



DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	PLANNING COMMITTEE	3 MARCH 2021	5

FYLDE COUNCIL TREE PRESERVATION ORDER 2020/0006: LUND, VICARAGE LANE, NEWTON WITH SCALES, PRESTON, PR4 3RX

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

Planning Committee are asked to confirm this Tree Preservation Order (TPO) following consideration of the comments received during the consultation on the Order. The council's constitution requires that when an objection is received the decision whether to confirm the Order is to be made by the Planning Committee.

Trees form an integral part of the landscape and the deployment of a tree preservation order is intended as a response to protecting our dwindling tree canopy cover. Every effort needs to be made in securing our mature tree stock now and for the future. It should be noted that a tree preservation order does not prevent works being carried out to a protected tree, but allows the local planning authority to control the nature of such works and to require replacement planting in the event that, following due consideration, a protected tree is allowed to be felled.

The Tree Officer was made aware of the area of land that sits within a rural landscape near Newton, Salwick & Clifton Village Hall and surrounded by farmland and located next to the roadside of Vicarage Lane. Within the curtilage of the property a small pocket of mature trees sits with potential amenity value, and the trees could be under threat from inappropriate pruning or felling.

Following an assessment of the health and amenity value of the trees, a Woodland TPO was issued. Without confirmation, the TPO will lapse on 22nd April 2021 and the trees would be unprotected. Having considered the representations that have been made, your officers believe that the Order should be confirmed so that it will become permanent.

Members are therefore asked to confirm the Order without modification which will provide protection to the trees.

RECOMMENDATION

That the committee confirms the Tree Preservation Order so that it becomes permanently effective.

SUMMARY OF PREVIOUS DECISIONS

None

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	
Environment – To deliver services customers expect	√
Efficiency – By spending money in the most efficient way	
Tourism – To create a great place to live and visit	√

REPORT

1. Legislative background to tree protection.

1.1 Tree Preservation Orders.

Section 198 (1) of the TCPA 1990 empowers local planning authorities to make Tree Preservation Orders, (TPOs):

“If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.”

1.2 Changes to TPO procedures from 6th April 2012.

In 2012 the government introduced what it described as *“a consolidated and streamlined tree preservation order system.”* One of the notable changes was the removal of sections 199 and 201 of the Town and Country Planning Act. This meant that ALL tree preservation orders take immediate effect from the day the Order is made, and no consultation is allowed for.

2. Background to making the Tree Preservation Order.

2.1 The Tree Officer was made aware of a small pocket of mature trees that sit in an area of land within a rural landscape near Newton, Salwick & Clifton Village Hall and surrounded by farmland and located next to the roadside of Vicarage Lane. The land forms part of the curtilage of a residential property and the trees could be under threat from inappropriate pruning or felling. In addition, if the area was clear felled, the value of the trees would be irreplaceable and any trees planted to compensate for their loss would take a significant time to grow and become established so as to adequately replace those lost. The amenity value of the trees was assessed and as a result of that assessment, a Woodland TPO was issued see Appendix One.

2.2 Classification of woodland TPOs are used when an area of trees has amenity value and the effect is to prevent any work to the tree until more is known about the reality of a threat. It is also there to protect the trees for their entire life along with future generations and to allow potential tree replacement if needed for the longevity of the woodland.

2.3 A statutory twenty-eight-day consultation period applies to new TPOs, with all persons notified of the TPO being required to make any representations or objections before 19th November 2020.

3.0 Objection.

3.1 A letter in the form of a statement from the Landowner to the Tree Officer was received on 9th November 2020. A redacted copy is attached as Appendix Two.

The objection centers on 5 key points:

1. The property is on the market for sale. A blanket Woodland Tree Preservation Order would severely handicap any future owner's ability to landscape the gardens.
2. Limiting the Woodland Order to the area of woodland as shown on the location map dated 1976 (appendix 3)
3. The amenity value of all the trees within private residence is questionable

4. Due to the property having stables should any future owner wish to restore these to keep horses they would need the land within TPO W2 for grazing
5. The removal of many of the trees would not have any significant negative impact on the local environment and its enjoyment by the public

4. Response to the objection.

- 4.1 Without the order the grounds could be landscaped in such a way that trees could be removed therefore reducing the amenity and biodiversity value of the woodland. If trees are to be retained for a long period of time, then a TPO is often used by the Local Planning Authority (LPA) and it is this Council's objective to be more proactive regarding protecting trees rather than being reactive. In some cases, it can be too late to place the order on trees, as without any form of protection they can be felled without prior knowledge. Under section 206(1) of the Town and Country Planning Act 1990 as amended (the 1990 Act), the placing of preservation orders on trees gives the LPA powers to ask for tree replacements if any trees are removed. A landowner has a duty to replace a tree which is removed in contravention of a tree protection order (TPO). Where the duty is not complied with, local authorities have powers, under section 207 of the Act, to issue tree replacement notices (TRNs). These powers are also exercised where a tree is removed in a conservation area in contravention of section 211 of the 1990 Act (i.e. without giving the council six weeks' notice) and in circumstances when a condition to plant a replacement tree, on a consent to fell a tree under a TPO, is not complied with.
- 4.2 If there is no protection for these trees, it would be impossible to place a tree replacement notice on them. If the land was to be developed and the mature trees removed, even with a landscaping plan that includes planting trees, it would take a significant amount of time before they are of any size to offset the removal of the original trees.
- 4.3 A Woodland Classification would not normally be appropriate to gardens however, as the grounds have been untended and left to grow, the council's Tree Officer considers that a Woodland Order is warranted at this time. The Woodland Order does not hinder beneficial woodland management should the current, or any future property owner, decide to manage the gardens or landscape the area.
- 4.4 The trees have significant importance and several benefits in the Urban and Rural environment, including open public spaces and private residence. As these trees have established in this location together, they play a vital role in providing;
 - Amenity value to the area
 - Flood attenuation
 - Protection of the local biodiversity (some of which will only exist on specific species of tree)
 - Filtering of pollutants
 - Reduction of the heat island effect
 - Positive impact on people's mental health
 - Reducing asthma
 - Economic benefits
 - Softening of the hard-urban landscape

Given the benefits of trees, and even though in this instance they are on private land, they are significant not only to their immediate setting, but to the surrounding area's skyline. The TPO will help the council to protect and secure these benefits for the wider area.

- 4.5 Tree Preservation orders of any type would not hinder the restoration of the stables and it is possible to have protected trees and grazing areas together. The Government and other organisations such as the Woodland Trust are encouraging the use of Agroforestry. This is due to the reduction in trees on farmland where grazing livestock have cleared land resulting in a significant loss of trees and inhibits any potential new trees establishing. Agroforestry is a land management approach that combines trees and

shrubs with crop and livestock farming system. Even though this is geared more towards the farming industry it can, and should, be used on any land where grazing and vegetation can coexist together. By implementing this at no real cost to the owner, this practice delivers a multitude of benefits for the land and livestock from;

- Increased wildlife
- Improved soil health
- Boosting livestock welfare
- Managing water flow
- Contributing to climate change mitigation

4.6 These trees are an asset to the area as they are clearly visible to the public from many locations. They form a notable part of the vista to many local routes including Newton Lake Fishery, Vicarage Lane, Church Lane, Moor Hall Lane and A583 Blackpool Rd and can be enjoyed by people visiting the Fishery or Village Hall, going out and about on their daily business, dog walking, running, cycling (a signed cycle route passes this location), horse riding, etc, throughout the year. This significantly increases their amenity value.

4.7 As most of the trees will have grown and established together as one, individual removal of trees could have a significant negative impact on the trees that remain, as they become exposed to the environmental forces of wind loading, to which they are not accustomed. This increased biomechanical loading on parts of the tree could potentially increase their risk of failure and put pressure on their removal which would then have a domino effect on the remaining trees. In turn, this would have significant negative impact on the local environment and its enjoyment by the public, along with the reduced positive impact on the environment.

5. Conclusion.

5.1 Trees form an integral part of the landscape and the deployment of a tree preservation order is intended as a response to protecting our dwindling tree canopy cover. Every effort needs to be made in securing our mature tree stock now and for the future.

5.2 A Woodland preservation order makes this possible as it protects the trees now, and any in the future from natural regeneration and including any trees planted after the order was made. If some trees do die or need to be removed because they pose a potential safety concern from either pest, diseases or any significant damage and, if there is no protection, there is a strong possibility that the tree canopy cover for this area will be lost. Tree canopy cover especially mixed diverse tree species is very hard to replace, along with the biodiversity that uses these trees as their natural habitat. Protecting and increasing tree canopy cover wherever possible should be a standard across the Fylde Borough, so that trees can be secured now and for the future.

5.3 A tree preservation order is designed to protect and doesn't prevent tree works to trees but does allow the work to be assessed by the LPA prior to any consent being issued. Working with the landowner will help to promote, rather than hinder, good management practices.

5.4 The Tree Officer agrees that in certain respects some tree work should be permitted but does not support wholesale pruning or removal of trees in this location. It is appropriate to control tree work at Lund Vicarage Lane, Newton le Scales through the confirmation of the tree preservation order.

5.5 It is considered that it was correct to protect the trees and that the Order should be confirmed so that it can become permanent. Without confirmation, the Order will lapse on 22nd April 2021 and the trees will be unprotected.

5.6 Members are therefore asked to confirm the Order without modification which will provide protection to the trees pending modification of the order as set out above.

IMPLICATIONS	
Finance	There are no financial implications arising from this report
Legal	The legal implications are contained within the body of the report
Community Safety	There are no direct community safety implications arising from this report.
Human Rights and Equalities	The making of the tree preservation order that is the subject of this report has been prepared and considered in accordance with relevant legislation. There are no direct human rights and equalities implications arising from this report.
Sustainability and Environmental Impact	The provision and retention of trees is a key component in ensuring a healthy and sustainable environment and is in line with the draft Tree & Woodland Strategy for Fylde Borough.
Health & Safety and Risk Management	Potential damage from the trees that are the subject to this order is addressed in the body of the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Andrew Rayner	andrew.rayner@fylde.gov.uk & Tel 01253 658446	

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
TPO 2020 No 0006		www.fylde.gov.uk

Attached Documents

Appendix 1 - TPO 2020/0006 Lund, Vicarage Lane, Newton with Scales

Appendix 2 – Objection letter from Landowner

Appendix 3 – 1976 location map of Lund

Appendix 4 – Google maps views of the location



**Town and Country Planning Act 1990 & The Town and Country Planning
(Tree Preservation) (England) Regulations 2012**

**The Fylde Borough Council Tree Preservation Order 2020/0006 Lund,
Vicarage Lane, Newton with Clifton, Preston PR4 3RX**

The Fylde Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order

Citation

1

This Order may be cited as The Fylde Borough Council Tree Preservation Order 2020/0006 Lund, Vicarage Lane, Newton with Clifton, Preston PR4 3RX

Interpretation

2

- (1) In this Order “the authority” means the Fylde Borough Council.
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3

- (1) Subject to Article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall

- (a) cut down, lop, uproot, wilfully damage or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4

In relation to any tree identified in the first column of the Schedule by letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 22 day of October 2020



Paul Walker
Director of Development
Authorised by the Council to sign in that behalf

**SCHEDULE
SPECIFICATION OF TREES**

Article 3

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation - approximate easting/northings</i>

Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>

Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation – approximate eastings/northings to centre of group</i>


Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Deciduous & Coniferous trees, Ash, Beech, Blackthorn, Cheery, Chinese fir (<i>Cunninghamia lanceolata</i>), Elm, Hawthorn, Holly, Horse Chestnut, Larch, Leylandii, Magnolia, Oak, Picea Breweriana, Sycamore, Tulip, Willow, Yew	Eastings 345264 / Northings 431278
W2	Mainly Deciduous trees being Oak, Elm, Sycamore, Beech, Hawthorne and Holy	Easting 345405 / Northings 431283

Lund, Vicarage Lane, Newton With Clifton, Preston Lancashire PR4 3RX





Email

Andrew Rayner
The Tree & Landscape Officer
Fylde Borough Council
Town Hall
Lytham St Annes
Lancashire
FY8 1LW

9th November 2020

Dear Mr Rayner

Fylde Council Tree Preservation Order 20/0006

Lund, Vicarage Lane, Newton with Clifton, Preston, Lancashire PR4 3RX

Further to the Tree Preservation Order dated the 22nd October 2020 served on me as an interested party on 4th November 2020 I write to object to the said order on the following grounds:

1. A Woodland Order has been placed on 2 parcels of land identified as W1 and W2 in the Order. W1 is a private house, the former Vicarage for Lund Church and sits within a plot of 3.14 acres of garden with a separate Coach House and Stables. My parents lived in the house for over 50 years. My mother died last year and her husband who had been in poor health for some years died in 2003. Sadly they didn't manage to maintain the gardens to the high standard they had and the garden and adjacent paddock became overgrown with trees and shrubs. I attach a plan dated 1976 which shows the areas of original woodland. The land numbered 2527 (now overgrown) was a field used for grazing. Lund is currently on the market for sale. Any future owner will want to restore the garden as well as the house. A blanket Woodland Tree Preservation Order would severely

handicap any future owner of the ability to landscape the gardens. I would be delighted to meet on site with you to discuss identifying smaller areas of woodland on the boundary of the property in line with the areas shown on the annexed plan and/or specific trees within the curtilage of the house.

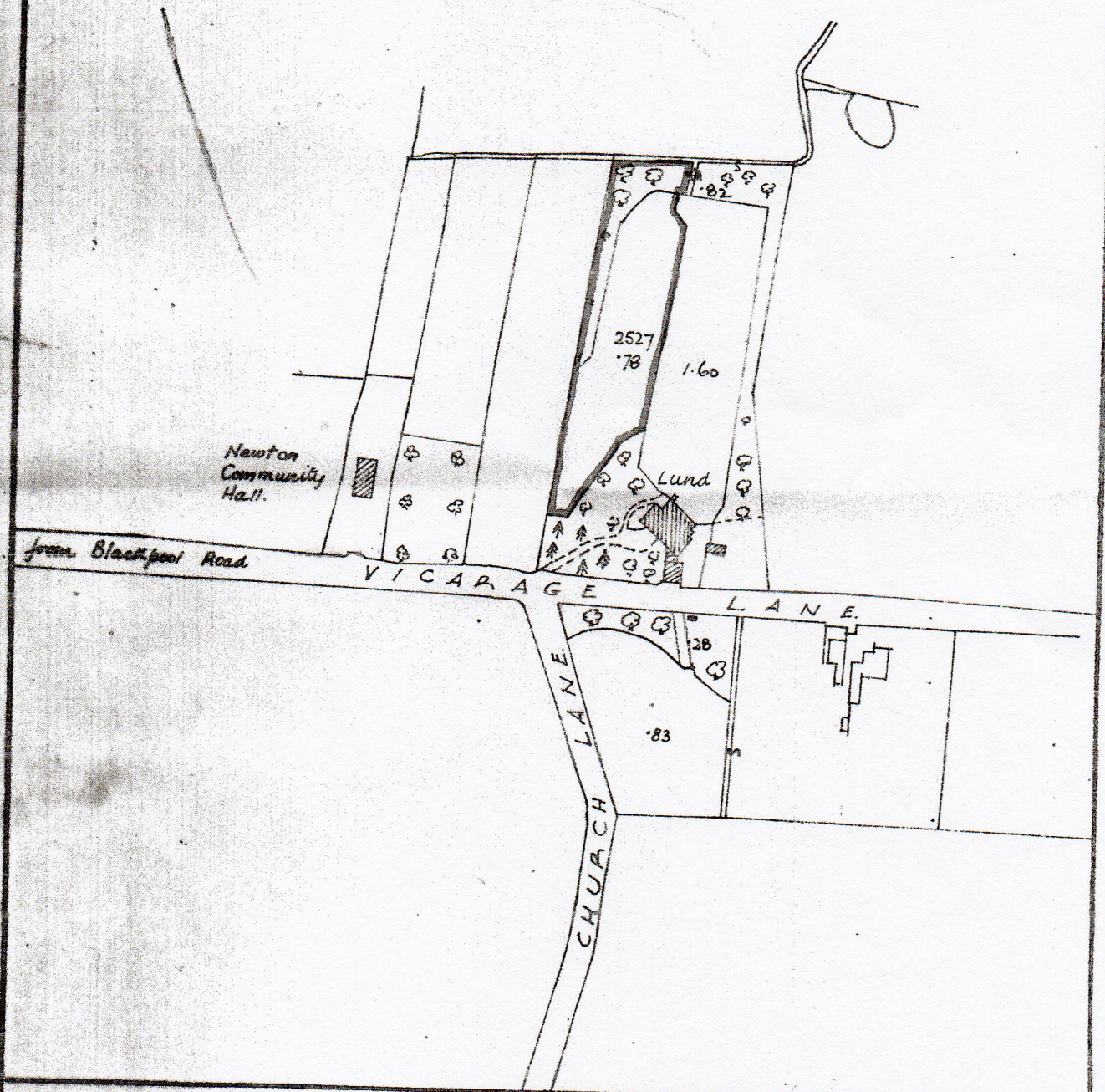
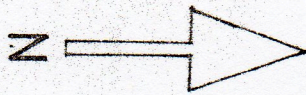
2. With reference to the parcel of land marked W2 on the order. You will again note from the annexed plan that this originally had woodland fronting onto Vicarage Lane and the rest of the parcel was grazing pasture. I welcome a discussion with you again on limiting the Woodland Order to the area of woodland as shown in the annexed plan.
3. I fully appreciate and support the great work done by yourself to protect trees of great merit and amenity and the bio-diversity values that underpin your efforts. However in this instance I question the amenity value of protecting ALL the trees within a private residence when most of the trees are behind the house surrounded by fields and therefore have very limited amenity for the public. Furthermore Lund has stables and should a future owner wish to restore these to keep horses they would also need land on which to graze said horses and accordingly would look to have plot W2 and the plot 2527 as pastures. I also cannot see that the removal of many trees currently falling within the blanket preservation order would have a significant negative impact on the local environment and its enjoyment by the public

I trust you will accept my objections to a blanket woodland order being placed on both Lund (plot W1) and plot W2 and that we might be able to work towards a more specific order that balances your objectives and my reasonable needs for the enjoyment and use of the property.

Kindest regards



.



PLAN REFERRED TO

Date: 1. 6. 76 No. R.W.C. 381.

Scale: 1 : 2500

SUTCLIFFE & COMPANY,
Chartered Surveyors, Land Agents
Oriol Chambers, Covent Garden,
Liverpool 2. 051. 227. 4400



Google maps aerial view of area of trees highlighted with red outline



Google maps street view from Vicarage Lane trees highlighted within red outlined box



Google maps street view from Church Lane highlighted with red box



Google maps street view from Moor Lane , red arrow pointing to location.



Google maps street view from Blackpool Road A583 location highlighted with red arrow