

Cathedral Quarry TPO – Representations and Photographs.



LINDUM Group Ltd

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Our Ref: RJJ/TPO

1 December 2022

Kelly Bray,
Planning Services,
Department of Communities and Environment,
City of Lincoln Council,
City Hall,
Beaumont Fee,
Lincoln,
LN1 1DD

Dear Kelly,

Cathedral Quarry Tree Preservation Order No.1 2022

I write to you on behalf of the Lindum Group in relation to the above Tree Preservation Order (TPO) which took effect on a provisional basis on the 2nd November 2022. The Lindum Group own 49 Riseholme Road and received a letter notifying us of the order on the 14th of November. Please accept this letter as our formal objection to the proposed order in line with regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

We have three main grounds for objections to the proposed order, with those three grounds being the prematurity of the order while a planning application is being considered, the classification of the trees within the order as woodland and finally the justification for the order in terms of visual amenity. Each of these grounds are be considered in more detail below.

At the time of writing an outline planning application has been submitted to Lincolnshire County Council and is under consideration. The Outline application is a joint application by the Lindum Group and Lincoln Cathedral and is for the residential development of the site (planning reference PL/0096/22). The application was validated in August of this year and had therefore been running for over 2 months at the date the TPO was made. Regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 states that an exception to an implemented TPO is when works are required to implement a planning permission. Given that a planning application on the site is well progressed, we question the timing of the TPO and suggest that it is premature in advance of a planning decision. The removal and retention of trees on site will be considered as part of the development management process with any decision considering and potentially restricting tree removal on site.

For clarity, the planning application includes a combined approach of both retention and removal of trees within the site, together with additional tree planting. The overall principle of the proposals is that the bunds within the site on which some of the trees proposed for inclusion within the TPO will be removed and the bund material used for the infill of the quarry ahead of residential development. Therefore, the TPO is in

direct conflict with our planning application proposals. It is worth noting however that a good proportion of trees proposed within the TPO areas are included for retention in the planning application with those trees being located on the site's periphery, on the boundary side of the bunds.

In addition to the submitted planning application, the site is also included as a residential allocation in the emerging Revised Central Lincolnshire Local Plan which is well progressed and is currently at the examination stage. The hearing session for allocations in the Lincoln Area was held last week and included discussion of the Quarry site. The conclusion reached at the examination was that the specific requirement for the retention of the bunds on site did not need to be included in the allocation policy and a modification to the plan is required to remove this requirement. It translates that if the requirement to retain the bunds is removed from the emerging policy then the trees on top of the bunds are not protected within said policy. This change to the allocation policy should be ratified ahead of the formal adoption of the Local Plan and furthers our objection in terms of the TPO being premature given the planning context of the site.

Our second point of objection is based on the classification of the trees included in the TPO as areas of woodland. No definition of what constitutes a woodland is included in the TPO and I can find no definition in the supporting legislation for TPO's. The Forestry Commission definition for a forest includes for a minimum area of 0.5 hectares under stands of trees with, or with the potential to achieve, tree crown cover of more than 20% of the ground. The two areas identified as woodland in the TPO are not 0.5 hectares and therefore do not conform to this definition. I enclose a drone photograph of the site with this letter that shows the trees on site, the photo clearly shows that the classification of woodland is unjustified. At best the trees on site should be considered as a group and therefore further information should be included in the TPO. This is confirmed in Regulation 3 of the 2012 regulations which states that "where the order relates to a group of trees, shall specify the number of trees of each species in the group". This is not the case in the TPO.

The final part of our objection is based on the justification for the TPO, with the City Council placing the order because "The trees contribute to the visual amenity of the area". We strongly dispute this justification, with our view that the trees in question do not contribute to the visual amenity of the area. At best the trees form a very localised function in terms of visual amenity and can only be seen from directly neighbouring properties. Access to the site is not readily available to the public and therefore views of the trees are not available from publicly accessible areas. Can clarification please be given on how the trees have been accessed in terms of the TPO process as access has not been granted by the landowner.

A tree report has been included as part of the planning application referenced earlier and a copy can be made available as part of the TPO process if required. The Tree Report found no category A trees (High quality trees) on site with a large number of the trees on site identified as either C class trees (low quality trees) or U class trees (trees of negligible significance). The lack of a significant number of high-quality trees within the site furthers our case in terms of the TPO being placed on the site as being unjustified. A very significant number of trees on site are self-set trees that have grown on top of the bunds detailed above. The tree report gives no support or justification to the proposed TPO.

On the basis of the above, we strongly object to the TPO proposed for the Cathedral Quarry site and it is our view that the order should not be confirmed and should not take effect formally. Not only is the TPO premature in planning terms with a planning application currently running, but the classification of the trees as woodland in the TPO and the justification for TPO being placed is in our view incorrect and unwarranted.

As is demonstrated in our planning application and referenced above, a good number of trees on site can be retained as part of our proposals. These trees are located on the boundary side of the bunds and therefore tend to be of a higher quality and significance as they have been in situ for a much greater period of time and were planted as specimen trees. These trees are located closest to neighbouring residents and will provide a

good level of protection of the amenity of neighbouring residents should housing development come forward on the site as planned. Whilst we do not believe any TPO is necessary on site, we would be willing to accept a compromise that included a reduced TPO on site, including the trees located to the boundary side of the bunds. We have produced a plan that shows the trees in question and suggest that this is a more reasonable and appropriate level of trees to be protected.

We would be more than willing to meet with officer on site to discuss further and provide the opportunity for officers to view the trees from within the site boundary. Please let me know if such a meeting is considered worthwhile by the City Council.

Yours Sincerely



Robert Jays

Land and Planning Manager







2 December 2022

Kelly Bray
Planning Services,
Department of Communities and Environment,
City of Lincoln Council
City Hall
Beaumont Fee
Lincoln
LN1 1DD

Dear Kelly

Cathedral Quarry Tree Preservation Order No.1 2022

I write to you on behalf of Lincoln Cathedral, the owners of the quarry, in relation to the above Tree Preservation Order (TPO) which took effect on a provisional basis on the 2 November 2022. Please accept this letter as our formal objection to the proposed order in line with regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

We have three main grounds for objections to the proposed order, with those three grounds being the prematurity of the order while a planning application is being considered, the classification of the trees within the order as woodland and finally the justification for the order in terms of visual amenity. Each of these grounds are considered in more detail below.

At the time of writing an outline planning application has been submitted to Lincolnshire County Council and is under consideration. The outline application is a joint application by the Lindum Group and Lincoln Cathedral and is for the residential development of the site (planning reference PL/0096/22). The application was validated in August of this year and had therefore been running for over two months at the date the TPO was made. Regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 states that an exception to an implemented TPO is when works are required to implement a planning permission. Given that a planning application on the site is well progressed, we question the timing of the TPO and suggest that it is premature in advance of a planning decision. The removal and retention of trees on site will be considered as part of the development management process with any decision considering and potentially restricting tree removal on site.

For clarity, the planning application includes a combined approach of both retention and removal of trees within the site together with additional tree planting. The overall principle of the proposals is that the bunds within the site on which some of the trees proposed for inclusion within the TPO will be removed and the bund material used for the infill of the quarry ahead of residential development. Therefore, the TPO is in direct conflict with our planning application proposals. It is worth noting however that a good proportion of trees proposed within the TPO areas are included for retention in the planning application with those trees being located on the site's periphery, on the boundary side of the bunds.

Lincoln Cathedral

Registered Address: The Chapter Office, 4 Priorygate, Lincoln, LN2 1PL

Lincoln Cathedral comprises: The Corporate Body of Lincoln Cathedral (Exempt Charity, HMRC Charity Reference Number X7802); Lincoln Cathedral Music Fund (Charity Number 1033089); Lincoln Cathedral Learning, Arts, Culture and Events CIO (Charity Number 1175597); Lincoln Minster Shops Ltd. (Company Registration Number 01015279); Lincoln Cathedral Quarry Ltd. (Company Registration Number 04634976).

In addition to the submitted planning application, the site is also included as a residential allocation in the emerging Revised Central Lincolnshire Local Plan which is well progressed and is currently at the examination stage. The hearing session for allocations in the Lincoln Area was held recently and included discussion of the Quarry site. The conclusion reached at the examination was that the specific requirement for the retention of the bunds on site did not need to be included in the allocation policy and a modification to the plan is required to remove this requirement. It translates that if the requirement to retain the bunds is removed from the emerging policy then the trees on top of the bunds are not protected within said policy. This change to the allocation policy should be ratified ahead of the formal adoption of the Local Plan and furthers our objection in terms of the TPO being premature given the planning context of the site.

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bunds. We have produced a plan that shows the trees in question and suggest that this is a more reasonable and appropriate level of trees to be protected.

We would be more than willing to meet with officer on site to discuss further and provide the opportunity for officers to view the trees from within the site boundary. Please let me know if such a meeting is considered worthwhile by the City Council.

Yours sincerely



Will Harrison BA(Hons) MA MSc MCIPR FRSA
Chapter Clerk

Ref; Tree Preservation Order 1.2022

**Response to consultation with reference to the Objections raised by
Lincoln Cathedral and Lindum Construction**

Written by Susan Nock

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- Introduction
- Summary
- Discussion
- Conclusions
- Appendix 1 TPO Application
- Appendix 2A Position of trees on the bund
- Appendix 2B Images showing tree roots growing up a bank.
- Appendix 3 Tree Schedule taken from the Tree Survey of the Cathedral Quarry Site

Introduction.

I was surprised and disappointed to hear that the Cathedral and Lindum Construction had objected to the Tree Preservation Order which the City of Lincoln Council had seen fit to award following my application.

However, I was shocked and dismayed to see how information had been misquoted and misrepresented in their attempt to have this application overthrown.

My response follows, and for clarity I have used the same grounds as were contained in their Objection.

Summary.

This Objection should be discounted because it is based on incorrect information and misrepresentation.

The Objection makes the following incorrect assertions;

The timing of the application is premature.

The timing of the application was determined by the lack of regard given to the existing planning permissions by the Cathedral and Lindum Construction.

The Regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulation 2012 has been deliberately misquoted to mislead the council regarding the TPO's legality.

The TPO is not necessary

The Objection denies the fact that the removal of the bund as proposed in the outline planning application will destroy the roots of the trees on the bund resulting in their death.

Therefore, the TPO is necessary to save the woodland from their planned development.

The trees do not constitute a woodland.

The Tree Report submitted with the outline planning application identified three areas contained in the proposed TPO as woodland however the Objection refutes this.

The information contained in the Tree Report is misrepresented and distorted in the Objection, and does not reflect the true quality of the trees as stated in the report.

This is another attempt to mislead the council.

The justification of the order is incorrect

The Objection regarding the lack of visual amenity fails to mention that the woodland on the bund will shortly become the boundary to an intense residential development of approximately 75 houses

within a highly developed area of the city. It is a valued amenity as illustrated by the strong local support given to petitions and the number of objections to its removal.

Discussion

The objection to the Tree Preservation Order by the Lincoln Cathedral and Lindum Construction followed their application for outline planning permission which included the demolition of the bund and thereby the destruction of the associated woodland.

Their Objection is based on the following assertions;

- The timing of the application is premature.
- The TPO is not necessary
- The trees do not constitute a woodland.
- The justification of the order is incorrect

I will deal with each one and reference the relevant paragraphs where necessary for clarity.

The timing of the application is premature.

The protection of the bund and the associated trees has been the subject of planning permissions since before 1995. Its precise construction is detailed in planning documents as is the planting of trees on the outside of the bund at approximately 2.5 meters apart.

Protection has continued through a restoration scheme for the quarry and latterly in the Local Plan for Lincoln.

The Cathedral and Lindum construction chose to disregard all of this protection and submitted an outline planning application in August 2022 which included the demolishing of the bund. This resulted in 48 Objections 41 of which specifically objected to the removal of the trees, destruction of habitat, and / or the removal of the bund, and yet the Cathedral and Lindum construction remain determined to destroy the bund and the associated trees.

It was this continuing blatant disregard for the planning process that prompted my application for the Tree Preservation Order which is contained in Appendix 1

In their Objection Lindum Construction and the Cathedral state that;

“Regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulation 2012 states that an exemption to an implemented TPO is when works are required to implement a planning permission.”

This is a deliberate misquotation of the regulation which actually states;

“Regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulation 2012 states that an exemption to an implemented TPO is when works are required to implement a planning permission (other than an outline planning permission....)”

The Cathedral and Lindum Construction have tried to pervert the planning process, by deliberately misquoting the Planning Regulations which clearly state that regulation 14 does not apply in the instance of an outline planning application.

For this reason alone this Objection should be discounted as a false representation of the truth.

Also they describe their planning application as “well progressed” when in fact the application is for outline permission only and is only at the consultation stage.

For all the reasons given above this TPO cannot be considered as premature.

The TPO is not necessary.

In paragraph 4 of the Objection they state that they intend to remove the bund but that this will not effect the trees on the boundary side of the bund. As stated earlier these trees are on the bund, and therefore their Root Protection Area includes the bund. See images Appendix 2 A

In an Arboriculture Advisory and Information Service report 130/95/ARB reporting research undertaken for the Department of the Environment it states ; “Tree roots may extend radially a

distance at least equivalent to the height of the tree and are located primarily in the upper 60 cm of soil."

Tree roots follow the contours of the surrounding land and will therefore travel up and down a bank see images Appendix 2 B.

Demolishing the bund will kill the trees as it will destroy their root systems.

Their argument also discounts the trees and saplings which have grown on the bund since 1995 some of which are now mature specimens.

The TPO is necessary to protect the trees from the demolition of the bund.

The classification of the trees as constituting a woodland.

The Objection states that the TPO should rather be for a group than a woodland.

Interestingly the Tree Report submitted with the outline planning application identified three areas contained in the proposed TPO as woodland but this is refuted in the Objection.

The difference between a Tree Preservation Order for a group of trees and a woodland is that one covers just the specified trees and the other covers the area as a whole including saplings and self seeded trees. This is because the purpose of a Woodland Order is to safeguard the woodland as a whole, which depends on regeneration or new planting.

Both orders, whether it be for a group of trees or a woodland are not dependent on the size or number of trees included. It is about the type of protection afforded by the order.

(Gov.uk/guidance/tree-preservation-orders..)

"The woodland category's purpose is to safeguard a woodland as a whole. So it follows that, while some trees may lack individual merit, all trees within a woodland that merits protection are protected and made subject to the same provisions and exemptions.

In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made are also protected by the Order. "

In paragraph 8 it is stated that the Tree Report submitted with the outline planning application identified "a large number of trees as identified as C class trees (low quality trees) or U class trees (trees of negligible significance)."

This is incorrect; of the 50 trees identified in the report only 6 were categorized as U, whereas 27 were categorised as B (trees of moderate quality) and the remaining 17 were categorized as C. Of the 3 woodland areas identified in the report one was categorised as B and the others as C. Once again the facts have been misrepresented in order to misdirect the process and mislead the council.

See Appendix 3 for the full tree schedule.

The justification of the order

I cannot comment on the procedures followed by the council in awarding this order however I have received assurances about their robustness.

My application for the TPO was based on the Government Criteria and the following headings taken from a briefing by Friends of the Earth which I found very useful;

Assessing amenity value is not an exact science and is done by considering the following criteria:

• The extent to which trees/woodlands are visible from a public place.

The Objection states that views of the trees are not available from publicly accessible areas.

However the quarry is about to become an intense housing development surrounded on all sides by residential properties and estates. The woodland will be visible to all the new residents as well as the existing community which has watched it grow and thrive and has petitioned for its preservation.

• **Their individual, collective and wider impact, including future amenity potential, rarity, cultural or historic value, relation with the landscape, and their contribution to the character of a conservation area. This could include, for example, a social and personal sense of wellbeing or identity.**

The variety of trees and shrubs are largely British natives and include Field Maple, Ash, Hazel, Hawthorne, Guelder Rose, Yew, Wild Cherry, Silver Birch, Dogwood, and Dog Rose. Over the years they have grown to mature specimens and an important amenity providing enormous amounts of what is now referred to as Vitamin G because of the benefits known to be associated with the presence of trees on our wellbeing.

Whether it is the frost on the boughs in winter, the lime green of fresh growth in the spring, the smell of the hawthorn blossom, the rustle of a summer breeze through the branches, or the glorious autumn colours this woodland enhances the lives of the local population.

The woodland on the bund provides an ark for wildlife in a sea of development and a reminder to anyone experiencing its diversity the joy of nature being allowed to "do its thing".

• **Relevance for nature conservation and in response to climate change.**

We are told that in order to combat climate change we must plant more trees and the council has acknowledged that there is a climate emergency. How many saplings would we need to plant in order to replace the contribution made by just one of these 25 year old trees to climate change, and yet this is the exchange we are being offered by planners.

For full details of my request for the TPO please see Appendix 1

Conclusion.

My conclusion is that this Objection contains such inaccuracies, and misrepresentations that it should be considered as inadmissible.

Planning decisions since 1995 have repeatedly protected the bund and its associated woodland.

This Tree Preservation Order ensures that the protection will continue for the benefit of the local population, the wildlife, and the environment.



The Bund in Springtime



The woodland on the bund provides an ark for wildlife in a sea of development and will enhance the residential estate on the quarry site.

Appendix 2A

Images showing position of trees on the bund.



Appendix 2B

Images showing how roots grow up and along the contours of a bank.
Photos taken at Hubbard's Hills Louth.



17 Thonock Close
LINCOLN LN1 3SW

21. 11. 22

Kelly Bray
Planning Services
Dept. of Communities and Environment
City Hall
LINCOLN LN1 1DD

Dear Ms. Bray

Re : Notice of Making of a Tree Preservation Order

I write in response to your recent letter regarding the above Order on the site of the Cathedral Quarry, Riseholme Road, Lincoln.

I am happy to hear of this provisional Preservation Order, however, as I live at the southern end of this proposed development I am at a loss to understand why the properties adjacent to mine have been denied this status when we will be the most impacted by the proposed buildings.

The trees in question were planted in 2006 and are therefore, mature Hawthorn, Rowan etc as are the ones already under the proposed order.

Can you please explain why at the moment they have been excluded? The wildlife enjoyed here and within the trees is vital in 2022 when green spaces are at a premium and it would appear, too readily being destroyed.

I urge you to include this area described in your proposed Preservation Order and await your comments.

Yours faithfully



(ANN HIPKIN, Mrs)

MR. J. A. SAWYER
2 LISSINGTON CROSS
ERMINGHAM EAST
LINCOLN
LN2 2GZ

Dear Kelly Bray

We've have recieved a letter about the preservation order on the trees in the cathedral quarry riseholme road.

Does this mean that planning permission has been granted for housing.

What are they doing about the wildlife i.e. foxes, squirrels, hedgehogs, rabbits and birds.

Plus another road coming out onto riseholme road it gets congested enough especially at school time and work traffic.

But it seems no matter what the public say as long as they get their way.

We need to keep green space not housing and traffic congestion.

Gaws

