TPO guidelines.

The TPO was served to protect amenity and biodiversity and protect the trees during development. The insignificant trees on the site contribute to the native scrub which has high biodiversity value. In the absence of any Biodiversity Matrix the value of Biodiversity on the site remains unknown.

The Extended Preliminary Ecological Appraisal (Iceni Ecology Ltd. June 21) commissioned by the developer stated:

‘It is recommended that a Biodiversity Net Gain (BNG) calculation is carried out for the site using the DEFRA Matrix.....
This would consider current habitats and proposed landscaping features to ascertain whether an aspired 10% BNG has been achieved’.

In the absence of a DEFRA Matrix Calculation providing a figure for the biodiversity value of the trees, the Council would be failing in its duties if it allowed trees to be felled without knowing how to replace and enhance BNG through mitigation.

The TPO has been served not to prevent development but to ensure amenity and BNG is protected.

Officers have requested information regarding BNG from the developer so that the Order can be modified in line with landscaping proposals that demonstrate adequate BNG but this has not been received.

HUMAN RIGHTS IMPLICATIONS

It is considered that the serving of the Order may raise issues relevant to Article 8: The right to respect for private and family life, and Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's human rights, and the general interest of the public, it is anticipated that the confirmation of this Order would be proportionate, justified and in accordance with planning law

Main Issues for Consideration

- 1. Whether or not the Order was served correctly in accordance with the relevant legislation and the Council's adopted policy.**

Officers are satisfied that the proper procedures were followed when serving the Order.

- 2. Whether or not the Order has been served on trees of sufficient amenity value to warrant a Preservation Order.**

Officers consider that the tree makes a significant contribution to the quality of the local environment and its enjoyment by the wider public and that therefore has high amenity value.

RECOMMENDATION:-

That the Order be confirmed.