

# STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

## Report to Planning Applications Committee

25<sup>th</sup> April 2024

<b>TITLE:</b>	<b>To consider confirmation of Tree Preservation Order No. SM.331 – Cheadle Road and Main Road, Wetley Rocks</b>
<b>PORTFOLIO:</b>	<b>Deputy Leader, Regeneration &amp; Planning</b>
<b>OFFICER:</b>	<b>Steve Massey, Arboricultural Officer</b>
<b>WARD:</b>	<b>Cheddleton</b>

### Appendices Attached –

**Appendix A:** Copy of current provisional TPO No. SM.331.

**Appendix B:** Proposed amended TPO plan.

**Appendix C:** Proposed amended TPO Schedule.

## 1. Recommendation

- 1.1 That notwithstanding the objections received, Tree Preservation Order (TPO) No. SM.331 be confirmed, with modifications as noted in Section 2.4 of this report and shown on the proposed amended plan attached at Appendix B, and proposed amended Schedule attached at Appendix C.

**Reason for recommendation:** In order to maintain legal protection over significant trees, but replace the indiscriminate Area designation with specifically identified Groups and Individual Trees.

## 2. Executive Summary

- 2.1 Under the Council's Constitution, there are officer delegated powers to confirm a provisional TPO in respect of 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.331 was made as a provisional Order on 15<sup>th</sup> November 2023 protecting a single Area of trees, denoted A1, extending across parts of several properties at Cheadle Road, Main Road and The Bunting in the village of Wetley Rocks. A copy of the provisional TPO is attached at Appendix A to this report.
- 2.3 If and when a TPO is confirmed, there is an opportunity to modify the Order – for instance to refine its accuracy or to identify the trees more

specifically than may initially have been possible. This can be useful where, as was the case for TPO SM.331, the provisional TPO has been drawn up without the benefit of an on-site survey.

- 2.4 From the outset, it was anticipated that, if confirmed, TPO SM.331 would need to be modified – in particular to replace the existing indiscriminate Area designation with specifically identified Individual Trees and/or Groups, in accordance with Government planning guidance. It is therefore proposed to modify the Order by replacing Area A1 with Individual Trees T1 to T20 inclusive and Groups G1 and G2. These proposed modifications are indicated on the proposed amended plan attached at Appendix B and proposed amended schedule attached at Appendix C
- 2.5 Objection to the TPO was received from the owner of Level Cottage, 42 Main Road, on grounds relating to fallen leaves and seeds from mature Beech and Sycamore trees at Lonsdale House, which block drains and need clearing.
- 2.6 Objection was received from the owners of Bishops Croft, 46 Main Road, specifically in relation to a large mature Beech at the boundary of their rear garden, and now denoted T13 on the proposed amended plan and schedule. Their objection also relates to problems arising from fallen leaves and debris affecting drains, but in addition includes other grounds of objection namely: the tree's canopy dominates their garden; leaf accumulation has led to rotting of boundary fence panels; the rootplate of the tree constrains installation of a gate access onto Cheadle Road.
- 2.7 Objection was received from the owners of The Pines, 48 Main Road. There are numerous grounds of objection which can be summarised as their contention that the TPO is unnecessary in relation to their own trees as they take pride in property and garden maintenance, and their concern that the TPO would prevent them carrying out routine tree maintenance or dealing with any tree safety issues if they arise.
- 2.8 Meanwhile, representation of support for the TPO and for its confirmation has been received from the owners of Lonsdale House at which several of the larger mature trees are located, in particular those which have been the subject of local contention.
- 2.9 The objections are discussed in detail at Section 5 of this report. In conclusion, however, it is considered that notwithstanding the objections it is appropriate that TPO No. SM.331 be confirmed, with modifications as proposed, in support of the Council's adopted Tree Strategy.

### **3 Background**

- 3.1 The TPO was made following concerns expressed by members of the public over the recent removal of soil and exposure of the rootplate of the large Beech T13, by the owners of 46 Main Road within their own garden. The reason for this work was not clear, although first impressions suggested the primary intent was not to cut and remove the roots themselves. Nonetheless, exposure of a tree's rootplate raises alarm bells as it can render roots more susceptible to damage and disease, and if

carried out extensively can affect the stability of a tree – this being a potentially significant concern in a case such as this involving a very large tree alongside a busy public highway and within falling range of surrounding properties.

- 3.2 There has also been past pressure on the owners of Martin House and Lonsdale House to reduce tree canopies due to neighbour concerns over shade and tree safety.
- 3.3 It is understood that there are or have been on-going discussions, disagreements and disputes between residents, and frustration over lack of agreement and action, in connection with some of the trees now currently protected. However it is not the role of the local planning authority to resolve such matters between the individual people involved, and the Council's consideration of whether to confirm the TPO must be limited to issues relating to the amenity value and condition of the trees in question and the practical consequences of their presence.
- 3.4 Whilst neighbour pressure for tree maintenance, and direct actions such as root exposure, clearly does not relate to all the properties over which the TPO now extends, nor involve all residents, our amenity assessment recognised that collectively the trees currently included in the Order constitute a virtually continuous belt of substantial tree cover making a prominent and significant contribution to the character, appearance and amenity of this part of the village. The amenity valuation resulted in a score of 29 points from a possible 50, with 25 or higher being our normal threshold for TPO protection. Consequently the TPO was initially drawn up as a single large Area designation extending from Field House and The Bunting northwards to 46 Main Road at the junction of the two principle highways.
- 3.5 Subsequent detailed assessment has resulted in most of the larger, mature and/or more prominent trees being recommended for continued protection in a modified confirmed Order as Individual Trees or Groups as set out in the proposed amended plan and schedule.
- 3.6 There is a mature Sycamore just to the east of the Beech T13 which is suggested for omission due to its poor form, being twin stemmed with both previously topped, and overhanging branches crudely lopped back. This tree is notably suppressed by T13 and is notably one-sided as a result. There are also telephone cables immediately in contact with the northerly stem, and old bark wounds on the southerly stem with exposed wood which may be subject to decay. Whilst not suggesting that this Sycamore need be removed at this stage, its defects and management issues are such that it is considered inappropriate for specific TPO protection.
- 3.7 There are 2 early-mature Pine trees also heavily suppressed beneath the crown of T13, one either side of the boundary between 46 and 48 Main Road, and these too have been omitted from the modification proposals. Similarly a smaller, suppressed Fir with a poorly-formed upper crown situated near the north elevation of the house at 48 Main Road is not considered suitable for protection.

3.8 In general, various smaller trees of little prominence or wider public amenity value and situated on any of the affected properties have also not been included in the proposed modifications.

#### 4. Implications

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| 4.1 | <u>Community Safety - (Crime and Disorder Act 1998)</u> | Nil.   |
| 4.2 | <u>Employees</u>  | Nil.   |
| 4.3 | <u>Equalities</u>                                       | This report has been prepared in accordance with the Council's Equal Opportunities policy.   |
| 4.4 | <u>Financial</u>  | 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 | <u>Legal</u>  | Nil.   |
| 4.6 | <u>Sustainability</u>                                   | 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.331 file

#### **Location**

By request at:  
Staffordshire Moorlands District Council  
Moorlands House  
Leek

#### **Contact**

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## 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 the owner of Level Cottage, 42 Main Road in respect of mature Beech and Sycamore trees at Lonsdale House:

5.1.1 Leaves and seeds from trees at Lonsdale House create a need for on-going clearing.

5.1.2 Leaves and seeds slip through drain cover grills, leading to a requirement to rod out blocked drains.

5.1.3 In addition to onerous maintenance requirements, these issues lead to a slip hazard from wet leaves and freezing standing water. The owner is elderly and registered disabled. He is frustrated that these problems arise solely from neighbours' trees as he owns no trees himself.

### 5.2 Officer comment:

5.2.1 *Falling leaves and minor debris is a normal natural seasonal consequence of the presence of trees, and whilst this can create a more onerous maintenance requirement it is not considered to be sufficient reason not to protect significant trees or, by implication, to allow their removal.*

5.2.2 *It is noted that there is no tree canopy overhang above the curtilage of 42 Main Road. The nearest outer canopy extent is some 17m from the garden boundary and 40m from the house itself. These are by no means considered to be unreasonably close distances, particularly in an area characterised by significant tree cover.*

5.2.3 *It is also noted that should the TPO not be confirmed in respect of these trees, their leaves and debris would still fall and still need to be dealt with, and the tree owners would have no obligation to manage or remove their trees to prevent this.*

### 5.3 Objection from the owners of 46 Main Road in respect of Beech tree proposed as T13:

5.3.1 It is suggested that the tree is jointly owned by Lonsdale House and 46 Main Road as its stem position is within the boundary wall.

5.3.2 The dominant canopy creates a barren garden area.

- 5.3.3 Fallen leaves and debris block drains requiring rod clearing.
- 5.3.4 Accumulated fallen tree debris has raised ground levels in the garden above the top of the boundary fence gravel boards, consequently leading to rotting of timber fence panels.
- 5.3.5 The tree's rootplate prevents creation of a safe access path and gateway at the rear boundary onto Cheadle Road.
- 5.4 *Officer comment:*
- 5.4.1 *If anything, the centre of stem position appears to be just on the Lonsdale House side of the boundary wall, with stem expansion over many years having grown through the low drystone wall. However, a TPO is not any denotation of tree ownership, and the trees in an Order are protected irrespective of sole or joint ownership.*
- 5.4.2 *Shade beneath tree canopies is inevitable, admittedly the more so in respect of large trees and certain species (eg Beech). This may suggest the use of shade tolerant planting. Subject to application and grant of consent if the tree remains protected, a limited amount of sensitive crown lifting and thinning may be acceptable and may to some degree admit more light through and beneath the canopy.*
- 5.4.3 *See point 5.2.1. above regarding fallen leaves and debris.*
- 5.4.4 *A TPO does not prevent or require consent for removal of fallen leaves. Lack of maintenance over many years has allowed levels to build up against fence panels; this has now been addressed and can be continued even if the TPO is confirmed.*
- 5.4.5 *Building up and retaining ground levels to support a path and steps may be difficult without impact on roots, but a deck-type structure could be considered and non-slip deck boarding is available.*
- 5.5 Objection from the owners of 48 Main Road regarding the protection of trees at their own property:
- 5.5.1 They are both elderly and retired but over many years have taken and continue to take pride in managing their own property and trees, only removing any when dead or diseased, and have had no involvement in local neighbour disputes over trees at other properties.
- 5.5.2 The proximity of Area A1 drawn adjacent to the house precludes management to maintain canopy clearance and avoid damage to roof tiles, and may also prevent future extension of the dwelling.
- 5.5.3 The presence of the TPO may affect the value and saleability of their property if they wish to sell in future, putting off prospective purchasers.

- 5.5.4 They have been requested by the highway authority in the past to prune vegetation in order to maintain visibility of highway signage, and suggest the TPO would prevent this.
- 5.5.5 The TPO would prevent urgent tree work being carried out for safety reasons if the need arose.
- 5.6 *Officer comment:*
- 5.6.1 *The owners have apparently lived happily with trees in close proximity to the house but at present their main concern is not so much perception of current damage or danger but their perception that a TPO would prevent such matters being dealt with as and when the need arises. They are aggrieved that their trees are now protected when there have been no issues arising at their property giving rise to neighbour disputes which elsewhere have triggered the making of the TPO.*
- 5.6.2 *In fact certain work to trees may be carried out under various exemptions, eg dealing with dead or dangerous trees, or parts of trees (although planning authority verification of valid exemption is strongly advised), and pruning to maintain highway clearances. Furthermore, very minor works such as trimming back very small branches may be considered inconsequential to amenity and not require application and consent.*
- 5.6.3 *Beyond this, applications for consent to carry out more substantial work are unlikely to arise very often, and so the application process, which is free and can be negotiated with the assistance of officer and/or tree surgeon advice, should not be unduly onerous.*
- 5.6.4 *The TPO Regulations and procedures therefore make appropriate provision for situations to be dealt with appropriately and, where necessary, immediately.*
- 5.6.5 *Nevertheless, the owners verbally wished it to be made known that if the TPO is confirmed in respect of their trees, they would submit an application to fell most of them; this is not so much that they suggest current safety issues or structural impacts, but more for risk transference to the planning authority in the event that consent were to be refused. As the Council's liability is limited to 12 months after an application is determined, as noted at Section 4.4 of this report, the owners suggest they would re-apply annually.*
- 5.6.6 *Whilst some people may view the presence of trees around dwellings, protected or otherwise, as a disadvantage, others may consider them to add character and value. Notwithstanding this, the local planning authority cannot be liable for any perceived or actual devaluation of property as a result of the existence of a TPO.*