



PART B:	RECOMMENDATIONS TO PLANNING COMMITTEE
REPORT TO:	TREE PRESERVATION ORDER WORKING PARTY
DATE:	12 DECEMBER 2018
REPORT OF THE:	SPECIALIST SERVICES LEAD (HEAD OF PLANNING) GARY HOUSDEN
TITLE OF REPORT:	TREE PRESERVATION ORDER No: 348/2018 BURWOOD RAILWAY ST, SLINGSBY
WARDS AFFECTED:	SLINGSBY

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 For members of the working party to consider objections to the Tree Preservation Order (TPO) and to make a recommendation to the Planning Committee on whether the Order should be confirmed.

2.0 RECOMMENDATION

- 2.1 That the Planning Committee is recommended to:
- (i) Confirm Tree Preservation Order No: 348/2018

3.0 REASON FOR RECOMMENDATION

- 3.1 To protect the amenity value that these trees provide to the locality.

4.0 SIGNIFICANT RISKS

- 4.1 There are no significant risks associated with recommendation.

5.0 POLICY CONTEXT

- 5.1 Members are aware that Local Planning Authorities can make a Tree Preservation Order (TPO) if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'. In this respect, 'expediency' means that there is a risk of a tree/s being felled. An Order prohibits the cutting down, topping, lopping, uprooting or wilful destruction of trees without the Local Planning Authority's written consent.

- 5.2 Amenity, whilst not defined in law, is a matter of judgement for the Local Planning Authority. In terms of the purpose of TPOs, they should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future. Matters to consider are:

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

- 5.3 An Order comes into effect on the day that it is made, and once made, interested parties have a minimum of 28 days to make representations either supporting or objecting to the Order. A Local Planning Authority has six months in which to confirm the Order or to decide not to confirm it. An Order cannot be confirmed unless the LPA has considered duly made representations made in response to the Order.
- 5.4 In Ryedale, the confirmation of TPO's is a matter for the Planning Committee, following advice of the Tree Preservation Order Working Party. The Working Party is established to allow the matter to be considered in detail.

6.0 REPORT

Background

- 6.1 The trees which are the subject of this provisional TPO 348/2018, are a Silver Birch tree and a Yew tree, located in the garden of Burwood Railway Street, Slingsby (Annex1 tree location). This area falls within the Slingsby Conservation Area.
- 6.2 A s.212 notification (Conservation Area Tree Notice) was received on the 3rd July 2018 (18/00676/CAT (annexe 2) to fell the Birch tree and crown lift and thin the Yew. The

notice then referred to two reasons why the Birch tree could not be retained and why the Yew needed crown lifting. The Local Planning Authority must consider the amenity impact on the Conservation Area as a result of the proposed loss of the tree. In response to this CAT Notification, a TPO was served on the 13th of August 2018 (see annexe 3).

Tree assessment

- 6.3 The Silver Birch tree and the Yew tree are highly prominent when approaching from both ends of Railway Street. This is a function of their position on the front of the plot, their height and crown spread.
- 6.4 The trees both have balanced form and good vitality. It is considered that their presence reinforces the other individual trees in the locality and provides a valuable amenity in their own right, in a location which would otherwise be dominated by hard landscaping and constructed surfaces. They are both mature specimens in an area of the Slingsby Conservation Area in which mature trees are a key element of the character and appearance of the Conservation Area.
- 6.5 Officers have viewed and evaluated the trees in the site. This evidence demonstrates that in terms of health and appearance there are no issues with the tree which would undermine the provisional, or confirmed, TPO.
- 6.6 As part of the TPO making procedure, the trees have been assessed using the nationally recognised 'TEMPO' system. This has been developed to provide a transparent and objective means of evaluating and considering the merits of a Tree (or Trees) and whether their amenity value is such that it warrants protection. It is split into different aspects of the amenity value, and identifies a scoring system. A minimum of 12 points is required. The Silver Birch subject to this provisional TPO was found to have an overall score of 21 based on condition, retention span and public visibility, over 11 marks more than the threshold that determines the viability of TPO orders. The Yew Tree subject to this provisional TPO was found to have an overall score of 22. These TEMPO scoring sheet are appended in annexe 4.

Representations

- 6.7 In the following paragraph the objections to the order have been summarised and the full copies of objections are included in annex 6. Objections have been received from the following:-

Mr D Curtois, Burwood, Railway St , Slingsby
Mr and Mrs Thackeray, The Willows, Railway Street, Slingsby
Slingsby Parish Council

Mr Curtois

1. The Trees root encroachment into nearby property
2. Poor amenity value
3. The tree is affecting the health of 11 year old who is an asthma sufferer
4. Retention span of the tree is not up to 100 years but more likely 60 to 80 years
5. The tree is not highly prominent.

Mr and Mrs Thackeray

1. Tree is a safety risk
2. The tree is too big for the location in which it grows.

Parish Council

Recommended approval

Appraisal of Representations

- 6.8 A response to the representations/objections made is as follows:

The Lack of Amenity Value

- 6.9 The Local Planning Authority must consider the amenity value of the tree in making and confirming a Tree Preservation Order. It is considered that the tree has significant amenity value and contributes to the character and appearance of the Conservation Area. In respect of the TEMPO evaluation, the Local Planning Authority considers that the evaluation was appropriate and justified and the evidence has been correctly considered

Root encroachment on nearby buildings

- 6.10 No evidence from independent sources has been produced to prove that the trees roots are damaging neighbouring property

Health of occupant of Burwood

- 6.11 Birch pollen is a major cause of allergy to a section of the general population along with several other species of trees. However windblown pollens do travel many kilometres from source so it is likely that even without the tree in question, the allergy will still be prevalent from trees in the locality.

Not highly prominent in the landscape

- 6.12 Railway Street does not have many large or medium sized trees, these two trees can be viewed from both direction up and down the street and do contribute to the visual amenity, character and appearance of the conservation area

Safety Risk

- 6.13 No evidence is put forward to support the claim that the trees are a safety risk to neighbours or passers-by. Both trees are in good health with no major physical defects. It is considered that they do not represent a safety risk.

Tree too big for the location

- 6.14 The silver birch is close to Burwood but there is no evidence that the tree is causing damage to the property or is a safety risk

Conclusion

- 6.15 The significant amenity value that these trees provide to the locality is considered to justify the making, and confirming of a TPO, when weighed against the objections put forward. This is borne out by the high score the tree achieves in the Tree Evaluation Assessment attached at Annex 2.

7.0 IMPLICATIONS

- 7.1 The following implications have been identified:
- a) Financial
No financial implications identified
 - b) Legal
A decision to confirm the Order must be made within six months of the Order being made.
 - c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)
No other implications identified

8.0 NEXT STEPS

- 8.1 The Planning Committee will consider the recommendations of the Working Party at its next meeting. If the Committee resolves to confirm the Order all of the interested parties will be notified and the notice will provide details of the grounds on which an application can be made to the High Court. (The legislation provides no right of appeal to the Secretary of State against an authority either making or confirming an Order.)
- 8.2 The Council must make a formal note of its decision in relation to the Order. If the Order is confirmed it will be recorded in the Land Charges Register. If the Order is not confirmed, its operation will cease with immediate effect.

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Annexes:

Annexe 1 - Tree's Location

Annexe 2- CAT Notice

Annexe 3- The TPO

Annexe 4 - TEMPO Scoring

Annexe 5- Representations

Background Papers:

Application reference 18/00676/CAT

Background Papers are available for inspection at:

<http://www.ryedale.gov.uk/residents/planning/view-a-planning-application.html>