



Report of:	Meeting	Date	Item No.
Mark Billington Corporate Director Environment	Planning Committee	6 March 2024	

Wyre Council Tree Preservation Order No 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS

1. Purpose of report

- 1.1** To consider the objection to the making of Wyre Council Tree Preservation Order No 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS.

2. Outcomes

- 2.1** To determine whether or not to confirm the Wyre Council Tree Preservation Order No 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS.
- 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 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS 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 25 October 2023 the Tree Officer visited the site 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 images of T1 sequoia tree are appended to this report at Appendix 1.

On 10 January 2024 Wyre Council made Wyre Council Tree Preservation Order No 2 of 2024: Land west of 2 Eaton Way, Poulton le Fylde, FY6 8DS. A copy of the TPO plan is appended to this report at Appendix 2.

- 5.2** The Council served correspondence on the owner and occupier 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.

The period for any objections and representations to be made to the Council in respect of the TPO ended on 7 February 2024.

- 5.3** The Council received an objection via e-mail on 22 January 2024 from the daughter of the owner of the land affected by the TPO, acting on the owners behalf. A redacted copy of this e-mail is appended to this report at Appendix 3.

6. Summary of Objections

6.1 The tree is now of an unmanageable size on a very small plot of land and I believe it poses a threat to properties and potentially to peoples lives.

It is not indigenous and has relatively shallow roots. It is now listing quite noticeably.

The owner of the tree is elderly and has significant visual impairment and will also struggle to arrange regular assessments to monitor its ongoing safety.

Proximity to 2 Eaton Way. It blocks the light to the property and garden and would be a significant danger if it fell.

Proximity to the electricity substation which is immediately behind the tree. Falling branches or the tree could be a huge danger and would compromise the power supply to the area.

Properties in Towbeck Gardens, which had not been constructed when the tree was planted, are now also affected. The tree could be a danger and may also block their light.

The increasing number of storms are making the likelihood of falling debris and falling trees a very real hazard.

7.0 Response to Objections

7.1 No structural or physiological issues in relation to T1 sequoia were noted during the TEMPO assessment undertaken by the Tree Officer on 25 October 2023.

7.2 Whilst not native to the UK, sequoia is listed as endangered by the International Union for Conservation of Nature.

Sequoia trees are long lived. Sequoia trees have a shallow rooting habit. This doesn't equate to an increased likelihood of impaired root anchorage. If this was the case then sequoia trees would have a much shorter lifespan.

The stem is displaying a slight lean as a natural growth response to the prevailing wind.

7.3 Whilst the owner of T1 sequoia would struggle to arrange regular assessments to monitor ongoing T1 sequoia safety, this task could possibly be arranged by the owner's daughter if able.

- 7.4 During the 25 October 2023 TEMPO assessment the Tree Officer did not view any signs of tree ill health or weakened structure which would indicate a heightened risk of tree failure.
- 7.5 There is no legal right to light in relation to single coniferous trees and it is reasonable to expect a degree of light loss at some point during the day due to the orientation of the tree to gardens and dwellings and the path the sun travels. However, no objections or representations have been received from the owners and occupiers of those properties adjoining the land affected by the TPO.
- 7.6 Increased severity and frequency of storms are impacting on tree populations as those trees that are in a weakened state are more likely to fail. However, the sequoia tree under consideration is in a healthy condition and as such is not presenting a heightened risk of failure.
- 7.7 In all the circumstances, the officer's view is that it is expedient in the interests of amenity to make a confirmed tree preservation order as set out within the schedule.
- 7.8 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 6 March 2024

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 to the public amenity in the area. The TPO protects important elements of the local landscape and contributes to the local environment. The individual tree presently protected by the TPO has 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 including an expediency assessment. 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.

Financial and Legal Implications	
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.
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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.

implications	✓ / x
community safety	x
equality and diversity	x
sustainability	✓
health and safety	x

risks/implications	✓ / x
asset management	X
climate change	✓
data protection	X

report author	telephone no.	email	Date
Ryan Arrell BSc (Hons), HND, LANTRA qualified professional tree inspector.	01253 887614	Ryan.Arrell@wyre.gov.uk	09 February 2024

List of background papers:		
name of document	date	where available for inspection
Wyre Council TPO No 2 of 2024:	10 January 2024	Room 134 or by email to Tree Officer.

List of Appendices

Appendices:

- 1** –TEMPO survey data sheet completed and also public visibility images of the TPO.
- 2** –TPO plan.
- 3** – (i) Redacted copy of objection e-mail.

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: 25/10/23 Surveyor: L. Arnell

Tree details
 TPO Ref (if applicable): Tree/Group No: 1 Species: Sequoia
 Owner (if known): Location: head west of 2 Eaton Way

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS *Pullen le Ayde.*

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

Score & Notes
 3 - no structural or physiological issues noted.

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

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

Score & Notes
 2
Slight natural stem lean - growth reaction prevailing winds.

* 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

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

Score & Notes
 4

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

Score & Notes
 1

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

Score & Notes
 2

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: 12 TPO defensible
 Decision: Make TPO



Above image: View of TPO when looking south on Eaton Way.



Above image: View of TPO tree when looking south west on Eaton Way.

Wyre Council Tree Preservation Order No10 of 2023



Not Set



Legend

Scale: 0 0.0075 0.015 0.03 KM

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Organisation	Wyre Council
Department	Planning Department
Comments	Not Set
Date	14/12/2023
MSA Number	100018720

Appendix 3

Mon 22/01/2024

FAO Ryan Arrell

I am writing to express my concerns about the Tree Preservation order proposed for the sequoia on land west of 2 Eaton Way (02/2024/TPO)

The tree is now of an unmanageable size on a very small plot of land and I believe it poses a threat to properties and potentially to peoples lives.

It is not indigenous and has relatively shallow roots. It is now listing quite noticeably. The tree was planted by my late father who never really expected it to root. My mother owns the tree and at 93 years of age and with significant visual impairment, she is unable to see its dangers. She will also struggle to arrange regular assessments to monitor its ongoing safety.

I believe the significant issues are:

- Proximity to 2 Eaton Way. It blocks the light to the property and garden and would be a significant danger if it fell.
- Proximity to the electricity substation which is immediately behind the tree. Falling branches or the tree could be a huge danger and would compromise the power supply to the area.
- Properties in Towbeck Gardens, which had not been constructed when the tree was planted, are now also affected. The tree could be a danger and may also block their light.
- The increasing number of storms are making the likelihood of falling debris and falling trees a very real hazard.

I wrote to you back in September to check that the tree could be taken down and again in October. You were too busy to reply but not too busy to put a preservation order in motion. This has been really unhelpful. My intentions in removing the tree are to make the property and it's surrounding area safer for everyone.

I have also spoken to neighbours who are concerned and not appreciative of the shadows cast by the tree.

I have tried to call you at the office but only gain access to an answer phone.

I would be grateful to have the opportunity to discuss this further. My mobile number is 07976545898

I would also appreciate you dealing with me rather than my mother as she is already becoming stressed by the situation.

Yours sincerely

