

REGULATORY AND APPEALS COMMITTEE

26 APRIL 2016

Present:

Councillors Klinkenberg (Chairman), Dennis (Vice Chairman), Austen and Hockin

Apologies: Councillors Cook

Also Present:

Mrs Downey – Legal Adviser

Mr Davies – Business Manager, Development Manager (Minute 420)

Mrs Carpenter – Licensing Officer (Minutes 421-422)

Mrs Corns – Democratic Services Officer

Councillor Bullivant, Ward Member for Bradley, Newton Abbot (Minute 420)

Mrs Graham and Mrs Paisey - Interested Parties (Minute 420)

Mr Kiely and Mr Matthewstead – Linden Homes (Minute 420)

Mr Freestone – Applicant (Minute 421)

Mrs Rees - Applicant (Minute 422)

418. MINUTES

The minutes of the meeting held on 29 March, 2016 were approved as a correct record and signed by the Chairman.

419. DECLARATIONS OF INTEREST

There were no declarations of interest.

420. THE DISTRICT OF TEIGNBRIDGE (WHITEHILL, NEWTON ABBOT) TREE PRESERVATION ORDER (TPO) 2015

The Legal Adviser introduced all parties present and outlined the procedure for the meeting.

The Business Manager, Development Manager, in attendance in the absence of the Council's Arboricultural Officer, referred to the report circulated with the agenda. The provisional TPO was served to protect trees within a large area of land identified within the Teignbridge Local Plan 2013-2033 as NA2 Whitehill. It ensures the trees are respected within any future development and maintained as an attractive feature. The TPO is not intended to be an absolute constraint on the area but instead to provide an opportunity to consider and incorporate existing trees within the site as well as safeguard those considered most important. The provisional protection will cease on 12 May 2016, if it is not confirmed.

A planning application by was recently refused with the knowledge of the TPO. The reasons for refusal did not include impact on the trees.

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Objections to the TPO and the Council's Arboricultural Officer's response are detailed at agenda page 2.

Mrs Paisey was in support of the TPO and wished for the trees of high quality to have maximum protection. Mrs Paisey queried whether the area TPO is the best means of protecting the trees.

In response to questions from the Committee and the interested parties, the Business Manager advised that: the TPO would give protection to the trees when considering a future planning application; the TPO does not mean that an application would not be granted, if development involved the felling of some trees, however the TPO does offer the trees protection; in relation to the individual scrutiny of trees and if a planning application was to affect trees, the Arboricultural Officer would be consulted and the response brought before committee for consideration; the landowner may be required to do works to the trees or the plans amended to avoid trees worthy of protection.

Mr Kiely, on behalf of Linden Homes, submitted that Government guidance advises when it is appropriate to serve an Area TPO. It is considered suitable only as short term protection because it covers a number of trees irrespective of their individual quality. High value trees can be seen as less important if covered by an Area TPO. All trees should be surveyed and assessed individually. Linden supplied the Council in 2013 with a full assessment of all trees on land in which Linden has an interest. Certain trees are more worthy than others and there would be merit in serving individual TPO's to ensure long term protection. An Area TPO for this group of trees is not the best course of action in accordance with Government advice, and should only be used as a temporary measure.

In response to questions, the Business Manager advised that the tree assessment from Linden Homes was submitted with the past planning application, and with all due respect the Council's Arboricultural Officer may not be of the same opinion as Linden's tree consultant.

Mr Matthewstead, also representing Linden homes, confirmed that assessment work on the trees was submitted as part of the previous planning application to the Council, and adding that a blanket TPO was not the best solution.

Mrs Graham commented that there are particularly high quality and individual trees on land she owned which should be protected by individual TPOs. She added that it would be an unnecessary expense to her to apply for pruning of low quality trees covered by an area TPO if these trees are of such low value that they are not worthy of protecting.

The Business Manager referred the Committee to the decision options at agenda page 3, suggesting an additional consideration of confirming the TPO unmodified, with a review within three months of the date of expiry of the provisional order being, 12 May, 2016. This would take into account the views

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of the interested parties and identify particularly high quality trees to be protected.

At this juncture, Members adjourned to consider their decision. Upon reconvening, it was

Resolved

That the District of Teignbridge (Whitehill, Newton Abbot) Tree Preservation Order 2015 be confirmed unmodified subject to a review of the Area designation of the Tree Preservation Order within three months of the expiry date of the provisional order.

Reasons for Decision

- There are many TPOs within the District that protect non-native trees, it is considered appropriate to protect such trees that provide or have the potential to provide public visual amenity.
- No information has been supplied to support the assertion that trees are damaging or may damage underground pipes/drainage. Following the submission of a report from a suitably qualified person, the Council would look sympathetically upon an application to remove trees that are causing or may cause such damage.
- The Council would look sympathetically upon a request to continue the maintenance of field boundaries.
- The Council would look sympathetically upon a request to prune and/or remove trees that have outgrown their location, are in a state of decline or are causing or may cause damage or threat to the highway. The Council's consent is not required to remove dead trees.

421. HACKNEY CARRIAGE VEHICLE LICENCE EXTENSION

The Committee inspected the vehicle Ford Galaxy EJ05 AYT the subject of the application. It was first registered on 17 May 2005 and is currently 10 years and 11 months.

The Legal Adviser introduced all parties present and outlined the procedure for the meeting.

The Licensing Officer introduced the vehicle being considered and advised that the vehicle received no advisories when it recently passed its MOT.

All vehicle licences are issued annually. Section 43 of the Town Police Clauses Act 1847 provides that a hackney carriage vehicle licence may be in force for a maximum of one year. Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 provides that such conditions as are considered reasonably necessary may be attached to the grant of a hackney carriage licence.

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The Council's Policy and statutory provisions reflect the Council's responsibility to ensure that all hackney carriage and private hire vehicles are safe and fit for use by members of the public. The Committee has the discretion to license a vehicle if it is of the view that the vehicle is safe, fit for use and is in an acceptable condition for use by the public.

Mr Freestone addressed the Committee. He advised the vehicle had passed the Taxi vehicle inspection test having addressed a few minor issues, including the struts. It was not generally on the taxi rank because it was used mainly for transporting school children. Due to the beige colour of the internal car linings, unfortunately it looked grubby despite a full valet some previous months. He acknowledged the wheel trims were scratched, however the vehicle would be having all new wheels the following week.

At this juncture, Members adjourned to consider their decision. Upon reconvening it was

Resolved

The application for a Hackney Carriage Vehicle Licence Extension in relation to the vehicle Ford Galaxy EJ05 AYT is refused.

Reason for Decision

Following an inspection of the vehicle, the Committee is not satisfied with the state of repair and condition of the vehicle on this occasion. It currently has an MOT, and passed its taxi vehicle inspection test, following work to the vehicle. However, although the vehicle has passed its tests it is not of the condition the Council would expect for the travelling public.

The Chairman made particular reference to the Council's Policy which provides that vehicles being presented for subsequent licensing are required to be under 10 years old, emphasising that vehicles would need to be in exceptional condition, cosmetically both internally and externally to be approved for a vehicle extension.

422. HACKNEY CARRIAGE VEHICLE LICENCE EXTENSION

The Committee inspected the vehicle Ford Mondeo BG54 BTO the subject of the application. It was first registered on 3 November 2004 and is currently 11 years and 5 months.

The Legal Adviser introduced all parties present and outlined the procedure for the meeting.

The Licensing Officer introduced the vehicle being considered and advised it has a valid MOT until 26 November, 2016 and has passed its taxi vehicle inspection test having addressed an oil leak.

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All vehicle licences are issued annually. Section 43 of the Town Police Clauses Act 1847 provides that a hackney carriage vehicle licence may be in force for a maximum of one year. Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 provides that such conditions as are considered reasonably necessary may be attached to the grant of a hackney carriage licence.

The Council's Policy and statutory provisions reflect the Council's responsibility to ensure that all hackney carriage and private hire vehicles are safe, in an acceptable condition and fit for use by members of the public. The Committee has the discretion to license a vehicle if it is of the opinion that the vehicle is safe, fit for use and is in an acceptable condition.

Mrs Rees addressed the Committee advising that the vehicle was maintained to a high standard by her husband who is a mechanic. She was looking into purchasing a new vehicle later this year but at present funds are a little low.

In response to a question she advised that the vehicle has had a bonnet re-spray but no other re-spray during the 9 years that she had owned it.

At this juncture, Members adjourned to consider their decision. Upon reconvening it was

Resolved

The application for a Hackney Carriage Vehicle Licence Extension in relation to the vehicle Ford Mondeo BG54 BTO is refused.

Reason for Decision

Following an inspection of the vehicle, the Committee is not satisfied with the general condition of the vehicle on this occasion, and considered that it is unsuitable for the travelling public. It currently has an MOT and passed the vehicle inspection tests. However, the Committee refused the application for reasons of: the vehicle's age, it is not of the general condition the Council would expect for the travelling public; it has already had a previous 12 month vehicle extension; and mindful of the Council's Hackney Carriage and Private Hire Policy which provides that vehicles being presented for subsequent licensing are required to be under 10 years old.

The Chairman made particular reference to the Council's Policy which provides that vehicles being presented for subsequent licensing are required to be under 10 years old, emphasising that vehicles would need to be in exceptional condition, cosmetically both internally and externally to be approved for a vehicle extension.

ANNA KLINKENBERG
Chairman