

DEVELOPMENT CONTROL COMMITTEE

AGENDA ITEM
13th December 2021

TREE PRESERVATION ORDER AT Bowden Hall HPBCTPO No 300

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 Bowden Hall, Chapel en le Frith and decide whether the Order should be modified then confirmed and made permanent, or allowed to lapse.

2. SUMMARY

A TPO was made on 2nd July 2021 to prevent the removal of several mature trees, see Supporting Document 1. The TPO was initially made as an area TPO covering all trees across the site. The TPO was made in this way to ensure that it could be made swiftly, the intention was to provide protection whilst a more considered TPO could be drawn up. It is this modified version of the TPO that is before the members to consider.

Following the serving of the TPO a meeting was held on site with the owners and their agents to discuss their concerns. A modified TPO was proposed which addressed some of the initial objections. However, the agents (Camplan) acting on behalf of the owner of the site, Mr Webb, made a formal objection to the TPO with regards to the unresolved issues.

Other comments and requests for information were received from other residents at the property but these were not presented as formal objections and several issues were resolved by proposed modification to TPO.

3. RECOMMENDED

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

4. BACKGROUND

- i) Bowden Hall is grade II listed building as are the associated Coach House and Smithy located within the grounds of the Hall. The Hall is located in the open countryside on the outskirts of Chapel en le Frith. The mature trees and woodlands are part of the landscape setting of the hall. Appendix 1 Location plan and aerial view
- ii) Over a number of years there have been various planning applications related to renovation and conversion of buildings for residential use. To date the main renovations have been limited to the built structure with no direct reference to the trees and landscaping.

- iii) Earlier in the year HPBC were alerted to the intention of the owners to fell a number of mature trees in the vicinity of the Coach house.
- iv) The order was served by hand on the 2nd July 2021 (Supporting Document 1). When the order was served tree works were already underway. One tree had already been removed and the works to another tree that they were working on were so advanced that it was not viable to retain it in the longer term. Other than to remove this tree and one other tree identified as an immediate risk, due to the poor condition of the tree, the works on site ceased.
- v) Objections were received from Camplan on behalf of Mr Webb one of the land holders. These relate to the impact that specific trees within the TPO will have on the Coach House and on the viability of the development of the site. Issues were also raised with regards to the relationship of the trees to the heritage assets and the justification for the order in terms of amenity.

5. ISSUES AND OPTIONS

- i) Reasons for making the order.
 - a) it is expedient in the interests of amenity and the landscape character of the area including the setting of listed buildings; and
 - b) the trees are under the threat of removal

- ii) Modified Order

A plan and proposed modified schedule to the order showing the suggested modifications is attached (Appendix 2 below and Supporting Documents 4a and 4b). Based on these suggested modifications to the TPO objections were raised by Camplan on behalf of Mr Webb. The full text of the objection and accompanying report is provided as Supporting Document 2.

- iii) The objections

- a) The Beech tree (T4)

A previous inspection suggested that works may be required to a limb to the south of the tree. There are also concerns about the close proximity of this tree to the Coach House and roots have damaged the listed stone wall.

The retention of this tree in the TPO is objected to on the grounds of safety and that of its condition. Structural Safety Assessment by Sine Aequalis report concludes that the tree poses a 'significant risk'

b) The Sycamore trees (T5, 6 and 7)

The retention of these trees in the TPO is objected to on the grounds of safety and that of their condition and proximity to the building. Structural Safety Assessment by Sine Aequalis report concludes that the trees pose a 'significant risk'.

The objection also states that the trees are already causing damage to the listed building by virtue of clogging up the rainwater goods with leaf fall and depositing corrosive excretions from insects. The objection also advises that LPAs duty is to ensure that development does no harm to listed buildings

Furthermore the trees are 'self-set' sycamores of negligible amenity value and there is no public benefit from the trees' retention.

c) No formal objections were raised to the Inclusion of the Three woodland areas, or trees numbered T1, T2, T3 or T8

iv) Consideration of objections of Camplan on behalf of the owners of the site

a) A detailed response was sent to Camplan on the 17/8/2021 (this is attached at Supporting Document 3). In summary:-

b) Beech T4

The tree has some issues which were identified and assessed by Land Arb solutions in May 2020, a copy of this inspection was by provided by Camplan (supporting document 5) They recommended further investigations and suggested a pruning regime to limit the risk. I consider that this is a reasonable approach and I have indicated that these works could be dealt with by application. The owner of the tree has been aware of this issue for 18 months and only since the TPO was served have further investigations into the condition of the tree have been undertaken. We have been advised that an assessment of these trees was done in September by the owner but we have not been provided with a copy of the report, nevertheless, I have been advised by the owners agent that 'preliminary findings are that the Beech tree is apparently healthier than thought and can be retained'

Damage to wall: if the tree is a contributory factor it is quite possible that the wall is repairable without the need to remove the tree.

c) Sycamore trees (T5, 6 and 7)

The Structural Safety Assessment submitted with the objection (Supporting Document 2), makes the assertion that the sycamore trees and the beech tree are a risk to the building. The report purports

to be a calculation-based risk study but the report has a number of weaknesses, in particular the source of the figures quoted on which the 'calculation' are based are not referenced or substantiated and appear to be broad assumptions. The term 'significant risk' is not defined and there is no reference to any of the risk assessment systems typically used in relation to trees. Various terms are used which also are not referenced such as soil structural root zone (SRZ) and would normally be based on a calculation including the dimensions of the tree. None of these figures were presented. The report was prepared by a structural engineer and not in consultation with a suitably qualified arboriculturist.

The risks associated with trees are generally low (HSE)^{1 2}. It is not possible to eliminate all risks in relation to the potential for trees to fail, but an assessment of the trees in this case based on the principles set out in the council's Tree Risk Management Good Practice Guide³ indicate that the risk is within a tolerable range. Within this range consideration should be given to managing them 'as low as reasonably practicable' (ALARP).

The assessment of the trees in proximity to the Coach House indicates that the risk could be reduced with judicious and professional pruning. We have been advised that an assessment of these trees was also done in September but we have not been provided with a copy of the report.

The minor nuisances caused by the debris from the trees 'clogging up the rainwater goods' will have been reduced to some extent by the trees already removed. Also two further subdominant sycamore trees are to be excluded from the TPO and as such could also be removed. The TPO'd sycamore closest to the building (T5) could be pruned (in accordance with BS3998:2010) to rebalance the crown and reduce the overhang, all this will reduce the impact on the Coach house.

d) Risk to Listed building and amenity

The trees and woodlands protected by the modified TPO'd trees contribute to the sylvanian character of the estate – framing views of the buildings, providing enclosure and privacy.

Planning (Listed Buildings and Conservation Areas) Act 1990 describes the general duty placed on Local Planning Authorities to have special regard to preserving Listed Buildings and their setting. Consideration has been given to the trees and their relationship to the

¹ Management of the risk from falling trees or branches SIM 01/2007/05
https://www.hse.gov.uk/foi/internalops/sims/ag_food/010705.htm

² Nation Tree safety Group – Common sense risk management of trees
<https://www.forestresearch.gov.uk/documents/7075/FCMS024.pdf>

³ https://www.highpeak.gov.uk/media/118/Good-practice-guide-4--tree-risk-management/pdf/Tree_Strategy_-_Good_Practice_Guide_4_-_Risk_management_strategy_reviewed_2016.pdf?m=1481032357180

listed buildings and the modified order has regard to this. The duty includes preservation of the setting as well, which the trees are part of. Ongoing management of the trees and landscape in relation to the buildings can be dealt with by application.

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 also 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 reducing 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 Location Plan and Aerial Photo
- 2 HPBC TPO 300 – Proposed modified order plan and schedule of trees

9. WEB LINKS AND BACKGROUND PAPERS

Supporting Document 1	HPBC TPO 300 – original as served
Supporting Document 2a	Objection Camplan
Supporting Document 2b	Risk assessment report
Supporting Document 3	Full Response to objection
Supporting Document 4a	HPBC TPO 300 - modified plan
Supporting Document 4b	HPBC TPO 300 - modified schedule
Supporting Document 5	Land Arb Tree report 13-5-2020

Appendix 1 Bowden Hall Location Plan and aerial photo



Appendix 2 Bowden Hall Proposed modified TPO

