

# DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

## **EASTERN AREA PLANNING COMMITTEE**

### **MINUTES OF THE MEETING HELD ON WEDNESDAY, 9 MARCH 2022**

**Councillors Present:** Graham Pask (Chairman), Alan Macro (Vice-Chairman), Graham Bridgman, Jeremy Cottam (both as substitutes), Tony Linden, Royce Longton, Geoff Mayes Richard Somner and Joanne Stewart (as substitute)

**Apologies for inability to attend the meeting:** Councillor Alan Law, Councillor Ross Mackinnon and Councillor Keith Woodhams

#### **PART I**

##### **1. Minutes : Item to follow**

The Minutes of the meeting held on 19 January 2022 were approved as a true and correct record and signed by the Chairman, subject to the following amendments:

Councillor Bridgman said on page 16 the first question to Officers should be amended to note that it was he who had asked the question.

Councillor Linden said apologies for inability to attend the meeting had included him but it should be noted that he had attended remotely as Ward Member.

The Minutes of the meeting held on 26<sup>th</sup> January 2022 were approved as a true and correct record and signed by the Chairman.

##### **2. Declarations of Interest**

Councillor Mayes advised he was a member of BONT, CPRE and knew the previous owners of the land at Hasenbach.

Councillor Bridgman said he knew at least one of the signers of the petition reasonably well and one of the objector's very well.

##### **3. Schedule of Planning Applications**

###### **(1) Application No. & Parish: TPO/201/21/1046 Stratfield Mortimer**

The Committee considered a report (Agenda Item 4) concerning Planning Application TPO/201/21/1046 in respect of Stratfield Mortimer, Land at Hasenbach, The Bevers, Mortimer Common, Reading RG7 3SP.

The report proposed confirmation of a tree preservation order.

Jon Thomas, Tree Officer, introduced the report to Members which dealt with whether or not to confirm TPO/1046 which concerned a black pine tree at Hasenbach, The Bevers, Mortimer Common, Reading. The Recommendation was TPO/201/21/1046 should be confirmed without amendments.

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Members viewed slides which showed the site of the TPO which was within the Parish of Stratfield Mortimer, centrally located within Mortimer village. The pine under this order was a significant tree when viewed from The Bevers and a skyline feature in views from other locations. The tree was located close to the entrance of the site with quite a large stem.

The tree had been assessed using a scoring method called TEMPO which assessed whether or not a tree was suitable for a preservation order. There were two elements to the scoring system; the amenity and expediency and in this case, because there was a known threat to the tree, it met the expediency test scoring 20 points. Mr Thomas clarified that a score above 14 points definitely merited a TPO. Other scoring matrices had been used to score the amenity and monetary value of the tree; Helliwell considered the landscape value of the tree and CAVAT dealt with replacement costs and looked at the age of the tree and how much it would cost to replace it like-for-like. Mr Thomas had revised the CAVAT assessment based on the site visits to show that the tree stem had a diameter of approximately 70 centimetres which increased the CAVAT figure upwards to £37,000 as a replacement cost.

Councillor Bridgman raised a point of order stating that the pack detailed a final value replacement cost of £27,000 and the question to Officers was whether or not the Committee should allow the Council to bring fresh material to the application outside of the required five working days prior to hearing the application. Sharon Armour advised that Planning Officers quite often submitted updated information after publication of the initial agenda which appeared to be the case in this instance.

Mr Thomas said that one of the principal objections appeared to be that the tree represented a significant risk in that it was dangerous. Mr Thomas said based on site visits and information he had received, his opinion was that the tree did not represent a danger as it had no sign of disease and did not have significant structural defect. Therefore Mr Thomas felt it was appropriate for the tree to have a TPO placed upon it.

### **Objector Representation**

Mr Morris-Ashton in addressing the Committee, raised the following points:

- He was speaking on behalf of a number of objectors and was an objector himself.
- He would make two key submissions, firstly that confirmation of this order would be otherwise in accordance with the pertinent regulations in that the tree had little or no amenity value and it was not expedient to confirm the order, and secondly, to confirm the order would be a breach of human rights.
- With regard to amenity value, whilst the Local Authority might argue that the tree was healthy and not dangerous, notwithstanding the comments about the sub-optimal leverage position, a large pine tree towering above residential properties was objectively dangerous. All of the foliage was concentrated at the top of the tree and there was nothing to stop the wind taking the tree down in a phenomenon known as windthrow.
- With regard to retention span, whilst the species enjoyed a degree of longevity, the older and taller the tree got the more likely it was to be uprooted in strong winds.
- With reference to relative public visibility, the tree was only probably visible from The Bevers estate and the photos taken from Victoria Road and King Street showed the tree as barely visible from those locations.
- With regard to human rights, the Committee would understand that any decision they made must not infringe upon people's human rights and it was the view of the objectors that confirmation of this order would be contrary to Articles 1, 2 and 8 of The European Convention on Human Rights.

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- Point 1.4 of the report stated that the tree under this order was more visible than the tree under TPO 568 at 24 King Street. However, Members were asked to note that there was also a large pine tree at 16 King Street which was not subject to a tree preservation order which suggested there was no uniformity in the application regulations in the village.
- The tree was only really visible from The Bevers and it should be noted from the petition that most of the people from the estate were not agreeable to the confirmation of this order.
- An application to reduce the height of the tree had been given and therefore the argument that it was a skyline feature would fall away once it had been reduced.
- Point 4.6 of the report conceded that it was an understandable concern of the objectors that the tree presented a risk of falling and hitting a property, which was an acknowledgement of a breach of human rights.
- The statistics referred to in the report about the risk of being hit by a tree were risible and unhelpful as they referred to being hit by any tree anywhere in the country and did not relate to the risk of being hit by this particular tree which was felt to be virtually certain in strong winds.
- Point 4.10 of the report stated as a general comment that most pines were reasonably wind-firm on a range of soil types. Mr Morris-Ashton had carried out significant research which showed this not to be the case and that pine trees were the most likely tree to come down in strong winds.
- Point 4.13 of the report stated that all trees provided a baseline of advantages that included aesthetic, screening, shelter, cultural and biodiversity values and contributed to carbon sequestration, pollution reduction and storm water run-off protection. However, there were global studies that suggested pine trees were the largest natural contributor to air pollution and countries that had large pine forests, such as Norway, were engaging in deforestation to improve the air quality of those countries.
- Mr Morris-Ashton concluded by asking the Committee to not confirm the order.

### **Member Questions to Objectors**

In reference to Mr Morris-Ashton's certainty that the tree would fall down in strong winds, Councillor Macro asked if there was any expert evidence that backed up this claim. Mr Morris-Ashton said whilst he had no expert evidence, he had spent time at 10 King Street during the recent storms and the people who lived there had been terrified that the tree would fall down.

With respect to the claim that the tree was virtually certain to fall down in strong winds, Councillor Somner commented that the tree had in fact remained standing despite the recent storms. Mr Morris-Ashton said the older and taller the tree got the more the risk increased that it would fall down in strong winds.

Councillor Bridgman referred to the general statistics around the danger from trees which Mr Morris-Ashton had described as risible and said that point 4.6 of the report expressly stated that no evidence or opinion had been submitted that this tree was dangerous. Councillor Bridgman asked why wasn't the general risk of a tree falling or a branch falling of pertinence here if Mr Morris-Ashton did not have expert evidence that this specific tree was dangerous. Using the analogy that the chances of being eaten by a lion in this country were miniscule generally compared to the chances of being eaten by a lion if you were a lion tamer Mr Morris-Ashton said that a house that sat in the target path of a tall pine tree was far more likely to be hit than it would be generally by any tree in the country. Councillor Bridgman said there were a number of quite large trees in Mortimer and asked Mr Morris-Ashton if he was saying that none of them should continue to stand

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because there was a risk of them falling over. Mr Morris-Ashton said he was not suggesting that but there were large woodlands in the area which did not have houses situated underneath the trees. Councillor Bridgman said he was referring to the large number of large trees situated along Victoria Road. Mr Morris-Ashton said with reference to those trees, it was noted in the site inspection that they did not have that crown bias leaning towards a house and he was less concerned about the trees along Victoria Road than he was about the tree under discussion that might fall on his property.

### **Parish Council Representation**

Councillor Mike Dennett, in addressing the Committee, raised the following points:

- The Parish Council had not made a formal response but had sent comments which were to be found in the update report.
- The Parish Council supported the TPO though in its comments it had said it did not object to the removal of one branch if that was the expert opinion.
- The Parish Council understood the neighbours were concerned about the possibility of damage to their properties and were concerned about the safety of the inhabitants of the Parish, however this was a healthy tree with a projected life span of 60-70 years.
- The felling of a healthy tree should not be allowed simply because of its proximity to houses and it was believed that the risk of damage had been overstated.
- Mortimer was a rural village and trees were an integral part of the landscape and infrastructure.
- Allowing the felling of a tree would set a precedent for other trees in the village.
- Contrary to some of the objections, the tree was visible from most of the surrounding area which was supported by the photos taken and shown to Members.
- Having walked around The Bevers, Victoria Road, Heathfield, King Street and Windmill Road, Councillor Dennett said he was able to see the tree very clearly from all of those locations.
- The tree was a substantial feature of the rectangular area which did not have many other large trees.
- Removal of the tree would mean a considerable loss to the landscape and amenities of this part of the village.
- With typical growth rates, this mature tree would probably absorb 900 to 1 ton of CO<sub>2</sub> each year which would require a lot of re-planting of trees in order to achieve that figure again.
- In conclusion, the Parish Council was in support of the TPO and believed the tree should be preserved.

### **Member Questions to the Parish Council**

Councillor Bridgman commented there were very few TPO's in the area and asked Councillor Dennett how it would set a precedent for other trees in Mortimer if this TPO was not confirmed. Councillor Dennett agreed there were probably not enough TPO's in place in Mortimer but there were plenty of mature trees that formed part of the landscape and it was felt that if this tree were allowed to be felled it would encourage people to fell other trees.

### **Member Questions to Officers**

Councillor Longton said there were clearly a lot of objections to this TPO and asked whether there had also been a lot of support in favour of it. Mr Thomas said that the only support received in favour of the TPO had been from the Parish Council.

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Councillor Bridgman referred to the scots pine at 16 King Street, and asked if Mr Thomas could confirm that the crown of that tree was higher, relatively, to the crown of the tree under discussion and could he advise Members why there was no TPO on the scots pine. Mr Thomas said the expediency element of the preservation order had not been met in relation to the scots pine and during the site visit it was noted there was a union lower down the stem which he would be concerned about which was where two stems were pressing against one another which made it a structurally weak form. Councillor Bridgman said the expediency argument appeared to be that you might hear that someone would wish to cut down a tree which raised the matter of expediency and whether a TPO should be imposed. Councillor Bridgman asked if it was the case that the owner of 16 King Street could cut that tree down with alacrity as there was nothing to stop them from doing that and that was the same for all trees in Mortimer or elsewhere that do not have TPO's on them. Mr Thomas said that was correct unless there was a caveat that in a conservation area all the trees were automatically protected. Equally, the way the TEMPO assessment had been constructed and referring back to the legislation relating to expediency, it would not be appropriate for a Planning Authority to impose a blanket Preservation Order on all the trees in its area.

Councillor Macro said section 4.9 of the report stated a Tree Works Application for a 2m crown reduction had been approved in December 2021 and asked whether this referred to a reduction in height and whether it would have a detrimental effect on the appearance of the tree. Mr Thomas confirmed it was a height reduction and the sides would be brought in to match so there would be a lesser lateral reduction and the volume of the crown would be reduced. The condition on the application was it was to good growth points so it was important that the tree still had viable tissue. It was a limited reduction but would serve to reduce the volume and the weight of the tree.

Councillor Mayes referred to the CAVAT costing of the tree and asked how a tree like the one under discussion had a value placed upon it and how it could be replaced. Mr Thomas said it was possible to replace mature trees and large trees but not extremely large trees. Cost calculations took into consideration the number of people who might see the tree, i.e. population density, its functional value, i.e. how well it was performing biologically, its positive and negative amenity value and its anticipated life expectancy.

Councillor Cottam said he was very reluctant to see trees removed and accepted this tree was now safe and in good condition. However, it was noted there was a lot of concrete at the base of the tree and compaction of the roots and he was looking for reassurance that the tree was expected, in its current living conditions, to continue to be healthy. Mr Thomas said the Council did not own the tree, it was owned privately and the household had a common law responsibility and duty of care to others that might be affected by the tree. In practice, it would be sensible to have a specialist look at the tree from time to time. The tree was impacting the concrete drive and the roots were growing around that and the base of the tree was growing towards the concrete. Although the tree had the impediment of a concrete base, the tree would grow around it and the expectation was that it would remain in good health.

Councillor Stewart said it was important to take the views of the objectors around the safety of the tree into account and asked whether the reduction in the height of the crown would reduce the risk of the tree falling. In addition, Councillor Stewart asked Mr Thomas to describe what windthrow was and how it could potentially affect this tree. Mr Thomas said windthrow was caused by the wind stress acting on the tree and if the root plate gave way then the tree would collapse. If there was a disease that affected the root plate or a certain specialist fungi that might attack trees at the stem base and root plate, that would increase the risk of windthrow and was something that should be assessed from time to time. If there were works carried out which may unbalance the tree causing stress

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to one side of the tree that might also lead to windthrow. Carrying out a crown reduction would reduce the windsail affecting the tree and the stresses acting on the stem and the root plate would also be reduced so there would be a lower risk associated with windthrow.

In relation to pine trees being the largest natural contributor to air pollution, Councillor Stewart asked what effect that had on this particular case. Mr Thomas said he was not aware of the air pollution claim and could not directly answer the question. He had not seen research which suggested they were the largest natural contributor to air pollution and did not think it was a huge factor with regard to the amenity of the tree which was a single tree in a built-up area as opposed to a large pine forest in Norway.

Councillor Linden asked for clarification that the crown was the top part of the tree including the foliage at the top, the stem was the rest of the tree and the base was at the bottom. Mr Thomas confirmed that the branches and the foliage made up the crown of the tree.

Councillor Pask asked if a tree had a TPO and that tree became damaged at any time, could someone apply for that tree to be trimmed or even removed notwithstanding it had a TPO. Mr Thomas said this would be possible and following the recent storm, he had been dealing with five-day notices for emergency tree works, following damage caused by the storm, to determine what work could be carried out to alleviate the danger.

### **Debate**

Councillor Cottam set there was obviously a lot of concern from local residents about this order and he thought it was a good idea that it had come before Committee which would show that it was being looked at very carefully by Officers who were experts in this area. It was hoped it would reassure, with the lack of any contrary evidence, that the tree was safe and would stand and continue to do so for a long time. It had been severely tested in recent months due to the storms and had proved to be in a good and healthy condition. Councillor Cottam was further reassured that should the tree become weakened in any way that there could be a response to a change in its environment. Councillor Cottam said while efforts were being made to plant a lot more trees in the area, he was very reluctant to remove the tree which appeared to be in a good and healthy condition.

Councillor Macro said he thought it was understandable that people who lived next door to a tall tree would be concerned that it might possibly fall down in a storm environment. However, if every tree that had a slight risk of falling was cut down then built up areas would be devoid of trees and the valuable impact they had on the environment. Councillor Macro felt members had been reassured that this tree was safe and that the residents' concerns, whilst understandable, were possibly misplaced.

Councillor Bridgman said he entirely rejected the danger argument as the tree had stood up against the recent substantial storm and there had been no evidence presented by the objectors from a tree surgeon or specialist that the tree was dangerous. Councillor Bridgman said he rejected the human rights aspect on the same basis. The only evidence that had been presented to Members was that this tree was healthy and there was no evidence presented to the contrary. However, Councillor Bridgman said he did have a concern about the amenity value. In relation to the scots pine at 16 King Street, he accepted entirely the bareness of that tree going up to the crown did not make it susceptible for a TPO. But he felt the same sort of argument could be levied at this black pine. The photographs did not do it justice, but if you stood in The Bevers estate and looked at the tree it could be seen that it leant to one side, it was very side-heavy and it was bare all the way up one side to the crown. In terms of its view from the rest of Mortimer it was possible to see a pine peeking above the houses but it was not the pine

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under discussion, it was the scots pine. Therefore, Councillor Bridgman did not think that the black pine had the amenity value that Officers were affording it and thought the argument that no one should be cutting trees down would indicate that all the trees in Mortimer would have a TPO. Mortimer had a lot of greenery with a lot of trees and he did not think this particular tree stood out so much from the fold that it should be afforded the TPO.

Councillor Stewart said she was inclined to agree with Councillor Cottam in terms of the perceived danger of this tree and with Councillor Bridgman that no evidence had been presented to support this view. She felt that unfortunate words had been used to suggest that it was 'virtually certain' that the tree would fall down as a result of high winds when exactly that circumstance had occurred recently and the tree was still standing. Councillor Stewart also felt that the fact that any changes in condition of trees in the future could be reported and addressed was a point well made.

Councillor Somner also agreed with the sentiments of Councillor Cottam and asked for clarification from Officers about the work that had been approved on the crown work and whether it would address the current lopsided crown. Mr Thomas said some of the lop-sidedness was to do with the two large scaffold branches on the south side and that was not what was going to be removed so the crown reduction was going to be in height. It would be sensible, as part of the crown reduction, to incorporate a tip reduction of the scaffold branches, but it would have no impact on the lop-sidedness. Mr Thomas added that pines did not necessarily have uniform, symmetrical crowns, particularly scots pines.

Councillor Longton said he had no doubt about the amenity value of the tree and whilst he had been concerned about the safety element of the tree, he had been somewhat reassured as a result of the meeting that it was probably as safe as any large tree was likely to be.

In relation to Mr Morris-Ashton's assertion that pine trees were the most likely tree to come down in strong winds, Councillor Mayes suggested that silver birch trees were much more vulnerable as evidenced by the number of them between Mortimer and Newbury that had fallen down as a result of the recent storms.

Councillor Linden said he did not think there was a safety element to consider and was convinced that the TPO should remain in place because of the tree's environmental importance and therefore proposed that the TPO was kept. The proposal was seconded by Councillor Macro.

The Chairman invited Members of the Committee to vote on the proposal by Councillor Tony Linden, seconded by Councillor Alan Macro, to confirm this TPO without modification. At the vote, the motion was carried.

**RESOLVED that** the Service Director of Development and Regulation be authorised to grant the tree preservation order without amendments.

*(The meeting commenced at 6.30 pm and closed at 8.00 pm)*

**CHAIRMAN** .....

**Date of Signature** .....