

Item Number: 7

Tree Preservation Order: Tree Preservation Order (TPO) 354/2021

Mullins Cottage, Main Street, Scrayingham

Background

A Tree Preservation Order was provisionally made at the site on 5 January 2022. The Order covered two large individual mature ash trees and three groups of trees located within the domestic curtilage of the property known as Mullins Cottage in Scrayingham. The trees are located near to the northern boundary of the property and are viewable from the adjacent highway and footpath on Main Street.

The TPO evaluation was undertaken at the request of the owners of Mullins Cottage. The Council understood that there were plans to trench in close proximity to the northern boundary of the property and the owners were concerned that this would result in damage to trees at the property.

A location plan, copy of the provisional order and TPO Assessment/ evaluation report are appended to this report.

Members are aware that a TPO comes into effect on the day that it is made, and once made, interested parties have up to 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.

Representations

In addition to the owners support for the TPO, four representations of support have been received in support of the Order from other residents of the village.

One representation has been received from the Yorkshire River Derwent Catchment Partnership stating that they are in favour of the proposed ditch restoration works.

One letter of objection has been received from the Trustee of Aldby Park Estate, raising concerns that the tree protection would fetter the ability to reinstate a drainage ditch in this location to assist in a programme of drainage works to assist in a flood management strategy which is being worked on by Aldby Park Estate, NYCC, the Parish Council and Yorkshire Wildlife Trust. The proposal involves the formation of an open ditch to facilitate the movement of surface water flooding away from residential properties, as Scrayingham is subject to periodic flooding incidences, and has problem sewerage drainage.

No formal objection was received NYCC in their capacity as the Lead Local Flood Authority (LLFA). However, as indicated in the implications section of the report to the Tree Preservation Order Working Party, the retention of the trees could present implementation challenges if a piped system was required in order to protect the trees. The LLFA is not in a position to maintain the piped system.

TPO Working Party

The TPO Working Party met on Monday 23 May to consider the Order as made.

All documents considered by the members of the TPO Working Party, together with draft minutes of the meeting are appended to this report together with this report and amended plan.

Discussion

Amenity:

Both Councillors agreed on the removal of T1 from the TPO as it is in a declining condition and the lifespan is limited.

Both Councillors agreed that T2 was a “fine tree” and that G3 has several trees approaching maturity with high amenity value.

Councillor Cleary questioned whether G1 and G2 merited TPO given that the trees are not as large or noticeable from an amenity perspective. Cllr Potter acknowledged that whilst the trees were not as mature, they had good potential to make a future impact.

Expediency:

T1 was not considered to be under threat from trenching. It therefore does not merit a TPO given its declining condition.

The remaining trees are clearly a declared risk from the proposed trenching. The trees also provide sufficient amenity to merit the making of the TPO as outlined in the Officer’s report.

Implications:

Members considered the implications of making the order in relation to the drainage proposals. Although alternative piped solutions (i.e. taking water through a pipe underground) may be possible it is understood that these are not likely to be deliverable. This is due to additional costs and issues concerning liabilities and responsibilities for ongoing maintenance. NYCC Flood Management (as representative of the County Council as Lead Local Flood Authority) have confirmed that the area that floods in this part of Scrayingham is not a ‘programmed commitment’ and therefore NYCC will not maintain a piped solution.

Members concluded that issues relating to drainage/sewerage is a matter for those responsible (such as Yorkshire Water and NYCC as lead local flood authority) to respond to with the landowner- and this is taking place.

They considered that confirming the TPO will not preclude applications to carry out works such as ditching or pruning. Any such applications can be considered through the planning process and will take the presence of the protected trees and their amenity contribution into account when considering any drainage work proposals to reduce the risk of flooding in the area.

At the vote it was decided:

Planning Committee is recommended to confirm TPO 354/2021 with modifications as detailed below:

1. Removal of T1 from the TPO Plan, and consequential amendment to TPO title and tree schedule to accurately reflect the removal of T1.
2. G2 will be amended on the plan (as per the appended map) to more accurately reflect the extent of the group.
3. T2, G1, G2 and G3 should be subjected to the Order and the Order should be confirmed with the above amendments.

Decision to confirm TPO 354/2021

Voting Record

3* For

0 Against

0 Abstentions

* Chair used his casting vote in the absence of Cllr Mackenzie who could not attend the meeting

Recommendation:

That the Planning Committee note the recommendation of the Tree Preservation Order Working Party and to confirm TPO 354/2021 with the recommended amendments.