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<b>PART B:</b>	<b>RECOMMENDATIONS TO PLANNING COMMITTEE</b>
<b>REPORT TO:</b>	<b>TREE PRESERVATION ORDER WORKING PARTY</b>
<b>DATE:</b>	<b>18<sup>TH</sup> MAY 2022</b>
<b>REPORT OF THE:</b>	<b>PLANNING AND DEVELOPMENT MANAGER JILL THOMPSON</b>
<b>TITLE OF REPORT:</b>	<b>TREE PRESERVATION ORDER No: 355/2021</b>
<b>WARDS AFFECTED:</b>	<b>SINNINGTON</b>
<b>AUTHOR:</b>	<b>MATTHEW STUBBINGS, TREE &amp; LANDSCAPE OFFICER</b>

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## EXECUTIVE SUMMARY

### 1.0 PURPOSE OF REPORT

- 1.1 For members of the working party to consider Tree Preservation Order (TPO) 355/2021 at **Woodland to the north of The Wheelhouse, Barugh Lane, Great Barugh, Malton, North Yorkshire, YO17 6XB**. Then 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: 354/2021

### 3.0 REASON FOR RECOMMENDATION

- 3.1 To protect the amenity value that the 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 trees being felled, or the trees will be significantly damaged by trenching within the root zone. An Order prohibits the cutting

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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 destruction or 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**

### **DESCRIPTION OF SITE AND TREES**

- 6.1 The proposed TPO covers 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

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to both the north, south and west.

- 6.2 The woodland as indicated on the attached TPO plan (Annexe 1) should be viewed in conjunction with the accompanying 'TEMPO' TPO assessment (Annexe 2).

W1 – Mixed broadleaved woodland (including Oak, Beech, Ash, Sycamore, Willow, Elm, Cherry and Silver Birch)

- 6.3 It has been alleged that outer branches of trees on the southern edge of the woodland overhanging the track are being damaged by passing vehicles associated with the commercial livery stables. This has prompted a TPO evaluation on 15.12.2021.
- 6.4 The owner of woodland is concerned about the harm being done to the trees.

### **7.0 TREE ASSESSMENT**

- 7.1 As part of the TPO making procedure, the trees were 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 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.
- 7.2 The trees in the woodland were assessed in detail. The woodland was assessed as a whole and scores were given based on condition, retention span and public visibility.
- 7.3 With a total score of 20, the woodland was found to be 8 points above the threshold that determines the viability of TPO orders and rated as 'definitely merits TPO'.
- 7.4 This TEMPO assessment was undertaken by myself, a qualified arboriculturalist with over twenty years' experience in arboriculture.

#### **Tree assessment- Amenity**

- 7.5 Photographs of the trees can be found in Annexe 3.
- 7.6 There were four distinct zones within the woodland with respect to age class:
1. Trees on the western side of the site – mature evenly spaced Sycamore. This area includes an over-mature Sycamore with a significant bark inclusion (see Annexe 3, photo 11) which could be retained though use of bracing and potentially retrenchment pruning. However without management this tree could be a developing safety risk. This tree is therefore excluded from inclusion within the order.
  2. Trees on the northern boundary – Sycamore and Elm. At the time of the assessment there were 2 or 3 dead Elm trees towards the eastern end of this boundary. These were not suitable for inclusion in the proposed TPO.
  3. Trees on the roadside (eastern) boundary – mature Sycamore, Ash and Elm. At the time of the assessment there were two multi-stemmed dead Elms along the highway boundary, these trees were not considered to be suitable for inclusion in the order. Half of the eastern boundary has a well maintained Hawthorn hedge.
  4. Trees on the eastern side of the site – mainly young to early mature Ash trees consisting of a double line of closely grown trees that will require selective removals in future. The

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trees look healthy and do not show any signs of Ash die-back.

- 7.7 As a whole (and with the exception of those trees excluded as highlighted above) the trees were found to be in good condition and therefore highly suitable for TPO (5).
- 7.8 The woodland has several tree species and a good age range which provided it is managed well could provide good potential for the longevity of this woodland with a retention span of over 100 years (5).
- 7.9 The woodland has many large trees visible from different public viewpoints and images from the highway and the public right of way shows that the woodland is an attractive and prominent landscape feature on the local skyline (5).
- 7.10 The wildlife/habitat value of the woodland will increase as it ages. The woodland is important for local biodiversity both now and in the future (3).

### 8.0 Tree assessment- Expediency

- 8.1 There is a perceived threat to the trees. Outer branches of trees on the southern edge of the woodland overhang the track are being hit by passing vehicles. It is alleged that these impacts are as a direct result of vehicular movement associated with the commercial livery stables.
- 8.2 When vehicles impact branches through direct contact it is possible that this may result in harm to those branches and potentially to the disfiguration/damage of some of the branches and sometimes death of branches from abrasions causing pathogens to gain entry into the branches through the damaged bark.
- 8.3 The perceived threat from vehicular impact alone is not considered sufficient reason to make a TPO, hence the score of 2 for expediency within the TEMPO assessment. Nevertheless, it is considered that the overall score of 20 is a 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 within the site.
- 8.4 The inclusion of all trees in W1 in the order (with the exception of those mentioned in paragraph 2.6) is recommended to ensure the long-term retention of an attractive woodland and to ensure that all future tree work is in accordance with best practice and standards (BS3998).
- 8.5 The making of a TPO will safeguard long-term retention of high quality tree cover in an attractive rural location and when the time comes to fell trees in future will ensure continuity of tree cover in perpetuity, thereby maintaining the special character of the area.

### 9.0 Representations

Representations are below (in **blue type**) and the Officer response where it is deemed appropriate can be found in **black type**.

#### 9.1 **Objections (0 no.)**

No letters or emailed objections have been received.

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### 9.2 **Support (0 no.)**

No letters or emails of support have been received.

### 9.3 **Neutral comments (2 no.)**

Comments were received by email from neighbour, Andrew Kellett, Ackland Farm Ryton, MALTON, YO17 6XU (the original email can be found at Annexe 4).

9.4 *"In response to your letter dated the 18th of January 2022 regarding the intended addition of the tree preservation order been placed on our neighbours trees at The Wheelhouse. My concerns are as follows: I note that you make the point in your letter that concerns have been raised that there has been damage to the trees by passing vehicles along the southern edge of the woodland this southern edge is the access track to three residential properties a commercial livery business and also a farming enterprise as well as the only access to the sewage treatment plant for all the residential properties along with access to the Ackland Beck which is served by the internal drainage board and also the access track used by the environment agency to maintain part of the river seven all the above users of the track do operate large vehicles and machinery as well as the large delivery vehicles to the residential properties to deliver heating oil as no mains gas is available."*

9.5 Neighbours and other agents such as tree surgeons can apply to carry out work to the trees.

9.6 *My point is that if low overhanging branches are allowed to grow unmanaged over the access track which is the case here then it is inevitable that there is going to be damage to trees and vehicles alike therefore I do not think that it is unreasonable to suggest that as a preventative measure to avoid myself or any of the above bodies falling foul of the proposed TPO and also to avoid any neighbourly conflict that before the TPO is confirmed that the problem branches are removed by the owner.*

9.7 The order came into place when the order was made. Mr Kellett was advised at the time the order was made that he should approach the owner or he could apply to carry out work.

9.8 *I would also like to suggest that as the owner of the livery stables and land to the north and west of the woodland that the lower overhanging branches that hang over my stables and grazing pastures some of which are within reach of the horses also be dealt with before the TPO is confirmed.*

9.9 The maintenance of the trees on the internal road or overhanging the stables to the west is a civil matter and the Council would not get involved in such matters.

9.10 *I would also like to say that as you make the point that branches are being damaged by passing vehicles along the southern edge of the woodland I have also observed that there is damage being done by passing large vehicles to branches along the eastern edge of the woodland which is the Highway edge would it not also be sensible to have these branches trimmed also with all the TPO is enforced.*

9.11 It is the duty of North Yorkshire County Council to ensure that the branches do not impact on the users of the highway. Issues can be reported via the NYCC website: <https://www.northyorks.gov.uk/grass-cutting-verge-hedge-and-tree-maintenance>

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- 9.12 Neutral comments were also received from neighbours Carol and Robin Crockatt, The Granary, White House Farm, Barugh Lane, Great Barugh, Malton, North Yorkshire, YO17 6XB (full email can be found at Annexe 5)

They state:

*“We have no objection to the TPO, however the track is the only access to our house The Granary . The sewage tanker which is a large vehicle accesses the sewage plant for all four properties and uses the track and our property as access so we would like to fully understand what the implications are.”*

- 9.13 Carol and Robin Crockatt have been advised that any work to the protected trees will require an application to the Council. Applications are determined within 8 weeks. The responsibility for the trees is with the woodland owner. In an ideal world all tree owners would be responsible neighbours and would arrange for any necessary work, however please note that as the internal access road is not classed as a public highway the Council would not have any involvement if the owners chose not to prune the trees and they started to overhang the access road. However, in addition to the tree owners being able to apply for work others may also apply to carry out work to trees. The removal of dead branches or dangerous trees is exempt from the application process.

### 10.0 Other factors

Whilst the ability of trees to carbon capture and provide wildlife habitats are not a material consideration in the confirmation of TPOs, it is of note that trees provide essential habitat for birds and other wildlife throughout their life. Each tree will typically absorb over a tonne of CO<sup>2</sup> during its lifetime.

### 11.0 Conclusion

- 11.1 The Local Planning Authority has considered all duly made representations and provides detailed responses in section 9.
- 11.2 In making the Order in the first instance, the Local Planning Authority sought to evaluate the trees at the Woodland to the north of The Wheelhouse, Barugh Lane, Great Barugh, Malton, North Yorkshire, YO17 6XB. With the exception of any dead trees already present and the large Sycamore with the included union (photo 11, Annexe 3) the woodland was considered to definitely merit a TPO.
- 11.3 In confirming the TPO the Council seeks to protect trees that are at risk as a result of root damage which would irreversibly harm several of the trees and would be a loss to the amenity and a detriment to the area.
- 11.4 The significant amenity value that the trees provide and will continue to provide to the locality in future, in addition to the benefits the younger trees give as they develop and become more visible is considered to justify the making, and confirming of a TPO, when weighed against the neutral comments put forward. This is borne out by the high score the trees achieve in the TEMPO assessment from 15.12.2021 (Annexe 2).
- 11.5 Any concerns about overhanging branches can be overcome by either owner, neighbours or agents applying to carry out remedial work.
- 11.6 No objections to the Order were received from parish, district councillors or neighbours.

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### **12.0 IMPLICATIONS**

12.1 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 have been identified.

### **13.0 NEXT STEPS**

13.1 The 08.06.22 Planning Committee will consider the recommendations of the Working Party at its 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.)

13.2 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.

**Jill Thompson**  
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#### **Annexes:**

Annexe 1- TPO tree location plan for TPO No. 355/2021

Annexe 2 – TEMPO Tree Evaluation

Annexe 3 - Images of the trees

Annexe 4 – Emailed comment (neutral)

Annexe 5 – Emailed comment (neutral)

Annexe 6 – Copy of signed and sealed order for TPO No. 355/2021