

Northern Planning Committee

6th December 2023

**Cheshire East Borough Council
(Poynton – 36/38 Coppice road)
Tree Preservation Order 2023**

Report of: David Malcolm, Head of Planning

Report Reference No: SP/01/23-24

Ward(s) Affected: East Ward - Poynton with Worth.

Purpose of Report

- 1 To inform the Committee about the background and issues surrounding the making of a Tree Preservation Order (TPO) on 16th June 2023 at 36/38 Coppice Road, Poynton; to consider representations made to the Council with regard to the contents of the TPO and to determine whether to confirm or not to confirm the Order.

Executive Summary

- 2 The tree is located to the front gardens on the shared boundary of two properties, 36 & 38 Coppice Road, Poynton. An email was received from Mr Clarke, the owner of 36 Coppice Road, on 24th May 2023 requesting confirmation regarding the protection status of the Beech tree. Professional advice sought by Mr Clarke from a local tree surgeon and his insurance company suggested there is a degree of concern that the tree may pose a risk to property.
- 3 An amenity evaluation of the trees located along Coppice Road established that trees contributed significantly to the visual amenity and landscape character of the area and that a risk of these trees being removed or heavily pruned could arise. Accordingly, it was deemed expedient to make an Order to secure the trees long-term contribution to the amenity of the area and a Tree Preservation Order was made on 16 June 2023. The Council has received one objection to the Tree Preser-

vation Order and the protection it affords to the Beech tree located within residential gardens.

RECOMMENDATIONS

The Head of Planning (Regeneration) recommend that the Northern Area Planning Committee confirm the Tree Preservation Order at 36/38 Coppice Road, Poynton with no modifications.

Background

- 4 The properties are located adjacent to Coppice Road, a well-used road connecting Poynton village to The Middlewood Way, Macclesfield Canal and open countryside beyond. The tree is considered to be a prominent feature of the landscape character and skyline and can also be viewed from various public vantage points within the locale.
- 5 The circumstances are that the owners of 38 Coppice Road have expressed concerns that the Beech tree may be removed as enquiries made to the Council have suggested that the tree is not formally protected by the TPO. The tree appears to be located on the shared boundary line of the two properties.
- 6 The existing Order that affects the tree at 36/38 Coppice Road references an Elm in the first schedule of the Order. It is understood that this tree was removed many years ago as a consequence of Dutch Elm Disease and subsequently a Beech tree was planted as a replacement at the request of the Council.

It is uncertain however, whether the replacement Beech tree is protected as this is dependent upon whether the original permission to fell the Elm tree was subject to a formal consent and condition for a replacement tree, or that the Elm tree was removed as an exemption to the requirement for formal consent to fell as the tree was dead and that a 'duty' to replace the tree was required.

- 7 If a decision made as an exception for formal consent, then any replacement tree required under a 'duty' will automatically become protected by the existing Tree Preservation Order. If the replacement tree was planted as a condition then the tree is not automatically protected. It is understood that the removal of the Elm tree took place some time

ago, no written record could be found to confirm whether the replacement tree was planted under a duty or condition.

- 8 An amenity evaluation established that the tree contributes significantly to the visual amenity and landscape character of the area. There is evidently a risk of the tree being removed or heavily pruned. The tree is visible from Coppice Road, Hepley Road, Trafalgar Avenue and Trafalgar Close.

Accordingly, it was deemed expedient to make an Order to secure the trees long-term contribution to the amenity of the area.

- 9 Under powers delegated to the Head of Planning, a Tree Preservation Order was made on 16th June 2023.
- 10 The TPO was served on the existing owners of the properties and any property whose title deeds extended up to the boundary of the assessed area on 16th June 2023.

Objections/representations

- 11 The Council has received one objection to the Tree Preservation Order and the protection it affords to the Beech tree (T1 Beech).
- 12 Objection 1 - Residents of 36 Coppice Road, Poynton
- 1. Proximity to property – The tree stands 9m away from the front elevation of the house. Many insurance companies recommend the safe distance for this type of tree is advised to be 15m*
 - 2. Extent of canopy growth - The tree reaches out to a distance that very nearly overhangs my roofline & on a windy day the tree obviously reaches further causing concern.*
 - 3. Other incidents – I am sure you are aware of an incident just a few doors down from my property on Coppice Road, where a large Lime tree split & fell with no warning. There were no strong winds to blame, 25% of the tree fell onto the property & seriously damaged the roof & the car which was parked on the drive. Thankfully nobody was hurt as a result.*
 - 4. Risk associated with limb/tree failure – I spend a considerable amount of time at the front of my property & I would like to continue to do so without this obvious risk. I feel the health & safety of people in & around my property is of the utmost importance. The danger is only going to get bigger as time goes by.*

5. *Proposed works - I would like to propose the Beech tree is pollarded or felled. At least for these options to be open to me. I shall plant a smaller tree such as a Maple or Rowan for the community to enjoy.*

Appraisal and consideration of the objections

- 13 *Proximity to property* – The Beech tree is located at a distance of 10 metres from the front elevation of the two properties. Whilst acknowledging and respecting the recommendations suggested by insurance companies, no evidence has been put forward to verify the proximity of the tree may be causing a threat of any kind to the property.

Insurance companies and home buyer reports routinely make recommendations based on the perceived risk of subsidence damage arising from nearby trees and may advocate their removal. In such cases the need to remove trees (irrespective of formal protection) should be supported by evidence that demonstrates seasonal movement/subsidence is a causal link in any damage. This is usually prepared in association with an insurance claim and the influence of the tree would be identified through a series of technical reports that would include levels monitoring, trial pit excavation, sub soil conditions, soil plasticity, and identification of roots which would provide the appropriate evidence and subsequent recommendations.

- 14 *Extent of canopy growth* – Tree canopies located adjacent to property will often encroach towards elevations and above the roof space. Where tree are protected by a TPO, property owners may submit a formal application for consent to the Council proposing works to reduce the growth and create a separation from branch tip to properties.
- 15 *Other incidents* – Failure of trees or limbs occur for many reasons and any incidents affecting other trees are not relevant in this case.
- 16 *Risk associated with limb/tree failure* - The duty of care for the maintenance and safety of the tree will rest with the owner of the tree. Periodic inspections of owners' tree stock by a competent person will identify foreseeable problems or features indicating potential structural or physiological problems associated with the trees.
- 17 *Proposed works* – Where a tree is formally protected and works are proposed, the submission of a formal application is required. Any works proposed will be assessed accordingly along with reasons submitted in support of the proposals.

Consultation and Engagement

- 18 A TPO must be served upon anyone who has an interest in land affected by the TPO including owners and adjacent occupiers of land directly affected by it. There is a 28-day period to object or make representations in respect of the Order. If no objections are made the planning authority may confirm the Order itself if they are satisfied that it is expedient in the interests of amenity to do so. Where objects or representations have been made, then the planning authority must take them into consideration before deciding whether to confirm the Order.
- 19 The Order was served on the existing owners of the properties and any property whose title deeds extended up to the boundary of the assessed area on 16th June 2023. Copies of the Order were also sent to Ward Members and Poynton Town Council.

Reasons for Recommendations

- 20 The area benefits from established tree cover which is sporadic with coverage restricted in the main to highway verges. The suggestion of the tree being felled or heavily pruned to a pollard, indicates a threat to/or loss of trees which could arise in a significant impact on the amenity and sylvan setting of the area. The confirmation of this Tree Preservation Order will ensure that the Council maintains adequate control over the trees of high amenity value.

Other Options Considered

- 21 An alternative option would be to do nothing.
- 22 The service of the TPO and inclusion of tree T1 Beech is considered necessary as without the protection the Order affords there is a risk of the amenity of the tree being destroyed.

Implications and Comments

Monitoring Officer/Legal

- 23 The validity of a TPO may be challenged in the High Court on the grounds that the TPO is not within the powers of the Act or that the requirements of the Act or Regulations have not been complied with in respect of the TPO. When a TPO is in place, the Council's consent is necessary for felling and other works, unless the works fall within certain exemptions e.g. to remove a risk of serious harm. It is an offence to cut down, top, lop, uproot, willfully damage or willfully destroy any tree to which the Order relates except with the written consent of the authority.

Section 151 Officer/Finance

24 None.

Policy

25 Cheshire East Local Plan – SE5 - Trees, hedgerows and woodland.

Equality, Diversity and Inclusion

26 No direct implication

Human Resources

27 No direct implication.

Risk Management

28 No direct implication.

Rural Communities

29 No direct implication.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

30 No direct implication.

Public Health

31 No direct implication.

Climate Change

32 The Order contributes to the Council's Climate Change Action Plan and commitment to reduce the impact on our environment and become carbon neutral by 2025.

Access to Information	
Contact Officer:	Gary Newsome

	Senior Arboricultural Officer (Environmental Planning) Gary.newsome@cheshireeast.gov.uk
Appendices:	Appendix 1 – Provisional TPO document Appendix 2 – Landscape Appraisal Appendix 3 – TPO location Plan Appendix 4 – Objection 1
Background Papers:	None