

## **Item 9**

### **Tree Preservation Order: Tree Preservation Order (TPO) 355/2021**

**Woodland to the north of The Wheelhouse, Barugh Lane, Great Barugh, Malton, North Yorkshire, YO17 6XB**

#### **Background**

A Tree Preservation Order was provisionally made at the site on 18th January 2022. The Order covered a small woodland roughly 0.75 acres in area. The trees are located within the domestic curtilage of the property known as The Wheelhouse on the outskirts of Great Barugh. The woodland is situated about 30m to the north of the dwelling. The woodland is viewable from the adjacent highway and public right of way to both the north, south and west.

The TPO evaluation was undertaken at the request of the owners of The Wheelhouse. The Council understood that the owners were concerned that trees on the southern boundary of the woodland were being hit by passing vehicles associated with a livery which is at the end of the access road.

A location plan, copy of the provisional order and TPO Assessment/ evaluation report and images 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, the neighbours (Mr & Mrs Crockatt, The Granary) have stated that “they have no objections to the TPO”.

The owner of the land to the west of the woodland (Mr Kellett of Ackland Farm) has previously provided neutral comments – these can be found in full in the TPO Working Party Report (9.3-9.11).

Points raised were:

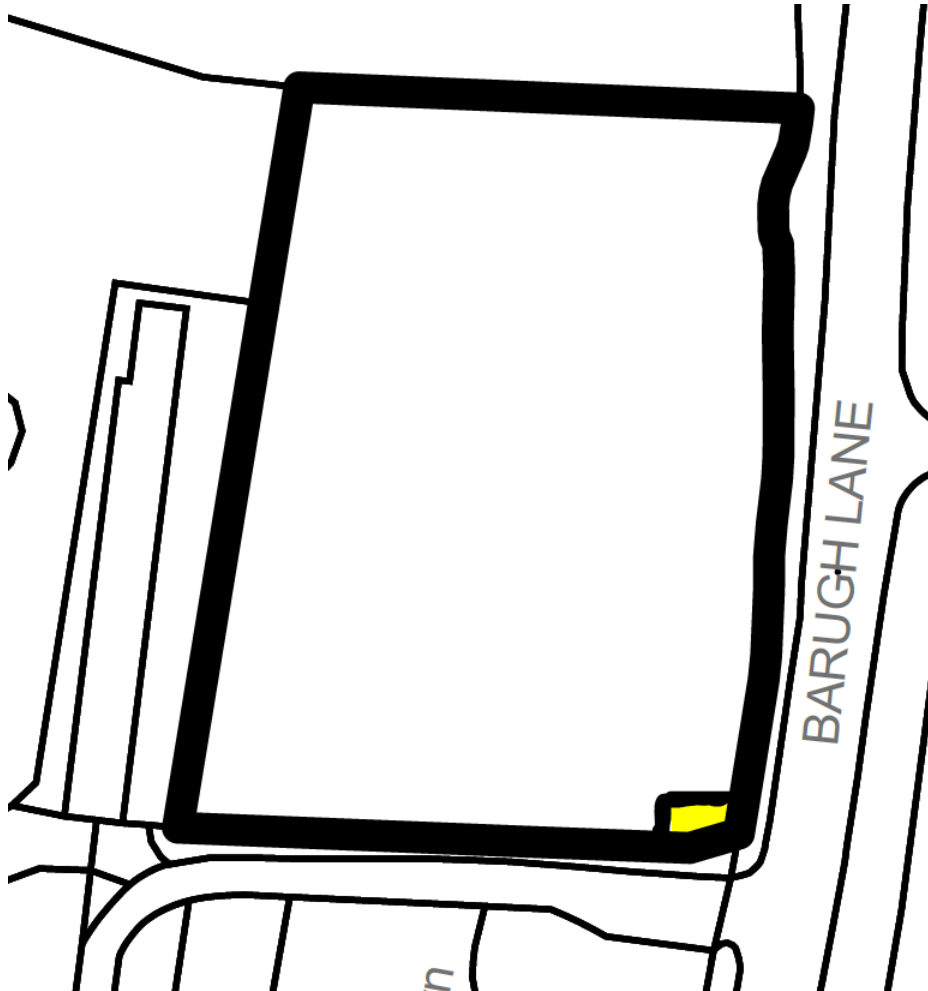
- Maintenance of the trees by the owner – this is civil matter, and should neighbours not be satisfied with the frequency of pruning they may apply for work.
- Access to the track required by various people including those associated with the Livery, Environment Agency, delivery of heating oil, etc.
- Damage being done by highway vehicles on East side of woodland.

There is currently an application to prune the trees under consideration (ref: 22/00667/TPO). Neighbours and other agents such as tree surgeons can apply to carry out tree work. No evidence was found of damage being done to trees on the eastern boundary by highway traffic during the visit of the TPO Working Party on 23rd May 2022.

Mr Kellett made a late objection by email on 23<sup>rd</sup> June 2022 on the following grounds (see Annexe 3 – photos 12-18):

- Overhanging branches causing visibility issues when exiting/accessing road
- Branches in reach of horses reducing the amount of grazing land and leaning dangerously into the field.

Having looked again at the Beech and considered the extent of the highway (verge) limits, on balance it is considered to be reasonable to exclude the Beech tree on the south eastern corner of the woodland on the grounds of safety. If the owner does not keep up to the pruning during the growing season it will give Mr Kellett and others the option of cutting the branches themselves as would be their Common Law right. This would require a slight modification to the TPO plan as indicated in Image 1 (below) and would ensure highway safety.



**Image 1** – Proposed modification to TPO plan.

Mr Kellett mentions three further Beech trees that overhang the access road which are further down the track on the southern boundary. These branches are very minor. This situation can easily be resolved by either the owners or anyone else that wishes to apply to work, so these trees should remain with the order. The owner currently has an application to prune the trees back under consideration and in the long term the crown will get higher as the trees grow.

Furthermore, Mr Kellett mentions a large Beech that overhangs his north western boundary with a dangerous 10 degree lean that reduces grazing area for his horses. There was no evidence of this tree being dangerous and the lean is considered insignificant. The low

branches can easily be dealt with by pruning should Mr Kellett wish to make an application to crown raise the tree. If this tree is excluded from the order it would be possible for Mr Kellett to cut all the branches overhanging his boundary which would be highly detrimental to both the health and visual amenity of a tree that is over 100 years in age and has a crown spread of 17 metres (east-west) . There is plenty of grazing land within the vicinity of the livery.

In order for these modifications to be made the TPO should be "Confirmed with modifications". The plan would be modified as per below, i.e. highlighted area should be excluded and boundary redrawn as shown in Image 1 above.

## **TPO Working Party**

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

All documents (except the objection received on 23.06.22) were 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 plan.

## **Discussion**

### *Amenity:*

The site was inspected thoroughly. Both Councillors agreed that the woodland had valuable public amenity visible and that the woodland is worthy of protection.

A dead tree was noted on the northern boundary and a large tree on the western boundary that is excluded from the report due to a significant physiological defect.

### *Expediency:*

Whilst the perceived threat from vehicular impact alone is not considered sufficient reason to make a TPO, the woodland scored highly in its assessment. The high amenity value attributed to this woodland both now and as it develops is therefore considered reasonable justification given that the order is at the request of the owner who cares deeply about the woodland and is responsible for the planting of the younger trees developing within the site. Furthermore, it secures a valuable amenity asset should the property be sold in future.

### *Implications:*

If the order is not confirmed venerable trees such as the beech in the north wester corner of the woodland are liable to be cut without regard to best practice and the health or amenity of the trees.

At the vote it was decided:

**Planning Committee is recommended to confirm TPO 355/2021 as detailed below:**

Decision to confirm TPO 355/2021

Voting Record

2 For

0 Against

0 Abstentions

### **Proposed actions in light of late objection**

It is proposed that a minor modification is made to the shape of the TPO boundary to account for the exclusion of 1 no. Beech tree in the interests of highway safety as discussed above.

In subsequent email correspondence, Councillor Goodrick has indicated that she would support the proposed changes.

### **Recommendation:**

That the Planning Committee note the recommendation of the Tree Preservation Order Working Party was to confirm TPO 355/2021, however it is recommended to **confirm the order with modifications** to the TPO plan as indicated in Image 1 (above).