

## **DEVELOPMENT CONTROL COMMITTEE**

### **AGENDA ITEM 12<sup>th</sup> July 2021**

#### **TREE PRESERVATION ORDER AT Britannia Trading Estate HPBCTPO No 299**

##### **1. REASON**

For the members to consider the objections raised to the above temporary Tree Preservation Order made in respect of trees and woodland at Britannia Trading Estate, Buxworth and decide whether the Order should be confirmed and made permanent, modified or allow to lapse.

##### **2. SUMMARY**

A TPO was made on 21<sup>st</sup> July 2020 in response to a planning application (HPK/2020/0071) for outline consent to develop the site to accommodate 110 residential dwellings. A review of an existing TPO's on site identified trees and woodlands that were not protected and some areas of TPO cover that were no longer appropriate for protection.

The agents acting on behalf of the owner of the site (Rivertown Developments Ltd) objected to the revised TPO. There were also a number letters of support from the Parish Council and residents. Also a more detailed tree survey was supplied by the applicant at this time. On this basis the proposed TPO was reviewed and a modified Order was served on 19/1/2021. This is the Order to be considered by the members.

##### **3. RECOMMENDED**

- i) The Committee confirms the Tree Preservation Order for reasons given at 5 (i) a-c notwithstanding the objections raised.

##### **4. BACKGROUND**

- i) The existing TPO made in 1990 covers two areas of trees on the site as area Orders which protects trees present when the Order is made but not trees that have been planted or established subsequently.
- ii) The new Order changes the type of protection to woodland Orders which are more appropriate as they cover trees present now and any future trees which are planted or grow within the designated areas. The Order has the potential to protect trees planted as part of future landscaping of the site. The proposed TPO plan is at Appendix 2. The diagram at Appendix 3 compares the 2 Orders.

- iii) New areas were added where the tree cover has established and it is important for the landscaping of the potential development site. Notably along the south west boundary with the canal and boundary with New Road and around the woodland to the south east.
- iv) Also the making of the new TPO allows for a large area (approx 0.75ha) within the existing TPO to be removed from tree protection. This area has for some time been largely devoid of trees and used as hardstanding for the industrial units. Also 0.5ha of this area falls within the area designated in the local plan for housing.
- v) Objections were received from Crowley Associates on behalf of the owners of the site Rivertown Developments Limited. These relate to the impact the TPO will have on the viability of the development of the site, the relationship with the heritage assets and the justification for the Order
- vi) The although support of the TPO on the whole objections to one aspect were received from Chinley, Buxworth and Brownside Parish Council (CBBPC), Buxworth Residents Group, CPRE, Cllr Burton and residents from Buxworth Hall (attached as supporting documents)
- vii) The Tree Preservation was made on 19<sup>th</sup> January 2021 and served on the owners of the trees and their agents

## **5. ISSUES AND OPTIONS**

- i) Reasons for making the Order.
  - a) To bring an existing Tree Preservation in line with current guidance and to make modifications to the TPO based on objections received to HPBC TPO 293.
  - b) Because it is expedient in the interests of amenity and the landscape character of the area including the setting of heritage assets the scheduled monument and Buxworth Conservation Area.
  - c) To provide suitable control of trees and woodlands identified as important to the setting of an area allocated for housing development in the local plan.

ii) Summary of objections raised by Crowley Associates on behalf of Rivertown Developments Limited

The full objection is attached as supporting document 2a. In summary the following issues were raised

- a. The TPO makes the site undeliverable for residential development.
- b. The TPO does not have proper regard to the local plan designation.
- c. The Council's interpretation of how the trees and woodland contribute to the landscape setting of the heritage assets (ie. Buxworth Basin) and the Conservation Area is incorrect

iii) Summary of objections raised by Parish Council, Councillors and CPRE and residents,

Whilst generally supportive of the TPO. There is an objection to the removal of a small area of woodland next to New Road (W4 of the original modified Order - indicated on plan at Appendix 3 and 5) which was originally included in the 2020 TPO HPBC TPO 293. This was removed to allow for the potential for an access point at this location

iv) Consideration of objections of Crowley Associates on behalf of the owner of the site

a) The TPO makes the site undeliverable for residential development

TPO's are a material consideration in the planning application process and should be considered a constraint. However this is all part of the planning assessment and the TPO offers protection during this process and can prevent pre-emptive or unnecessary tree removal. At present the outline planning application is still to be determined. When a planning consent is granted it takes precedence over the TPO if it is necessary to remove protected trees to implement the approval.

b) The TPO does not have proper regard to the local plan designation

The site is designated in the local plan for development The designated area is shown in Appendix 4 commentary in the Local Plan is clear with regards the magnitude of development.

*6.58 It is proposed that the brownfield part of the site, ie. the existing mill complex, is used for residential development of approximately 50 dwellings*

The outline application is for 110 Dwellings. Moreover the revised TPO removes a significant area of TPO from within area allocated for housing and all new TPO areas are also outside the area allocated in the local plan.

The local plan policy *DS 10* also adds significant weight to the landscape setting

- *Produce a development, which is viable, such that the residential development can be successfully implemented and the future management of retained landscape assets can be secured*
- *Preparation of a comprehensive masterplan, including a landscape plan and phasing programme. Screening vegetation on the periphery of the site should be retained. Woodland corridors within the site which provide linking habitats to the adjacent Local Wildlife Site should also be retained. The design should reflect the setting and character of the locality.*

- c) The Council's interpretation of how the trees and woodland contribute to the landscape setting of the heritage assets (ie. Buxworth Basin) and the Conservation Area is incorrect

The retention and management of a framework of woodland and trees is key element of the site. The objection is largely that the trees were not historically part of the site and setting of the heritage assets. Advice was taken from Gill Bayliss, the Council's Conservation Officer, with respect to the relationship with heritage elements. Who's view is that whilst trees may not have been a significant part of the original industrial heritage landscape, they are now very much part of the setting of the site and should be viewed in the context of its continued evolution. The importance for the frameworks of trees will be greater as the site changes again into a residential area.

- v) Objections raised by Parish Council, Councillors and CPRE and residents

The main objection here is to the removal of a small section of W4 compared to the initial reviewed application made in 2020. This was removed to address some of the initial objections raise by Crowley Associates because of the potential for this area to required for access to conform with Highway standards and safety requirements.

The area in question has a few trees as can be seen in the survey extract in approximately 15 trees all young and some are dead/dying. The objectors are concerned that this is pre-empting a future decision about the detail of planning approval for the site.

The decision to exclude this area along with some other trees in central areas of the site is a pragmatic approach to limit constraints on the site and allow development in accordance with the local plan Whilst providing a robust landscape framework.

## 6. IMPLICATIONS

- a) Resources  
No significant implications.
- b) Legal, Human Rights Act, Equalities, Community Safety, Consultation  
If the Tree Preservation Order is confirmed the owner can still apply to undertake works to the trees and any future planning approval may override the TPO.
- c) Environmental Issues and Risk Assessment  
Trees, particularly mature trees, contribute to the environment not only in terms of visual amenity, but they also have broader environmental benefits such as storing carbon, mitigating pollution and storm water runoff.

## 7. HOW THIS LINKS TO CORPORATE PRIORITIES

Using planning legislation to protect trees on private land contributes to Corporate aim 4: Protect and Improve the Environment

It is also in line with the Council's tree policy 2.2.1 which states that 'The Tree Preservation Order system will be used to ensure that trees of high amenity which are under threat are protected.'

## 8. APPENDICES

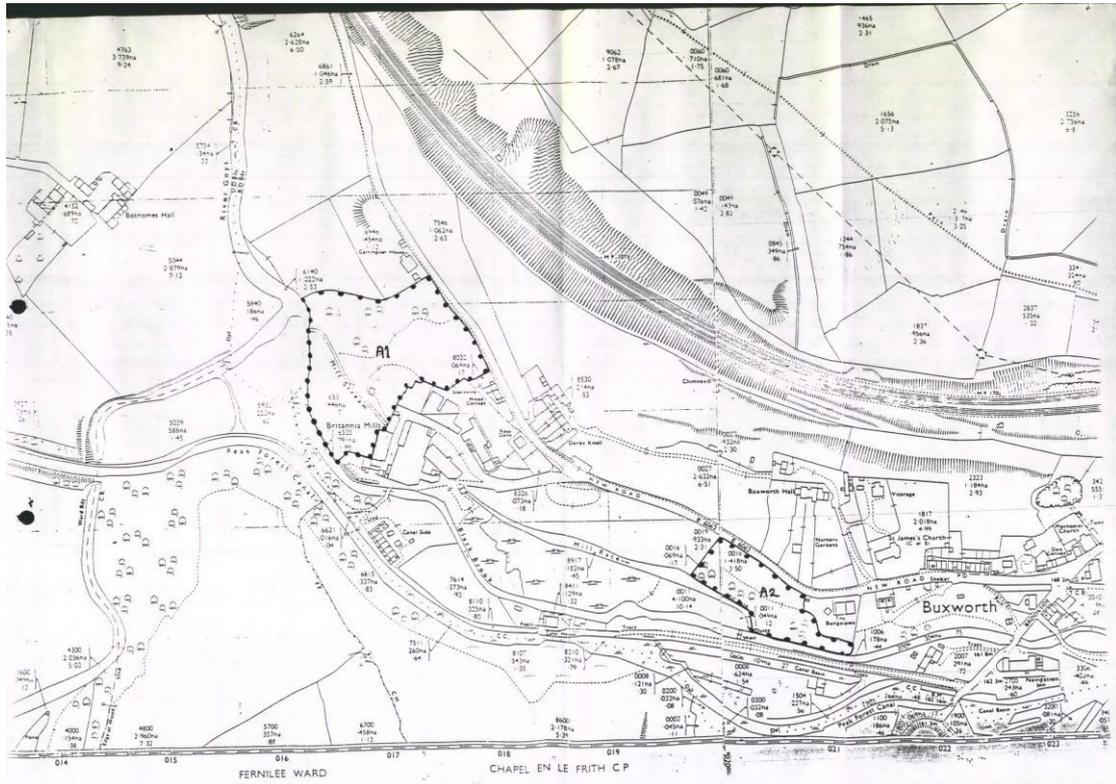
- 1 HPBC TPO No 59 - Plan
- 2 HPBC TPO NO 299 - plan
- 3 Plan comparing HPBC TPO 59 and 299
- 4 Plan showing local plan designation for residential development

## 9. WEB LINKS AND BACKGROUND PAPERS

|                        |  |
|------------------------|--|
| Supporting Document 1a | HPBC TPO 59  |
| Supporting Document 1b | HPBC TPO 59 – Plan   |
| Supporting Document 2a | Objection Crowley Associates –<br>Rivertown Developments Ltd |
| Supporting Document 2b | Objection CBB Parish Council                                 |
| Supporting Document 2c | Objection Cllr Burton  |
| Supporting Document 2d | Objection Buxworth residents group                           |
| Supporting Document 2e | Objection Howe- McLivny                                      |
| Supporting Document 2f | Objection CPRE   |
| Supporting Document 3  | Copy of TPO 293  |
| Supporting Document 4  | Copy of original objection from Crowley<br>Associates        |
| Supporting Document 5  | Copy of response to Crowley associates                       |

# APPENDICES

## 1 HPBC TPO No 59 - Plan

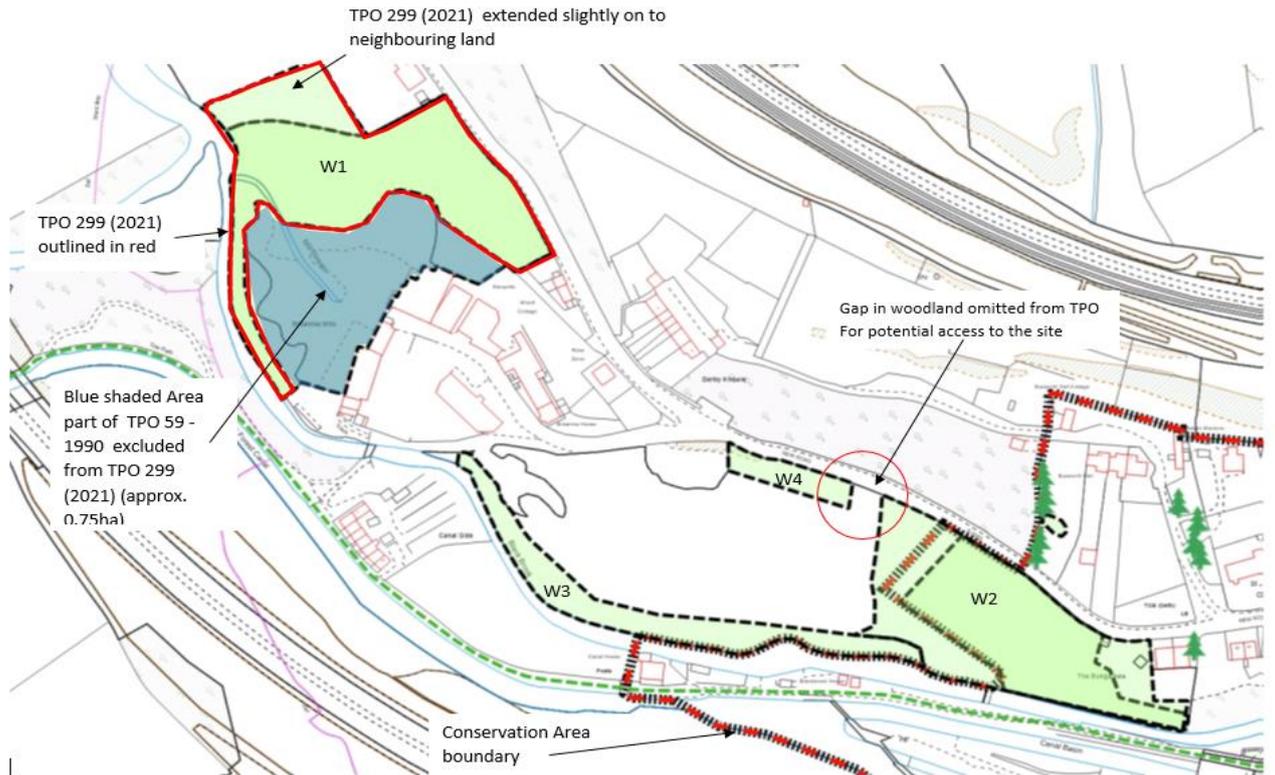


## 2 HPBC TPO NO 299 - plan

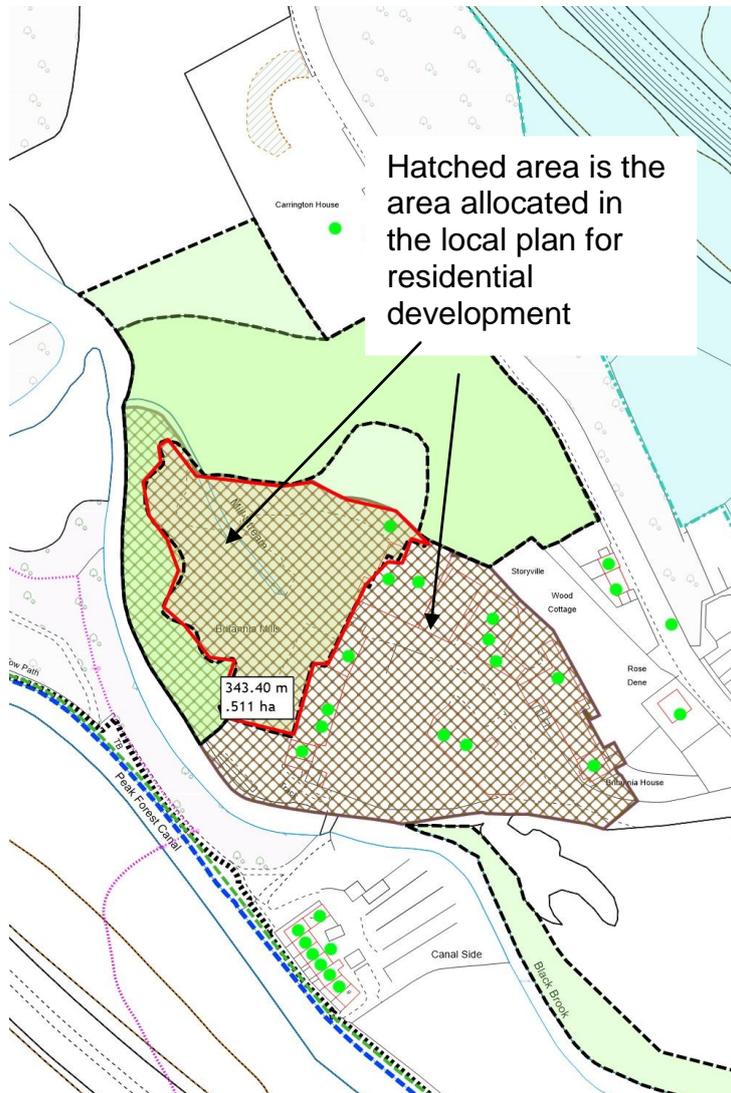
The HIGH PEAK BOROUGH COUNCIL Tree Preservation (Britannia Trading Estate, Buxworth ) Order 2021 – No 299



### 3 Plan comparing HPBC TPO 59 and 299



### 4 Local plan designation for residential development



## 5 Area of W4 excluded from revised TPO

