

Appeals Panel Agenda

Members of the Appeals Panel

(Three members needed for this meeting highlighted)

Cllr N J Brennan (Chairman)

Cllr S Prutton (Vice-Chairman)

Cllr S J Catchpole

Cllr S M Clancy

Cllr K E Lawrence

Cllr M L Murrell

Cllr R E Potter

Cllr J L Thomas

Date & Time:

Wednesday 16 March 2022

9:30am for the site inspection

10.30am for the meeting

Place:

Site Inspection: 32 Broom Close, Taverham NR8 6FS

Meeting: Council Chamber, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, NR7 0DU

Contact:

Dawn Matthews tel (01603) 430404

Email: committee@bdc.southnorfolkandbroadland.gov.uk

Website: www.southnorfolkandbroadland.gov.uk

PUBLIC ATTENDANCE:

You may register to speak by emailing us at

committee@bdc.southnorfolkandbroadland.gov.uk no later than 5pm on Friday 11 March 2022

Large print version can be made available

If you have any special requirements in order to attend this meeting, please let us know in advance.

AGENDA

1. **To receive declarations of interest from members;**
(guidance and flow chart attached – page 3)
2. **To report apologies for absence and to identify substitute members;**
3. **Land West of Breck Farm Lane, Taverham** - to consider representations received to the making of the Order;
(procedure to be followed attached at page 5 and report attached at page 7)

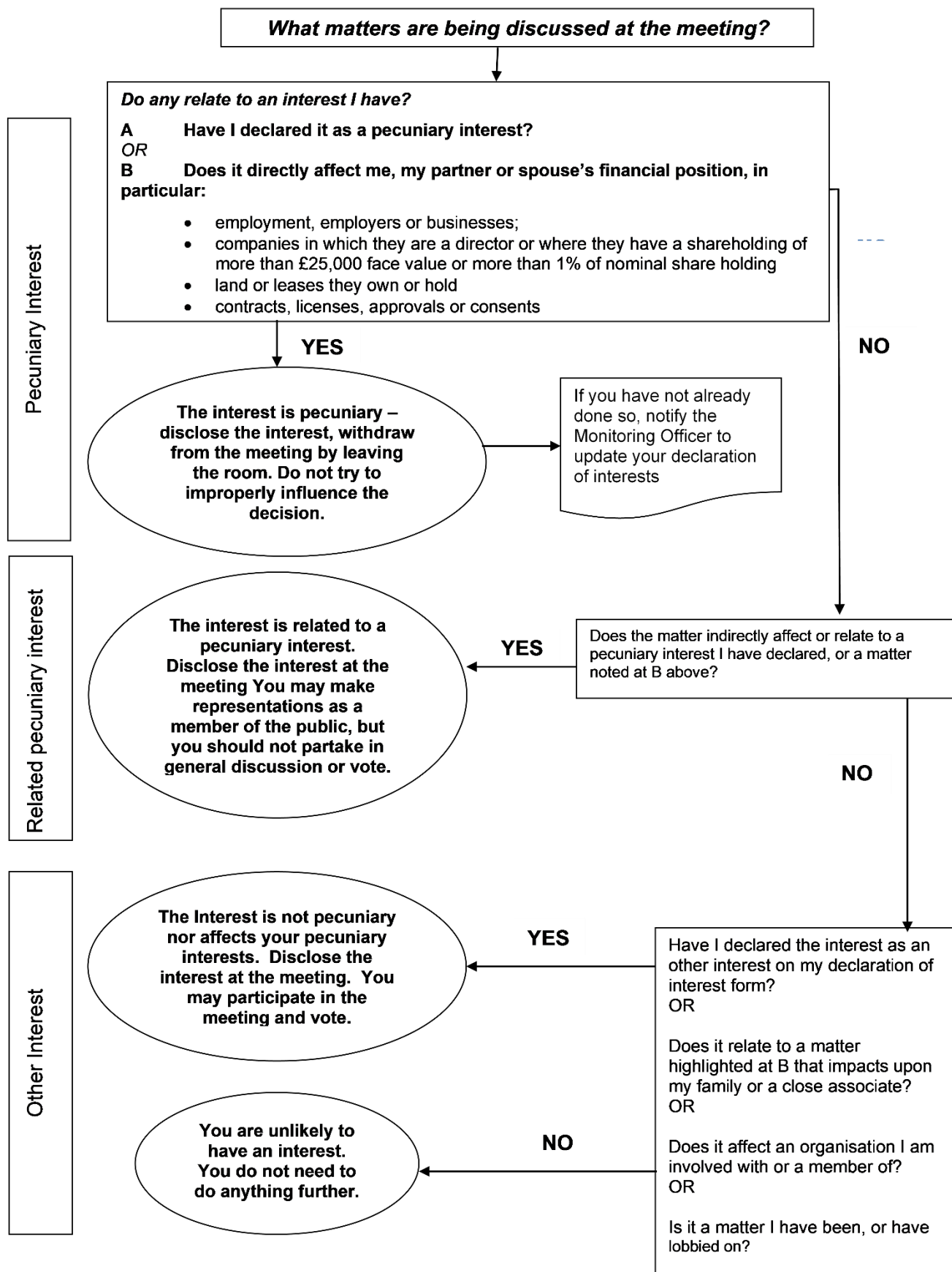
DECLARATIONS OF INTEREST AT MEETINGS

When declaring an interest at a meeting Members are asked to indicate whether their interest in the matter is pecuniary, or if the matter relates to, or affects a pecuniary interest they have, or if it is another type of interest. Members are required to identify the nature of the interest and the agenda item to which it relates. In the case of other interests, the member may speak and vote. If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed. If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting. Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.

Have you declared the interest in the register of interests as a pecuniary interest? If Yes, you will need to withdraw from the room when it is discussed.
Does the interest directly: 1. affect yours, or your spouse / partner's financial position? 2. relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner? 3. Relate to a contract you, or your spouse / partner have with the Council 4. Affect land you or your spouse / partner own 5. Affect a company that you or your partner own, or have a shareholding in If the answer is "yes" to any of the above, it is likely to be pecuniary. Please refer to the guidance given on declaring pecuniary interests in the register of interest forms. If you have a pecuniary interest, you will need to inform the meeting and then withdraw from the room when it is discussed. If it has not been previously declared, you will also need to notify the Monitoring Officer within 28 days.
Does the interest indirectly affect or relate any pecuniary interest you have already declared, or an interest you have identified at 1-5 above? If yes, you need to inform the meeting. When it is discussed, you will have the right to make representations to the meeting as a member of the public, but you should not partake in general discussion or vote.
Is the interest not related to any of the above? If so, it is likely to be an other interest. You will need to declare the interest, but may participate in discussion and voting on the item.
Have you made any statements or undertaken any actions that would indicate that you have a closed mind on a matter under discussion? If so, you may be predetermined on the issue; you will need to inform the meeting, and when it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.

**FOR GUIDANCE REFER TO THE FLOWCHART OVERLEAF.
PLEASE REFER ANY QUERIES TO THE MONITORING OFFICER IN THE FIRST
INSTANCE**

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



Appeals lodged against the making of tree preservation orders (TPOs)

The panel comprises three district councillors. At least two members of the panel must be present at each hearing.

Notes on procedure

1. Site Visit

- 1.1 Before or on the day of the hearing, members of the appeals panel may visit the site to inspect the trees subject of the appeal. If the trees are not visible from the highway, arrangements will be made with the objectors for members to gain access to the area
- 1.2 Where it is not possible to hold a site visit, photographs of the trees will be made available to members.

2. The Hearing

- 2.1 All parties (public, local parish council/district council ward representatives, council officers directly involved in the TPO, and the objector) may attend the meeting which will be held in public. If any party cannot attend the meeting, they may appoint someone to act on their behalf or they may submit written representations for consideration. Note: If the objector cannot attend the meeting nor appoint an agent to act on his behalf and they decide to submit written representations, no cross question will be allowed of any party.
- 2.2 The chairman of the panel formally opens the hearing and explains the procedure.
- 2.3 The objector presents the case for objecting to the making of the order and calls any witnesses in support of their case.
- 2.4 The council's officer and panel members ask questions (if any) of the objector and their witnesses.
- 2.5 The council's officer puts the case for the making of the order and calls any witnesses in support of their case.
- 2.6 The objector and panel members ask questions (if any) of the council's officer and their witnesses.
- 2.7 Any parish council representative, or any district councillor (who is not a member of the panel) or member of the public present, may speak to the panel.
- 2.8 The panel, the objector and the council's officer ask questions (if any) of anyone speaking at 2.7 above.
- 2.9 The Council's officer makes a closing statement

- 2.10 The Objector makes a closing statement
- 2.11 A final opportunity is given to panel members to seek clarification on any outstanding matter
- 2.12 The panel members then retire to consider their decision in private (the representative of the assistant director governance and business support will accompany them to give advice on procedural matters).
- 2.13 The panel will re-join the public meeting and its decision will be announced in public with a summary of the reasons for making its decision.
- 2.14 The chairman will advise the objector of the right of appeal, as follows:

If any person is aggrieved by a local authority's confirmation of a Tree Preservation Order, they may, within 6 weeks of that confirmation, apply to the high court under section 288 of the Town and Country Planning Act 1990, for an order quashing or (where applicable) suspending the order, either in whole or in part. The grounds upon which such an application may be made are that the order is not within the powers of that Act or that any relevant requirements have not been complied with in relation to that order.

STATEMENT OF CASE

Provisional Tree Preservation Order (TPO 2021 No.10)
Land West of Breck Farm Lane, Taverham.

Report Author(s): Mark Symonds
Conservation and Tree Officer (Majors Team)
01603 430452
mark.symonds@southnorfolkandbroadland.gov.uk

Portfolio: Planning

Ward(s) Affected: Taverham

Purpose of the Report:

To brief the Panel on the representations received to the making of a Provisional Tree Preservation Order and invite the Panel to consider the representations made and decided whether to confirm or not to confirm.

Recommendations:

1. It is recommended that the Panel consider the representations received and determine whether to confirm the Order or not.

1. Summary

- 1.1 This report sets out the reasons why an Order was made, the representations received and the officer's response to those representations.

2. Background

- 2.1 T1 Oak tree is located on land to the east of the rear garden of No.32 Broom Close in Taverham, within a highway verge adjacent to Breck Farm Lane.
- 2.2 The verge is owned by Norfolk County Council and managed by the County Council Highways Department.
- 2.3 The Provisional Tree Preservation Order (PTPO) was requested by Cllr Karimi-Ghovanlou the Ward Member for Taverham, North Ward and also the Chair of Taverham Parish Council. Cllr Karimi-Ghovanlou had concerns the tree maybe at risk of being felled, as the owner of the adjacent property had contacted her regarding the ownership of the tree and had indicated that if nobody claimed ownership they would have it cut it down.
- 2.4 The Council decided to make the Provisional Tree Preservation Order (PTPO) in order to protect the Oak tree for the reasons stated within the Regulation 5 Notice: *'The Council has made the order to safeguard the significant visual amenity value offered by the tree to the immediate area and the wider environment.'*
- 2.5 Following the serving of the original PTPO the Council received one letter of objection from the owners of No.32 Broom Close, Taverham.
- 2.6 Three e-mails were also received from Cllr Clancy, Ward Member for Taverham South and the County Councillor for Taverham, requesting details on the serving of the PTPO.

3. Current position/findings

- 3.1 The case for making the order is set out at appendix 1.
- 3.2 The representations received to the making of the order and the officers comments on these are attached at appendix 2
- 3.3 The criteria used to determine the making of an order is set out at appendix 3.
- 3.4 Correspondence relating to the TPO request is set out in Appendix 4.
- 3.5 Objection to the order is attached at appendix 5.
- 3.6 Copy of the order/notice/letter to residents set out at appendix 6.

4. Proposed action

- 4.1 The officer's view is that the order should be confirmed.

5. Other options

- 5.1 Members could also come to the conclusion that the tree is not worthy of protection and the order should not be confirmed.

6. Issues and risks

- 6.1 The risks involved in not protecting the tree are that it could have its overhanging branches pruned back to the boundary, potentially unbalancing the trees canopy and spoiling its visual amenity.
- 6.2 **Resource Implications** – none
- 6.3 **Legal Implications** – none
- 6.4 **Equality Implications** – none
- 6.5 **Environmental Impact** – the felling of the Oak would deplete the tree cover within the district and remove the many benefits the tree provides, including the sequestration of carbon through the removal of carbon dioxide from the atmosphere and the destruction of the habitat it provides for wildlife.
- 6.6 **Crime and Disorder** – none

7. Conclusion

- 7.1 The Oak tree identified as T1 within the Provisional Tree Preservation Order (PTPO) contributes to the visual amenity of Breck Farm Lane, due to its size and location.
- 7.2 The tree is not considered to be in an unsafe condition at this time
- 7.3 The tree should have a remaining lifespan exceeding ten years, barring any unforeseen circumstances.
- 7.4 I do not believe the tree will cause an increase in nuisance which would be considered unreasonable or impractical to abate in the future.
- 7.5 This PTPO has been implemented and served in a just and appropriate manner.

8. Recommendations

8.1 It is recommended that the Order be confirmed.

Appendices attached

Appendix 1 – Case for making the order

Appendix 2 – Representations received and the officer comments on these

Appendix 3 – Criteria used for making the order

Appendix 4 – Correspondence relating to the TPO request

Appendix 5– Objection to the order

Appendix 6 – Copy of the Order/notice/letter to resident

Appendix 1 – Case for making the TPO 2021 (No.10)

How does the tree, subject of this report, make a significant contribution to the local environment?

The Oak tree is significant due to its size and location, contributing to the visual amenity of the immediate and surrounding area, clearly visible to the public from Breck Farm Lane, which is a pleasant tree and hedge lined route, connecting Kingswood Avenue to the wider countryside and the Marriott's Way beyond.

Is there a reason to fear the tree may be dangerous?

No evidence has been provided to identify that the tree would be considered dangerous.

The tree appears to be in good physiological health and with no significant structural defects having been identified.

What is the expected lifespan of the tree, barring unforeseen circumstances?

At the present time the tree would be considered as early-mature and if it remains healthy, should have a considerable remaining life span well in excess of 10 years.

It is acknowledged that Oak trees are very long lived trees, living for an average of 150-200 years, but having the potential to live to between 600 and 1000 years.

Does the tree, in its present location, show signs of causing a nuisance in the future which is unacceptable or impractical

The tree is located adjacent to a public access route and within the highway verge and approximately 10m from the rear elevation of No.32 Broom Close.

Some of the tree's canopy does overhang the rear garden of No.32 and the trees roots will also extend into the lawn area.

The owners of No.32 would be able to make a Tree Work Application to have the trees canopy lifted or the lateral branches reduced back, this work would be consented if the work specified followed the recommendations within BS 3998 Tree Work.

In my opinion, the future retention of the tree will not be the cause of a nuisance that is unacceptable or impractical.

How does the tree contribute to the biodiversity of the immediate area and/or offer a habitat for Wildlife

Common Oaks (*Quercus robur*) are native to the UK and are hosts to hundreds of insect species and also provide nesting sites, food and shelter for many birds and mammals.

As they mature the number of species associated with them increases and Oak woodlands are recognised to support more forms of life than any other native trees, with 2300 species being associated with Oak.

Appendix 2 - The representations received to the making of the order and the officer's comments on these

The Council has received one confirmation of support and one letter of objection to the making of TPO 2021 (No.10).

Comments have also been received from Cllr Clancy in respect of the making of the order.

I have summarized the points made in support and objection below.

Comments made in support

- 1 It is a very mature lovely oak which only needs some pruning. I would not like to see it cut down. We are losing too many mature trees!
- 2 This is one of three very mature and beautiful oak trees on Breck Farm Lane. They have been there way before the houses were built and I was worried that any work the resident wanted to do on this particular tree, would maybe damage the tree in some way.
- 3 If it had a TPO, then any work carried out would have to be done by an approved council Arboriculturist with the best interests of the tree in mind.

Comments made in objection

- 1 We are writing to object to the Preservation Order being placed on the tree as we believe there has been a misunderstanding between ourselves and our Councillor. As we have lived in Broom Close for 15 years, we can confirm the tree is not in any imminent danger and the order has been served unnecessarily, without our Councillor visiting the property or having an understanding of our current situation.
- 2 In 2018-2019 we contacted Broadland District Council, Norfolk County Council and Taverham Parish Council to try and find out who was responsible for the land on which the tree stood, as the tree was becoming overgrown, overhanging the telephone line and impacting on our lives as we tried to enjoy our garden the best we could. At that time, no-one including BT were willing to take responsibility for maintaining or owning the tree which has now become even further overgrown and having a greater impact on our lives to the point that we believe to be a health and safety hazard. As the tree is now having a deferential impact on the natural sunlight coming into the garden in the early evenings, we are unable to grow grass in this area of the garden as well.
- 3 In the autumn term, we contacted our local Councillor in good faith, believing that she would work with us to try to find out who owned the tree so that they could take responsibility for cutting the tree down to a manageable height, giving it shape and preventing it from overhanging the telephone cable and boundary. We are not aware at any point that the communication with her would serve a Preservation Order on the tree and were astounded and upset to receive your letter. She did inform us that we were within our rights to cut back the branches overhanging our garden, but as she had not visited the property, she would not have known that this was not possible as the tree stands approximately 40 metres high and is growing into our garden rather than growing towards Breck Farm Lane.
- 4 Due to an on-going medical condition which has resulted in constant fatigue, we are not in a position to continuously clear up debris being dropped from the tree. We ask that you reconsider your decision to place a Preservation Order on the

tree as we feel this will create an unnecessary and unwieldy process in keeping the tree properly maintained by Highways. The tree needs to be sensitively shaped and crowned and removed from our boundary so that we can enjoy the nature around us at the same time as relaxing comfortably within the safety of our own garden.

Tree Officer Responses to the main points of objection

- 1 The Provisional Tree Preservation Order was served after a request from the Ward Member for Taverham North, who had concerns the tree was at risk, I am not able to comment further on this, as I wasn't involved in the discussions between the owners of the property in Broom Close and the Ward Member for Taverham North, prior to the PTPO being served.
- 2 It has now been established that the tree is located on land owned and managed by Norfolk County Council Highways, the Highways department have their trees inspected by the County Councils Highways Inspectors and any necessary works are undertaken following the guidance within County Councils Tree Safety Management Policy and the requirements of the Highways Act 1980, the maintenance of trees in relation to clearance from BT cables is often deferred to the owner of the land the tree is growing on or to the resident that uses the cable which is impacted, any works required to maintain clearance, to prevent branches rubbing can be undertaken, without requiring a formal Tree Work Application, as this work would be covered by the '*abatement of an actionable nuisance*' exemption, specified within the tree protection legislation. No evidence has been provided that the tree would be considered dangerous and the risk associated with falling twigs and acorns, would be considered a seasonal nuisance rather than a health and safety hazard. The loss of light to a residential garden due to overshadowing from deciduous trees is a common occurrence and the residents which experience this have limited recourse, as there is no automatic '*right to light*' in these circumstances or the requirement for the tree owner to undertake remedial works. The Tree Preservation Order does remove the '*Common Law Right*' to allow the trees' branches to be cut back to the boundary and a formal Tree Work Application would be required to undertake any remedial pruning works. Due to the trees location, it is inevitable that there will be some impact on the lawn of the adjacent garden, due to the competition for light and water which is often more evident in the summer months, although the '*browning-off*' of a lawn wouldn't be a valid reason to remove or carry out inappropriate heavy lopping of a protected tree.
- 3 As stated in my previous response, I am unable to comment on the conversations between the owners of the property on Broom Close and the Ward Member for Taverham North or if a site visit was undertaken, I can only highlight that if a tree is considered to be under threat, the Local Planning Authority has a duty to preserve trees with significant visual amenity and the making of a PTPO is the required process. I think the residents' statement that the Oak trees current height is 40m, must be a reference to the ultimate height that the tree could reach, as this tree particular tree hasn't achieved half that height, at this point in time.
- 4 There are many trees growing on Highway's owned land that are protected by a Tree Preservation Order or situated within Conservation Areas and applications for works are received from the County Council or their appointed arboricultural contractors, this process is not unwieldy and doesn't prevent works that are necessary to be undertaken, once consent has been approved. Any applications

to undertake reduction of the overhanging branches or for the re-shaping of the crown, would be consider if a formal Tree Work Application is received, there is no cost to the applicant for making a Tree Work Application. The clearing of debris shed by the tree would be considered a seasonal nuisance, removing the protection of the TPO, wouldn't prevent falling leaves and acorns, it just introduces some professional consideration of any works proposed to reduce the effects, to ensure the trees visual amenity wouldn't be impacted by such works.

Appendix 3 - The criteria used to determine the making of an order

- THE CASE FOR MAKING A TREE PRESERVATION ORDER (TPO)
 - Within Chapter 8, Part VIII, Special Controls, Chapter I under Sections 197, 198 & 201 of the Town and Country Planning Act 1990 the Council has powers to protect and plant trees where it appears 'expedient in the interest of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order'.
 - 'Amenity' is not defined in law, so authorities need to exercise judgement when deciding whether it is within their powers to make an order.
 - However, in March of 2014 the Department for Communities and Local Government (DCLG) issued a guide to all LPAs on TPOs entitled – Tree Preservation Orders and trees in conservation areas. This guide indicates that:
- A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interest of amenity.
- An order can be used to protect individual trees, trees within an area, groups of trees or whole woodlands. Protected trees can be of any size or species.
- Local Planning Authorities (LPAs) should be able to show that a reasonable degree of public benefit in the present or future would accrue before TPOs are made or confirmed. The trees, or at least part of them, should normally be visible from a public place such as a road or footpath.
- The risk of felling need not necessarily be imminent before an Order is made. Trees may be considered at risk generally from development pressures or changes in property ownership, even intentions to fell are not often known in advance, therefore precautionary Orders may be considered to be expedient.
- The guidance also indicates that LPAs are advised to develop ways of assessing the 'amenity value' of trees in a structured way, taking into account the following criteria:
 - Visibility
 - Individual & collective impact
 - Wider impact
 - Other Factors
 - Size and form;
 - Future potential as an amenity;
 - Rarity, cultural or historic value;
 - Contribution to, and relationship with, the landscape; and
 - Contribution to the character or appearance of a Conservation Area.

- 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.
- The guidance further indicates that it is important to establish a consistent approach, therefore the following points are considered before recommending a TPO:

Broadland District Councils Five Criteria to Justify Making a TPO

- Does the tree that is the subject of this report make a significant contribution to the local environment?
- Is there a reason to fear that the tree may be dangerous?
- Can the tree be expected to live for longer than ten years, barring unforeseen circumstances?
- Does the tree in its present location show signs of causing a nuisance in the future which is unacceptable or impractical?
- Does the tree contribute to the biodiversity of the immediate area and/or offer a habitat for wildlife?

Appendix 4 –

Ann Arnold

From: Mark Symonds
Sent: 11 October 2021 09:46
To: Cllr Caroline Karimi-Ghovanlou
Subject: RE: Mature Oak on Breck Farm Lane

Dear Cllr Karimi-Ghovanlou

Thank you for the details of the reasons for which you requested the making of the provisional TPO, which all sound completely valid and reasonable.

I will let Cllr Clancy know that Norfolk County Council have already visited the location to inspect the tree and have they concluded that no works are required at this point in time.

Yours sincerely

Mark

Mark Symonds
Conservation & Tree Officer (Majors Team)

Tel: 01603 430452
e mark.symonds@broadland.gov.uk

***** Please note that I am home working but can be contacted using my Broadland email address & work phone number *****



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From: Cllr Caroline Karimi-Ghovanlou
Sent: 08 October 2021 23:36
To: Mark Symonds
Subject: Re: Mature Oak on Breck Farm Lane

Good evening Mark,

The reason I asked for a TPO was that I was concerned for the protection of the tree, and any work that might have been done on it.

The resident did ask in one of her first emails to me if she was in her rights to cut it down, and was asking for sections of the tree to be cut back. I did ask her at one point, not to do anything rash, and to give me time to find out who was the owner of the land. This is one of three very mature and beautiful oak trees on Breck

Farm Lane. They have been there way before the houses were built and I was worried that any work the resident wanted to do on this particular tree, would maybe damage the tree in some way.

If it had a TPO, then any work carried out would have to be done by an approved council arboriculturist with the best interests of the tree in mind.

I did put a request into Highway's to trim the branches that the lady is concerned about, but today I had a reply to say they have assessed the job and they think no action needs to be taken at this time.

I did email Cllr. Clancy when I was trying to find out who owns the land the tree is on, but in the meantime I did get confirmation from Highways Boundaries team that it is highway land, hence the maintenance request to them.

In conclusion, I though I was doing the right thing to protect the tree and help the resident by getting it trimmed professionally , please do give me a ring if you want to discuss this further.

Kind regards

Caroline

Cllr Caroline Karimi-Ghovanlou
Taverham North Ward - Broadland District Council
Chair of Taverham Parish Council
07870 818727

Please note my email address has changed. This change is part of our collaboration work with South Norfolk Council and Broadland District Council.

From: Mark Symonds <mark.symonds@broadland.gov.uk>
Sent: Friday, October 8, 2021 3:46:16 PM
To: Cllr Caroline Karimi-Ghovanlou <cllr.c.karimi-ghovanlou@southnorfolkandbroadland.gov.uk>
Subject: RE: Mature Oak on Breck Farm Lane

Dear Cllr Karimi-Ghovanlou

Now that the TPO has been served I thought I should contacted you, as the making of the TPO has been questioned by Cllr Stuart Clancy, who I think has been contacted by a residents of 32 Broom Close.

Cllr Clancy has stated that he thinks the making of the TPO was 'overkill' and that I had misinterpreted the threat to the tree, and has asked for a site meeting with myself the residents and NCC Highways.

I have replied to Cllr Clancy and have explained that the Provisional TPO is now in place, and that if the residents wish to object to the making of the TPO, an Appeals Panel Hearing would be the way the protection of the tree Will be decided, rather than a site meeting with the objectors.

It would be very helpful to confirm your thoughts on the threat to the tree, so I can respond further to Cllr Clancy if he requires further clarification.

Thank you

Yours sincerely

Mark

Mark Symonds
Conservation & Tree Officer (Majors Team)

Tel: 01603 430452
e mark.symonds@broadland.gov.uk

***** Please note that I am home working but can be contacted using my Broadland email address & work phone number *****



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From: Cllr Caroline Karimi-Ghovanlou <cldr.c.karimi-ghovanlou@southnorfolkandbroadland.gov.uk>
Sent: 27 September 2021 12:46
To: Mark Symonds <mark.symonds@broadland.gov.uk>
Subject: Re: Mature Oak on Breck Farm Lane

Good afternoon Mark,

Thank you for your reply regarding the oak on Breck Farm Lane, I will contact NCC as you advise, but not hoping out much hope of an answer, as the lady has already tried them.

Thank you for starting the TPO process.

Kind regards

Caroline

Cllr Caroline Karimi-Ghovanlou
Taverham North Ward - Broadland District Council
Chair of Taverham Parish Council

Please note my email address has changed. This change is part of our collaboration work with South Norfolk Council and Broadland District Council.

From: Mark Symonds <mark.symonds@broadland.gov.uk>
Sent: Monday, September 27, 2021 10:01:32 AM
To: Cllr Caroline Karimi-Ghovanlou <cldr.c.karimi-ghovanlou@southnorfolkandbroadland.gov.uk>
Subject: RE: Mature Oak on Breck Farm Lane

Dear Cllr Karimi-Ghovanlou

Thank you for your e-mail and the details of your concerns relating to the Oak tree located on land behind number 32 Broom Close, Taverham.

I have checked the Land Registry details and the land is unregistered, so I am not able to find who owns the land and the tree, although the land will be owned by someone.

It may be worth checking with the County Councils boundaries Team, in case they have some records of who may own the land/track access.

<https://www.norfolk.gov.uk/roads-and-transport/roads/highway-boundaries-new-private-and-adopted-roads/highway-boundaries>

The resident at No.32 Broom Close would have no right to have the tree removed as they are not the owner of the land, and it would be considered criminal damage if they did instigate the trees removal, although they would have the 'Common Law Right' to cut overhanging branches back to their boundary.

I will start the TPO serving process.

Yours sincerely

Mark

Mark Symonds
Conservation & Tree Officer (Majors Team)

Tel: 01603 430452
e mark.symonds@broadland.gov.uk

***** Please note that I am home working but can be contacted using my Broadland email address & work phone number *****



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From: Cllr Caroline Karimi-Ghovanlou <cldr.c.karimi-ghovanlou@southnorfolkandbroadland.gov.uk>
Sent: 20 September 2021 16:37
To: Mark Symonds <mark.symonds@broadland.gov.uk>

Cc: Cllr Tony Adams <Cllr.Tony.Adams@southnorfolkandbroadland.gov.uk>

Subject: Mature Oak on Breck Farm Lane

Dear Mark,

I have had contact from a lady called Caroline Ross, regarding a very mature oak tree that is behind her back garden fence at 32 Broom Close. The tree is planted on the verge running along Breck farm Lane; the part that runs from Kingswood Ave down to the farm (what 3 words location - "snored,glimmers,beats")

The lady has tried to find out who owns the tree as substantial branches are overhanging her garden and the tree has not had any pruning for many years. Some of the branches are overhanging a telephone line into her garden and next door. She has contacted NCC and BDC but nobody is taking responsibility. I would have presumed if its on the road verge, then Highways would have responsibility- is there any way you could find out for me please?

The reason I am concerned is that she has said if nobody owns the tree, she will cut it down. It is a very mature lovely oak which only needs some pruning. I would not like to see it cut down. We are losing too many mature trees! Is it possible to put a TPO on the tree to protect it?

Looking forward to hearing from you

Kind regards

Caroline

Cllr Caroline Karimi-Ghovanlou
Taverham North Ward - Broadland District Council
Chair of Taverham Parish Council

Please note my email address has changed. This change is part of our collaboration work with South Norfolk Council and Broadland District Council.

Appendix 5 –

Ms T Lincoln
Development Manager
Thorpe Lodge
1 Yarmouth Road
Thorpe St Andrew
NORWICH
Norfolk
NR7 0DU



32 Broom Close
Taverham
NORWICH
Norfolk
NR8 6FS

24 October 2021

Dear Ms Lincoln

**The Broadland District Tree Preservation Order 2021 (no. 10)
Land West of Breck Farm Close, Taverham**

We are in receipt of a letter dated 28 September 2021 serving a temporary Preservation Order on an oak tree which stands just behind our property on Breck Farm Lane.

We are writing to object to the Preservation Order being placed on the tree as we believe there has been a misunderstanding between ourselves and our local councillor. As we have lived in Broom Close for the last 15 years, we can confirm the tree is not in any imminent danger and the order has been served unnecessarily, without our councillor visiting the property or having an understanding of our current situation.

In 2018-2019 we contacted Broadland District Council, Norfolk County Council and Taverham Parish Council to try and find out who was responsible for the land on which the tree stood, as the tree was becoming overgrown, overhanging the telephone line and impacting on our lives as we tried to enjoy our garden as best we could. At that time, no-one including BT were willing to take responsibility for maintaining or owning the tree which has now become even further overgrown and having a greater impact on our lives to the point that we are unable to sit in the corner of our own garden without the fear of twigs, debris and acorns landing on us which we believe to be a health and safety hazard. As the tree is now having a detrimental impact on the natural sunlight coming into the garden in the early evenings, we are unable to grow grass in this area of the garden as well. Please find attached a couple of photos which hopefully illustrates the problem.

In the autumn term, we contacted our local councillor in good faith, believing that she would work with us to try and find out who owned the tree so that they could take responsibility for cutting the tree down to a manageable height, giving it shape and preventing it from overhanging the telephone cable and our boundary. We were not aware at any point that the communication with her would serve a Preservation Order on the tree and were astounded and upset to receive your letter. She did inform us that we were well within our rights to cut back the branches overhanging our garden, but as she had not visited the property she would not have known that this was not possible as the tree stands approximately 40 metres high and is growing into our garden rather than growing towards Breck Farm Lane.

Since the Covid pandemic my husband, after having the first covid vaccination, was diagnosed with a heart condition which has left him with the symptoms of long covid – a feeling of constant fatigue. As he has now been told to rest and look after his own wellbeing, we are not in a position to continuously clear up debris being dropped from the tree.

-2-

We ask that you reconsider your decision to place a Preservation Order on the tree as we feel this will create an unnecessary and unwieldy process in keeping the tree properly maintained by Highways. The tree needs to be sensitively shaped and crowned and removed from our boundary so that we can enjoy the nature around us at the same time as relaxing comfortably within the safety of our own garden.

Please feel free to contact us on the following mobile number [REDACTED] should you wish to contact me for further information or visit our property.

Yours sincerely

[REDACTED]

[REDACTED]

Residents of 32 Broom Close, Taverham



Quality of grass in
the area where tree
overhangs.



Tree branches overhanging
shed roof. The hedge is
our property boundary.

Appendix 6 –



TOWN AND COUNTRY PLANNING (Tree Preservation) (England) REGULATIONS 2012

Town and Country Planning Act 1990 The Broadland District Council Tree Preservation Order 2021 (No.10)

The Broadland District 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 Broadland District Tree Preservation Order 2021 (No.10)

Interpretation

2. (1) In this Order "the authority" means the Broadland District 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,

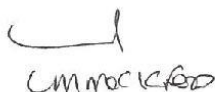
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

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 and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 28 day of September 2021

The Common Seal of the Broadland District Council
was affixed to this Order in the presence of—


LM MacKillop

Deputy Monitoring Officer



SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Oak	TG 616413 315038

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

Reference on map	Description	Situation
NONE	NONE	NONE

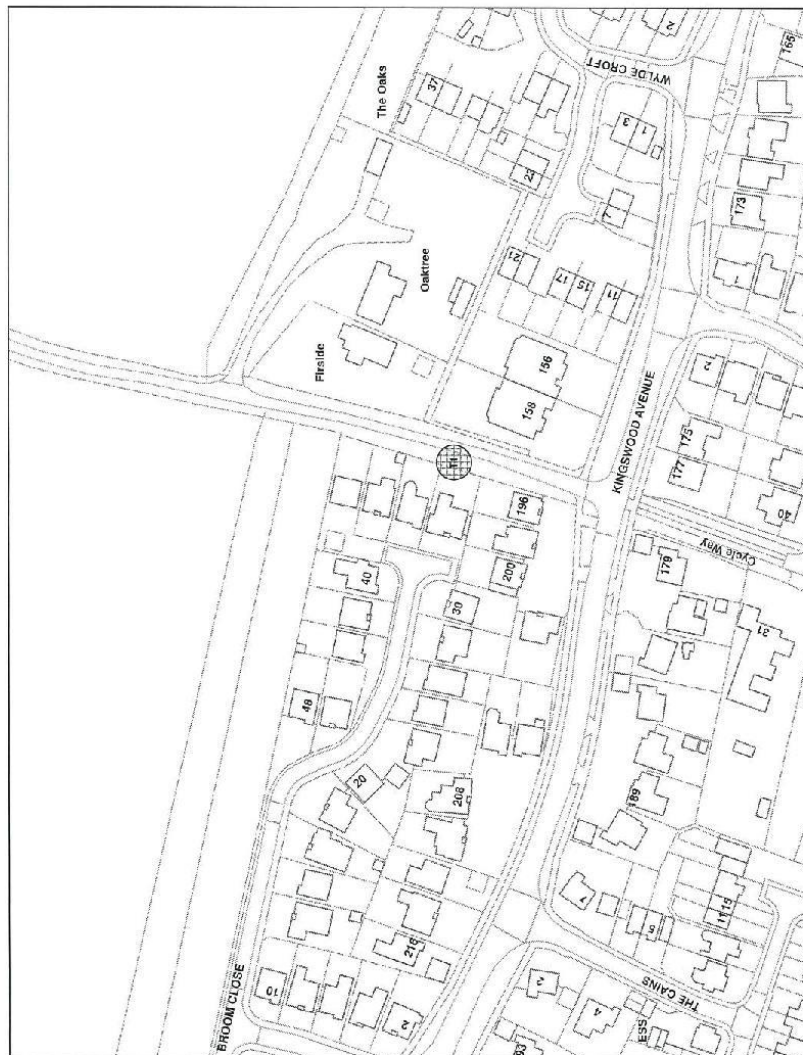
Groups of trees (within a broken black line on the map)

Reference on map	Description (including number of trees in group)	Situation
NONE	NONE	NONE

Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
NONE	NONE	NONE

TAVERHAM



TREE PRESERVATION ORDER 2021 No.10

Land west of Breck Farm Lane, Taverham

Scale 1:1,250

BROADLAND DISTRICT

TREE PRESERVATION ORDER 2021 No.10

KEY

Individual trees (T1 etc.)



T1 - Oak

Groups (G1 etc.)



Inner edge of broken line denotes boundary

Areas (A1 etc.)



Inner edge of dots denotes boundary

Woodland (W1 etc.)



Inner edge of line denotes boundary



Scale as shown

8158

Broadland
District Council
Community at heart

Deputy Monitoring Officer

Thorpe Lodge, 1 Yarmouth Road,
Thorpe St Andrew, Norwich, NR7 0DU

Tel (01603) 431133

E-mail: conservation@broadland.gov.uk

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individual with authority information. No further copies may
be made.

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING ACT (Tree Preservation) (England) Regulations 2012

The Broadland District Tree Preservation Order 2021 (No.10)
Broadland District Council

To; XXXXXXXXXXXX, 32 Broom Close, Taverham, Norwich, NR8 6FS

THIS IS A FORMAL NOTICE to let you know that on 28 September 2021 the Council made the above tree preservation order.

A copy of the order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the First Schedule and shown on the map without the Council's consent.

Some explanatory guidance on tree preservation orders is given in the enclosed leaflet, *Protected Trees: A Guide to Tree Preservation Procedures*, produced by the Department of Transport, Local Government and the Regions.

The Council has made the order to safeguard the significant visual amenity value offered by the tree to the immediate area and the wider environment.

The Order took effect, on a provisional basis, on 28 September 2021. It will continue in force on this basis for a maximum of 6 months or until the order is confirmed by the Council, whichever first occurs.

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 (*including your support*) about any of the trees, groups 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 26 October 2021. Your comments must comply with regulation 6 of the Town and Country Planning Act (Tree Preservation) (England) Regulations 2012, a copy of which is provided overleaf. Send your comments to Ms T Lincoln (Development Manager) at the address given below. All valid objections or representations are carefully considered before a decision on whether to confirm an order is made. Any comments you make will be available for public inspection. Therefore, please be advised that any letter received could not be treated in confidence.

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 Mark Symonds at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 0DU. Telephone (01603) 430509.

Dated this 28 day of September 2021



Helen Mellors
Assistant Director of Planning

**COPY OF REGULATION 6 OF THE TOWN AND COUNTRY PLANNING ACT
(Tree Preservation) (England) REGULATIONS 2012**

Objections and representations

6(1) Subject to paragraph (2), objections and representations –

- (a) shall be made in writing and –
 - (i) delivered to the authority not later than the date specified by them under regulation 3(2)(c); or
 - (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;
- (b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and
- (c) in the case of an objection, shall state the reasons for the objection.

6(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected



Ask for: Conservation
Direct Dial: (01603) 430509
Email: conservation@broadland.gov.uk
Our ref: TPO 2021 No.10
Date: 28 September 2021

32 Broom Close
Taverham
Norwich
NR8 6FS

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Dear Sir/Madam

Town and Country Planning Act, 1990
Town and Country Planning (Tree Preservation) (England) Regulations 2012
The Broadland District Tree Preservation Order 2021 (No. 10)
Land west of Breck Farm Close, Taverham

The Council, as Local Planning Authority, has decided that it is expedient in the interests of amenity to ensure the preservation of certain trees on land of which you are the owner and/or occupier, or an owner and/or occupier of adjoining land on which the trees stand.

It is deemed necessary to serve a Preservation Order to cover trees as set out in the First Schedule and Map of the attached Order, to ensure their protection.

The trees in question have been made the subject of a Tree Preservation Order under Section 198 of the Town and Country Planning Act, 1990. A copy of the Order is enclosed, together with a formal Notice of its making.

The Order is of immediate effect. You have the right to object or endorse the Council's actions in protecting trees within your Parish. Particulars are given in the formal Notice.

Yours sincerely

Helen Mellors
Assistant Director of Planning