



<b>REPORT FROM:</b>	<b>ASSISTANT DIRECTOR PLANNING, ECONOMIC DEVELOPMENT AND REGULATORY SERVICES</b>
<b>TO:</b>	<b>WEST CRAVEN COMMITTEE</b>
<b>DATE:</b>	<b>3<sup>RD</sup> DECEMBER 2024</b>

<b>Report Author:</b>	<b>Roland Jones</b>
<b>Tel. No:</b>	<b>01282 661363</b>
<b>E-mail:</b>	<a href="mailto:roland.jones@pendle.gov.uk">roland.jones@pendle.gov.uk</a>

**CONFIRMATION OF TREE PRESERVATION ORDER  
TPO/No2/2024 – Earby Road, Salterforth, Barnoldswick**

**PURPOSE OF REPORT**

To request members consider an objection and to confirm Tree Preservation Order, TPO/No2/2024 – Earby Road, Salterforth, Barnoldswick

**RECOMMENDATIONS**

- (1) Confirm the Tree Preservation Order (TPO) with modifications

**REASONS FOR RECOMMENDATIONS**

- (1) It is understood that plans for possible development of the land have been prepared and consultations have taken place regarding the development of the site.
- (2) A design layout of the site showed no regard for the mature trees across the site which contribute to the visual amenity of the area.
- (3) The tree evaluation system used to determine suitability for a Tree Preservation Order found the trees to be suitable for protection.

**ISSUE**

1. A public consultation has taken place whereby local residents were shown a design layout of proposed residential development on the land off Earby Road, Salterforth. The Environment Officer, by request from the Assistant Director Planning, Building Control & Regulatory Services, was asked to

assess the potential loss of trees and decide if the trees on the site were suitable for a Tree Preservation Order (TPO).

2. Prior to seeking consent to raise a TPO, the Council's Environment Officer visited the site and completed a 'Tree Evaluation Method for Preservation Orders' assessment (TEMPO). This method, developed by a Registered Consultant of the Arboricultural Association, is a systemised assessment tool and has been widely used across the arboricultural profession.
3. The TEMPO assessment scored relatively highly (see appendix 2) and deemed the trees as suitable for the making of a TPO.
4. The concerns are that the proposed design layout for the residential properties showed that the mature trees were to be removed resulting in a loss of dominant attractive features in the local landscape.
5. The Environment Officer attended site and carried out an evaluation of the trees. It was decided that an Emergency Tree Preservation Order would be put in place that consists of 2 individual trees and 4 groups of trees. (see appendix 1)
6. The Emergency TPO was put in place on the 6<sup>th</sup> September 2024 and a period of 28 days has been allowed for objections to the order to be raised. One objection was received.
7. The trees contribute to the visual and landscape amenity of the area and therefore, are suitable for a TPO.

## **OBJECTION TO THE ORDER**

An objection to the Order was submitted to the Council by an Arboricultural Consultant. A summary of the objections is listed below:

- *“For a Tree Preservation Order to be made, the Council must be able to demonstrate that 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”.*
- *The Council has not demonstrated how the “amenity value” of the trees included within this Tree Preservation Order has been assessed. The Good Practice Guide recommends that amenity value is assessed in a structured and consistent way taking account of three key criteria, these being: (1) visibility: the extent to which the trees or woodlands can be seen by the general public will inform the LPA’s assessment of whether its impact on the local environment is significant. If they cannot be seen or are just barely visible from a public place, a Tree Preservation Order might only be justified in exceptional circumstances.*
- *(2) Individual impact: the mere fact that a tree is publicly visible will not itself be sufficient to warrant a Tree Preservation Order. The LPA should also assess the tree’s particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value as a screen or contribution to the character or appearance of a*

*conservation area. In relation to a group of trees or woodland, an assessment should be made of its collective impact;*

- *(3).wider impact: the significance of the trees in their local surroundings should also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity”.*

It goes on to state:

- *“With reference to the trees, whilst some of the trees included within the Order may possibly be considered to contribute to the amenity of the area when viewed from public areas outside the site, there is no supporting evidence to indicate how this has been assessed in a structured and consistent manner.*
- *In communications attached to the Order, it advises that: “The Council have made the Order because it has recognised that the trees have high visual and landscape amenity value and are important in the local landscape.”*
- *If TEMPO or similar systems have been utilised to assess any such features, their inclusion with the Tree Preservation Order documents would assist those involved to fully understand the procedures and provide full transparency.*
- *Furthermore, any detailed site examination will indicate that numerous specimens are also of questionable viability and therefore of only limited future potential; The southern most specimen within G3 of the Order is very thin / stressed with obvious die back. Decline has obviously been ongoing for a period and its future viability is questionable. The northern most specimen within G3 has major basal decay, completely hollow and it is questionable how it is still standing. This item cannot be considered to have any safe useful potential.*
- *Both items within G4 have obvious decline, are very stressed and have significant dead wood thereby indicating that decline has been continuing for some time. It is not considered that they have any long term potential and their future contribution to the local visual amenity is limited.*
- *From these comments and observations, it reasonable to conclude that in terms of amenity, not all trees are appropriate for inclusion within the Order”.*

## **Response to the Objection**

Part of the issue with the points of objection is that they are taken from a document called “Tree Preservation Orders: A Guide to the Law and Good Practice (2000). This document was withdrawn by the Government in March 2014 and replaced by the guidance; ‘Tree Preservation Orders and trees in conservation areas’. This newer guidance makes the TPO process a lot simpler, and it is from this guidance that I will form the basis of my response to the committee.

### **Amenity:**

With regard to ‘amenity’, the (newer) Government Guidance states:

*“What does ‘amenity’ mean in practice?*

*‘Amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders 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”.*

The fact that the numerous requests received by the Council for the making of the Order confirms that the trees are of a high visual amenity value to the public and also clearly at risk. The trees covered by this Order are mature trees across a large site area, all of which can clearly be seen by local residents as well road and footpath users alike. The trees in the central portion of the site are part of what would have been a historic fragmented hawthorn hedgerow that will have been a boundary marker to the field. These rows of trees are fundamental to the character of old farmed fields and provide not only a visual amenity but excellent wildlife corridors for species such as birds, bats and numerous associated insects.

With regards to the reference to the guidance document TEMPO, whilst this document provides a systematic tool for the assessment of a tree’s suitability for protection, it is not set in law that it must be used and, as stated above, it is a purely a guidance document. At no stage does a completed TEMPO document have to be sent to a tree owner/agent prior to the serving of an Order. That said, this guidance was used at the time of assessing the trees, a copy of which is attached (appendix 2) for use by the committee when considering the possible confirmation of the Order.

A meeting with the objector was arranged and carried by the Council’s Environment Officer to discuss the trees in question and reference to some of the trees not being fit for protection. It was agreed by both parties that 1 of the trees in G3 was to be removed from the Order which will be dealt with by way of modification. This will be made clear in the TPO documents.

### **Expediency**

A quote from the Government guidance, with a key point underlined: *“What does ‘expedient’ mean in practice? Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management. It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area”.*

It was clear from the outset that the trees were under threat of removal when a planning drawing was shown to residents that included a design layout of the site showing the proposed residential properties across the site, including areas where the trees are situated which would require their removal. For this reason, it was decided that the trees should be considered for a TPO and that it should be made and served in the interests of visual amenity, it is also considered that for this reason it is expedient to make the Order.

## **Conclusion**

The Objection has been carefully considered, and it is concluded that none of the points raised in objection justify the removal or withdrawing of the Order.

Local planning authorities can make a 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', therefore, the imposition of the Order is appropriate.

The proposed modification of the Order will be clearly indicated.

Any future development related tree issues can be considered through the Planning process, where trees will be one of many considerations.

The Council will consider any sensible tree works application on its merits.

## **IMPLICATIONS**

**Policy:** Paragraph 8.46 of the Pendle Local Plan Part 1: Core Strategy states:

*'The landscape character of the borough will be protected especially in the open countryside.'*

**Financial:** None

**Legal:** The Council have powers to make a Tree Preservation Order under the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Section 40 of the Natural Environment and Rural Communities Act 2006 requires local authorities and government departments to have regard to the purposes of conserving biodiversity in a manner that is consistent with the exercise of their normal functions such as policy and decision-making. Conserving biodiversity may include enhancing, restoring or protecting a population or habitat.

**Risk Management:** None

**Health and Safety:** The trees are in overall healthy condition and do not pose a threat to health and safety over and above the risk any healthy tree poses.

**Sustainability:** The trees contribute to sustainability in several ways these include:

- Supporting the biodiversity of the area.
- Remove carbon dioxide and particular matter from the air.
- Uptake large amounts of water from the ground.

**Community Safety:** None

**Equality and Diversity:** None

## **APPENDICES**

Appendix 1 – Tree Preservation Order

Appendix 2 – Principal Environment Officers TEMPO Assessment