

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to Planning Applications Committee

29th February 2024

TITLE:	To consider confirmation of Tree Preservation Order No. SM.328 – Rudyard Memorial Institute, Lake Road, Rudyard
PORTFOLIO:	Deputy Leader, Regeneration & Planning
OFFICER:	Steve Massey, Arboricultural Officer
WARD:	Horton

Appendices Attached –

Appendix A: Copy of current provisional TPO No. SM.328.

1. Recommendation

- 1.1 That notwithstanding the objections received, Tree Preservation Order (TPO) No. SM.328 be confirmed without modification.

Reason for recommendation: In order to maintain legal protection over significant trees.

2. Executive Summary

- 2.1 Under the Council's Constitution, there are officer delegated powers to confirm a provisional TPO in respect of which no objections have been received. However, where objections are received, Planning Applications Committee must consider and decide whether to confirm the Order, and in doing so must take into account such objections and representations as have been received.
- 2.2 TPO No. SM.328 was made as a provisional Order on 6th September 2023, protecting two individual trees within the grounds of Rudyard Memorial Institute, a Beech T1 and a Spruce T2 as denoted on the TPO plan and listed in the TPO schedule. A copy of the provisional TPO is attached at Appendix A to this report.
- 2.3 One representation of support for the TPO was received from the resident of Hillrise, Lake Road, Rudyard.
- 2.4 Objections to the TPO have been received from the Institute owner; and from neighbours at the adjacent properties Windward (to the south of the

Institute site) and Ishtar (to the north). All three objections express concern that retention of the trees prevents re-use of the Institute, and question their amenity value. The Institute owner also considers that the Beech tree T1 has caused damage to the building and to the site frontage retaining wall, and that this tree obscures views of the Institute. He also suggests that both trees will cause or are already causing problems as a result of overhanging. The neighbours at Windward have particular concerns in regard to the Spruce T2 which is adjacent to and overhangs their boundary. The neighbours at Ishtar suggest that there have been previous attempts to have the Beech T1 removed.

- 2.5 These objections are discussed in detail at Section 5 of this report. In conclusion, however, it is considered that the issues and concerns raised in the objections do not at this stage provide overriding reason to discontinue the protection provided by the TPO and, effectively, allow removal of the trees in question. In conclusion it is now recommended that notwithstanding the objections received, TPO No. SM.328 be confirmed without modification, in support of the Council's adopted Tree Strategy.

3 Background

- 3.1 Making a TPO was requested by a member of the public in advance of the then-impending sale of the Institute site at auction; she was concerned that change of ownership, and anticipated development proposals, would lead to the removal of the large mature Beech tree on the site frontage.
- 3.2 Planning application reference SMD/2023/0327 was submitted, proposing extension and conversion of the disused Institute to form a pair of semi-detached 3-bedroomed bungalows. There is currently no vehicle access and no off-street parking to the site. To overcome this, the application proposed excavation of the existing elevated frontage down to road level in order to provide 6 parking spaces. The grassed banked frontage is supported by a stone retaining wall adjacent to the highway, with the Beech T1 situated on the bank. Such excavation would require removal of the Beech, and this was indicated on the application plans.
- 3.3 There were other issues of concern including the loss of the retaining wall and site frontage excavation adversely affecting the character of Rudyard Conservation Area, together with green belt issues. Planning permission was refused, and TPO No. SM.328 was made in support of this.
- 3.4 Although not a specific issue in connection with the planning application, the Spruce T2 was also noted as a significant tree contributing to the streetscene, and was included in the TPO.
- 3.5 An amended planning application has since been submitted (SMD/2023/0635) and is still to be determined. This shows a much-reduced frontage excavation to provide only 2 parking bays with retention of the Beech T1 (and Spruce T2) now indicated. Crown lift pruning of the Beech is also proposed.

4. Implications

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| 4.1 | <u>Community Safety - (Crime and Disorder Act 1998)</u> | Nil. |
| 4.2 | <u>Employees</u> | Nil. |
| 4.3 | <u>Equalities</u> | This report has been prepared in accordance with the Council's Equal Opportunities policy. |
| 4.4 | <u>Financial</u> | There is no financial liability on this Council arising from making and confirming, or not confirming, a TPO – with or without modification. However, following any subsequent application for consent, anyone suffering loss or damage arising as a consequence of the Council's decision to refuse consent, or to impose conditions when granting consent, may seek compensation from the Council, subject to the provisions of the Town and Country Planning (Trees) (England) Regulations 2012. Any claim must be submitted within 12 months of such an application or subsequent appeal being determined. |
| 4.5 | <u>Legal</u> | Nil. |
| 4.6 | <u>Sustainability</u> | Confirmation of the TPO would appropriately maintain protection over trees of significant local amenity value, in support of local and national environmental protection objectives and the Council's adopted Tree Strategy. |

Ben Haywood
Head of Development Services

Background Papers

TPO SM.328 file

Location

By request at:
Staffordshire Moorlands District Council
Moorlands House
Leek

Contact

Steve Massey
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trees@staffs Moorlands.gov.uk

5. Detail and Discussion – Objections

Issues raised by the objectors to the TPO are set out below, *with officers' comments following in italics.*

5.1 All objectors:

5.1.1 The Institute is long disused (suggested as being for at least the last 20 years) and as a result has fallen into an advanced state of disrepair, with the grounds also overgrown, creating detrimental amenity in the streetscene. Retaining the Beech T1 would prevent provision of off-street parking, (normally required in connection with virtually any planning use/change of use), in turn condemning the site and building to on-going disuse and dereliction.

5.1.2 Both trees add little positive amenity to the streetscene, in an area which is not short of trees.

5.2 Objection from the Institute owner:

5.2.1 The Beech has grown out of control, directly encroaching onto the Institute roof. It has caused damage to the building and to the frontage retaining wall, and also overhangs the highway and electric wires.

5.2.2 The Beech obscures the Institute, and prevents the building with its inscribed memorial stones recording community subscription, from being properly seen from the road.

5.2.3 The Spruce T2 is too close to buildings (the Institute, and the neighbouring dwelling Windward) which will inevitably lead to problems.

5.2.4 The owner would be willing to plant new trees in other areas to offset the loss of the Beech and Spruce if removed.

5.3 Objection from neighbours at Windward:

5.3.1 The Spruce T2 overhangs their hedge.

5.3.2 Loss of the Spruce T2 would not have a significant impact on the intrinsic beauty of the area as there are a number of other Spruces locally – which have not been considered to merit TPO protection.

5.4 Objection from neighbours at Ishtar:

5.4.1 The Beech T1 has only been present for about 50 years.

5.4.2 A previous councillor attempted to get T1 removed some years ago on the grounds of unstable footings.

- 5.5 *Consideration of whether to confirm the TPO has been delayed as long as possible in attempt to coordinate with planning application determination. However, there are a number of as yet unresolved technical issues and objections to the planning application, and this Planning Applications Committee meeting is now the last opportunity to consider the issue of TPO confirmation before the TPO would otherwise lapse on 6th March 2024.*
- 5.6 *Although committee members will obviously need to have regard to the range of issues, the only decision to be made at this meeting is whether to confirm the TPO, with or without modification. If the Order is confirmed, this would not prevent the local planning authority from subsequently granting planning permission for development which required the removal of one or both protected trees, if the view at that point is that enabling reuse of the site and building is the priority and overrides other material considerations.*
- 5.7 *A TPO amenity assessment of the trees has been carried out, with the Beech T1 scoring 28 points from a possible 50, and the Spruce T2 scoring 22. Our self-developed guidance suggests that a tree scoring 25 or more has sufficient amenity value and is suitable for TPO protection, and a tree scoring 20 – 24 points should be considered for protection. A score of less than 20 is unlikely to be sufficient to justify inclusion in a TPO.*
- 5.8 *The proposed crown lift pruning of the Beech T1 included in the amended planning application would be considered to be justified, appropriate and acceptable. This would involve removal of lower, smaller diameter lateral branches in order to increase clearance beneath the canopy. This could address the issues of direct encroachment onto the roof of the Institute and also provide suitable clearance over the highway and from overhead electric wires. In addition, such pruning would allow more light to the Institute, improving its outlook, and increasing its visibility and presence in views from the road.*
- 5.9 *Despite invitation, the Institute owner has not provided any further information nor specialist technical assessment and advice (eg surveyor's report) relating to any damage to the building or frontage retaining wall. There is some cracking to stonework evident to the gable eaves over the front door, although it is noted that the whole building is in a state of significant disrepair and it has not been shown that any damage is due to the presence of the Beech tree. The rough-built stone retaining wall is understood to pre-date the building, with some gradual degradation perhaps anyway to be anticipated due to age. There is some bowing and deformity evident in places to which root growth may be a contributory factor, but this may be readily capable of repair if necessary without requiring removal of the tree; again no technical assessment has been submitted in this regard.*
- 5.10 *The Spruce T2 is located approximately 4m from both the southern gable-end elevation of the Institute and the garage attached to the dwelling at Windward. The natural form of the tree is tall and relatively narrow-crowned, and it is unlikely that any direct crown encroachment onto these buildings would occur, but in the event that it did it could be readily dealt with by suitable minor pruning. The fact that the tree partly overhangs an intervening informal hedge does not raise any specific concerns sufficient*

to direct removing TPO protection. No evidence has been submitted to suggest or demonstrate that the Spruce is causing any damage to the buildings.

- 5.11 *It is correct that there are a number of other Spruce trees, and also other coniferous species of trees, situated in gardens in the village, and some of these are of comparable size and significance to T2 at the Institute. On this basis, T2 is not considered to be notably out of keeping with its surroundings. Rudyard village together with the Lake and surrounding area are within a designated Conservation Area where tree work notification and consent procedures already apply; therefore TPO protection does not particularly need to be considered as any priority unless proposals are submitted which are considered to be inappropriate, detrimental to amenity and not acceptably justified.*
- 5.12 *The age of the Beech is not of direct relevance to whether it is appropriate to protect the tree. It is a large mature tree, in a visually prominent position, in keeping with the local area and not noted to be in poor condition. These factors are reflected in the TPO amenity assessment score.*
- 5.13 *Despite invitation, no further details have been provided of any past attempt to have the Beech tree removed, and this matter can therefore have no bearing on the present decision of whether to confirm the TPO.*