

**Parish: Sandhutton**  
Ward: Thirsk  
**13**

Committee date: 3<sup>rd</sup> May 2018  
Officer dealing: Miss Charlotte Cornforth  
Target date:

**17/00010/TPO2**

**Tree Preservation Order 2017/10**  
**At Braithwaite House, Sandhutton**  
**For Mrs Rachel Fairhurst**

**The report is brought to Planning Committee as there has been an objection made to the Order**

### **1.0 SITE, CONTEXT AND PROPOSAL**

- 1.1 This report considers the confirmation of Tree Preservation Order (TPO) 2017/10.
- 1.2 The dwelling lies to the rear (south side) of Sandhutton Lane and adjoins the church yard to the west. The site is located within the Sandhutton Conservation Area. The trees that are subject of this order are located along the western boundary of the site that abuts the church yard.
- 1.3 The TPO refers to 4 trees – 3 are lime and 1 is beech.

### **2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY**

- 2.1 17/01942/CAT - In September 2017, a notification was submitted to the Council to carry out works to remove 6 trees (T1 lime; T2 sycamore; T3 lime; T4 holly; T5 lime and T6 beech) at the site. Notification was required as the site is located within the Sandhutton Conservation Area.

Andy Elliot of Elliot Tree Consultancy was commissioned by the Local Planning Authority to advise on the proposal. The siting of the trees, their condition, form, size, location and species were carefully considered.

It was concluded that the proposed felling of 6 of the trees was considered not to be appropriate and on the evidence provide did not justify the proposals. Four trees (T1, T3, T5 limes and T6 beech) were made the subject of a Tree Preservation Order in order to protect them and ensure satisfactory retention. However, the removal of the semi mature Sycamore (T2) and Holly (T4) was considered acceptable.

### **3.0 RELEVANT PLANNING POLICIES**

- 3.1 The relevant policies are:

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Development Policy DP28 – Conservation

### **4.0 CONSULTATIONS**

- 4.1 Two objections have been received to the making of the TPO from the owner of the trees and the Parish Council. The comments are summarised as follows:

## The Owner

- The trees were also once pollarded to the side over hanging the driveway. But due to the trees now being in shock having had their canopies removed levelling the trees up now is an impossibility.
- T1 has been pollarded to reduce the crown under an existing planning permission gained by the previous owners, but this reduction made little impact on its size.

I would like you to reconsider the TPO on trees T1 and T4 for the following reasons:

- Tree T1 is less than 10ft away from the side of Braithwaite House. This tree has already caused damage to the roof/tiles due to the branches encroaching on our property. I have also noticed damage to the driveway wall caused by tree T1. I am concerned about the structural impact this tree will cause on the house itself given its close proximity. In addition; the fuel line from the oil tank to the boiler is situated along the edge of the house and the risk of roots damaging or breaking the line is also a concern to us.
- As for T4, this is an exceptionally large tree and because of its size we have a number of concerns. Tree T4 is clearly too big for where it is and it cannot be reduced any further without running the risk of putting it into shock. The tree has multiple trunks, which in turn means it is heavier on one side as thus unbalanced. The church wall is bulging, the church pillar is leaning as is the wall at the end of our drive together with the original brick pillar. All of which face the highway.
- My wife and I are merely trying to avoid potential catastrophic damage should the wall and two pillars give way and the tree sliding/falling into the highway, church yard or on to our neighbour's property.
- We cannot reinforce the wall. Previous attempts at patching the wall have failed and have not withstood the pressure coming from the force behind it. Any further works would not be possible as we do not own the land in front of the wall and any works would then alter the entrance to the property making it unsightly and out of character.
- In July this perfectly healthy tree fell in high winds. When it fell it fell into the graveyard of the church at the front and into the road, as it fell it took down overhead telephone wires and snapped the telegraph pole over the opposite side of the road which fell blocking road. The road had to be closed for several hours and the aftermath caused 5 weeks of disruption to amenities to 4 properties including our own. We were lucky on this occasion there were no passing vehicles or persons on foot so no injury was caused. Given the size of T4 our fear is this tree could cause catastrophic damage to Glebe Cottage or even cost someone their life. From our perspective, this is a clear Health and Safety issue and the size, age or state of the tree is irrelevant.
- Given the fact this tree is exposed, relying on a wall for support is very close to other properties, a main road through the village and opposite to a possible future housing development site we feel the risk is significant.
- In our original planning application I included the fact I would replant trees. For clarity, I would like to say that these would not have been mere saplings, we planned and still would, given the opportunity to, invest in well-established trees to minimise the impact to the village that we live in.

### The Parish Council

- It would appear both arboriculturists agree that the trees have been poorly maintained by the previous owner of Braithwaite House.
- The report from HDC arboriculturist does not appear to consider the issue of risk. These are large trees which have been poorly maintained. T4 is causing damage to the wall at the entrance to the house.
- HDC may not be aware that a tree recently fell in that area causing damage to telephone lines. The tree fall had blocked the road and brought down a telegraph pole lines. Had this occurred when traffic or people had been passing, this could have proved dangerous. This is in the same area where the TPO's are being proposed.
- Finally the original application does propose replacing the trees.
- We accept that no one wants to cut down trees without good reason however, as stated previously both reports acknowledge the trees are not what they should be.

### **5.0 OBSERVATIONS**

- 5.1 The trees are prominent within the street scene and the wider setting of the Church and Churchyard and are considered to make a positive contribution towards the character and appearance of the Conservation Area.
- 5.2 The applicant's agent concluded as part of the 17/01942/CAT tree notification application that there is little that can be done in terms of pruning to correct the historic pruning/ pollarding to the Lime trees that has already been done. The agent has further stated that the Beech tree poses a liability in this location as the crown is 80% over the road and the main stem has a lean over the road of around 25 degrees.

### **Council's Consultant's advice**

- 5.3 The assessment from Elliot Consultancy on behalf of the Local Planning Authority as part of the 17/01942/CAT stated the following:

Tree 1 - Mature Lime. The tree has been crown-reduced to around 10m with subsequent dense re-growth occurring from the pruning cuts as described in the report. Such extreme tree surgery is not good practice and leads to ongoing future management requirements - i.e. the regrowth need removing on a cyclical basis (at least every 5 years on a tree of this size - more regularly if possible). However it would be presumed that the owner of the tree had considered this before undertaking this form of management. If maintained in 'pollard' form, there is no reason why the tree cannot continue to function as at present adjacent to the graveyard for some considerable time.

Tree 2 - Semi-mature Sycamore. (Not subject of the TPO) This tree is as described - suppressed and with poor form. The tree is not structurally or physiologically damaged and will live for a considerable time. However it could be argued that the trees removal will allow both Trees 1 & 3 to flourish and arguably provide a better aesthetic treescape.

Tree 3 - Mature Lime. The tree has also been crown-reduced to around 10m with subsequent dense re-growth occurring from the pruning cuts as described in the report. If maintained in 'pollard' form, there is no reason why the tree cannot continue to function as at present adjacent to the garden for some considerable time.

Tree 4 - Semi-mature Holly. Small bush with little value. (Not subject of the TPO)

Tree 5 - Mature Lime. This tree has only been crown-reduced on one side, with two of the main scaffold limbs having been cut with subsequent dense regrowth. The remaining stem is reasonably well formed (albeit a little suppressed due to the past crown sections that have been removed), and will be expected to continue to improve form-wise as the crown grows to exploit the increased light levels. The two pruned-off stems could either be re-cut, or preferably removed back to the stem leaving the remaining stem to prosper. Again there is no reason why this tree cannot continue to provide value in the future.

Tree 6 - Mature Beech. As the report notes the tree does have co-dominant main stems with bark inclusions, and these bark inclusions can become considerable structural defects. However, these bark inclusions have been present for decades on this tree - Beech very commonly have this characteristic defect - but as in this case where the crown is upright and closely formed, this does not merit removal on structural grounds as a matter of course. A reasonable policy of inspection of the stem unions should be undertaken to monitor any changes that become apparent. N.b. As noted within the report there is damage to the wall at the base of the tree, and this will be due to incremental growth at the base of the tree, however this is due to the wall being located without providing growing space and immediately abutting the tree base etc. When the wall is rebuilt room could be given to the tree roots and future damage prevented.

#### Amenity

- 5.4 All of the trees are visible from public view and therefore provide some contribution to visual amenity of the village. The health and stability of the trees is not a factor that would preclude the making or confirmation of a TPO. If the contribution to amenity is considered significant then there is no reason why the TPO cannot be confirmed. The Council's consultant advised that the omission of, and therefore removal of, Tree 2 may in fact benefit the long-term conditions and aesthetic value of Trees 1 & 3.

## **6.0 CONCLUSION AND RECOMMENDATION**

- 6.1 It is considered that the trees provide a positive contribution towards the character and appearance of the Sandhutton Conservation Area.
- 6.2 As noted by the Council's consultant there is no tree structural or health conditions reason why the trees cannot be maintained in the longer term and as such making a TPO on the trees is appropriate. It was accepted at the time of making the TPO that the removal of T2 will benefit the long term condition and aesthetic values of T1 and T3.
- 6.3 The 3 lime trees and 1 beech tree make a significant contribution to the character and appearance of the Sandhutton Conservation Area, with appropriate routine maintenance they can be retained and will continue to make a significant contribution to the character and appearance of the Sandhutton Conservation Area and the setting of the adjacent St Leonards Church.

- 6.4 Removal of the trees would result in harm to the character and appearance of the Sandhutton Conservation Area and the setting of the adjacent St Leonards Church. Furthermore the trees are highly visible from the public realm and make a positive contribution to the village as a whole.
- 6.5 It is therefore recommended that TPO 2017/10 is confirmed.

#### **ANNEX A – Owner’s full objection to the TPO**

- I would like it noted on record that it was the previous owners of Braithwaite House who applied for permission to work on the trees who then chose to engage a ‘friend’ to undertake the work; thus leaving the trees in the state they are now.
- The trees were also once pollarded, (I believe by a professional) who as per instructions only pollarded the side over hanging the driveway. But due to the trees now being in shock having had their canopies removed levelling the trees up now is up now is an impossibility.
- My wife and I had the trees inspected when we first moved into the property and have also had more than one tree surgeon to inspect trees T4, T3 and T2. All of which are suffering from over pollarding and thus resulting in the trees going into shock. The result of which means the trees will now no longer grow as normal trees and produce branches. They will now produce water shoots that will never grow strong enough to be branches and they continue to fall off.
- My wife and I have worked hard to maintain the trees including at great expense having T1 pollarded to reduce the crown under an existing planning permission gained by the previous owners, but this reduction made little impact on its size.
- The report makes reference to the positioning of tree T1 and the proximity of a wall to the tree and that sufficient room was not left to allow growth of the tree. This seems neither helpful nor constructive given neither were within our control. The tone of this statement within this report implies that this is something we should have considered but given the age of the tree and wall this is not something we clearly had any influence on!
- I would like you to reconsider the TPO on trees T1 and T4 for the following reasons: Tree T1 is less than 10ft away from the side of Braithwaite House. This tree has already caused damage to the roof/tiles due to the branches encroaching on our property. I have also noticed damage to the driveway wall caused by tree T1. I am concerned about the structural impact this tree will cause on the house itself given its close proximity. In addition; the fuel line from the oil tank to the boiler is situated along the edge of the house and the risk of roots damaging or breaking the line is also a concern to us.
- As for T4, this is an exceptionally large tree and because of its size we have a number of concerns. Tree T4 is clearly too big for where it is and it cannot be reduced any further without running the risk of putting it into shock. The tree has multiple trunks, which in turn means it is heavier on one side as thus unbalanced. The church wall is bulging, the church pillar is leaning as is the wall at the end of our drive together with the original brick pillar. All of which face the highway.
- Both the tree and the wall given their age were clearly in situ long ago, thus out of our control. My wife and I are merely trying to avoid potential catastrophic damage should the wall and two pillars give way and the tree sliding/falling into the highway, church yard or on to our neighbour’s property.

- We cannot reinforce the wall. Previous attempts at patching the wall have failed and have not withstood the pressure coming from the force behind it. Any further works would not be possible as we do not own the land in front of the wall and any works would then alter the entrance to the property making it unsightly and out of character. It would also mean the wall on the opposite side of the driveway entrance would need changing to maintain symmetry and this wall would belong to our neighbours so again beyond our control.
- As a little bit of background information, which is what actually prompted my wife and I to approach the Council with our application and future plans is that in July of this year there were in fact 5 trees along the driveway. The tree was behind T1 if you look up the driveway.
- In July this perfectly healthy tree fell in high winds. There was no indication of disease or weaknesses. It was a tree which like the others was old but you would say healthy. When it fell it fell into the graveyard of the church at the front and into the road, as it fell it took

down overhead telephone wires and snapped the telegraph pole over the opposite side of the road which fell blocking road. The road had to be closed for several hours and the aftermath caused 5 weeks of disruption to amenities to 4 properties including our own. We were lucky on this occasion there were no passing vehicles or persons on foot so no injury was caused. Given the size of T4 our fear is this tree could cause catastrophic damage to Glebe Cottage or even cost someone their life. From our perspective, this is a clear Health and Safety issue and the size, age or state of the tree is irrelevant.

- Furthermore, we would like to seek clarification on who would be liable in the event this tree did fall; more so given we have highlighted the risks to yourselves.
- Given that a perfectly healthy tree can fall in high winds, and given the fact this tree is exposed, relying on a wall for support is very close to other properties, a main road through the village and opposite to a possible future housing development site we feel the risk is significant. It is worth mentioning at this point that T1 is currently so large the branches over hang the highway and that high sided vehicles have been known to rip branches off. If permission is given to develop on the farm land opposite our driveway the increasing traffic most definitely raises concerns.
- In our original planning application I included the fact I would replant trees. For clarity, I would like to say that these would not have been mere saplings, we planned and still would given the opportunity to invest in well-established trees to minimise the impact to the village that we live in. Speaking to the owners of the properties that this directly affects they are still in support of having these trees removed.
- We have received comments from villagers that they do not deem these trees as an asset and would rather they be replaced with more in keeping aesthetically attractive trees thus maintaining the backdrop. We have been told that many villagers do see the trees as a threat and if another one falls it could cause unspeakable damage to the Church itself and many of the headstones. Not that it alters things currently but the consensus in the village is our application was wholeheartedly supported and the surprise we have received when our application was only agreed in part and the TPO put in place was overwhelming.
- I did not make this application lightly or without serious thought, it was with a heavy heart as we are not in the habit of removing such old trees. Our application was not made on the basis the trees were diseased etc my wife and I hoped our plans would

enhance the village not be a detriment and remove any threat to property, injury or even life.