

Report of:	Meeting	Date	Item No.
Mark Billington Corporate Director Environment	Planning Committee	4 October 2023	

<p><b>Wyre Council Tree Preservation Order No 9 of 2023: Heyswood House, Head Dyke Lane, Pilling, PR3 6SJ.</b></p>
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**1. Purpose of report**

- 1.1 To consider the objection to the making of Wyre Council Tree Preservation Order No 9 of 2023: Heyswood House, Head Dyke Lane, Pilling, PR3 6SJ.

**2. Outcomes**

- 2.1 To determine whether or not to confirm the Wyre Council Tree Preservation Order No 9 of 2023: Heyswood House, Head Dyke Lane, Pilling, PR3 6SJ.
- 2.2 An effective tree preservation order makes it an offence to do any works to the protected trees without first gaining consent from the Local Planning Authority unless such works are covered by an exemption within the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

**3. Recommendation**

- 3.1 That Wyre Council Tree Preservation Order No 9 of 2023: Heyswood House, Head Dyke Lane, Pilling, PR3 6SJ be confirmed without modification.

**4. Legislative background to the TPO**

- 4.1 Section 198 of The Town and Country Planning Act 1990 (as amended) empowers Local Planning Authorities to protect trees or woodlands in their area in the interests of amenity by making tree preservation orders. Following the introduction of **The Town and Country Planning (Tree Preservation) (England) Regulations 2012**, The Local Planning

Authority is required to confirm a tree preservation order within six months of the issue date if it is to continue to have effect after that period. When an objection is received, a decision on confirmation is usually referred to the Planning Committee.

**4.2** Tree preservation orders are usually made because it is considered expedient in the interests of amenity to protect the trees from felling or pruning. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make an order as a precaution.

**4.3** Amenity is not defined in law but the government's advice is that authorities need to exercise judgement when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future (GOV.UK, 2014).

**4.4** Therefore the following criteria should be taken into account when assessing the amenity value of trees:

- **Visibility:** *the extent to which the trees or woodlands can be seen by the general public will inform the LPA's assessment of whether its impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.*
- **Individual, collective and wider impact:** *public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to it of their characteristics including:*
  - *Size and form;*
  - *Future potential as amenity;*
  - *Rarity or historic value;*
  - *Contribution to, and relationship with, the landscape; and*
  - *Contribution to the character or appearance of a conservation area.*
- **Other factors:** *where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change, although according to guidance these "Other factors" alone would not warrant the making an order.*

*(Source: Tree Preservation Orders and trees in Conservation Areas/Planning Practice Guidance March 2014).*

- 4.5** The Regulation 5 notice, which is a legal notice that is served with the tree preservation order documents on the owner and occupier of the land affected by a tree preservation order and also the owner and occupier of the adjoining land, states the reason why the trees have been protected and invites objections or representations to be made to the Local Planning Authority within a 28-day period. The Regulation 5 Notice issued in respect of the land affected by the TPO gave the reason for making the TPO as *“it is expedient in the interest of amenity”*.
- 4.6** Once made, a tree preservation order takes effect provisionally for six months, but must be confirmed by the Local Planning Authority within that period to continue to be effective. If it is not confirmed the tree preservation order ceases to have effect and the trees are unprotected. When objections or representations are received the Council must consider those before any decision is made whether or not to confirm the order. In these cases, referral to Planning Committee is usually appropriate.
- 4.7** Within the framework of a TPO, a Local Planning Authority may classify trees as occurring either as individuals, groups, woodlands, or areas.

## **5. Background to making the TPO**

- 5.1** On 28 April 2023 the Tree Officer received a request from the owner of Heyswood House to visit the property to consider the suitability of trees there for Tree Preservation Order.

The Tree Officer visited site on 04 May 2023 and undertook an appropriate tree evaluation method for preservation orders (“TEMPO”) which guided the subsequent decision to make the TPO. A copy of the completed TEMPO survey data sheet relating to the TPO along with- an image of the TPO are appended to this report at Appendix 1.

- 5.2** On 19 July 2023 Wyre Council made Wyre Council Tree Preservation Order No 9 of 2023: Heyswood House, Head Dyke Lane, Pilling, PR3 6SJ. A copy of the TPO plan is appended to this report at Appendix 2.

The Council served correspondence on the owners and occupiers of the land affected by the TPO and on those adjoining, notifying them of the making of the TPO in accordance with Regulation 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

- 5.3** The period for any objections and representations to be made to the Council in respect of the TPO ended on 16 August 2023.

The Council received an objection via e-mail on 30 July 2023. A redacted copy of the objection and corresponding redacted e-mails are appended to this report at Appendix 3.

## **6. Summary of Objections**

### **6.1**

T1, T4, T5, T6, T7 and W1 specified in the schedule are on the boundaries of agricultural land. These is an ongoing requirement to remove branches to ensure a safe and accessible working height for agricultural machinery.

### **6.2**

It would be very inconvenient to have to obtain permission from Wyre Council prior to carrying out any of this work and also impractical to be restricted to obtaining permission during office hours only.

## **7.0 Response to Objections**

**7.1** The Tree Officer agrees that it is necessary to maintain sufficient clearance for agricultural contractors to work safely beneath T1, T4, T5, T6, T7 and.

**7.2** To address this necessity the Tree Officer puts forward that the objector could complete a tree works application form to request consent to remove the branches from the subject trees that are encroaching over agricultural land to provide headroom clearance of no greater than 5.5 metres from ground level (on the field beneath the trees). Dead branches along with storm failed branches can be removed under exception from the need to apply for consent.

**7.3** If the advice in 7.2 is followed and tree works consent is formally provided it could be stipulated therein that it runs for a period of 5 years from the date consent is given and provides for any repeated need for tree works of this nature within that period. For convenience this could be reviewed on a 5 Yearly basis.

**7.4** In all the circumstances, officer view is that it is expedient in the interests of amenity to make all trees within the schedule subject of a confirmed tree preservation order.

Advice pertaining to Planning Committee and its procedures along with a copy of this report relating to the TPO have been forwarded to the party that objected in reasonable advance of the meeting of Planning Committee on 4<sup>th</sup> October 2023.

## 8.0 Concluding remarks

- 8.1** It is considered that the TPO has been properly made in the interests of securing the contribution and benefit that the TPO applies to the public amenity in the area. The TPO protects important elements of the local landscape and contributes to the local environment. The individual trees and the woodland trees presently protected by the TPO have been assessed in a structured and consistent way using an approved method.
- 8.2** It is considered that the procedural requirements of the legislation have been followed in the creation of the TPO and determinations made using a widely accepted method which includes expediency assessment has occurred in this case. Having regard to the legislation and the Government Guidance, it is considered that the TPO is fully justified in all respects and should be confirmed.

<b>Financial and Legal Implications</b>	
Finance	None.
Legal	Before confirming a Tree Preservation Order, the Local Planning Authority must consider any objections/representations made within the 28-day objection period. If, having considered any objections/representations received, the Local Planning Authority is satisfied that the tree merits a TPO; it may confirm the Order under the Town and Country Planning Act 1990 and supporting Regulations. The LPA may also confirm an Order in modified form, revoke it, or allow it to lapse. However it cannot add to the Schedule references to a tree to which the Order did not previously apply. There is no right of appeal to the Secretary of State, but a challenge may be made to the High Court on a point of law.

### **Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with an x.

<b>implications</b>	<b>✓ / x</b>
community safety	x
equality and diversity	x

<b>risks/implications</b>	<b>✓ / x</b>
asset management	X
<b>climate change</b>	✓

<b>sustainability</b>	✓
health and safety	x

data protection	X
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report author	telephone no.	email	Date
Ryan Arrell BSc (Hons), HND, LANTRA qualified professional tree inspector.	01253 887614	Ryan.Arrell@wyre.gov.uk	18 September 2023

<b>List of background papers:</b>		
name of document	date	where available for inspection
Wyre Council TPO No 9 of 2023	19 July 2023	Room 134 or by email to Tree Officer.

### **List of Appendices**

#### **Appendices:**

- 1 – TEMPO survey data sheet completed and also public visibility image of the TPO.
- 2 – TPO plan.
- 3 – (i) Redacted copy of objection and corresponding redacted e-mails.

### **References List**

*Tree Preservation Orders and trees in Conservation Areas*. GOV.UK, (2014) Accessed Via <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

(TEMPO) Tree Evaluation Method for Preservation Orders  
<http://www.flac.uk.com/wp-content/uploads/2014/12/TEMPO-GN.pdf>

Town and Country Planning (Tree Preservation) (England) Regulations 2012.

# Appendix 1

## TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

### SURVEY DATA SHEET & DECISION GUIDE

Date: 4/5/23 Surveyor: R. Atroll - Hayswood House, Pilling  
 Tree details: WI (Cleveland) - Cherry, Birch, Alder, roach, Syc, elm, elder, holly  
 TPO Ref (if applicable): Tree/Group No: 1-7 Species:  
 Owner (if known): Location:

Tree 1: Beech 2: Yew 3: Beech 4: Oak  
 5: Beech 6: Beech 7: Willow

#### REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

#### Part 1: Amenity assessment

##### a) Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair/satisfactory Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous\* Unsuitable

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

TREES 1-7		WI
Score & Notes		
5	1	3

##### b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10\* Unsuitable

\* 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

TREES 1-7		WI
Score & Notes		
2	1	2

##### c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

TREES 1-7		WI
Score & Notes		
4	1	3

##### d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal 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 (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

TREES 1-7		WI
Score & Notes		
2	1	3

#### Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

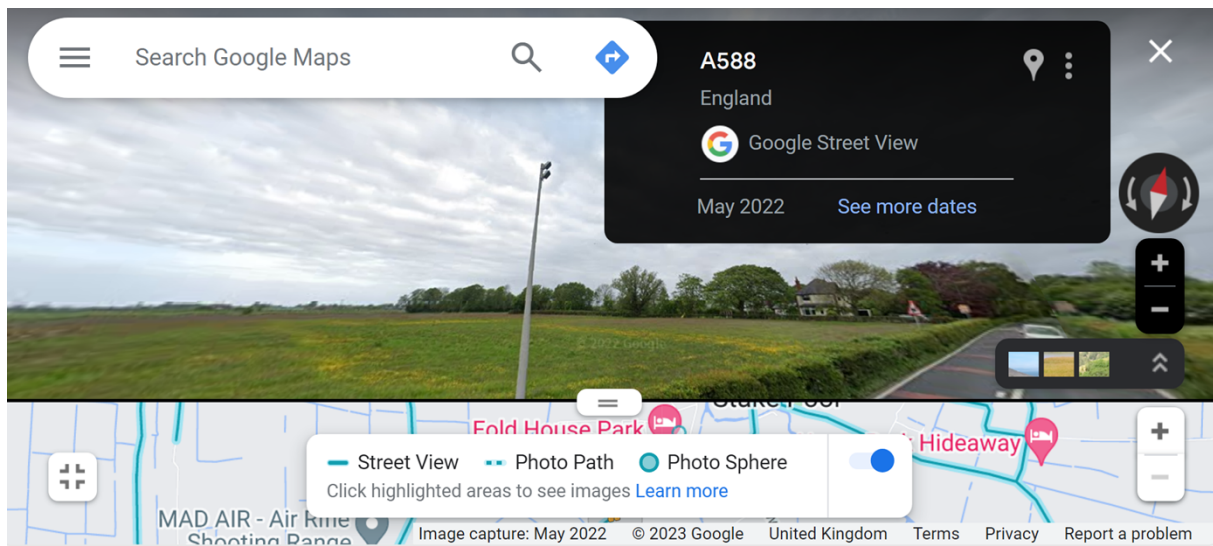
TREES 1-7		WI
Score & Notes		
1	1	1

#### Part 3: Decision guide

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

Add Scores for Total:	13	14	12
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Decision:	Create	Create
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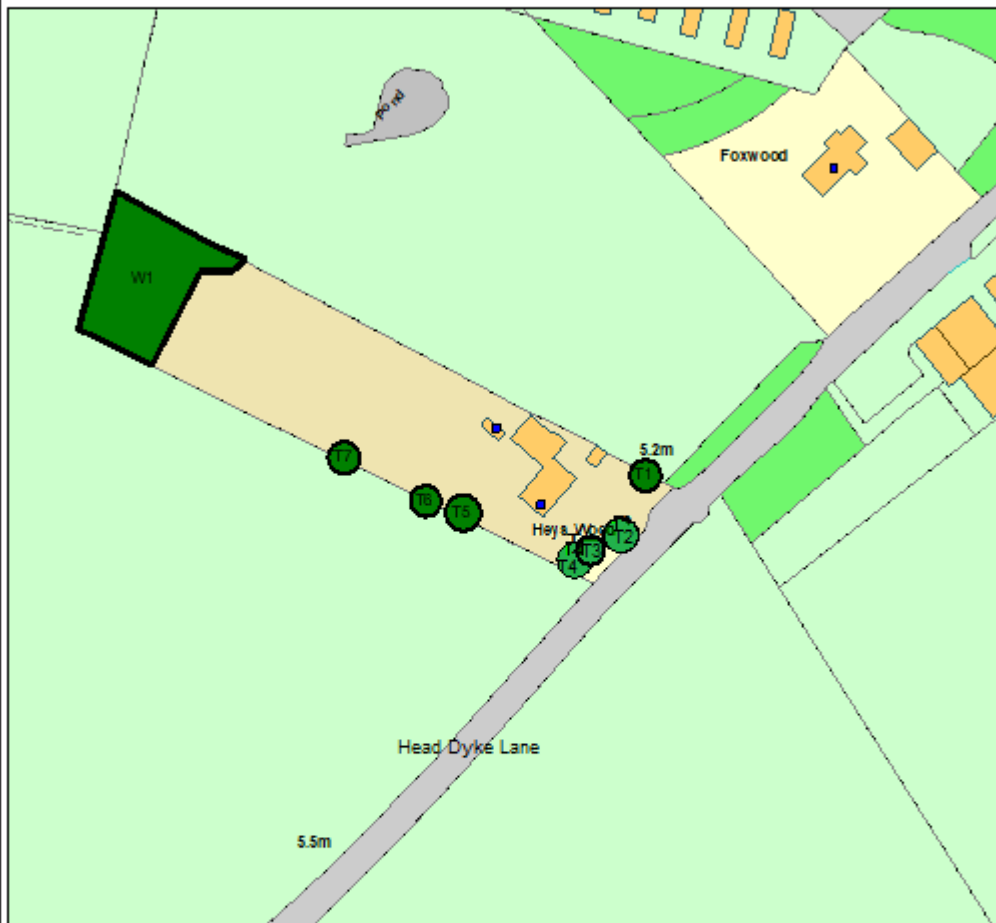
Above Google image: View of TPO when looking north west from Head Dyke Lane from approximately 80 meters to the south of the property.



## Appendix 2

### Wyre Council Tree Preservation Order No 9 of 2023

Heyswood House, Head Dyke Lane, Pilling, PR3 6SJ



**Scale:** 1:1,250

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Organisation	Wyre Council
Department	Planning Department
Comments	
Date	13/06/2023
MSA Number	100018720

## Appendix 3

Ref PLG/8/009/0023/TPO

Dear,

Wyre Council Tree Preservation order ("TPO") No 9 of 2023: Heyswood House, Head Dyke Lane Pilling PR3 6SJ

I have attached a copy of the tree works application form and also guidance notes for your records.

Usually a TPO is made where there is a clear threat to amenity trees however it is also sometimes appropriate to proactively make an order as a precaution which is the case with TPO No9 of 2023.

Please treat this reply as confirmation that your formal objection will be updating to include that that you consider the tree preservation order application process of applying for consent for tree works to be unreasonably drawn out.

I will be in touch when I am in a position to relay to you when your objection will be considered at Planning Committee.

Kind regards

From:

Sent: 29 August 2023 20:16

To: Arrell, Ryan <Ryan.Arrell@wyre.gov.uk>

Subject: Re: Objection Ref PLG/8/009/0023/TPO

This email is from an external email address

Do not click any links or open attachments unless you know the content is safe.

Never disclose your user details or password to anyone.

Ref. PLG/8/009/0023/TPO

Good Evening,

Having looked at Wyre Council's Policy on Tree Preservation orders it suggests there has to be a clear threat to the trees. I am not aware of any such threat to the subject trees.

I confirm I do not approve of your proposal to complete a Tree Works application form to have to obtain consent to remove encroaching branches, because I feel this would be unnecessarily time consuming for me and having looked on the planning portal as directed by the Wyre Council web site I would not know how to do so.

Kind regards.

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From: Arrell, Ryan <Ryan.Arrell@wyre.gov.uk>

Sent: 22 August 2023 12:03  
To: ; >  
Subject: RE: Objection Ref PLG/8/009/0023/TPO

Ref PLG/8/009/0023/TPO

Dear,

Wyre Council Tree Preservation order ("TPO") No 9 of 2023: Heyswood House, Head Dyke Lane Pilling PR3 6SJ

I have considered your objection and have concluded that your concerns could be addressed without the need to take the matter to Planning Committee. I agree that it is reasonable to be able to maintain sufficient clearance for agricultural contractors to work safely beneath T1, T4, T5, T6, T7 and W1 . I therefore propose that you complete a tree works application form to request consent to remove the branches from the subject trees that are encroaching over agricultural land to provide headroom clearance of no greater than 5.5 metres from ground level (on the field beneath the trees). Dead branches along with storm failed branches can be removed under exception from the need to apply for consent.

If you apply and receive consent for what I have proposed then I will stipulate that the tree works consent applies for a period of 5 years from the date consent is given. This can be reviewed on a 5 Yearly bases.

Please could you confirm whether you are in approval of this course of action.

Kind regards

From: Arrell, Ryan  
Sent: 31 July 2023 11:06  
To: ; >  
Subject: RE: Objection Ref PLG/8/009/0023/TPO

Ref PLG/8/009/0023/TPO

Dear,

Wyre Council Tree Preservation order ("TPO") No 9 of 2023: Heyswood House, Head Dyke Lane Pilling PR3 6SJ

Please treat this reply as confirmation of receipt of your formal objection.

I will be in touch when the objection period has closed and I am in a position to relay to you when your objection will be considered at Planning Committee.

Kind regards

From:

Sent: 30 July 2023 11:59

To: Greener, Catherine <Catherine.Greener@wyre.gov.uk>; Arrell, Ryan <Ryan.Arrell@wyre.gov.uk>

Subject: Objection Ref PLG/8/009/0023/TPO

Ref PLG/8/009/0023/TPO

Dear Mr Arrell.

Wyre Council Tree Preservation order No 9 of 2023: Heyswood House, Head Dyke Lane Pilling PR3 6SJ

I wish to object to the above Tree Preservation Order on the grounds that several of the trees specified in the schedule are on the boundaries of agricultural land which we farm.

These are: T1, T4, T5, T6, T7 and W1

We have in the past and will need to do so in the future, remove branches from these trees.

Over hanging branches prevent us and agricultural contractors from working beneath them and we must be able to cut them back to a safe and accessible working height.

Previously substantial boughs have partially broken off from T7 and have required cutting off completely. We must still be able to do this with any of the trees along the boundaries.

It would be very inconvenient to have to obtain permission from Wyre Council prior to carrying out any of this work and also impractical to be restricted to obtaining permission during office hours only.

We are very committed to maintaining and promoting biodiverse environmental practises and consequently farm organically. Our land is Soil Association registered and our livestock and growing enterprises are Soil Association approved. We therefore ensure that any intervention we undertake is carried out with the minimum impact on all aspects of the natural environment. However, I do feel this Tree Preservation Order would be prohibitive.

I confirm my formal objection to Tree Preservation Order No 9 of 2023: Heyswood House, Head Dyke Lane Pilling PR3 6SJ and would appreciate confirmation of your receipt of this email.

Thank you.

Kind regards,

