

**Report Reference Number: TPO 3/2022**

**To: Planning Committee**  
**Date: 6 July 2022**  
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**Lead Officer: Hannah Blackburn (Planning Development Manager)**

|                     |  |                            |                                 |
|---------------------|--|----------------------------|---------------------------------|
| APPLICATION NUMBER: | TPO 3/2022   | PARISH:                    | Bilbrough Parish Council        |
| LOCATION:           | Pigeon Post, Main Street, Bilbrough, Selby, North Yorkshire, YO23 3PH        |                            |                                 |
| DESCRIPTIOIN        | Confirmation of Provision TPO Reference 03/2022 relating to 1(no) Eucalyptus |                            |                                 |
| TPO SERVED:         | 16 <sup>th</sup> March 2022  | DEADLINE FOR CONFIRMATION: | 16 <sup>th</sup> September 2022 |
| RECOMMENDATION      | CONFIRM TREE PRESERVATION ORDER 3/2022                                       |                            |                                 |

In exercise of the powers conferred by Section 198 of the Town and Country Planning Act 1990 this report will seek the permission of the Planning Committee to “Confirm, with no Modification”, Tree Preservation Order No. 3/2022 to which objections have been received. In accordance with 3.8.9 (b) (viii) of the scheme of delegation, the confirmation of the Tree Preservation Order cannot be issued under delegated powers where it is subject to a valid objection.

## 1. INTRODUCTION AND BACKGROUND

### The Site

- 1.1 TPO 3/2022 relates to 1 (no.) Eucalyptus which is located within the garden of the dwelling known as Pigeon Post and is sited on the eastern property boundary.
- 1.2 Pigeon Post is a traditional dwelling in a cottage style and is rendered white, located within the Bilbrough Conservation Area at its western end along the main linear core of the village and is also within the Green Belt.

- 1.3 The tree proposed to be covered by the TPO sits within the setting of several listed buildings which are sited to the west, including the Grade II listed Church of St James, Rose Cottage, Beagle Cottage Bilbrough Manor and Bilbrough Grange all of which are also Grade II listed.
- 1.4 There are also other protected trees to the north of the tree subject of this proposed TPO including an Oak, a willow, a beech, a sycamore, a horse chestnut, an Alder and a pine.

## **1.5 Relevant Planning History**

- 1.6 The following applications are relevant:
- 2017/0216/TCO – Authorisation was granted on 20<sup>th</sup> April 2017 for a crown lift and reduction by 15% to the Eucalyptus tree.
  - 2021/1206/TCA – Notification was made on the 31<sup>st</sup> January 2022 to fell 7 no. trees including the Eucalyptus tree, to which Officer's did not support the removal of the Eucalyptus tree and served the provisional TPO 3/2022.

## **2. Scope of the Provisional Tree Preservation Order Ref 3/2022**

- 2.1 The TPO was served on the 16<sup>th</sup> March 2022 in the context of the application 2021/1206/TCA in order to provide long-term protection to the Eucalyptus tree given its size and healthy condition and positive contribution to local amenity and the Conservation Area.
- 2.2 The council's decision to serve the temporary TPO was also informed by the findings of the Council's Tree Officer, a qualified arboriculturist, and the views of Planning Officers under application 2017/0216/TCO which noted the tree's large size and positive contribution to the Conservation Area and the surrounding area.
- 2.3 As such, the TPO as served relates to: 1 no. Eucalyptus Tree (T1). The plan associated with the TPO is attached with the Officers Report is included at Appendix A.
- 2.4 An Order can be made to protect specific trees, groups of trees or woodlands in the interests of amenity and should be used where the trees removal would have a significant negative impact on the local environment and its enjoyment by the public. The Order comes into effect immediately on the day the Council makes it and this provisional status lasts for six months, unless the authority either confirms the Order to provide long-term protection or decides not to confirm it.
- 2.5 The TPO was served in accordance with the Town & Country Planning (Tree Preservation) (England) Regulations 2012/605 on the person interested in the land, who has been identified as the owner of the property at Pigeon Post.
- 2.6 The Regulations specify that in the case of an order made following service of a notice under section 211(3) (preservation of trees in conservation areas), the authority shall:

(1) serve on the persons interested in the land affected by the order—

- (i) a copy of the order; and

(ii) a notice containing the particulars specified in paragraph (2);

(2) The particulars mentioned in paragraph (1)(a)(ii) are—

- (a) the reasons for making the order;
- (b) a statement that objections or other representations with respect to any trees, groups of trees or woodlands specified in the order may be made to the authority in accordance with regulation 6;
- (c) the date, being at least 28 days after the date of the notice, by which any objection or representation must be received by the authority; and
- (d) a copy of regulation 6 (see Appendix B).

2.7 The Order was served following the advice of qualified arboriculturist Alan Gilleard of Harrogate Borough Council who advises Selby District Council on such matters. Having visited the site he recommended that the tree is a healthy specimen which can be seen from Main Street and is considered to add to the visual amenity of the local area. It was also noted that the tree is a mature, healthy specimen which is well structured.

2.8 Given this advice a decision was made to issue a Provision Order to immediately protect the tree. This order was displayed on site on the 16<sup>th</sup> March 2022 and sent recorded delivery to the owner of the tree. Comments were invited on the Provisional Order to be received by 11<sup>th</sup> May 2022

2.9 A decision has not been made on submission 2021/1206/TCA given the serving of the order. If the Provision TPO had not been served, then deemed consent would have been in place for the works in the TCA submission from the 14<sup>th</sup> May 2022.

### **3. Representations received on Provisional Tree Preservation Order**

3.1 Objections were received as a result of the serving of the TPO from:

- the owner of the tree,
- neighbouring occupants to Pigeon Post,
- the Parish Council, and
- a qualified arboriculturist hired on behalf of the neighbouring occupant (namely JCA Arboricultural and Ecological Consultants).

3.2 The letters of objection to the TPO from the neighbouring occupants, owner and parish council can be summarised as follows:

- Do not agree that the tree has a high amenity value, only top of tree is visible from Main Street and the Conservation Area.
- Non-native specimen not appropriate for setting.

- Residential amenity issues to neighbour as the tree blocks light and debris falls into gardens.
- Eucalyptus is too near to existing buildings so may cause a danger in strong winds and climate change even though it is a healthy tree.
- Other trees within garden area (the leylandii which have since been permitted to be removed) have dropped limb – worry over the eucalyptus doing the same.
- Link to a website for a business named 'Kings Barn Trees' which sells eucalyptus and gives advice on how far they should be planted from buildings, concluding that the trees are in an inappropriate location based on approximate distance from buildings surrounding Pigeon Post.
- Argued that eucalyptus are not suitable for wind prone areas, which Billbrough is.
- Argued that eucalyptus are known for dropping limb if they suffer from lack of water.
- Eucalyptus have a negative impact on surrounding biodiversity and overpower surrounding native trees.
- Tree taking moisture from soil – potential to cause structural damage to neighbouring houses and outbuildings

3.3 The letter of objection to the TPO received by a qualified arboriculturist from JCA Arboricultural Consultants on behalf of the neighbouring occupant can be summarised as follows:

- Do not agree that the tree is of a high amenity value as only the very top of the tree is visible from Main Street over the house itself, not clearly visible from the public viewpoint.
- Tree is growing against the boundary of the neighbouring property, causing damage to their fence as it grows.
- Tree indicated to have been planted in late 1980s, indicating that it has grown very fast and has the potential to grow further.
- Very large and the crown spreads over the garden of the neighbouring property, blocking natural daylight.
- Tree is non-indigenous and is poorly suited to being close to buildings due to wide root spread and high-water requirements.
- Vegetation observed to be dying back around the tree due to competition from the eucalyptus tree.

## **4. Assessment**

4.1 Officers have considered the comments made on the Provisional TPO and would respond as follows on the aspects raised in these comments / objections.

- 4.2 With regards to comments made by JCA Consultants stating that the tree is not considered to be high amenity enough to warrant TPO protection as it is set back from Main Street, the Council's Tree Officer has made further comments. He notes that the tree can be seen above the roofline of the property and is therefore visible from a public vantage point but also that the eucalyptus can also be seen between the properties and further down the street, towards the church, over the neighbouring dwelling. Further, the tree is also evergreen, making its visibility increase in the winter months.
- 4.3 The JCA Consulting also argued that the tree is very large, with more potential to grow and blocks natural daylight from neighbouring gardens. The Council's Tree Officer responded that there is no right to light with regards to natural vegetation. It is considered that regular maintenance works could improve the situation with regards to the amenity of neighbours, such as the works previously approved in 2017 by the local authority. The serving of a TPO would not restrict all works to a protected tree, just works which would be deemed unacceptable. This element is therefore not given significant weight when considering a TPO, and as such it is concluded that the tree is worthy of protection.
- 4.4 With regards to the comments made by objectors which argue that the tree is a non-indigenous species which should be replaced by an indigenous one which is more appropriate for the location, the Council's Tree Officer has advised that the TPO consideration does not give weight to whether the tree is native or non-native. A tree species can add to the visual amenity of an area with many species non-native. The loss of such trees would result in a significant reduction if the amenity of conservation areas and the removal of large numbers of trees as a time where tree retention is highly valued. As such, this should be given no weight in the consideration of the TPO protection.
- 4.5 Objectors to the application and the arboriculturist from JCA Consultants on behalf of the neighbouring occupants argued in their representation that the eucalyptus tree is causing other vegetation to die back due to competition from the larger Eucalyptus. The Council's Tree Officer commented in this regard and stated that Eucalyptus trees are high performing in terms of carbon sequester, which captures large volumes of carbon and improve the air quality of the area through a large oxygen output. It was also noted that on balance, the surrounding plants and shrubs do not meet TPO criteria and do not offer the same visual or environmental benefits as a large mature tree such as this.
- 4.6 In this context Members are advised that it is the view of Officers including the Council's Tree Officer that:
- (a) Adequate technical justifications for removal of the tree have not been given at this point.
  - (b) Account should be taken of the fact that the tree is healthy and thriving in its current siting.
  - (c) The tree gives a positive contribution to the setting of listed buildings and the wider conservation area.
  - (d) Careful reduction is possible to improve neighbour amenity and has been carried out under past applications consented by the local authority.

## **5. Conclusion**

- 5.1 Special attention must be paid to the desirability of preserving the character or appearance of the Conservation Area. It is considered that there is not enough evidence or justification for removal of the healthy tree at this time and none of the factors presented have mitigated this. The Council's Tree Officer has concluded that none of the matters raised by objectors undermines the tree's suitability for protection by TPO.
- 5.2 Having regard to the above, the proposal to fell 1 Eucalyptus tree in the Conservation Area would have a detrimental impact on the character and appearance of the Conservation Area.
- 5.3 TPO 3/2022 would protect a large, healthy and high amenity tree which forms part of the leafy, rural character of Bilbrough Conservation Area and the setting of several listed buildings.

## **6. RECOMMENDATION:**

**To authorise the confirmation of Tree Preservation Order 3/2022 to protect 1 (no) Eucalyptus at Pigeon Post, Main Street, Bilbrough, Selby, North Yorkshire, YO23 3PH.**

**Appendices:** Appendix A – Map

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Appendix A (Not to Scale)



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