

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to Planning Applications Committee

25th January 2024

TITLE:	To consider confirmation of Tree Preservation Order No. SM.327 – Windy Ridge, Park Lane, Cheddleton
PORTFOLIO:	Deputy Leader, Regeneration & Planning
OFFICER:	Steve Massey, Arboricultural Officer
WARD:	Cheddleton

Appendices Attached –

Appendix A: Copy of current provisional TPO No. SM.327.

1. Recommendation

- 1.1 That notwithstanding the objections received, Tree Preservation Order (TPO) No. SM.327 be confirmed without modification.

Reason for recommendation: In order to maintain legal protection over significant trees.

2. Executive Summary

- 2.1 Under the Council's Constitution, there are officer delegated powers to confirm a provisional TPO in respect for which no objections have been received. However, where objections are received, Planning Applications Committee must consider and decide whether to confirm the Order, and in doing so must take into account such objections and representations as have been received.
- 2.2 TPO No. SM.327 was made as a provisional Order on 6th September 2023, protecting three individual trees within the garden of Windy Ridge, as denoted on the TPO plan and listed in the TPO schedule. A copy of the provisional TPO is attached at Appendix A to this report.
- 2.3 Objections to the TPO have been received on behalf of his mother from the son of the owner of Windy Ridge; from neighbours at the adjacent property The Haven; and from neighbours at the nearby property Station House. All three objections are specifically in relation to the two trees denoted T1 and T2 (both are Pine), and are made on similar grounds: relating to the objectors' concerns over the safety of these two trees and the risk and consequences of them falling.

- 2.4 In addition, a seemingly in-principle objection has been received from Longsdon Parish Council; the Parish Council considers the TPO to be inappropriate, and on invitation has provided some further comment to clarify this ground of objection.
- 2.5 These objections are discussed in detail at Section 5 of this report. In conclusion, however, it is considered that the issues and concerns raised in the objections do not provide overriding reason to discontinue the protection provided by the TPO and, effectively, allow removal of the trees in question. In conclusion it is now recommended that notwithstanding the objections received, TPO No. SM.327 be confirmed without modification, in support of the Council's adopted Tree Strategy.

3 Background

- 3.1 A notification was submitted to the Council of intent to fell the two Pines (now denoted T1 and T2 in the TPO); this was required as the trees are situated within the Caldon Canal Conservation Area. The notification, from the tree owner's son on her behalf, outlined their concerns about the trees, and reported that neighbours had similar concerns (see Section 5 of this report).
- 3.2 Following receipt of such a Conservation Area tree work notification, the work can go ahead if either the Council has issued written consent, or 6 weeks have elapsed and the Council has not made a TPO to bring the trees under more specific controls. The Council cannot refuse a Conservation Area tree work notification, and therefore making a TPO is our fall-back position if the notified work is not considered appropriate.
- 3.3 In the case of the two Pines at Windy Ridge, these trees were considered to have significant amenity value, and following initial assessment their form and condition was not considered to suggest that whole or part tree failure is particularly likely. TPO No. SM.327 was duly made within the 6 week notification period to protect the two Pines as T1 and T2, along with a mature Sycamore (denoted T3) also within the garden of Windy Ridge but located outside the Conservation Area.

4. Implications

- 4.1 Community Safety - (Crime and Disorder Act 1998) Nil.
- 4.2 Employees Nil.
- 4.3 Equalities This report has been prepared in accordance with the Council's Equal Opportunities policy.
- 4.4 Financial There is no financial liability on this Council arising from making and confirming, or not confirming, a TPO – with or without modification. However,

following any subsequent application for consent, anyone suffering loss or damage arising as a consequence of the Council's decision to refuse consent, or to impose conditions when granting consent, may seek compensation from the Council, subject to the provisions of the Town and Country Planning (Trees) (England) Regulations 2012. Any claim must be submitted within 12 months of such an application or subsequent appeal being determined.

4.5 Legal

Nil.

4.6 Sustainability

Confirmation of the TPO would appropriately maintain protection over trees of significant local amenity value, in support of local and national environmental protection objectives and the Council's adopted Tree Strategy.

Ben Haywood
Head of Development Services

Background Papers

TPO SM.327 file

Location

By request at:
Staffordshire Moorlands District Council
Moorlands House
Leek

Contact

Steve Massey
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trees@staffs Moorlands.gov.uk

Decision:

Reason:

Interests Declared:

5. Detail and Discussion – Objections

Issues raised by the objectors to the TPO are set out below, *with officers' comments following in italics.*

5.1 Objection from owner of Windy Ridge, and her son:

- 5.1.1 Significant bowing of the Pines' stems in the wind, with tops of the trees bending over 2 or 3 metres, is alarming and distressing, particularly for elderly mother in poor health.
- 5.1.2 Decided to move mother's bed to the kitchen at the back of the house further from the trees for safety.
- 5.1.3 The trees will only get taller, and quickly so.
- 5.1.4 Consider that it is a matter of time until the trees will come down (when, not if).
- 5.1.5 Potential for serious damage to houses at Windy Ridge and The Haven, or to garage and vehicles at Station House across the canal.
- 5.1.6 Have been advised by a tree surgeon that the trees could split in the upper crowns.
- 5.1.7 Likened the trees to telegraph poles, suggesting they have little amenity value.
- 5.1.8 Increasingly a worry, with on-going concern from neighbours.

5.2 Objection from neighbours at Station House:

- 5.2.1 Pine trees are becoming dangerous to boats/boaters on the canal, pedestrians on the towpath, and the garage at Station House.
- 5.2.2 The trees are tall, and move considerably in high winds.
- 5.2.3 They are growing on a bank at the edge of the canal which does not appear to give them a firm foundation.
- 5.2.4 An adjacent Pine was previously removed due to concerns about it falling.

5.3 Objection from neighbours at The Haven:

- 5.3.1 Due to the height of the Pines there is a strong likelihood of damage to property or life, if they should be brought down in high winds.
- 5.3.2 There is a strong possibility that the trees will be brought down, in view of the number of trees in similar proximity to the canal and of similar structure and nature which have fallen this year.

- 5.3.3 The Pines sway increasingly, exacerbated by their height, slender stems and crown structure mainly at higher level creating a sail effect.
- 5.3.4 In terms of amenity there is a sharp contrast between the two Pines and the standard and quality of trees in the surrounding area, with the Pines being thin and spindly and considered a poor representation of tree life.
- 5.4 Objection from Longsdon Parish Council:
- 5.4.1 The TPO is considered inappropriate. More specifically that the tree (*unspecified which tree or trees*) is not in a good condition, is shallow rooted and is in danger of falling into the adjacent canal
- 5.5 *On a point of clarification, the trees now protected under TPO No. SM.327 are all located within Cheddleton Parish, although as they are only some 60m from the common boundary both Cheddleton and Longsdon Parish Councils were notified of the Order having been made. Cheddleton Parish Council has not submitted any representations.*
- 5.6 *In connection with the assessment of the objections received, the Council's arboricultural officer has carried out a closer inspection of the trees. Pine T1 is a single-stemmed tree estimated to be approximately 20 – 21m tall; the second Pine T2 is also single-stemmed and approximately 23 – 24m tall. Both are situated on a grassed bank some 2m from the edge of the canal. The Sycamore T3 is triple-stemmed, approximately 16 – 18m tall and situated slightly further back at around 5m from the canal edge.*
- 5.7 *Trees are naturally designed to sway in the wind, and this is often more pronounced for trees that are tall and/or of relatively slender structure, as are the Pines T1 and T2. Whilst this can be alarming, it is normal natural behaviour of trees in response to wind loading, and does not in itself indicate that failure is likely.*
- 5.8 *The upper few metres of crown of T2 would reach the roofs/house fronts of Windy Ridge and The Haven, and the very tip of T1 could probably just about do so, if either tree were to uproot or fail from the base and fall in that direction. Similarly, the upper few metres of crown of T2 would reach the front of the garage at Station House across the canal. There are other potential targets such as outbuildings, vehicles and people from time to time within the grounds of these properties, in the event of uprooting or stem base failure. However, falling branches or upper crown failure would not realistically pose a danger to the dwellings, outbuildings or vehicles at any of the surrounding properties due to the distance of the trees from these targets. All three trees are in falling range and branch dropping range of the canal and the towpath, such that boats, boaters, walkers and cyclists would also be potential targets. This type of situation is not at all unusual – innumerable trees are within falling range of significant targets of property and/or people.*
- 5.9 *No sign of disease, decay, significant past damage or rootplate instability was noted in relation to any of these trees, and in particular the two Pines which are the subjects of the objections. Neither Pine tree has particularly*

acute main stem/limb unions, which can sometimes be more prone to failure. No professional arboricultural reports have been submitted by or on behalf of the tree owner or objectors, expressing qualified opinion on the condition and structure of the trees or any likelihood of failure. Having inspected the trees, the Council's arboricultural officer does not consider them to be in poor condition, and considers that there is nothing about the specific condition or situation of the trees in this TPO to suggest that they are particularly likely to fail or fall. They have always grown on a bank, and will therefore have been able to optimise their rooting pattern and above-ground structure to adapt to their position from a young age.

- 5.10 *This assessment is made in the wider context of tree safety management in general which recognises that there is inevitably a degree of risk from any tree, and that larger trees obviously have greater potential for serious damage or injury if they do fail, but that it would be grossly disproportionate to remove all risk and lose the benefits of trees unless the particular condition or circumstances of any given tree in question indicate a significantly enhanced risk.*
- 5.11 *The statistical Risk of Harm for the three trees protected under TPO SM.327 has been calculated using Quantified Tree Risk Assessment methods (see Section 6 of this report for an outline of the QTRA approach to tree safety management assessment and decision making). In each case, whether for risk to persons or property, the statistical Risk of Harm was found to be less than 1 in 1 million. This is equivalent to a broadly acceptable background level of all risk from whatever source, at which pre-emptive work to further reduce or completely remove any risk would be disproportionate and unnecessary.*
- 5.12 *Neighbours at The Haven make a general reference to similar trees in similar proximity to the canal having fallen this year. In attempt to give this some context, the Council's arboricultural officer conducted an overview walkover survey for some 900 metres east and west of Windy Ridge along both arms of the Caldon Canal, during which evidence was noted of around 10 – 12 large trees within approximately 0 – 5 metres of the canal having been felled, suffered stem snap, suffered broken large limbs, or uprooted. Of these, 5 appeared to be relatively recent – perhaps within the last year or two. Of these 5: two are Ash which have been cut down, potentially due to Ash Dieback Disease; another Ash has had a long-decayed limb snap and fail; an Alder has been felled due to a decayed and hollowed stem base; another Alder has uprooted due to unknown cause. Meanwhile, and again to give context, the same informal survey noted several hundred large trees in close proximity to the canal which have not failed or fallen, despite severe storms over recent years.*
- 5.13 *The point of giving this analysis is to demonstrate that tree failure or uprooting is relatively uncommon as a proportion of the total number of trees existing, even limited to those of similar size and in similar situations as the trees protected by TPO SM.327, and that in most cases of tree failure there is normally a condition-based reason which would often have been evident on inspection beforehand, giving opportunity to take appropriate pre-emptive action. However, in the case of the trees at The Haven protected under TPO SM.327, no significant condition- or structure-based defects have been noted during recent inspections.*

- 5.14 *That all said, the fact that other trees elsewhere along the canal may have failed or fallen, for whatever foreseeable or unforeseeable reason, makes it no more or no less likely that the protected trees at Windy Ridge would fail or fall.*
- 5.15 *The neighbours at Station House refer to another Pine adjacent to T2 having been removed; this occurred several years ago. This tree had sustained storm damage, and although it was not within the Conservation Area the owner's son nevertheless consulted the Council's arboricultural officer. The damage was confirmed as significant enough to make longer term retention of that particular tree inappropriate, and having been noted this gave informed opportunity to pre-emptively remove the tree in a controlled manner. This situation contrasts with that of the Pines T1 and T2 which currently do not show any sign of having sustained significant damage.*
- 5.16 *The tree owner's son compares the two Pine trees to telegraph poles and the neighbours at The Haven contrast their form to that of surrounding trees and suggest that they are poor representations of tree life. It is acknowledged that the two Pines T1 and T2 are of tall slender form but this is not atypical of the species, especially where they are in close proximity (in this case to each other and to the previously removed third Pine referred to by the neighbour at Station House). Again it is normally characteristic for Pines to gradually lose their lower branches as they mature. Most of the surrounding trees are deciduous broadleaved species so yes there is a contrast in form, but this is not considered to be detrimental. The TPO trees, T1 and T2 in particular, are prominent notable trees which are considered to make a significant and positive contribution to the local landscape and to the setting of the canal and associated properties.*
- 5.17 *An amenity assessment was carried out in which the Pines T1 and T2 each scored 29 out of a possible 50, and the Sycamore T3 scored 20. Our assessment system includes the following guidance:*
- | | |
|----------------|---|
| <i><20</i> | <i>- generally not appropriate for inclusion in a TPO</i> |
| <i>20 – 24</i> | <i>- consider including in a TPO</i> |
| <i>25+</i> | <i>- generally appropriate for inclusion in a TPO.</i> |

6. **Quantified Tree Risk Assessment (QTRA)**

- 6.1 QTRA is a methodology to inform tree safety management decisions, which aims to provide a statistically-based assessment and quantification of the Risk of Harm (RoH) associated with the potential failure of a tree or part of a tree under consideration. It deals with “what is the most likely occurrence” rather than “worst case scenario”. The calculated risk of harm is evaluated against a Tolerability of Risk framework – essentially, is the level of risk considered to be acceptable taking into account whether it is imposed on others; the benefits arising from the tree(s); and whether the costs (eg environmental, amenity, risk transfer to others, financial etc) of implementing any risk reduction measures, where reasonably practicable, are justified when weighed against the benefits. QTRA is a proportionate approach which accepts that there are some risks in life and there are some risks associated with the presence of trees, but recognises that trees provide a number of desirable benefits.

- 6.2 QTRA calculates RoH by firstly assessing the potential targets and the likelihood of them being present at the instant a tree fails (is there property around the tree which could be damaged, what proportion of total time is the area around the tree actually likely to be occupied by stationary people, passing traffic/pedestrians etc?). This can also take account of the likelihood of occupation during the type of weather conditions when failure is more likely. Secondly, the consequences of tree failure are assessed with respect to tree/branch size/weight. Thirdly, the probability of failure actually occurring at all within the foreseeable future (normally the next year or two in a tree safety management context) is assessed with regard to species, structure/form, condition, external influences etc. These three principal factors are each assigned into an assessed range, rather than given an absolute value, and are then combined to give a statistically expressed Risk of Harm.
- 6.3 In simple terms, and derived from UK Health and Safety Executive guidance, an annual risk of the loss of a human life of 1/1000 or greater is regarded as unacceptable (or 1/10,000 where it is imposed on others, as would be the case for trees overhanging a public highway, or in the present case within falling distance of the canal) and at the other end of the scale an annual risk of less than 1/1,000,000 is broadly acceptable. In between these indicative thresholds, the risk may be tolerable but should be considered against whether it is as low as reasonably practicable, and the costs/benefits of implementing risk reduction measures.