

RIBBLE VALLEY BOROUGH COUNCIL

REPORT TO PLANNING & DEVELOPMENT COMMITTEE

meeting date: THURSDAY, 19 MAY 2022
title: TREE PRESERVATION ORDER 7/19/3/227
HIGH BEECH HOUSE, 8A CROW TREES BROW, CHATBURN
submitted by: NICOLA HOPKINS – DIRECTOR OF ECONOMIC DEVELOPMENT & PLANNING
principal author: ALEX SHUTT – COUNTRYSIDE OFFICER

1. PURPOSE

- 1.1 For Committee to consider whether the High Beech House, 8A Crow Trees Brow, Chatburn Tree Preservation Order 2022 should be confirmed.
- 1.2 Relevance to the Council's ambitions and priorities:
- Community Objectives – To protect and enhance the existing environmental quality of our area.
 - Corporate Priorities – To comply with the adopted Core Strategy – Environment – Policy DME1: Protecting Trees and Woodlands.
 - Other Considerations – None.

2 BACKGROUND

- 2.1 On 17 March 2022 the Council received a phone call from a tree contractor requesting a Tree Preservation Order (TPO) and Conservation Area (CO) search to be carried out at High Beech House, 8A Crow Trees Brow, Chatburn due to two mature trees needed to be felled. The tree contractor informed the Council the works were scheduled to be carried out on Saturday 19 March.
- 2.2 The Council's Countryside Officer had historically offered to protect the trees when the Land off Chatburn Old Road, Chatburn TPO 2018 was created, section 2.4 of the Committee report states: "There are two mature trees in the garden of High Beech House which are also of High Amenity Value. The landowner was approached and offered the choice by the council of protecting the trees under the same TPO but the landowner declined the offer as they are not under any threat of being felled or subject to potential tree resentment issue." (Please see link 1. in background papers for further information)
- 2.3 The Council's Countryside Officer (CO) carried out a drive by site visit on the 17 March 2022 as due to time constraints and the immediate threat to the trees a full tree survey could not be carried out to investigate the report.
- 2.4 The Council's Countryside Officer carried out a Tree Evaluation Method for a Tree Preservation Order [TEMPO] (see Appendix A) and based on the results and the threat of both trees scheduled to be felled on the Saturday 19 March 2022 the local authority considered it expedient to serve a TPO (see Appendix B). By placing a temporary TPO on T1 & T2, it enabled the Council to protect the trees so any felling or pruning works cannot take place without the Council approval.

2.5 On 17 March 2022 a Tree Preservation Order was served, the Council spoke to the contractor and landowner on the morning of the 18 March 2022 to notify and explain the Councils actions and the process they are required to follow. One formal objection was submitted to the Council by a landowner (Please see Appendix C) outlining a number of issues with the proposed Tree Preservation Order.

3 ISSUES

3.1 The trees are considered to be of visual amenity value to the locality and to the wider tree-scape but also form part of a screen for the recent development. It is of concern to the council that the trees could be felled or severely reduced to maximise potential views of the adjacent development or create more space to be developed.

3.2 A Local Planning Authority may make a TPO if it appears expedient in the interests of amenity, it may also be expedient to make a TPO if the LPA believe that there is a risk of tree[s] being cut down or pruned in ways which would have a significant impact on the amenity of the area.

3.3 T1 has since been surveyed by a Council approved arborist on behalf of the landowner who has concluded that the Beech Tree (T1) has significant structural defects and advanced signs of the soft rot decay fungus *Kretzschmaria deusta*, which can cause a brittle fracture of the stem at ground level, and its removal is subsequently recommended.

3.4 The landowner was advised to submit a Tree Work Application as they were worried about the health and safety of T1 and understandably did not want to wait for the Committees decision. The application was received on the 31 March 2022 and a split decision was recommended on the 5 May 2022 (Please see link 2. in background papers for further information) unfortunately, the beech tree is not suitable for retention and felling has been approved. However due to T1 being protected under a TPO the Council have been able to condition replacement planting, which will mitigate the loss and guarantee future amenity treescape within the village.

3.5 A Tree Preservation Order protects trees from lopping, topping and felling but does not preclude tree work being carried out, including felling, however except for emergencies, for which there are exemptions, a tree work application is required for tree management work.

3.6 Tree work to protected trees that are considered to be dead and/or dangerous can, under exemptions, be carried out to reduce or remove immediate risk; however, a five-day notice is normally required. If a tree has to be felled or pruned in an emergency, the onus is on the landowner to prove that on the balance of probabilities the tree was dangerous, however dead wood pruning does not require formal consent

3.7 Any tree management decisions about any of the trees included in the Preservation Order should be based on a detailed arboricultural quantified tree risk assessment, carried out by a qualified and public indemnity insured arborist. This ensures that any tree management decisions are based on objective and accurate arboricultural information.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – Dealing with tree related issues form part of the Countryside Officers' duties.

- Technical, Environmental and Legal – Decisions made about trees have to balance protection of the environment against quantifiable risks posed by trees.
- Political – None.
- Reputation – The Council's environmental protection measures are being maintained.
- Equality & Diversity – None.

5 CONCLUSION

- 5.1 The trees are an important feature within the village as can be seen in Appendix D. Together with the trees protected in the order Land off Chatburn Old Road, Chatburn TPO 2018 they can be seen at various viewpoints throughout the village. The order was made to enable the Council to make an informed decision on the management of the trees, and by liaising with the landowner and the contractors the landowner have instructed to carry out works on their behalf, I believe the Council have reached an outcome agreeable to both parties.
- 5.2 As mentioned above T1 requires felling either to ground level or retained as a habitat pole/natural sculpture but T2 does not require any major health and safety works and can be safely retained and protected. If the TPO is confirmed the Council can enforce the replanting condition and the replacement trees will be subject to the Tree preservation Order and the order can be varied to reflect this. T1's immediate removal will impact the amenity to the locality and to the wider tree-scape but mitigation planting will preserve the visual amenity of the trees that at present exist on the site.
- 5.3 As mentioned above if the landowner requires works to be carried out on T2 they can do so by submitting a Treework Application with a detailed arboricultural quantified tree risk assessment, carried out by a qualified and public indemnity insured arborist as evidence that the tree has an intolerable risk of failure.

6. RECOMMENDED THAT COMMITTEE

- 6.1 Confirm the High Beech House, 8A Crow Trees Brow, Chatburn, Tree Preservation Order 2022.



ALEX SHUTT
COUNTRYSIDE OFFICER

pp



NICOLA HOPKINS
DIRECTOR OF ECONOMIC DEVELOPMENT AND
PLANNING SERVICES

BACKGROUND PAPERS

1. <https://www.ribblevalley.gov.uk/download/meetings/id/6731/Agenda%2520item%25207%2520-%2520Tree%2520Preservation%2520Order%2520-%2520Land%2520off%2520Chatburn%2520Old%2520Road>
2. https://webportal.ribblevalley.gov.uk/site/scripts/planx_details.php?appNumber=3%2F2022%2F0333

For further information please ask for Alex Shutt, extension 4505.



Ribble Valley
Borough Council

www.ribblevalley.gov.uk

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO) SURVEY DATA SHEET & DECISION

Date: 17 March 2022

Surveyor: Alex Shutt

Tree Details

TPO Ref (if applicable):

Tree/Group G1 Species: T1 Beech & T2 Sycamore

Owner (if known): Ms K Grayson

Part 1: Amenity Assessment

a) Condition & Suitability for TPO

5) Good	<input type="checkbox"/>	Highly suitable	<input type="checkbox"/>
3) Fair	<input checked="" type="checkbox"/>	Suitable	<input type="checkbox"/>
1) Poor	<input type="checkbox"/>	Unlikely to be suitable	<input type="checkbox"/>
0) Dead	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>
0) Dying/Dangerous*	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>

*Relates to existing context and is intended to apply to severe irremediable defects only

Score & Notes =

3 Trees have not been fully inspected

b) Retention Span (in Years) & Suitability for TPO

5) 100+	<input type="checkbox"/>	Highly suitable	<input type="checkbox"/>
4) 40 – 100	<input checked="" type="checkbox"/>	Suitable	<input type="checkbox"/>
2) 20 – 40	<input type="checkbox"/>	Unlikely to be suitable	<input type="checkbox"/>
1) 10 – 20	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>
0) <10*	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

Score & Notes =

4

c) Relative Public Visibility & Suitability for TPO

5) Very large trees with some visibility, or prominent large trees	<input type="checkbox"/>	Highly suitable	Score & Notes = 4
4) Large trees, or medium trees clearly visible to the public	<input checked="" type="checkbox"/>	Suitable	
3) Medium trees, or large trees with limited view only	<input type="checkbox"/>	Suitable	
2) Young, small or medium/large trees visible only with difficulty	<input type="checkbox"/>	Barely suitable	

- 1) Trees not visible to the public, regardless of size

Probably unsuitable

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d) Other Factors

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes =

Part 2: Expediency Assessment

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Y

Score & Notes =
5

Part 3: Decision

- Any 0 Do not apply TPO
- 1 – 6 TPO indefensible
- 7 – 11 Does not merit TPO
- 12 – 15 TPO defensible
- 16+ Definitely merits TPO

Y

ADD SCORES FOR TOTAL
16

Decision
Serve TPO

Form of Tree Preservation Order

Town and Country Planning Act 1990

The High Beech House, 8A Crow Trees Brow, Chatburn, Tree Preservation Order 2022

The Ribble Valley Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as High Beech House, 8A Crow Trees Brow, Chatburn, Tree Preservation Order 2022.

Interpretation

2.— (1) In this Order “the authority” means the Ribble Valley Borough Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of, any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 17 day of March 2022



.....
Signed on behalf of the Ribble Valley Borough Council

Mrs Nicola Hopkins Director of Economic Development and Planning Services
Authorised by the Council to sign in that behalf]

SCHEDULE
Specification of trees

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Beech	Both trees are situated to the west of High Beech House in the rear garden.
T2	Sycamore	

Trees specified by reference to an area

(within a dotted black line on the map)

-NONE-

Groups of trees

(within a broken black line on the map)

-NONE-

Woodlands

(within a continuous black line on the map)

-NONE-



RIBBLE VALLEY BOROUGH COUNCIL TREE PRESERVATION ORDER NO./NOS. 7/19/3/227
 TOWN & COUNTRY PLANNING ACT 1990
 TOWN & COUNTRY PLANNING (TREES) REGULATIONS 2012

LOCATION: High Beech House, 8A Crow Trees Brow, Chatburn
 PARISH: Chatburn

OS SHEET: SD7644SE

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Scale 1:1000

APPENDIX C

24.3.2022

Dear [REDACTED],

I write to you to object and make comments on the tree preservation order you have placed upon two trees and also the subsequent conversation we had on Friday 18^m March 2022. I have tried to call you this week and leave a voicemail on your direct line on 24^t March 2022, but you have not yet replied.

I would like this email addressing fully and ask that am not expected to make an appeal to the TPO. The outcome I seek, once you have read and understood my position, is for the two TPOs to be fully revoked; neither are necessary or indeed warranted given that I have followed every process before, and since we met in 2018 without any Issue or exception. This Is all evidenced and without any Issue.

I feel it necessary to outline the basis of my objection to the TPOs and the reasoning behind this:

1. Throughout the ten years ***** I have displayed full Integrity, honesty and responsibility to the garden and everything that lies within It.

I believe that your implementation of the two TPÜs was wholly inappropriate and ask that you completely revoke them for the exact same reasons you revoked them as you did in 2018; you did not implement them at this time. I would like to retain the right to remove dead/dying/dangerous branches or limbs without having to make any applications and go through unnecessary processes. It may be the trees need a light crown reduction, removal of limbs etc but I do not agree that I must apply for permission when I have not had to do this in the past 10 years that I have lived here. The trees have been seen to twice in that period without any issue or problem. It appears that you now have an issue with me managing my trees and I do not understand why or indeed what has created that shift.

I ask you what specifically has caused you to believe I am not capable of now managing my own trees as I have in the past?

2. I have followed the process fully throughout my ten years and have followed direction on your website and from your department.

I have, without any contention followed a due process and acted upon the directions clearly outlined on your own website.

In 2018 you personally ***** as it had been requested *****that my trees be subject to protection, along with two other trees situated in the field adjacent; no one had spoken to me or asked me until you turned up at my door. After a lengthy discussion you agreed that the protection was not necessary and no TPO was made. I have had the trees tended to by *****

and it was noted that the Beech tree was not of good condition on his last visit. You were made aware of this when you came into my garden and looked at all of the trees. If you recall, I had ***** poison my tree and hedge at the rear of the garden which caused me a great amount of distress; ■■■■■ was the one of three *****who insisted my trees were TPO'd. The ***** have subsequently chopped trees down in their garden without question; they are closer to the conservation area.

I became alarmingly concerned at the health of the trees during lockdown. I have had two huge branches fall, one across the footway and one literally ripped our trampoline in two. I have photographic evidence of this should it be required. It shook me up as I realised at that time that the hard wood could potentially kill a person.

On various trees, leaves do not grow, large branches/sticks are constantly falling (which damage my automatic mower at a cost to myself), bark is falling away from the trees and on closer inspection there are clear and obvious signs of disease and rot on a couple of the trees. There are many pests living in the Beech tree and a high level of dead and rotting sections of bark on branches and the main trunk of the tree. I did some research and undertook a scratch test where I soon realised that the Beech tree was "frazzled" after being struck by lightning; the Elm tree is diseased. With the high winds of late have had two trees uprooted and literally fall which has totally left me with anxiety and concern.

I called your office in February 2022 to take advice on the trees and was instructed to visit RVBC website which gave clear instructions on what was needed. I can fully evidence that I called your office at 11:30am on 21^M February 2022 and was asked by the assistant to email ■■■■■ I duly did this and sent him an email at 11:50am asking if could speak with him as matter of urgency as I was beside myself because another tree had fallen in the garden. He was so efficient and called me at 11:59am, again all of which can be evidenced. We had a 12 minute and 28 second conversation going through my issues and concerns. He confirmed back to me that my trees were not subject to a TPO and were not in the conservation area. He explained many points to me with understanding and gave full explanation, outlining the procedure to follow in order to ensure the trees were worked on by a reputable contractor; he signposted me to the list you have on your site. *****was very clear that there was no issue, no cause for concern and that was perfectly in order to have my trees worked on and sorted out. We also chatted about the replanting of trees and how to go about this.

I followed his Instruction and arranged for someone look at the trees. They confirmed my fear that both the Beech tree and Elm tree were diseased. The Beech tree is extremely top-heavy causing major strain. There is a risk that this tree will completely destroy my garage and the houses located close to it, notwithstanding causing personal injury to anyone in the locality and those who pass on the footway. This has been confirmed by ***** as recent as yesterday which is my reason for trying to get in contact with you so urgently.

After my call with ***** I arranged for the contractors to come and make the trees safe, removing them or cutting them back to a place where they could not be a hazard or risk. 't was agreed that they would also remove the Elm and remove the fallen trees. They would trim and crown the sycamore tree at the same time as I have had done twice since living here. I had actually made arrangements of planting some more trees in better places in the garden.

I ask what have done incorrectly and why you felt you needed to act in haste to literally push a TPO through my door and prevent me from doing what is needed? Nothing was done

untoward. and nothing had caused any issue to you or indeed raised any alarm that I was doing something I had not already worked through with your department.

Work was due to commence and the contractor made contact with you as due diligence to ensure there were no TPOs in place.

I do not understand why you deemed it necessary to act in haste and literally put an envelope, unannounced through my door with TPOs instead of calling the contractor back or even better speaking with me.

The contractor was acting out of due diligence and you never returned his phone call. Instead you issued a TPO and put it through my door. You never discussed this with your colleague or myself. RVBC have my telephone number as the offices have called me on other matters. I was left in a state of shock, distress and upset. When we spoke the next day I could not understand why this had happened and you could not give me any rational explanation other than to keep on insisting that I did not know my tree was diseased. You preferred to put the TPO through my door of walking a further 100 yards where you could have satisfied purser that do know what I am doing and why.

I had to contact the contractor as a matter of urgency. who instructed that there was a 48 hour cancellation charge, which has now thankfully been lifted. You left me distressed and extremely anxious when the situation could have been discussed and worked through readily and easily.

3. This tree is not in a conservation area and has not been deemed suitable for TPO
In the past, as recent three years ago.

The trees have no landscape features that offer significant amenity to the public. Indeed, they cannot be seen from anywhere other than my garden and are lost in the canopy of the two trees that sit behind them, which you put TPOs on in 2018. The same time as when you decided that it was not needed to put TPOs on mine. The trees are not close to the road, certainly nowhere near the conservation area and so it is arguably not important the views into and out of the setting of the conservation area as you quoted.

4. A tree may merit protection on amenity grounds it may not be expedient to make it the subject of a TPO

In terms of assessing amenity, I do not understand what method was used in giving your reasoning as to why the order was made. I do not believe you carried out any assessment, as if you had then this would have been highlighted with the Beech Tree.

My understanding is that a dead, dying or dangerous tree should not be placed under a TPO. That is a fact.

The wording of central government advice is: 'Although a tree may merit protection on amenity grounds it may not be expedient to make it the subject of a TPO. From this. it becomes apparent that the method used to assess my trees was at the very least inadequate, if in fact any assessment was done at all. You have implemented this solely to consider the trees rather than any known threats to their retention. You never made any attempt contact me or call back the contractor. You did not even walk up the footway where it is easily visible that the Beech tree is not in good health, hazardous and rotting.

These trees are not a rare variety of tree. It would cause minimal, if any, negative impact on the local environment if the diseased beech tree is removed. There would be no negative impact whatsoever if the sycamore tree is cut back. The trees have not been managed properly in the past and for me, they have been allowed to become too large for their location. I do not believe the cutting back of the trees would result in anything being missed by anyone or detract from the neighbourhood.

The trees in question are single trees in the backyard of my property and contribute little to the surrounding visual amenity.

You state that the two mature native trees are of High Amenity Value but how is a 'value' assessed? What mechanism has been effectively used to take positives such as eco, visual, biodiversity, general pleasure etc, and offset negatives such as worry, light levels, leaves, sap, perceived hazard, to achieve a tangible output? How do you measure one person's pleasure against another's distress?

You have an equal responsibility to protect me as owner "liability: you should not take unnecessary chances — an identified defect that threatens a target is a 'foreseeable danger' and I ask what process you have followed in making your assessment to meet the criteria to implement the TPOs?

5. There is a risk of branch failure, particularly resulting from winds that overhang the garden, garage and footway.

As outlined above I have dealt with large limbs of the trees falling onto public walkways; I cannot stress enough the size and weight of these limbs that have fallen and will continue to fall. I also receive a lot of complaints from neighbours about the trees and in my garden. As you are aware, one of my neighbours sprayed and killed an entire hedgerow as he believed his right to light outweighed my right to have a hedge ***** and I suffer with ***** and this has caused me a lot of harm. Do you believe you have imposed a PO inappropriately, and the [REDACTED] for me is significant.

In summary, there is a massive risk in leaving the trees untended whilst I go through a process of appealing the TPOs. It is totally unnecessary to have these trees TPO's as my proven track record shows that I am a competent and responsible homeowner with full integrity.

The outcome I seek is for the two POs to be fully revoked. Neither are necessary or indeed warranted, given I have followed every process in the ten years I have been here without any issue or exception. This is all evidenced.

I do not believe you have followed a correct, if any, process or protocol and tails have not been answered or replied to since you created this situation. It is not only ignorant to ignore my justified comments and reasoning when we spoke, refusing to come and deal with this, the subsequent calls but it also serves as a danger to my health and the safety of the public.

I look forward to hearing from you. I am happy to meet with you as a matter of urgency, as I suggested last week. I would ask for a reply no later than 2 April 2022 to allow me time to prepare a formal appeal should these TPOs not be revoked.

Yours sincerely



Please see link 2. in background papers for submitted photographs

APPENDIX D





T1 BEECH



T2 SYCAMORE

