

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING & DEVELOPMENT COMMITTEE

Agenda Item No. 7

meeting date: THURSDAY, 30 NOVEMBER 2017
title: TREE PRESERVATION ORDER 7/19/3/206 ST MARY'S CENTRE
submitted by: JOHN HEAP – DIRECTOR OF COMMUNITY SERVICES
principal author: ALEX SHUTT – COUNTRYSIDE OFFICER

1 PURPOSE

1.1 For Committee to consider objections to the St Mary's Centre Tree Preservation Order and to decide whether the order should be confirmed.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – To protect and enhance the existing environmental quality of our area.
- Corporate Priorities – To comply with the adopted core strategy – Environment [Policy DME1: Protecting Trees and Woodlands,
- Other Considerations – None.

2 BACKGROUND

2.1 On 20 April 2017 a pre-planning enquiry proposal was submitted for demolition of existing building and construction of a new building rear of the St Mary's Centre, York Street.

2.2 From initial assessments it was clear that a prominent Ash (*Fraxinus excelsior*) was a material consideration and that the proposal would result in the loss of the tree in question. As the tree is included in the Clitheroe Conservation Area and is considered to be of visual amenity value the applicant was advised that an arboricultural assessment would be required to be submitted with any planning application. On the basis of the results of a Tree Evaluation Method for a Tree Preservation Order [TEMPO] the applicant was also advised that the local authority would consider it expedient to make a preservation order.

2.3 Following the submission of an application to fell the tree under the Planning [Listed Building and Conservation Areas] Act 1990 on the 15 June 2017, which was refused on the 19 July 2017, a tree preservation order was served on the 20 July. Objections to the preservation order have been made

2.4 Objection to the refusal for felling was submitted to the planning inspectorate however under Planning [Listed Building and Conservation Areas] there is no appeal process and the applicant was advised that only appeals against refusal to fell under the Town and Country Planning Act [Tree Preservation] [England] Regulations can be determined by the Inspectorate.

3 ISSUES

- 3.1 The tree is considered to be of visual amenity value to the locality and to the wider tree-scape and therefore in the interests of amenity it was considered expedient to protect the tree growing on land included in a Conservation Area.
- 3.2 Due to Chalara dieback of Ash disease (*Hymenoscyphus fraxineus*) infecting and eradicating the juvenile stock of native Ash throughout Britain, the retention and protection of mature, healthy specimens (which for the time being are immune to the disease) is of greater importance to the survival of the ecologically and culturally important species.
- 3.3 A tree preservation order protects trees from lopping, topping and felling but does not preclude tree work being carried, including felling, except for emergencies, for which there are exemptions. A tree work application is required for tree management work.
- 3.4 Tree work to protected trees that are considered to be dead and/or dangerous can, under exemptions, be carried out to reduce or remove immediate risk. In these circumstances a five day notice is normally required. If a tree has to be felled or pruned in an emergency the onus is on the landowner to prove that on the balance of probabilities that the tree was dangerous. In cases of dead wood pruning no formal consent is required.
- 3.5 Any tree management decisions about any of the trees included in the preservation order should be based on a detailed arboricultural/quantified tree risk assessment carried out by a qualified and public indemnity insured arborist. This ensures that any tree management decisions are based on objective and accurate arboricultural information.
- 3.6 The applicant has claimed that the boundary wall fronting York Street is being undermined by the tree and is in a dangerous condition. I am of the opinion that this has not been substantiated by any definitive evidence. An assessment of the wall submitted by a chartered engineer states that the wall does not comply with current standards and that there is a theoretical risk of the wall being unstable, made worse by the presence of tree. However it does not state that there is an imminent risk of the wall collapsing or that it is in a dangerous condition.

4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:
 - Resources – Dealing with tree related issues form part of the Countryside Officers duties.
 - Technical, Environmental and Legal – decisions made about trees have to balance protection of the environment against quantifiable risks posed by trees.
 - Political – None.

- Reputation – The Council’s environmental protection measures are being maintained.
- Equality & Diversity – None.

5 CONCLUSION

5.1 Trees are a material consideration at any stage of the pre-planning, outline or detailed planning process and that at pre-planning stage in certain circumstances, for example where as in this instance there is a lack of any detailed arboricultural assessment and it is considered to be a minimum category B specimen [BS5837] of sufficient visual amenity value, the LPA may consider it expedient in the interests of amenity to serve a TPO. This does not preclude a planning application being submitted or determined and in instances where a planning permission is granted and where the details indicate which trees are to be removed as part of the detailed consent the planning permission supersedes a TPO and the loss can be mitigated.

5.2 If the wall is proven to be unsafe and requires rebuilding, this can be carried out utilising specialist techniques so the tree can be safely retained and co-exist with the wall as there is still a 30cm gap between the stem and said wall.

6. **RECOMMENDED THAT COMMITTEE**

6.1 Confirm the St Mary’s Tree Preservation Order.

ALEX SHUTT
COUNTRYSIDE OFFICER

JOHN HEAP
DIRECTOR OF COMMUNITY SERVICES

BACKGROUND PAPERS

Copy of pre planning response

Link to Decision Notice

https://www.ribblevalley.gov.uk/planx_downloads/17_0595_Notice_of_Refusal.pdf

Copies of letters of objection

Copy of letters of objection response

Copy of TEMPO

Link to Chalara dieback of Ash - Questions and Answers

<https://www.forestry.gov.uk/forestry/inf-d-8w9euv>

Link to Structural Appraisal Report

https://www.ribblevalley.gov.uk/planx_downloads/170595_structural_report.pdf

For further information please ask for Alex Shutt, extension 4505.



RIBBLE VALLEY BOROUGH COUNCIL

Officer:	Rachel Horton	Tel:	01200 414501	Council Offices	
Email:	Rachel.horton@ribblevalley.gov.uk			Church Walk	
Our Ref:	RV/2017/ENQ/00032			Clitheroe	
Proposal:	Demolition of existing building and construction of dental surgery at The Institute (rear of St Marys Centre) Paradise Lane/York Street Clitheroe			Lancashire BB7 2RA	
Date:	19 th June 2017			Tel: 01200 425111	Fax: 01200 414487
				DX: 4501	

Pre-Application Enquiry Response

Dear Mrs Douglas

Following an unaccompanied site visit and meeting on the 24th of May I write in response to your pre-application enquiry regarding the proposed demolition of the existing building on the site and the erection of a replacement two-storey flat roof building to accommodate a dental surgery.

At our meeting you advised that the intention is to demolish the existing building and construct a new building that is sited away from the rear elevation of the St Marys Centre which is considered to be more beneficial insofar as future maintenance and repair. Furthermore, due to the existing land levels on the site a level access to the building is not currently achievable therefore the creation of a new access is required off York Street. At this stage of enquiry a location plan, supporting statement, together with sketch elevations and proposed site plans have been submitted for consideration.

Relevant Policies:

- EN5 – Heritage Assets
- DMG1 – General Considerations
- DME1 – Protecting Trees and Woodlands
- DME2 – Landscape and Townscape Protection
- DME4 – Protecting Heritage Assets
- EC1 – Business and Employment Development
- EC2 – Development of Retail, Shops and Community Facilities and Services
- National Planning Policy Framework (NPPF)

Principle of Development:

The site is located within Clitheroe Town Centre and would result in the re-location of an existing community facility within one of the principle settlements. On this basis I consider that the principle of the scheme is acceptable (refer to EC1 and EC2 of the Core Strategy). Notwithstanding this, I am mindful that development of the site is constrained by the fact that it is within Clitheroe Conservation Area close to Listed Buildings, proposed works necessitate the partial removal of an existing stone boundary wall a mature tree and will be visual prominent within the public realm.

Visual Impact and Design Matters within the Conservation Area:

The general design and appearance of development should be sympathetic to existing and proposed land uses in terms of its size, intensity and nature as well as scale, massing, style, features and building materials (refer to

Submission Requirements:

Should you proceed to a formal submission, based on the nature of the proposal/site constraints it is my opinion that the Local Planning Authority would require the following information to accompany such an application:

- Design and Access Statement
- Heritage Statement
- Full Arboricultural Report and Arboricultural Impact Assessment
- Proposed landscaping.
- Scaled levels through the site

Please be advised that Lancashire County Council Highways department will no longer be supplying Pre-Application advice at this time and they are currently considering charging for such advice. If you require any additional information with regards to Highway issues, you will be expected to request this information through your own initiative and contact LCC direct for further advice.

Please note this aforementioned required information may not be exhaustive and is provided on the basis of the level of information submitted. Failure to provide required information is likely to result in an application being made invalid until such information is received or potentially refused on the basis of insufficient information.

The above observations have been provided on the basis of the level of information submitted and the comments contained within this response represent officer opinion only, at the time of writing, without prejudice to the final determination of any application submitted.

Should you wish to discuss any of these matters further please do not hesitate to contact me.

Yours Sincerely

Mrs Rachel Horton
Pre-Application Advice Officer

Mrs Judith Douglas
Judith Douglas Town Planning Ltd
90 Pimlico Road
Clitheroe
BB7 2AH

The Parish Church of St. Mary Magdalene

St Mary's Church Office
Church Street
Clitheroe
BB7 2DG

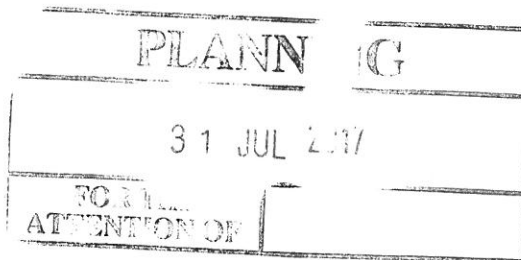
Tel 01200 422828
admin@stmaryclitheroe.com



Revd Andrew Froud
The Vicarage
Church Street Lancs
Lancs BB7 2DD

Tel 01200 423317
andyfroud@gmail.com

Countryside Officer
Planning section
Council Offices
Church Walk
Clitheroe
Lancashire
BB7 2RA



28th July 2017

Dear Sir,

You have defined T1 ash as of having high amenity value. The protection and enhancement of amenity, particularly residential amenity, is a core objective of planning. The Development Act 1993 (S 4(1)) defines amenity like this: "‘amenity’ of a locality or building means any quality, condition or factor that makes, or contributes to making, the locality or building harmonious, pleasant or enjoyable.”.

Undoubtedly T1 ash taken in isolation from its context fits your description and. However, as Chair of the St Mary's Centre Trustees, I would argue that the site as a whole does not have any amenity value as defined by the 1993 Act. The Institute and the land on which it stands are currently under offer, with planned development as residential properties. The Institute was added on to the Sunday School (or church hall or St Mary's Centre as it is now know) sometime in the twentieth century.

From the first The Institute was clearly without architectural merit: having been built with concrete which is now rotting, exposed ironwork which is now rusting and a flat roof which has finally succumbed to the Lancashire weather. The building is in need of demolition. To fund that and renovations to the rest of the St Mary's Centre we need to sell the site. The temporary Tree Preservation Order has effectively delayed that sale and may indeed stop it happening. A permanent TPO will create an ongoing eyesore in an area currently being successfully regenerated.

Finally I am disappointed to learn from correspondence with the proposed purchaser's agents that they feel that their attempts at dialogue and negotiation with RVBC have been rebuffed with a formal and adversarial approach.

For the purposes of this legal approach I register my objection to the Tree Preservation Order on T1 ash on the grounds that it is not of High Amenity Value: I would welcome anyone contacting me regarding future development on the site.

Yours

Revd Andy Froud MA, MPhil

The Vicarage
Church Street
Clitheroe BB7 2DD
www.stmaryclitheroe.com
01200 423317 / 0796 957 6691

Countryside Officer
Planning section
Council Offices
Church Walk
Clitheroe
Lancashire
BB7 2RA



2nd August 2017

Dear Sir

Tree Preservation Order No. 7/19/3/206: St. Mary's Centre, Clitheroe. T1 Ash.

I refer to your the temporary Tree Preservation Order attached to the T1 Ash tree and the recent planning refusal for the felling of said Ash tree on the St Mary's Community Centre site adjacent to York Street.

This tree has been described by yourselves as of High Amenity Value.

I wish to challenge your description and the TPO, as neither it nor the site, including the extension to St Mary's Centre, known as the Institute, in its current state of repair add anything visually, or aesthetically to their surroundings.

An Ash tree of this size and age, with its extensive root system, threatens the stability of the high boundary retaining wall. With its branches, which, in the case of Ash trees can become brittle, it is a potential risk to pedestrians and vehicles on York Street both now and in the future. The tree is very close to the pavement and has large overhanging branches which are a huge safety concern and if left in this location it remains very hazardous.

The Institute itself was never a thing of architectural beauty and is deteriorating rapidly due to the current state of the flat roof. Ultimately it will become an unsightly presence on York Street. The preservation order on this tree will prevent any useful contribution to Clitheroe that development of this site might make as a source of possible regeneration.

I therefore recommend and request that this temporary TPO be removed and for the purposes of this legal approach I register my objection to the Tree Preservation Order on T1 Ash on the grounds that it is not of High Amenity Value.

Yours sincerely

Brian Haworth
St. Mary's Centre Hall Management Team – Committee Member
Clitheroe Parish Church Amateur Operatic & Dramatic Society – Committee Member

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Church Street, Clitheroe, Lancashire. BB7 2DG

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email: info@stmaryscentre.co.uk

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Countryside Officer
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Colin Wright
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Lancashire
BB7 9RW
Tel 01254 485020 Mob :07840778828

I am responding, in my capacity as Site Supervisor and Committee Member of the St Mary's Centre, to your letter of 20th July regarding T1 ash.

The council's policy is to encourage residential development in the town centre of Clitheroe: not only does this avoid the need to build housing in former greenbelt land, higher residency rates in town centres have been shown to improve the general well-being of town centres.

The proposed development will use what, if not classified officially as a brown-field site, is certainly a town-centre site currently blighted by a disused building of no architectural value. The Institute stands in stark contrast to the other buildings in a conservation area. Simply put, if the tree remains in place then a structurally unsound and unsightly building (the Institute) will have to stay in place.

The Institute has reached the end of its life and ,at some stage in the future, will need to be demolished. Preserving the self-seeded ash tree will severely limit the potential for redevelopment of the site for any purpose.

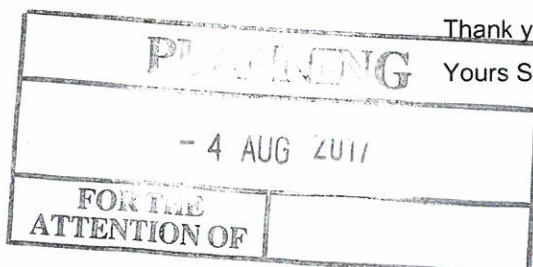
This in turn will have the knock on effect of restricting the St Mary's Centre Committee to continue the process of maintaining and improving the main body of the building.

The St Mary's Centre is a valuable asset to the town of Clitheroe . Many thousands of people, local and visitors alike, use the facility, or attend functions or Theatre productions, at the venue. (Including Local Schools and, indeed, The Ribble Valley Council itself!)

The chances of continuity for the Community Centre will be greatly improved by reversing the decision to place the T1 Ash on a preservation order. This would allow the opportunity for Development and improvement of the whole site.

Thank you,
Yours Sincerely,

Colin Wright.(St Mary's Centre Committee)



59 Mearley Syke

Clitheroe

Lancs.

BB7 1JG



9th. August 2017

Countryside Officer
Planning Section
Council Offices, Church Walk
Clitheroe,
BB7 2RA

Ref. **TREE PRESERVATION ORDER - T1 ash - 20th. July 2017**

I write as a member of the St. Mary's Centre Management Team to object to the above TPO .

How has this ash tree acquired "High Amenity Value", is it the variety of tree (surely not) or its position ?

The trees root system is impacting on the adjacent wall and will soon affect said wall. Removal of the tree will remove the fall hazard possible onto York Street.

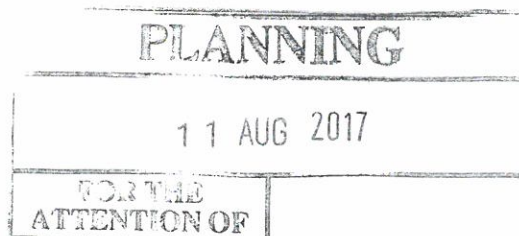
The proposed development will use what is a town centre site currently blighted by a disused building with no architectural value.

This building has reached the end of its life and will need to be demolished at some future date.

I trust that my objection along with my fellow management members will encourage you to rethink this TPO.

Yours sincerely,

Brenda Jones



RIBBLE VALLEY BOROUGH COUNCIL

please ask for: DAVID HEWITT
direct line: 01200 414505
e-mail: david.hewitt@ribblevalley.gov.uk
my ref: DH/CMS
your ref:
date: 14 August 2017

Council Offices
Church Walk
CLITHEROE
Lancashire BB7 2RA

Switchboard: 01200 425111
Fax: 01200 414487
www.ribblevalley.gov.uk

Dear Ms Jones

With reference to your letter of objection to the Tree Preservation Order 7/19/3/206.

The objections to the Order will be considered by the Planning Committee at the earliest opportunity, however in the meantime I am taking the opportunity to advise you accordingly.

Trees are a material consideration at any stage of the pre-planning, outline or detailed planning process and that at pre-planning stage in certain circumstances, for example where as in this instance there is a lack of any detailed arboricultural assessment and it is considered to be a minimum category B specimen [BS5837] of sufficient visual amenity value, the LPA may consider it expedient in the interests of amenity to serve a TPO. This does not preclude a planning application being submitted or determined and in instances where a planning permission is granted and where the details indicate which trees are to be removed as part of the detailed consent the planning permission supersedes a TPO.

The above information is without prejudice to any future planning application that may be submitted.

Finally the officer dealing with matter will be Alex Shutt who is now in receipt of your letter of objection.

Yours sincerely

DAVID HEWITT
COUNTRYSIDE OFFICER

Ms B Jones
59 Mearley Syke
CLITHEROE
Lancashire
BB7 1JG

Amenity Evaluation Rating for CA/TPO

Conservation Area Yes- Clitheroe	SITE VISIT DATE: 26/01/2017
TREE SPECIES: Ash	EFFECTIVE DATE:
ADDRESS: ST Marys Parish Hall, Off Paradise Lane/York Street, Clitheroe, BB7 2DG.	TPO DESIGNATION: Amenity Value
AMENITY VALUE RATING: 21	SURVEYED BY: Alex Shutt
REASON FOR TPO:	

1	Size	SCORE	6	Suitability to area	SCORE
1	Very small up to 5m		1	Just suitable	
2	Small 5-10m		2	Fairly suitable	
3	Small 10-15m		3	Very suitable	Y
4	Medium 15-20m		4	Particularly suitable	
5	Medium 20-25m	Y			
6	Large 25-30m				
7	Very large 30m +				
2	Life expectancy		7	Future amenity value	
1	5-15 years		0	Potential already recognised	
2	15-40 years		1	Some potential	
3	40-100 years	Y	2	Medium potential	Y
4	100 years +		3	High potential	
3	Form		8	Tree influence (current or future)	
-1	Tress which are of poor form		-2	Highly significant	
0	Trees of not very good form		-1	Significant	Y
1	Tress of average form		0	Slight	
2	Trees of good form	Y	1	Insignificant	
3	Trees of especially good form				
4	Visibility		9	Added factors	
1	Trees only seen with difficulty or by a very small number of people		If more than one factor relevant maximum score can still only be 2		
2	Back garden trees, or trees slightly blocked by other features		1	Screening unpleasant view	Y
3	Prominent tress in well frequented places	Y	1	Relevant to the Local Plan	Y
			1	Historical Association	
			1	Considerably good for wildlife	
			1	Veteran tree status	
5	Other trees in the area		10	Rating	21
0	Wooded surroundings				
1	Many				
2	Some				
3	Few	Y			
4	None				

ADD EACH FACTOR TOGETHER 1+2+3+4+5+6+7+8+9 = Rating
 (The suitable benchmark rating for inclusion within a TPO is 15)