

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to Planning Applications Committee

30 May 2019

TITLE:	To consider confirmation of Tree Preservation Order No. SM.311 – 16 Queen Street, Leek
PORTFOLIO:	Planning, Development and Property
OFFICER:	Steve Massey, Arboricultural Officer
WARD:	Leek East

Appendices Attached –

Appendix A: Plan for current provisional TPO No. SM.311.

1. Recommendation

- 1.1 That notwithstanding the objection received, Tree Preservation Order (TPO) No. SM.311 be confirmed without modification.

Reason for recommendation: In order to maintain legal protection over a significant tree.

2. Executive Summary

- 2.1 Under the Council's Constitution, there are officer delegated powers to confirm a provisional TPO in respect of which no objections have been received. However, where objections are received, Planning Applications Committee must consider and decide whether to confirm the Order, and in doing so must take into account such objections and representations as have been received.
- 2.2 TPO No. SM.311 was made as a provisional Order on 19th December 2018, protecting 1 individual mature Lime tree situated in the rear garden to 16 Queen Street. A copy of the provisional TPO plan is attached at Appendix A, showing the protected Lime denoted as T1.
- 2.3 An objection to the TPO has been submitted by the owner of a neighbouring property at 13 Fountain Street. This is considered in detail at Section 5 of this report.
- 2.4 In the interim, an application was submitted by a tree surgeon on behalf of the tree owner, seeking consent to carry out crown lifting and thinning to the tree. Consent has been duly granted under officers' delegated powers authorising such pruning, which is considered to be appropriate and not detrimental to amenity, to comprise removal of lower pendulous

secondary branches to provide clearance of approximately 6 – 7m all round beneath the crown and thinning the mid- and upper-crown. This work had not yet been carried out at the time of writing this report, although the tree surgeon confirms that he has been instructed and the approved work is planned for completion imminently.

- 2.5 The objector, whose property is directly behind, and overhung by, the protected tree, is aware of the proposed work, and considers that it should satisfactorily address his main concerns. However, at this stage the approved work has not been carried out, and the objection has not been withdrawn and so remains to be taken into account in deciding whether to confirm the Order.
- 2.6 Notwithstanding the grounds of objection, it is considered that the issues and concerns raised do not justify the removal of the Lime, and also that this tree is of significant public amenity value and appropriately protected by TPO. Furthermore, it appears very likely that the approved pruning work will shortly be carried out, and this would address and overcome the main grounds of objection. In conclusion it is now recommended that TPO No. SM.311 be confirmed without modification, in support of the Council's adopted Tree Strategy.

3 Background

- 3.1 16 Queen Street is situated within the Leek Conservation Area, where there is generally a requirement to notify the local planning authority of proposed felling or pruning of trees. In compliance with this, notification was received of the intention to top the Lime tree, effectively removing its full crown and leaving only a standing pole stem and main scaffold limb stubs, approximately 5 – 6m high. Alternative pruning suggestions were put to the owner via the tree surgeon, but they wished to maintain the proposal to top the tree and have that determined. As this would have substantially reduced its amenity value and was not considered appropriate, the provisional TPO was made.
- 3.2 The subsequent TPO application for consent to prune the tree did then follow the suggested and more sensitive alternative management of crown lifting and thinning – as this was considered acceptable, consent for such work was granted under delegated powers. It is anticipated that this will shortly be implemented.
- 3.3 Although in the rear garden of 16 Queen Street, the Lime is readily visible from several surrounding publicly accessible locations in the vicinity. From Ball Haye Street, looking along Queen Street Car Park, this Lime is seen along with other similar trees around St Luke's Church. The tree is also seen from the wide paved alley alongside the churchyard linking Queen Street and Fountain Street, and directly from Queen Street itself looking into the shared entrance/car park to the adjacent flats at 12 Queen Street.

4. Implications

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| 4.1 | <u>Community Safety - (Crime and Disorder Act 1998)</u> | Nil. |
| 4.2 | <u>Employees</u> | Nil. |
| 4.3 | <u>Equalities</u> | This report has been prepared in accordance with the Council's Equal Opportunities policy. |
| 4.4 | <u>Financial</u> | There is no financial liability on this Council arising from making and confirming, or not confirming, a TPO – with or without modification. However, following any subsequent application for consent, anyone suffering loss or damage arising as a consequence of the Council's decision to refuse consent, or to impose conditions when granting consent, may seek compensation from the Council, subject to the provisions of the Town and Country Planning (Trees) (England) Regulations 2012. Any claim must be submitted within 12 months of such an application or subsequent appeal being determined. |
| 4.5 | <u>Legal</u> | Nil. |
| 4.6 | <u>Sustainability</u> | Confirmation of the TPO would appropriately maintain protection over a tree of significant local amenity value, in support of local and national environmental protection objectives and the Council's adopted Tree Strategy. |

Ben Haywood
Head of Development Services

Background Papers

TPO SM.311 file

Location

By request at:
Staffordshire Moorlands District Council
Moorlands House
Leek

Contact

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Decision:

Reason:

Interests Declared:

5. Detail and Discussion

5.1 Various points raised as concerns by the owner of 13 Fountain Street are taken as grounds of objection, and are considered below with *officers' comments in italics* following each in response.

5.2 The objector points out that the stem base of the tree is situated directly against the Victorian-era brick wall between his yard and the rear garden of 16 Queen Street, and may cause damage to the wall as it grows.

However, although such damage in future cannot be ruled out, a site inspection meeting noted no sign of damage or disruption to the wall at present, including no cracking or leaning. It was agreed that due to the age and size of the tree and its proximity to the wall, if such damage were likely to occur at all it may well have done so by now. It was also advised that if signs of damage do appear in future, the situation can be reviewed at that stage.

5.3 The owner of 13 Fountain Street points out that the tree has been poorly maintained in the past, with branches abruptly truncated leaving unsightly stubs.

The approved pruning work will include remedial work to remove truncated scaffold limbs and old stubs; the consent granted for this work includes a condition that it should be carried out in accordance with British Standard 3998:2010 "Tree Work – Recommendations".

5.4 Branches occasionally fall onto the flat roof extension of 13 Fountain Street, and whilst these have been relatively small sized so far, larger branches may also fall with a risk of damage to the roof.

Whilst branch shedding can never be ruled out, the approved crown thinning work will target any dead, diseased, broken or defective branches for pruning out, and will also generally reduce crown weight – making failure of retained healthy branches even less likely.

5.5 The tree blocks natural daylight from the rear yard of 13 Fountain Street, exacerbated by its height, and more so when in full leaf.

The approved pruning work includes crown lifting which will remove approximately the lower third of the crown all round the tree, allowing significantly more light beneath the crown. In addition the crown thinning, also approved, will reduce the density of the remaining mid- and upper-crown, allowing more light to diffuse through the tree.

5.6 The crown of the Lime overhangs the rear yard of 13 Fountain Street, with lower pendulous growth extending below head height and making part of the yard unusable.

The approved crown lift pruning will remove all this lower growth and provide approximately 6 – 7m clearance beneath the crown all round the tree.