

HIGH PEAK BOROUGH COUNCIL

Development Control Committee

Date of Meeting: 13th February 2023
Report of: Head of Development Services
Subject/Title: TREE PRESERVATION ORDER AT St Marys Close,
Chinley HPBC TPO No 306

1. PURPOSE OF REPORT

For the members to consider the objections raised to the above temporary Tree Preservation Order (TPO) made in respect of trees at St Marys Close, Chinley and decide whether the order should be confirmed and made permanent, or allow to lapse.

2. SUMMARY

A TPO was made on 10th November 2022 to prevent the removal of a group of 6 mature Lime trees and 1 mature Sycamore tree.

The order was created following an enquiry regarding the protection status of the line of trees from a resident at St Marys Close, along with another neighbour, detailing their intention to remove trees.

A single objection to the TPO has been received from James Clarke of 3 St Mary's Close, on the 2nd December 2022, though his wording implies it is on behalf of others (none are named).

An enquiry was also raised by Mr Ian Cameron of 4 Buxton Road, in which he supported the making of the TPO in a subsequent telephone conversation.

3. RECOMMENDED

- a. The Committee confirms the Tree Preservation Order, for reasons given at section 5 notwithstanding the objections raised.

4. BACKGROUND

- a. St Marys Close, stands in the heart of Chinley and faces onto the main thoroughfare, Buxton Road. The site is surrounded by the Chinley conservation area on 3 sides, with the tree line forming a continuation of the peri-urban, arboreal feel of the Chinley conservation area.
- b. On 17th October 2022 an email was received from James Clarke of 3 St Marys Close, stating:

“we would like to have the 2 Lime trees at the front of our house brought down at the same time as our neighbours.”

This request suggests that two or more trees from the line would be removed.

- c. On 8th November 2022, Arboricultural Officer, Craig McCrindle visited the site and inspected the trees at St Marys Close. The site visit showed a line of mature trees, formed by 6 Lime trees and 1 Sycamore tree. An assessment of the trees showed that the trees appeared to be in good health, with no signs of damage to the boundary wall and the trees provided a good level of amenity and that their loss would be a detriment to the locality.
- d. The order was served by hand on 10th November 2022 (Supporting Document 1). All trees were still present when the TPO was served.
- e. On 2nd December 2022, James Clarke of 3 St Marys Close submitted an objection to the TPO. The objection details are covered in section 5(b).

5. ISSUES AND OPTIONS

a. Reasons for making the order.

- i. it is expedient in the interests of amenity,
- ii. the trees are under the threat of removal
- iii. Conservation Area (in or next to)

b. The objections

i. The trees produce suckers

“The trees in question are Common Lime trees and send up suckers all around the trees and in our front beds.”

ii. Location close to the road and potential for branches to interfere with its use.

“Not only that but they grow directly into the road causing a potential risk to road users”

iii. Dangerous to prune next to a road.

“because of the placement of the trees means you would have to prune them from the road side or risk back injury, awkwardly leaning around the trees with heavy tools.”

iv. Potential to cause damage to dry stone wall

“The position of the trees is also an issue as they have been planted to close to a dry stone wall and now grow up against it, this means that as they continue to grow they are going to start moving the wall out, risking stones from the wall falling out and in to the road.”

v. Telephone lines running through canopy of a tree

“They are also growing around our neighbour’s telephone line and as the trees grow this will only become more difficult to untangle, also in high winds it is more likely that the wire could be pulled down, removing service from our neighbours and could also present a danger to road users, should the cable only partially fall leaving it hanging across the road.”

vi. Administration of applying for tree works

“On top of this we would be required to ask the council for permission every time we wanted to remove the suckers (that as I previously mentioned grow up into our front beds) every single year. If we caused any harm to the tree we could be fined, meaning we would be better served by using a professional to remove these, as to show due care when working on, or around a tree with a protection order on it.”

vii. Increased cost of using a tree surgeon

“The financial burden that this puts on us is unreasonable given the regularity of work required to maintain tree species such as the ones we are discussing.”

viii. The potential for the trees to grow and increased costs to remove.

“The Lime trees, as I’m sure you are aware, grow to around 40 meters high and the ones at the front of our house are, by no means, fully grown and at some point they’re going to interfere with the road they are planted next to, requiring them to be taken down and as this financial burden is again likely to fall to us to bare, I would rather have this work carried out now as the trees will only ever go up in cost to remove.”

c. Consideration of objections

i. The trees produce suckers

The Lime trees do produce suckers from around their base and up their trunk. This action is a natural part of this tree species life cycle and whilst its removal can be a nuisance it is normally a simple operation if carried out during the early summer months as part of normal garden maintenance.

ii. Location close to the road and potential for branches to interfere with its use.

As with all trees growing adjacent to a public highway there is a potential for trees to grow branches that interfere with the safe use of the highway. As detailed above the removal of the suckers if carried out as part of normal gardening duties early in the summer can be removed easily and it does not need to be allowed to grow to an extent that it causes a danger to the highway.

iii. Dangerous to prune next to a road.

Working adjacent to a road, certainly does carry a risk. However all the work to remove the yearly sucker growth can be undertaken with care from the land of St Marys Close.

The operation does not require anything more than a pair of secateurs or a garden pruning saw, which can be easily obtained from a local garden centre or hardware store.

iv. Potential to cause damage to dry stone wall

At the time of the inspection of the site there was no sign of damage to the dry stone wall as a result of the trees. To date no evidence has been produced to show that damage has occurred. Such damage is likely to take months or years to develop, if it does at all, and can be spotted before accidents or significant damage is caused.

The TPO tree works application process provides the ability to remove trees where there is significant structural damage, once evidence has been provided. If such evidence is provided then High Peak Borough Council can look at giving permission to the tree's removal or altering the TPO. But such damage may be years or even decades away from happening whilst the removal of the trees will remove a valuable level of amenity for the heart of Chinley that would take decades to replicate.

v. Telephone lines running through a tree's canopy

It is entirely possible for trees and telephone lines to co-exist, indeed many thousands of trees throughout the UK have telephone lines running through their canopies and are not damaged or brought down by the branches.

It would be likely that minor pruning applied through the TPO tree works application process would be granted permission to provide space for the telephone lines.

vi. Administration for applying for tree works

Firstly the need to apply for works to protected trees is something that has been in place since the introduction of TPOs in the 1940s and is not seen as a reason to not protect trees with a TPO.

Secondly an application can be easily made by completing a form at the Planning Portal website or by completing a paper copy and emailing it to trees@highpeak.gov.uk. Applications to clear epicormic growth and providing clearance of the highway are generally never refused and the process can be speeded up by providing accurate photographs and plans of the intended works. Most applications are responded to within a month, particularly if good photographs and evidence are provided with the application.

Lastly, the most recent updates to the TPO legislation gave powers to local authorities to provide ongoing permission for routine works such as epicormic growth removal, so as to avoid repeated applications for minor routine tree works.

vii. Increased cost of using a tree surgeon

The general thrust of this objection point is in relation to the administration of the TPO application and to remove liability from the tree owners. I have confirmed above that this can be dealt with very easily, through an ongoing consent for works.

I have also confirmed that the primary concerns over the removal of epicormic growth can normally be dealt with easily using common gardening equipment, which can be purchased for approximately £15-30. Whilst not nothing this sum is not an onerous amount.

viii. The potential for the trees to grow and increased costs to remove.

There is every chance that the trees will be capable of increased growth in the coming years. Common Limes are capable of reaching 40 metres in height, though it must be acknowledged that most trees growing in urban contexts routinely only reach approximately two thirds their species maximum height at maturity due to the sub-optimum growing conditions presented by towns and cities. Given that there is restricted rooting conditions on one side of the tree line due to the road and houses not far away on the opposite side, it can be assumed to be a less than optimal location. Taking this into account, it could be reasonably be expected that the Lime trees could achieve another ten metres in height.

From looking at old aerial photographs of the site, it appears the trees were in place in 1970, though at a much smaller stature. Given their current size, it can be estimated the trees are approximately 65 years old. Limes are capable of living for between 200-300 years of age, so these trees are still very much in their youth and their removal, baring poor health or their implication

in causing significant structural damage, is likely to still be some decades away.

It is accepted that larger trees will generally incur increased costs for removal but that is the same for all trees irrespective of their position and if such an objection was valid would rule out the protection of all trees with TPOs.

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.'

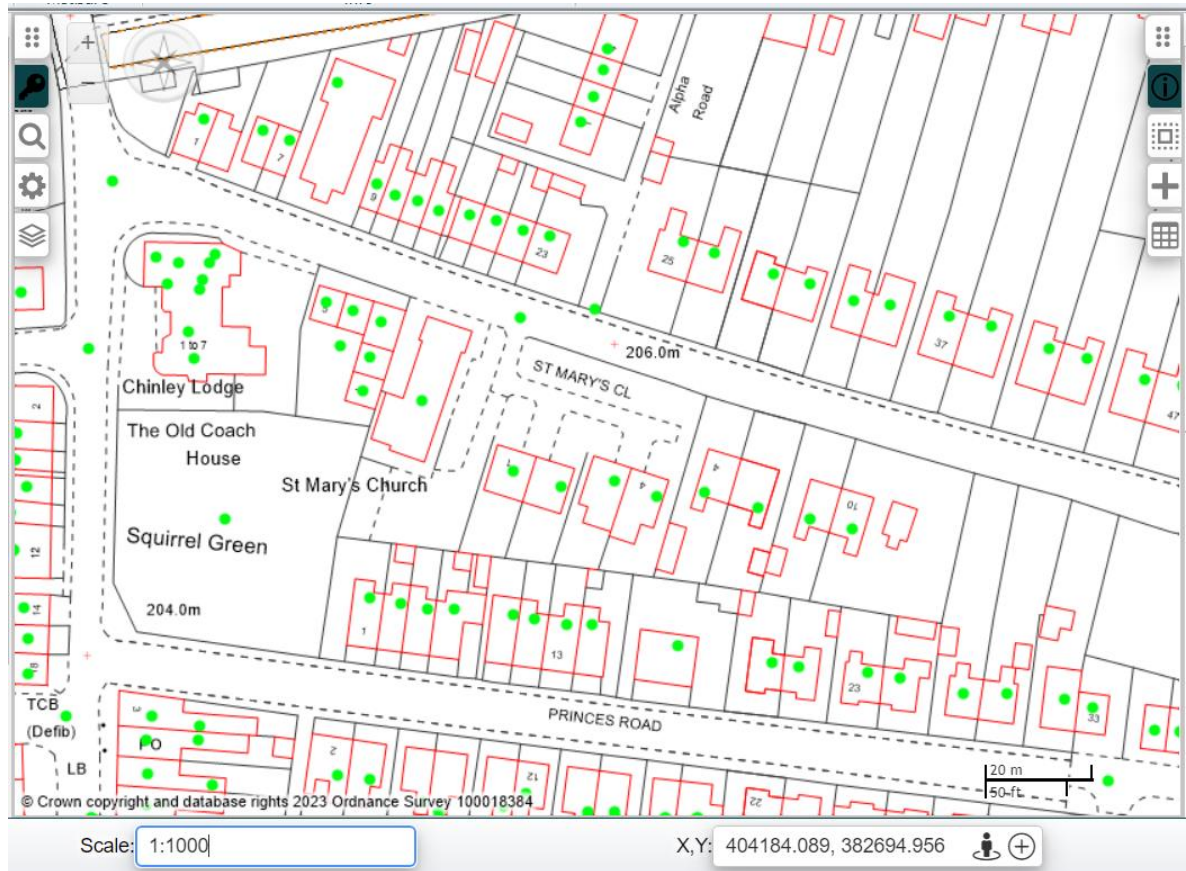
8. APPENDICES

- 1 Location Plan, aerial photo, historic images and site photos

9. WEB LINKS AND BACKGROUND PAPERS

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| Supporting Document 1 | HPBC TPO 306 – original as served |
| Supporting Document 2a | Objection 1 – James Clarke- Lime Trees at 3 St Marys Close Chinley |
| Supporting Document 3 | Full Response to objection |

Appendix 1 St Marys Close, Chinley Location Plan, Aerial, Historic and Site Photos





Scale: 1:1000

X,Y: 404084.606, 382545.467





1980 Chinley image



1970 Chinley Image

