

## DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	PLANNING COMMITTEE	7 DECEMBER 2022	5
<b>FYLDE COUNCIL TREE PRESERVATION ORDER 22.0003: LAND NORTH OF MILL LANE, ELSWICK, PR4 3ZH</b>			

### 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 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 on whether to confirm the Order is made by the Planning Committee.

### RECOMMENDATION

1. That the committee confirms the Tree Preservation Order so that it becomes permanently effective. If the Order is not confirmed within six months it 'lapses', and the trees may be felled.

### SUMMARY OF PREVIOUS DECISIONS

None

### CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	✓
Working with all partners ( <b>Vibrant Economy</b> )	
To make sure Fylde continues to be one of the most desirable places to live ( <b>A Great Place to Live</b> )	✓
Promoting Fylde as a great destination to visit ( <b>A Great Place to Visit</b> )	✓

### REPORT

#### 1. Legislative background to tree protection.

##### 1.1 Statutory Duty regarding Trees.

The Town and Country Planning Act 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 6<sup>th</sup> 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 Threat to trees due to redevelopment and inappropriate management**

The trees are situated within the hedge line that encircles the development site situated between Bonds Lane & Mill Lane, Elswick (approved planning application 18/0318 & 20/0875). The trees and hedgerow in this location help to provide natural green infrastructure associated with the rural setting and provide amenity & biodiversity value to the area. It was brought to the Tree Officers attention that a section of hedge had been removed and soil volume within the rooting area of trees had been graded off by heavy plant machinery contrary to condition 16 of the approved planning application for 20/0875. On visiting the site, the tree officer noticed there was:

- No adequate tree protection fencing installed
- Exposed and damaged roots where soil had been graded off
- Unauthorised removal of hedge

Following the Government’s guidelines in relation to Tree Preservation Orders, under expediency, it was deemed by the Tree Officer appropriate to place the trees under a provisional tree preservation order (Appendix 1). This is to safeguard the amenity and biodiversity value of the trees from inappropriate tree work or impacts from development of the site.

The Order was served on all interested parties including the present owner at the time of making the order.

### **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 before 29<sup>th</sup> July 2022.

## **3.0 Objection.**

An objection was made in the form of a letter submitted to Fylde Council by a resident of Ash Close Elswick. The objection was dated 8<sup>th</sup> July 2022. A copy is attached as Appendix Two.

### **3.1 Summary of Objection.**

The objection mainly centres around concerns with respect to the location of the new properties that will be built adjacent to trees along the western boundary.

The following points have been pulled out of the objection letter and are covered in response:

- a) Removal of trees prior to placing the tree preservation order
- b) Relocation of houses to reduce the potential impact on trees from construction work
- c) There is sufficient room to build houses away from trees
- d) Damage to tree roots from the installation of drainage pipes

#### **4. Response to the Objection.**

All points A, B, C & D will have been considered through the planning application assessment and are not part of the consideration of a tree preservation order. The planning application was determined under application 18/0318 & application 20/0875 to discharge conditions. All works in and around trees should adhere to the accepted Arboriculture Method Statement submitted by TEP tree consultancy dated 2020 (revised version 26/03/21). TEP Arboriculture Method Statement shows clearly that no trees should be impacted on by development, and if there is any requirement to work within the root protection area, all work shall be supervised by an appointed suitably qualified arboriculturist. In the opinion of the Tree Officer, having viewed the planning application at the time, there was no requirement to place the trees under the extra protection of a preservation order.

#### **Conclusion**

These trees are rare and unique to this location and the increase in development makes these trees valuable to the area. They also play an integral part in our lives and help to reduce the impact of new housing in a rural edge of settlement location by screening it from the surrounding open countryside. Due to the trees sustaining damage during the initial construction stages if they are not afforded permanent protection, they could be removed from the landscape and so increase the hard landscape look in this increasingly populated area. As these trees carry out their natural life cycle, their amenity and biodiversity value will increase, because they provide shelter and a source of food for wildlife and if the trees are removed, the animals/ insects and fungi that are species specific to these trees will be lost. The loss of the trees would result in less biodiversity and carbon sequestration. There would also be increased run off rates from rainfall having a negative effect on 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.

We should be looking to retain wherever reasonably practicable our tree stock, not only for the local area in which they sit, but for the whole of the Fylde landscape.

Members are therefore asked to confirm the Order 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 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 2022 No 3		Town Hall, St Annes

### Attached Documents

Appendix 1 – Tree Preservation Order 22/0003 Land North of Mill Lane, Elswick, PR4 3ZH

Appendix 2 – Objection