

**Parish: Sowerby**  
Ward: Sowerby and Topcliffe  
**12**

Committee date: 13 December 2018  
Officer dealing: Miss Charlotte Cornforth  
Target date: 19 April 2019

**18/00013/TPO2**

**Tree Preservation Order 2018 No: 13**

**At: Melbourne Place - North Of 28 Topcliffe Road and South of 3 Victoria Avenue**

**The report is brought to Planning Committee as an objection has been made to the Order**

## **1.0 SITE, CONTEXT AND PROPOSAL**

- 1.1 This report considers the case for the confirmation of Tree Preservation Order (TPO) 18/00013/TPO2. The TPO was made and served on 19 October 2018.
- 1.2 The lime tree (T1) is located on land under the ownership of 3 Victoria Avenue, the tree is to the south and rear of the property. The tree is located within the carriageway of Melbourne Place. The tree is visible from Topcliffe Road (B1448) and Melbourne Place.

## **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

- 2.1 18/00842/CAT - Works to a tree in a conservation area; Application withdrawn.
- 2.2 18/01945/CAT - Works to a tree in a conservation area - fell T1 (common lime); provisional tree preservation order served on the tree (18/00013/TPO2)

## **3.0 RELEVANT PLANNING POLICIES**

- 3.1 The relevant policies are the Local Development Framework:

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Development Policy DP28 – Conservation

National Planning Policy Framework July 2018

## **4.0 CONSULTATIONS**

- 4.1 Sowerby Parish Council – The Parish Council made an objection to the works to trees in the Conservation Area application (18/01945/CAT) and stated that a Tree Preservation Order should be placed on the tree.
- 4.2 The owner of the tree (3 Victoria Avenue) has objected to the TPO. The comments are summarised as follows:
  - The Lime Tree has sadly outstayed its welcome and is too big and dangerous for where it resides and needs to be removed. Branches will fall in high winds and could cause damage.
  - The root system is under the majority of my garden and presumable house - Evidence is evident in the garden pavement completely broken and lifted in places and continues to get worse.

- The tree produces a large amount of sap that is both damaging to the paint on my car and attracts a swarm of wasps every morning for a 3 month period. It also does not host any other wildlife other than pigeons who again defecate continuously.
- Most residents see and have voiced that if the tree is removed it would allow larger vehicles to gain access to start to develop or make use of the old disused depot at the end of Melbourne Place. I am in agreement with the fact that I do not wish this to happen either as I also park my car down there.

4.3 A letter of support has also been received. The comments state:

I'm writing in support of the order to preserve and protect this landmark tree within the Conservation Area of Sowerby. The tree is highly visible from the main highway and strengthens the character of the neighbourhood. Without protection its loss would have significant negative impact on the street scene of Sowerby.

At the time of the notification for the removal of the tree 8 letters of objection were received making reference to the importance of the tree to the appearance of the place, for the significance to the history of the place, how it precludes large or high speed vehicles from passing through the street that helps to ensure that the Victorian 'scoria' blocks are less disturbed and how this tree provides a place that is traffic calmed making it a safer place particularly for children and more vulnerable road users.

## 5.0 OBSERVATIONS

5.1 The Arboricultural Safety Survey by JCA Limited dated 11<sup>th</sup> September 2018 that was submitted as part of the application (18/01945/CAT) to fell the lime tree as works to trees in Conservation Areas stated the following regarding the tree:

*A heavily topped tree with fairly vigorous regrowth and dense epicormics shoots. Situated in an unsuitable location with the canopy overhanging the driveway and growing close to an adjacent building. This tree will require regular future pruning, in the form of cyclical topping to manage the epicormic shoots and regrowth. This tree is not considered worthy of protection as it provides little amenity and is considered to be of low arboricultural value because of the past drastic pruning.*

The report recommended that the tree is in poor physiological condition, fair structural condition and should be removed.

5.2 Concern has been expressed by the owner regarding the safety of the tree and the potential for falling branches and the risk posed to those close to the tree. It is noted that surgery of the tree has reduced its form to a trunk with no large limbs, there is thin new growth in response to the surgery. It is not recorded in the JCA report (prepared for Blueoak Homes) when the surgery was undertaken, the works were undertaken without formal notification to the Council and appear to have been in breach of the requirements of the Planning Act.

5.3 The JCA report notes the vigorous regrowth of the tree. The same report finds that the structural condition is fair. There is no concern expressed regarding structural stability.

5.4 Comments have been received regarding the root system of the tree causing the garden pavement at 3 Victoria Avenue to be lifted. No detail is supplied of the severity of the impact or whether the cause is identified as the tree.

5.5 Mapping reveals that the tree is about 6 metres from the dwelling 28 Topcliffe Road. The owner of 28 Topcliffe Road concludes that the tree is likely to have roots under

their home, however they objected to the removal of the tree finding that the tree should not be removed for many of the reasons stated in the public comments at paragraph 4.3

5.6 Problems relating to sap and wasps are acknowledged however these reasons do not warrant removal of protection of the tree.

5.7 The lime tree is prominent being at the entrance to Melbourne Place and seen from Topcliffe Road. It is considered to make a positive contribution towards the character and appearance of the Melbourne Place and due to the position of the tree is a distinctive and prominent feature that adds to the character of this part of the Thirsk and Sowerby Conservation Area.

## **6.0 CONCLUSION AND RECOMMENDATION**

6.1 It is considered that the trees positively contributes towards the character and appearance of the Conservation Area and its removal would result in significant harm to the character and appearance of the Thirsk and Sowerby Conservation Area and the public realm of Melbourne Place due to its prominent position.

6.2 There appears to be no structural or health reasons why the trees cannot be maintained in the longer term and as such making a TPO on the trees is appropriate.

6.3 It is therefore recommended that TPO 2018/13 Order be confirmed.