

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	PLANNING COMMITTEE	1 SEPTEMBER 2021	5
FYLDE COUNCIL TREE PRESERVATION ORDER 2021/0001: LAND AT CHURCH ROAD AND ALBANY ROAD, LYTHAM ST ANNE'S			

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 TPO. The council's constitution requires that when an objection is received the decision whether to confirm the TPO is to be made by the Planning Committee. Having considered the representations that have been made, your officers remain of the opinion that the TPO should be confirmed. If the TPO is not confirmed within six months it will 'lapse', and the trees may be felled.

RECOMMENDATION

1. That the committee confirms the Tree Preservation Order without modification 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 Statutory Duty regarding Trees.

The Town and Country Planning Act 1990 (TCPA 1990) prescribes a "*General duty of planning authorities as respects trees*".

Section 197 defines a duty in respect of trees:

Planning permission to include appropriate provision for preservation and planting of trees.

It shall be the duty of the local planning authority—

(a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and

(b) to make such orders under section 198 as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

The council is therefore obliged by statutory legislation to consider the preservation of trees in planning applications and to use planning conditions to secure new tree planting in development.

1.2 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.

1.3 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 2021/0001 (TPO).

2.1 Four large areas of groups of trees (see TPO Appendix 1)

These are situated next to Blackpool & Fylde College on land adjacent to Church Road and Albany Road, St Annes. These trees were identified by the Tree Officer as worthy of a tree preservation order.

This is due to the rarity of large groups of trees within the urbanised area and seeing that the College looked to be permanently closed so represented a potential development site.

On inspection of the trees it was found that there were four different composition of tree groups. Due to two groups having a mix of understory and some early mature trees having poor form, it was decided to use area and group classifications for the order.

Group Classification: is when there is a distinct group of tree species that warrant a preservation order

Area Classification: are intended as a stop-gap: the effect is to prevent any work to the trees until either more is known about the reality of a threat or a more refined Order can be issued that itemises the trees as individuals or groups.

Following the Government’s guidelines of Tree Preservation Orders and classifications, it was deemed by the Tree Officer appropriate to place the trees under protection, based on safeguarding the amenity value from future tree work or potential development of the site.

The TPO was served on all property owners within the grounds of the land affected at Church Road and Albany Road that might be interested parties, as it was unclear from Land Registry who owned the building and the land on which the trees are located.

2.2 Objection Period.

A statutory twenty-eight-day objection period applies to new TPOs.

All persons notified of the TPO were required to make any representations or objections to the Council before 14th April 2021.

3.0 Objection.

An objection was made by way of a letter submitted by Ekersley Property on behalf of Blackpool and Fylde College. The objection was dated 8th April 2021 and sent by post to the Tree Officer. A copy is attached as Appendix two.

3.1 Summary of Objection.

The objection centers on Areas 1 & 2 and Group 2. There is no objection to Group 1.

The objections consist of the following:

1. Areas 1 & 2: Not in a high visible location providing low amenity value, limited habitat, and biodiversity.
2. Group 2: Due to poor pruning and limited view the amenity value has been reduced and is merely an extension of G1
3. Potential development could mitigate the loss of Area 1 & 2 and Group 2 with a robust landscape scheme with appropriate management and request the order be modified accordingly.

4. Response to the Objection.

1. Areas 1 & 2: These trees consist mainly of young to early mature trees and are yet to reach their full potential in size. As they grow their visibility will increase and even though they are not completely visible from Church and Albany Road, there is clear visibility from the public footpath that runs from Church Road to Beauclerk Road, which is adjacent to Royal Lytham & St Anne's Golf club. This footpath runs alongside residential properties that are facing the trees. There is a school and college sports field that is used on a weekly basis during term time and the public visibility will, therefore, also increase when the site the trees are situated on is utilized again.

It is agreed that there will be limited habitat and biodiversity, but the protection of these trees as this mixed group in the urban environment is very rare and so the amenity value is considered sufficient justification to warrant protection of the trees. The trees also have potential to grow to their natural size (20-30m in height) if afforded adequate space to grow and have very little conflict with their surroundings in their current location. This reduces the foreseeable threat of removal or fear that they will be a significant risk of failure due to inadequate space. Although the contribution of these trees to habitat and biodiversity will be limited, they will provide a degree of shelter for specific birds and insects, along with mycorrhizal organisms in the soil.

2. Group 2: This is an extension of G1 but as it mainly consists of Oak trees, this is a separate entity to the group of pines and this should be reflected in the Order and does not detract from the value of either group. There has been some substandard pruning in the past, but on the whole this does not impact from the group's amenity value and as the trees are early in their maturity, their amenity value will increase with time. Being Oak trees, they have a long-life expectancy and will, if afforded protection and proper management, be in this location for many years to come. This group of trees, even though they are situated further away from Church and Albany Road, are situated next to G1 and visible from the public footpath that runs from Church Road to Beauclerk Road adjacent to Royal Lytham & St Anne's Golf club. This footpath runs alongside residential properties that are facing the trees. There is a school and college sports field that is used on a weekly basis during term time and therefore the public visibility will also increase when the site the trees are situated on is utilized again.

3. Potential development could mitigate the loss of trees, but it is impossible to instantly replace trees of this age and size immediately. For this maturity to be reached will take time and a robust management schedule of maintenance. Planning conditions to safeguard trees can be imposed as part of the consent for landscaping, including a requirement to replace any tree/shrub provided as part of a landscaping scheme that is seen to be dead or not of any viability, but this cannot protect the trees in perpetuity. In contrast, a Preservation Order has no fixed end date and because of the reasons set out above, the Tree Officer sees no reason to modify the TPO as requested in the objections.

Conclusion

These trees are rare and unique in the urbanised areas and play an integral part in our lives, not only in adding green infrastructure but also help to soften the hard infrastructure. If they are not afforded protection they could be removed from the landscape and so detract from the character of this populated area. This can then lead to reduced benefits that the trees provide from biodiversity, carbon sequestration, reducing run off from rain and flood attenuation, along with softening the landscape and creating value to the area which makes it a more attractive place to work, live and visit.

As these trees grow so will their visibility and amenity value. They provide shelter and a source of food for the wildlife and if the trees are removed, the animals/ insects and fungi that are species specific to these trees will be lost.

The council should be looking to retain, wherever reasonably practicable, the borough's tree stock, not only for the local area in which they sit, but for the whole of the Fylde.

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

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 and the adopted Local Plan 2032
Health & Safety and Risk Management	There is no risk at this moment

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
TPO 2021 No 1		Town Hall, St Annes

Attached Documents

Appendix 1 – Objection

Appendix 2 – Tree Preservation Order 21/0001 Land at Church Road and Albany Road, Lytham St Anne's

Appendix 3 – Regulation 5 letter