

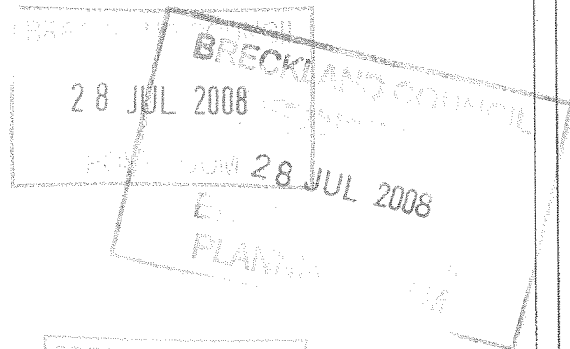
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Our Ref; 08/ASH/02  
Your Ref:

Mr P Daines Development Services Manager  
Breckland District Council  
Elizabeth House,  
Walpole Loke  
Dereham  
Norfolk  
NR19 1EE

25<sup>th</sup> July 2008

Dear Mr. Daines



**Re: Site to the rear of 6 and 7 Goose Green, Ashill – objection to Breckland District Council (Fakenham) Tree Preservation Order 2008 No. 60.**

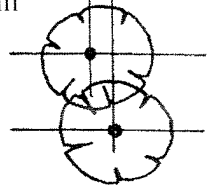
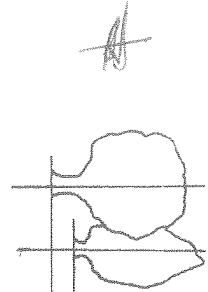
On behalf of Peddars Way Housing Association I would like to formally object to the Tree Preservation Order (TPO) on the Black Poplar at the above site.

The reasons for the objection are based upon the definition of Public amenity and whether or not the tree could be said to demonstrate sufficient Public amenity to warrant protection with a TPO.

It is noted that in the Regulation 3 Notice sent to my clients, no description of the 'amenity' justification used in the Notice was given for the serving of the TPO, this may be considered to be ambiguous in respect of the requirements of the Regulations. However, it is assumed that the 'amenity' referred to is primarily visual, as required by the scope of the Regulations and on that basis an assessment was carried out as detailed below.

Having inspected the site containing tree T1, and having made a full assessment of the landscape impact of the tree in relation to the TPO Regulations (details below contained in the Landscape Assessment) I would make the following comments;

The principle of serving a Tree Preservation Order on trees is fundamentally underpinned by the requirement that the trees have 'amenity' (Section 198(1) of the 1990 Town and Country Planning Act). This is further defined by the Secretary of State and expressed in the document 'Tree Preservation Orders – a Guide to the Law and Good Practice 2000' whereby TPOs should be 'used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the Public.' (Section 3.2). Similarly Section 3.3 (1) states 'visibility... If they (trees) cannot be seen or are just barely visible from a public place, a TPO might only be justified in



exceptional circumstances (clarified to mean trees with other significant attributes further in the document, including historical or biodiversity / ecological issues)'

On this basis, the serving of a TPO requires any tree covered by the Order to be able to demonstrate that it makes a significant contribution to the Public amenity value of an area.

The results of the Landscape Assessment were that T1 was only visible as a backdrop tree as seen above the roofline of properties on Goose Green, or between the gateway to two driveways east of No. 7. The tree is also just visible between two properties at the junction of The Green with The Mere; and the tip of the tree is just discernable above the roofline of one or two bungalows nearby. The tree cannot be easily seen from any other vantage points in the Village which are Publicly accessible. Similarly, the tree does not add significantly to the setting of existing buildings, their screening or the enhancement of the built or natural environment. Nor can it be said that it provides the only tree'd presence within the area, which is well served by more prominent, better trees on the Green, and in better locations nearer Public vantage points. Therefore, it is questionable whether this tree could claim, by virtue of its visual presence to be of 'significant or high Public amenity'. Additionally, there is considerable opportunity to replace this tree with others of a more attractive, better provenanced, and longer lived species on the Green, which would greatly benefit from the provision of sucessional planting on the southern side as the majority of exiting trees are well into maturity.

Additional factors (as mentioned above) might however be used to justify a TPO in cases where the visual amenity is low or marginal. These include ecological or historical factors. True provenance Black Poplars are relatively rare and un-usual trees of some intrinsic interest ecologically and often historically (most which have not been planted recently as part of a re-introduction programme are very old and in poor condition). If the tree were to be of such species – provenanced, it would have additional intrinsic amenity value.

Investigation as part of the original tree survey, and updated more recently in discussion with Norfolk County Council, suggests that it is unlikely that the tree is a Black Poplar known to be of local genetic provenance. The tree is apparently not one of those which is known to Norfolk County Council, and held on the Black Poplar register.

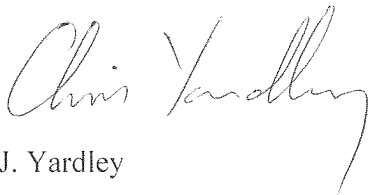
The probability is that it is a hybrid tree of unknown provenance. The Biodiversity Action Plan for Black Poplar specifically mentions that care needs to be exercised in identifying true Black Poplars from very similar hybrids. Similarly, the location, age and form of the tree would strongly suggest that this tree is a hybrid rather than one of known provenance. There are currently known to be very few true Black Poplars in north west Norfolk. A hybrid tree is of no intrinsic biodiversity interest in the same way as a true Black Poplar can claim to be.

Poplars, especially those which have divided trunks or other structures which impose intrinsic weakness points in the tree, are known to have a relatively high failure rate in maturity. Failure of parts of the tree (in this case the potential for one or other of the trunks to split out from the bole) is a significant possibility in its later life. Consequently they are not good trees to have in close proximity to housing. The size and location of the tree within the proposed development site would (given the known tree constraints demonstrated in the Arboricultural Implications Assessment which accompanied the Application) effectively restrict development to a very great degree on the site. This has been considered in relation to the economic viability of the development for the Housing Association, and the conclusion is that reducing the area by this amount would make the development uneconomic to undertake. This would therefore deprive Ashill (whose Parish Council fully support the provision of social housing on this site) of this provision.

Therefore in conclusion, the objection is raised on the points that the tree does not demonstrate sufficient Public amenity value to satisfy the requirements of the Regulations in respect of the serving of an Order.

Similarly, a decision needs to be made to balance the issue of the retention of a tree of questionable amenity against a known benefit of social housing. The two items are sadly mutually exclusive in this case, and one cannot have both.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Chris Yardley', written in black ink.

C. J. Yardley

Cc Ms L Handford. Flagship Housing Developments Ltd  
Mr. P Booker Oxbury and Co  
Mr. P Wells Barefoot and Gillies Ltd