

Subject:	RBC Tree Preservation Order No.1 (Land at 2 Abbotsford, Whitworth, OL12 8DJ) 2021	Status:	For Publication	
Report to:	Development Control	Date:	27 th July 2021	
Report of:	Planning Manager	Portfolio Holder:	Planning	
Key Decision:	N/A	Forward Plan N/A	General Exception N/A	Special Urgency N/A
Equality Impact Assessment:	Required:	No	Attached:	No
Biodiversity Impact Assessment	Required:	No	Attached:	No
Contact Officer:	Mike Atherton	Telephone:	01706-252420	
Email:	planning@rossendalebc.gov.uk			

2. PURPOSE OF REPORT

2.1 To confirm a proposed Tree Preservation Order (TPO) to which objections have been received.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **People:** A Proud, Healthy & Vibrant Rossendale.
 - **Prosperity:** A connected, growing and successful Rossendale that welcomes sustainable growth.
 - **Place:** The priority is about place, a clean and green Rossendale.

4. RISK ASSESSMENT IMPLICATIONS

4.1 There are no specific risk issues for members to consider arising from this report.

5. BACKGROUND

5.1 Officers learned that trees of substantial size within the grounds of 2 Abbotsford, Whitworth were being considered for felling. To ensure that trees of particular visual amenity value in the area were not removed a Tree Preservation Order was made in respect of them. The proposed Order (attached) contains a plan showing the positions of 12 individual trees, together with the Schedule identifying their species.

5.2 Two letters were received from nearby landowners with regard to the proposed TPO and this is why a decision to confirm the order needs to be made by the Committee.

- 5.3 The grounds for objection can be summarised as:
- (i) the trees are in need of management before the order is implemented;
 - (ii) reduction in light levels during the leaf period;
 - (iii) potential damage from tree (ref: T10) to drainage and foundations of property;
 - (iv) overhanging branches provide access for squirrels to houses;
 - (v) sap and resin falls from leaves on trees onto parked cars;
 - (vi) storm damage to upper branches would result in damage to property and persons;

- (vii) the leaves from the trees affect SKY TV reception;
- (viii) even without the trees, existing features provide adequate screening so there would be no loss of privacy if the trees are removed;
- (ix) If the owner could remove the trees and install a driveway this may partially alleviate off street parking problems in a congested area.

5.4 Since receipt of the objections, consideration of the issues raised has been undertaken by the Council’s Consultant Arboriculturalist, having regard to the physical condition and visual amenity value of the trees. The Consultant has advised, *“All these issues would remain without the placing of the TPO and the remedy to most is in the gift of the owner of the trees which may not be forthcoming even without the TPO. The residents can apply themselves to undertake work to branches overhanging the boundary towards their properties to deal with problem issues. In all cases, if tree work is shown to be necessary, then consent under the TPO should not be reasonably withheld if application is made.*

One of the objectors also acknowledges that wholesale chopping and cutting of trees has detracted from the environment and hopes that the trees can remain but managed with safety and the environment a key consideration. The TPO would ensure that future tree work would be controlled so public amenity is maintained and decisions on consent for works would be based upon safety and reasonable enjoyment of property.”

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 No material financial implications.

7. MONITORING OFFICER

7.1 No comments

8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

8.1 None.

9. CONCLUSION

9.1 It is clear from the comments of the Council’s qualified Arboriculturalist that the objections do not present issues that should prevent the making of a TPO & it is recommended that the order is made.

Background Papers

Documents :

RBC TPO No1 (2 Abbotsford, Whitworth) 2021

Letters of objection on behalf of local residents

Place of Inspection :

Rossendale Borough Council
 The Business Centre
 Futures Park
 Newchurch Road
 Bacup
 OL13 0BB

IMPORTANT - THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

**THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION)
(ENGLAND) REGULATIONS 2012**

**THE ROSSENDALE BOROUGH COUNCIL
TREE PRESERVATION ORDER NO. 1 OF 2021
(LAND AT 2 ABBOTSFORD, WHITWORTH, ROCHDALE, LANCASHIRE, OL12 8DJ)**

THIS IS A FORMAL NOTICE to let you know that the Council made the above Tree Preservation Order today. A copy of the Order is enclosed. In simple terms, it prohibits anyone from cutting down, topping, lopping, uprooting, wilfully damaging or wilfully destroying any of the trees specified in the Order without the consent of the Council.

The Council has made the Order because it considers that it is expedient in the interests of amenity that the trees specified in the Order should be preserved. The trees are highly visible and a prominent feature when viewed down Millfold and along John Street and provide strong boundary definition and screening to the garden of the property. The trees make a valuable contribution to the visual amenities of the area. Their removal or inappropriate pruning would have a significant impact on the environment and its enjoyment by the public.

The Order shall take effect provisionally today and shall continue in force until (a) the expiration of six months beginning with the date on which it was made, (b) the date on which it is confirmed, or (c) the date on which the authority decide not to confirm the Order, whichever occurs first.

The Council will consider whether the Order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the Order have a right to make objections or other representations about any of the trees, groups/areas of trees or woodlands covered by the Order. If you would like to make any objections or other comments, please make sure we receive them in writing by 22nd March 2021. Your comments must comply with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, a copy of which is provided overleaf. Send your comments to Clare Birtwistle, Legal Services Manager (Monitoring Officer) at the address below quoting reference Z14-002305. All valid objections or representations are carefully considered before a decision on whether to confirm the Order is made.

The Council will write to you again when that decision has been made. In the meantime, if you would like any further information or have any questions about this letter, please contact Abigail Wrench on 01706 252459. A copy of the Order may be inspected, free of charge, at the One Stop Shop, The Business Centre, Futures Park, Bacup, Lancashire between 9:00am and 4:30pm Monday to Friday. Please note that the One Stop Shop is currently open on an appointment only basis during the coronavirus pandemic. Please telephone 01706 217777 to make an appointment.

Dated the 17th day of February 2021

Clare Birtwistle
Legal Services Manager (Monitoring Officer)

Rossendale Borough Council
The Business Centre
Futures Park
Bacup
OL13 0BB

Town and Country Planning Act 1990

The Rossendale Borough Council Tree Preservation Order No. 1 of 2021 (Land at 2 Abbotsford, Whitworth, Rochdale, Lancashire, OL12 8DJ).

The Rossendale Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order

Citation

1. This Order may be cited as the Rossendale Borough Council Tree Preservation Order No. 1 of 2021 (Land at 2 Abbotsford, Whitworth, Rochdale, Lancashire, OL12 8DJ).

Interpretation

2. (1) In this Order "the authority" means the Rossendale Borough Council.
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall
- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation

TPO Location Plan



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Rosendalealr
BOROUGH COUNCIL

Scale 1/660

Date 8/2/2021

Centre = 388714 E 418918 N

SCHEDULE
Specification of trees

Trees specified individually
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Monkey Puzzle	In the centre of the front garden to Abbotsford
T2	Lime	In the south corner on the east frontage to John Street
T3	Lime	In the south corner on the east frontage to John Street
T4	Sycamore	Near the south corner on the east frontage to John Street
T5	Lime	On the midpoint of the east frontage to John Street
T6	Whitebeam	Near the north east corner on the east frontage to John Street
T7	Lime	In the north east corner on the east frontage to John Street
T8	Lime	In the north east corner on the north frontage to Spodden Cottages
T9	Lime	Near the midpoint of the north frontage to Spodden Cottages
T10	Lime	Near the midpoint of the north frontage to Spodden Cottages
T11	Lime	Near the west end of the north frontage to Spodden Cottages
T12	Lime	Near the west end of the north frontage to Spodden Cottages

Trees specified by reference to an area
(within a dotted black line on the map)

NONE

Groups of trees
(within a broken black line on the map)

NONE

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to England only, substantially revoke and replace the Town and Country Planning (Trees) Regulations 1999, to the extent to which they apply to England. They also revoke the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 and the Town and Country Planning (Trees) (Amendment No. 2) (England) Regulations 2008.

Part 2 prescribes the form of tree preservation orders and the procedure for their making, provisional effect, confirmation, variation and revocation. The prescribed form is set out in the Schedule to the Regulations.

Part 3 of the Regulations sets out prohibited activities in relation to a tree protected by an order and exceptions. Under regulation 13 a tree protected by a tree preservation order may not be cut down, topped, lopped, uprooted or wilfully damaged or destroyed without the consent of the local planning authority, unless an exception applies. These exceptions are set out in sections 198(7) and 200(1) of the Town and Country Planning Act 1990, and in regulation 14 of the Regulations.

Section 198(7) provides exceptions relevant to section 39(2) of the Housing and Planning Act 1986 (c.63) (saving for effect of section 2(4) of the Opencast Coal Act 1958 (c. 69) on land affected by a tree preservation order despite its repeal) and section 15 of the Forestry Act 1967 (c.10) (licences under that Act to fell trees comprised in a tree preservation order).

Section 200(1) provides that a tree preservation order does not have effect in respect of anything done by or on behalf of Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision or anything done by or on behalf of any other person under a plan of works approved by the Forestry Commissioners under a forestry dedication covenant (as defined in section 5 of the Forestry Act 1967) or under conditions of a grant or loan made under section 1 of the Forestry Act 1979 (c. 21).

Regulation 14 contains exceptions to the requirement for consent and regulation 15 contains exceptions for trees in conservation areas.

Part 4 of the Regulations prescribes the procedure for applications for consent under tree preservation orders.

Part 5 prescribes the procedure for appeals and for their determination. Regulation 19 grants a right of appeal in respect of a refusal to grant consent, a grant of consent subject to conditions or a failure to determine an application for consent within the prescribed time period.

In Part 6, regulation 24 provides for compensation claims, subject to exceptions, to be made where loss or damage has been incurred as a consequence of a refusal to grant consent, a grant of consent subject to conditions or a refusal of approval required under a condition.

CONFIRMATION OF ORDER

This Order was confirmed by Rossendale Borough Council without modification on the day of

This Order was confirmed by Rossendale Borough Council, subject to the modifications indicated by on the day of

Signed on behalf of Rossendale Borough Council

.....

Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Rossendale Borough Council on the day of

Signed on behalf of Rossendale Borough Council

.....

Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by Rossendale Borough Council on the day of by a variation order under reference number [insert reference number to the variation order] a copy of which is attached

Signed on behalf of Rossendale Borough Council

.....

Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by Rossendale Borough Council on the day of

Signed on behalf of Rossendale Borough Council

.....

Authorised by the Council to sign in that behalf