

HAMBLETON DISTRICT COUNCIL

Report To: Planning Committee
5 January 2012

From The Head of Regulatory Services

Subject: TREE PRESERVATION ORDER 2011/3 - 22 THE HOLME, GREAT BROUGHTON

Broughton and Greenhow Ward

1.0 PURPOSE AND BACKGROUND:

- 1.1 The purpose of this report is to inform the Committee of objections to the making of provisional TPO No. 2011/3 at 22 The Holme, Great Broughton and for the Committee's decision whether to confirm the Order.
- 1.2 On the 9 September 2011 Mr R Davies submitted notice ref 11/01969/CAT of an intention to carry out works to 5 semi mature ash trees and one mature ash tree located on part of the south boundary of 22 The Holme. The trees are in the Conservation Area, which gave rise to the need to submit notice of the works, under Section 211 of the Planning Act. In respect of trees 1, 2, 4, and 5 the works were to crown lift and reduce by 40%. The proposal for tree 3, was to fell it as set out on the submitted plan (attached Document 1)
- 1.3 The reasons stated for the general works was to renew a previous consent for similar works, ref 06/00957/CAT.
- 1.4 The reason stated on the form for felling T3 related to the overhang of the tree over the neighbouring property, concerns for safety for those walking underneath the tree, and that branches had fallen with near misses to persons and property. Also that the tree takes away light from property, that the lower limbs had been severely cut back in the past resulting in misshapen and knarled appearance, wish to avoid future problems with foundations. It also noted that other trees nearby will provide amenity to the area.
- 1.5 On the 14 September 2011 Mr Davies gave the Council 5 days notice of intention to fell T3 (under an exemption available for dead, dying or dangerous trees). The reason given was; instability arising from the form of the tree, unbalance resulting from recent fallen branches, and the poor amenity value of tree. This was accepted by the Council and the tree has been felled.
- 1.6 On the 23 September 2011, a Tree Preservation Order ref 20011/3 was made in respect of the remaining trees. The reason for making the Order was concern that the works as proposed were likely to give the trees an unnatural form, reducing their amenity value in the Conservation Area surroundings and harmful to their role in providing a landscape framework for the new house at the rear of the site which has been approved (ref 09/03988/FUL), and which is still valid.
- 1.7 Following the making of the Tree Preservation Order, the Council commissioned a report by an independent arborist Elliot Consultancy, into the condition of the trees and any relevant information about its surroundings (attached Document 2). The report notes that T1, T2, and T4 are in good condition, and T5 is a poor specimen. The report notes that the nearby utility wires, and houses, will compromise the ability of the trees to grow to full maturity, and thus their suitability for Tree Preservation Order.

1.8 The report goes on to note that if the TPO is confirmed, the proposal to reduce by 40% is excessive. The report suggests that T1 and 2 are left alone in the short term, T4 is crown reduced by 20% and T5 is removed due to its poor structural form and to allow T4 to develop.

1.9 Mr Davies was invited to make an application under the Tree Preservation Order for the works set out by Elliott consultancy. To date no proposal has been received.

2.0 DECISIONS SOUGHT:

2.1 To confirm TPO 2011/3 in respect of the Trees T1, T2, and T3 as shown on the plan accompanying the provisional Tree Preservation Order (attached Document 3) and following the consideration of the objection received.

3.0 LINK TO CORPORATE PRIORITIES:

3.1 There are no links in this case.

4.0 RISK ASSESSMENT:

4.1 The risk is that if the TPO is not confirmed the tree will be felled.

5.0 FINANCIAL IMPLICATIONS AND EFFICIENCIES:

5.1 There are none in this case.

6.0 LEGAL IMPLICATIONS:

6.1 The general purpose of a TPO is to protect the character and amenity of the area. A TPO may prohibit the unauthorised cutting down, lopping, uprooting, wilful damage, or wilful destruction of trees.

6.2 The effect of confirming a TPO is to make unlawful any actions referred to in the TPO.

6.3 A TPO application can be made to the Local Authority for consent to carry out works on the tree (including cutting it down). If the Local Authority refuses the application for consent the applicant has a right of appeal to the Secretary of State.

6.4 In certain limited circumstances (e.g. where the tree is causing damage to the applicant's property) the applicant may make a claim for compensation for any loss or damage suffered as a result of the refusal to grant consent. This is limited however to damage that was reasonably foreseeable when the application was made.

6.5 If the claim for compensation is refused by the Local Authority, or the level of compensation offered is disputed, the applicant has a right to appeal to the Lands Tribunal for determination.

7.0 SECTION 17 CRIME AND DISORDER ACT 1998:

7.1 None relevant in this case.

8.0 EQUALITY/DIVERSITY ISSUES:

8.1 There are none relevant in this case.

9.0 OBJECTIONS TO THE TPO:

- 9.1 A letter of objection to the making of the TPO was received from the owner. The reasons are:-
- i) The originally proposed works are as previously approved in 2006.
 - ii) The trees were not at risk – the wish was to maintain them
 - iii) The trees are not of stature; they are self seeded from hedge and are bad examples.
 - iv) Amenity value – in 2006 the officer report on the works stated that they would not harm the amenity value of the Conservation area. Arboriculturalist Peter Harris also confirms the trees have no real amenity value.
 - v) Charles Prowse (Elliott Consultancy) report post-dated the serving of the Order. His statement does not support the making of a TPO on the 4 ash trees.
 - vi) Other issues – concern that there was no communication with officer prior to notice being served.
 - vii) Would be willing to carry out works as specified by the Councils Arboriculturalist.

The objection also included an arboriculturalist's report carried out on behalf of Mr Davies, by Peter Harris Associates (attached Document 4). The Peter Harris report notes the position and condition of the trees, and the long term restraints, and concurs with the views of the Elliot Consultancy report, including the view the trees do not appear to have a good enough amenity value to justify a Tree Preservation Order.

Observations on the objections

- 9.2 The 2006 application for works to the trees were found acceptable in the circumstances of that time, when the trees would be lower and the hedge from which they emerged was significantly higher. At present, a much longer length of trunk is exposed and the proposed works to crown lift and reduce the overall height by 40% could result in an unnatural looking 'lollipop' form, which would be inappropriate to these surroundings, and thus gave rise to the concerns that resulted in the Tree Preservation Order.
- 9.3 The trees do not have the stature of full grown forest trees, however in the local context, beside and in front of domestic dwellings; they together form a significant natural feature which makes a valuable contribution to the character of The Holme. They were included in the approved scheme for the proposed house at the rear of no 22, to which they contribute a valuable natural landscape framework. On this basis they are considered sufficiently important to merit the detailed control over works to the trees that would be available under a Tree Preservation Order.
- 9.4 The report of the two Arboriculturalists involved mainly concur in their assessment of the condition of the trees and the constraints on their full development, particularly in relation to overhead wires. It is accepted that the overhead wires will limit the full growth of the trees, nevertheless, for the reasons given above, and in the light of the other planning issues of providing a setting to the new dwelling and maintaining the character of the Conservation Area, it is important to retain the detailed controls provided by the TPO, to enable the Local Planning Authority to ensure that any necessary works are carried out appropriately.
- 9.5 The process by which the Tree Preservation Order may be imposed immediately, and an arborist report obtained later, is reasonable response to a notice to undertake Works to trees in a Conservation Area. It has the merit of giving an unambiguous message to all interested parties about the value placed on the trees by the Local Planning Authority and also gives time to undertake the detailed considerations required, allows trees to be removed from an Order prior to 'confirming' it and is without any prejudice to the owner's subsequent rights to challenge the TPO, and/or make any necessary applications for further works.

9.6 The pruning and removal works recommended by Councils Arboriculturalist are considered to be acceptable and the applicant has been invited to make an application on this basis.

10.0 RECOMMENDATION(S):

10.1 Due to their contributions to the natural amenities of The Holme, and their value as a natural landscape framework to the approved dwelling ref 09/03988/FUL, it is recommended that the Tree Preservation Order 2011/3 be confirmed insofar as it relates to T1, T2, and T3 as set out on the plan accompanying the provisional order.

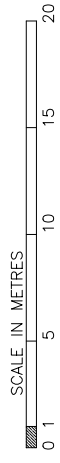
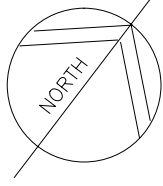
10.2 Due to its poor structure and potential weakness, and existing moderate crown dieback and deadwood it is recommended that T4 is not confirmed as part of the Tree Preservation Order.

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Background papers:

- Document 1 Plan accompanying application ref 11/01969/CAT
- Document 2 The Council's Arboriculturalist's report (Elliot Tree Consultancy, for HDC)
- Document 3 Tree Preservation Order Plan TPO 2011/3
- Document 4 Arboriculturalist's report (P Harris Associates, for Mr R Davies)

Author ref: BR



22 The Holme Tree Plan



The Holme

Bridget

I email with findings from my visit to 22 The Holme this morning.

The trees in question numbers 1, 2, 4 & 5 (3 has recently been removed) are all semi-mature self-seeded ash along the line of a hedgerow. I checked each tree in turn and assessed them in context of the works proposed.

Tree 1 currently appears to be of good physiological and structural condition. Its overall form is compromised by its proximity to its neighbour (Tree 2), with both having co-dominant crowns.

Tree 2, like Tree 1 is currently of good physiological and structural condition and again it shares a co-dominant crown with Tree 1.

Tree 4 has suppressed form due to its proximity to Tree 5, which has the more dominant crown. Currently it appears to be of good physiological and structural condition.

Tree 5, is in my opinion a poor specimen. It is multi-stemmed with two of the stems having an included bark union, which can ultimately prove to be a point of weakness. Additionally the central stem has a moderate volume of crown dieback and deadwood.

I would question the long-term viability of these trees given their position between two properties and their proximity to the utility lines. Ash, when mature, are large trees, far larger than the space afforded to them at 22 The Holme. As I'm sure you are aware the utility companies employ teams of arborists to ensure a 2m clearance between the lines and trees; this means that the form of these trees will always be compromised as a result of their cyclical pruning, which has in fact only recently been undertaken.

With regards to the conservation area notice I would say that these trees do not merit being protected by TPO given their impaired form and the requirement for them to be managed in the future due to their species, proximity to buildings and the power lines.

If the TPO is confirmed, and on the basis of an application being made for the same works I would say that a 40% crown reduction is excessive. I have told the owners this and explained why arboriculturally such an operation would not be good. They were very receptive to my explanation and noted that they only asked for 40% because that was previously granted, yet not undertaken. Personally I would advise that Trees 1 & 2 are currently left alone (but with a view that works to some degree will be required in the near future), that Tree 4 was crown reduced by 20% and that Tree 5 was removed completely due to its poor structural form and to allow Tree 4 to develop.

I hope that I have helped clarify matters. As always if you have any questions please do not hesitate to contact me.

Kind regards,

Charles Prowse *M. Arbor. A*

Arboricultural Consultant

01947 897001 / 07810 200968

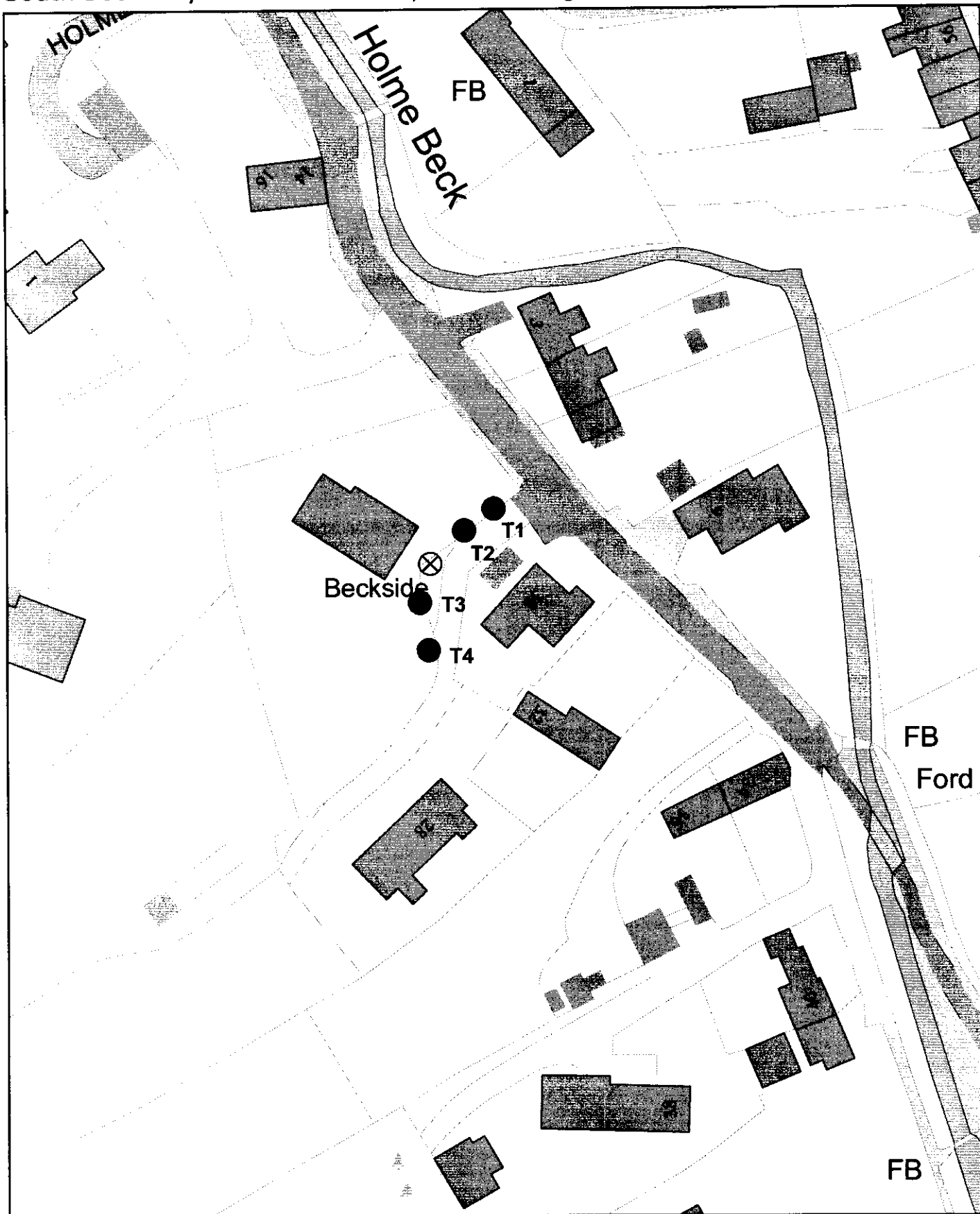
Wrens Nest, Underhill, Glaisdale, North Yorks, YO21 2PF

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TREE PRESERVATION ORDER: 2011/03

11/11/2011

South Boundary of 22 The Holme, Great Broughton. TS9 7HF



HAMBLETON
DISTRICT COUNCIL

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Our Ref.: PHA2012-32

Your Ref.:

20th October 2011

F.A.O.:

Mr & Mrs R. Davies,
22 The Holme,
Great Broughton,
North Yorkshire,

4 ROSEHILL WAY
STOKESLEY
NORTH YORKSHIRE
TS9 5NX

TEL: 01642 713445

Dear Sirs,

**Re: Tree Preservation Order 2011/003,
22 The Holme, Great Broughton.**

Further to the verbal instructions of Mr Davies I attended the above property on the 20th October 2011 and set out below my findings in regards to adjacent trees, and the placement of such subjects within a Tree Preservation Order.

Overview.

The line of trees inspected are east and south of the property 22 The Holme and growing within a hedge line with the trees considered to be of natural origin.

It is understood that the subjects inspected are within a Conservation Area and that Mr Davies requested to undertake works in regards to a lapsed permission granted of May 1996 where works had not been undertaken.

Tree Detail.

1. Fraxinus excelsior Ash.
Height 12.50 metres. Diameter Breast Height 300mm.

This subject is situated 9.1 metres east of the property within the boundary hedge and would be appraised as being in a satisfactory physical condition but in close proximity to overhead lines.

The tree has a clear stem of 5.50 metres above ground level before forming a crown with cables south of the crown.

2. Fraxinus excelsior Ash.
Height 12.50 metres. Diameter Breast Height 200mm.

This subject is situated 7.2 metres southeast of the property within the boundary hedge and would be appraised as being in a satisfactory physical condition but in close proximity to overhead lines south of the crown.

The tree has a clear stem of 5.50 metres above ground level before forming a crown.

N.B. Due to the close proximity of positions No' 1 and 2 which are 2.70 metres apart any works would have to treat the overall crowns as a single unit.

4. Fraxinus excelsior Ash.
Height 12.00 metres. Diameter Breast Height 220mm.

Situated south of the property within the hedge line this subject is suppressed by position No 5 which is 1.60 metres further to the south west.

It would necessitate the removal of position No 5 to improve the longer term condition of this subject.

5. Fraxinus excelsior Ash.
Height 12.00 metres. Diameter Breast Height 2 X 220mm + 285mm.

This subject is appraised as being in a poor condition with the triple leaders arising at 1.00 metre above ground level and included bark union at such junctions which would be considered a longer term weakness. Approximately 10% of the central of the three leaders was observed as dead.

This tree is 1.60 metres from a pole carrying overhead power lines which are south of the tree..

I would recommend the removal of this subject to allow position No 4 to develop.

Discussion.

It would be noted that an Ash tree can achieve a height of 23.00 metres and crown spread radius of between 7.5 and 10.00 metres radius or greater if allowed natural growth.

Therefore the growing space available to the subjects inspected is highly restrictive for natural growth and such subjects will require long term cyclical management.

This is further emphasised by the proximity of power lines and statutory undertaker's management to ensure clearance of such lines.

Peter Harris, M.Arb., F.Arbor.A., Arboricultural Consultant
Email. pharrisassoc@btconnect.com

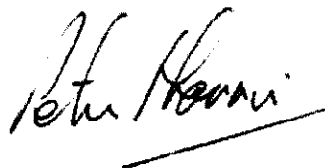
Conclusion.

I am aware of the report generated by Charles Prowse of the Elliott Consultancy (Arboricultural Consultants) and generally concur with such opinions especially in regards to the unsuitable nature of placing such subjects within a Tree Preservation Order as they do not merit such protection.

I have always understood that to generate such protection trees had to be of an amenity value, whilst this can be a highly subjective matter, in this instance I do not consider it appropriate for such trees to be included in such an order and therefore support Mr Davies objection.

I shall be pleased if I can assist further in any of the above matters.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Peter Harris", written over a horizontal line.

Peter Harris.