

Appeals Panel Agenda

Members of the Appeals Panel

(Three members needed for this meeting highlighted in bold and underlined)

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 J L Thomas

Date & Time:

Wednesday 10 November 2021
09:30 am for site inspection
10.30 am for meeting

Place:

Site Inspection – 19 Sydney Road, Spixworth NR10 3PG
Meeting: Council Chamber Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich

Contact:

Dawn Matthews tel (01603) 430404
Email: committee.services@broadland.gov.uk
Website: www.broadland.gov.uk

PUBLIC ATTENDANCE:

You may register to speak by emailing us at committee.services@broadland.gov.uk no later than 5pm Friday 5 November 2021. Please see further guidance on the options for public speaking at page 2 of this agenda.

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.

Rules on Public Speaking and Attendance

All public speakers are required to register to speak at public meetings by the date / time stipulated on the relevant agenda. Requests should be sent to:
committee.services@broadland.gov.uk

Public speaking can take place:

- Through a written representation (which will be read out at the meeting)
- In person at the Council offices

Please note that the Council cannot guarantee the number of places available for public attendance but we will endeavour to meet all requests.

All those attending the meeting in person are invited to sign in on the QR code for the building and promptly arrive at, and leave the venue. Hand sanitiser are provided and you are invited to observe social distancing. Further guidance on what to do on arrival will follow once your request to attend or speak has been accepted.

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. **To confirm the minutes of the meeting on 21 September 2021**
(minutes attached – page 6)
4. **Matters arising from the minutes;**
5. **The Broadland District Tree Preservation Order 2021 (No 4) - Land at 19 Sydney Road, Spixworth NR10 3PG** - to consider representations received to the making of the Order;
(procedure to be followed attached at page 10 and report attached at page 12)

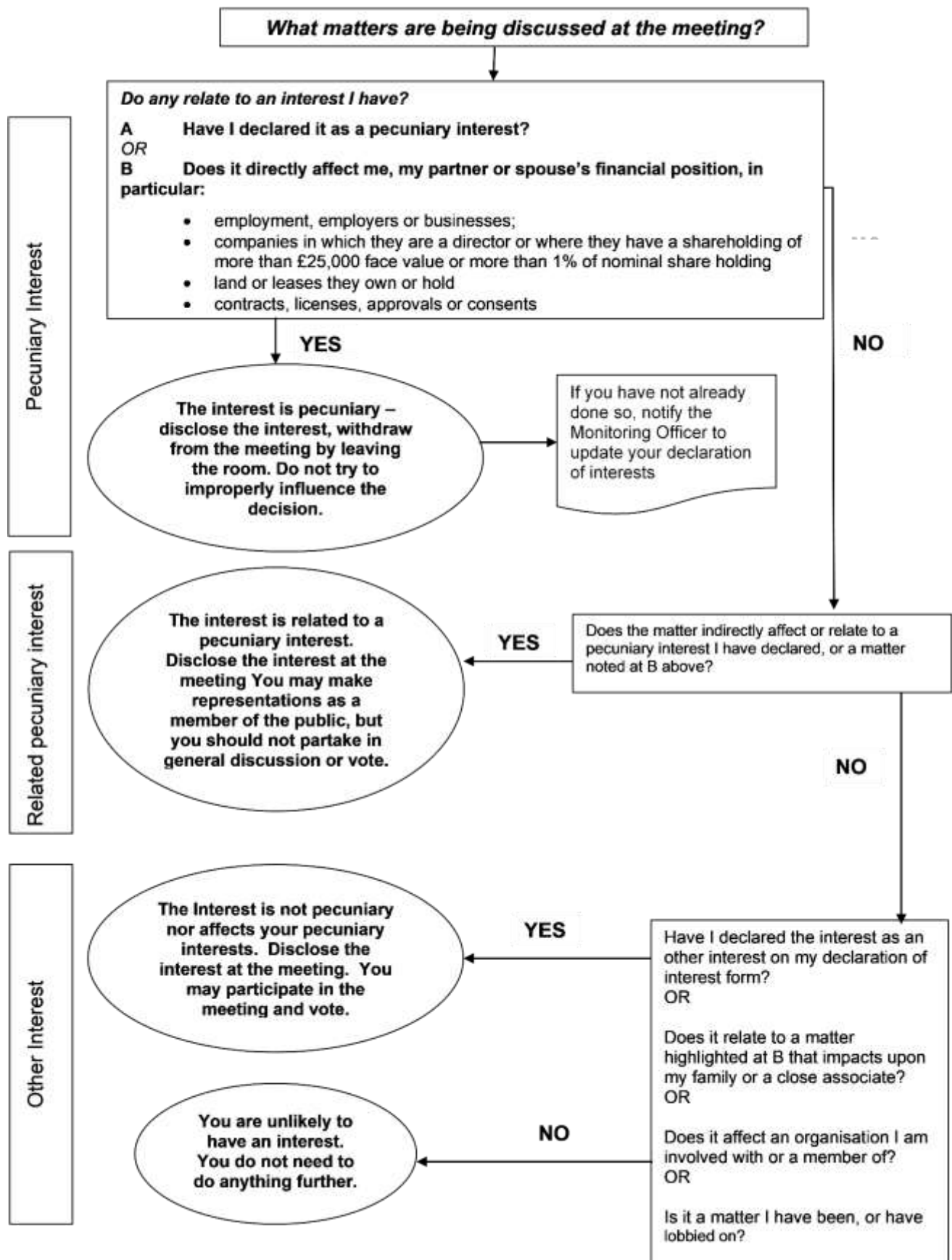
DECLARATIONS OF INTEREST AT MEETINGS

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.

<p>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.</p>
<p>Does the interest directly:</p> <ol style="list-style-type: none"> 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 <p>If the answer is "yes" to any of the above, it is likely to be pecuniary.</p> <p>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.</p>
<p>Does the interest indirectly affect or relate any pecuniary interest you have already declared, or an interest you have identified at 1-5 above?</p> <p>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.</p>
<p>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.</p>
<p>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.</p>

**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 PANEL

Minutes of a meeting of the Appeals Panel of Broadland District Council, held on Tuesday 21 September at 10.30am at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich.

Committee Members Present: Councillors: N J Brennan (Chairman) S J Catchpole and S Prutton

Speakers present: Mr D R Parsons – objecting

Officers in Attendance: The Conservation and Tree Officer (MS) – presenting the case for the Order and the Democratic Services Officer (DM)

1 DECLARATIONS OF INTEREST UNDER PROCEDURAL RULE NO 8

No declarations of interest were made.

2 APOLOGIES FOR ABSENCE

No apologies were received.

3 MINUTES

As no member at the 7 April meeting was present at this meeting, the previous chairman of the Panel, Cllr S Lawn had confirmed in writing that she was satisfied the minutes were a true and accurate record. It was accordingly agreed that the minutes of the meeting held on 7 April 2021 be confirmed as a correct record.

4 THE BROADLAND DISTRICT TREE PRESERVATION ORDER 2021 (No 2) LAND AT WOOD GREEN SALHOUSE

The Chairman welcomed everyone to the meeting and explained the procedure for the Hearing. Prior to the meeting, the Panel had taken the opportunity to visit the site and view the tree and its location.

The Panel then heard from one of the objectors, Mr Parsons who explained his concerns about the tree. His property suffered from a loss of light into his hallway and kitchen and he had installed considerable extra lighting to combat this. He wanted to remove the tree and had spoken to all his neighbours. They too were concerned about the tree and the nuisance of tree debris and the risk to peoples' safety. He was also concerned about traffic from the industrial estate as he regularly heard screeching and horns and was worried about potential accidents. He suffered with his internet service which he regularly lost for 3 hrs per day. He added that there were 6 letters of objection to the making of the order and 4 supporting, so there was a majority against the order being made. He had been advised that work could be carried out to the tree but the residents did not want the ongoing maintenance problem. No owner of the tree had come forward. The owner of the industrial estate had offered to contribute to the cost of the removal of the tree. Mr Parsons said he felt the Leyland Cypress tree was not a native species and had little historical or nature value. If it had been an Oak tree he would understand the need to protect the tree.

Mr Parsons then answered questions from members. He said he was unsure if the owner of the industrial estate would be willing to help with maintenance costs. It was pointed out to him that the tree did not obscure visibility for traffic emerging from the estate and he acknowledged that drivers leaving the estate did not stop at the junction and just kept going. Mr Parsons was asked if the issue with lighting was caused by a lack of direct sun or a lack of light. He responded that it was both and that his property did not get any sunlight. The Conservation and Tree Officer commented that he had assessed the direct sunlight falling on the property and that this was lost in late afternoon/early evening. Mr Parsons said he lost direct sunlight at approximately 1pm, earlier in winter. Mr Parsons confirmed he had not explored any other options to get more light into his property. The lower branches of the tree due to their large span, were only 4-5 m away from his property. He was advised that a canopy lift would help to alleviate this and allow more light to filter through. With regard to loss of internet connection, Mr Parsons confirmed he believed the 3 properties served by the overhead cables running through the tree all suffered with loss of their broadband but he did not think this was an issue for other residents. He had not been successful in his attempts to secure improvements from Openreach.

The Panel then heard from the Conservation and Tree Officer. He stated that the making of the order had stimulated quite a large response from local residents with the main concerns being debris in the form of needles and dead wood, loss of light, potential risk of the tree causing harm to safety and it falling and the impact on the broadband service. He was of the view that remedial works could be undertaken to mitigate these concerns which were relatively straight forward and reasonable. The Leyland Cypress species did not regenerate growth from old wood and so any work carried out to remove

branches tended to be a one-off and would not require repeated maintenance to remove regrowth. This would help to resolve the internet connection issues and was likely to cost less than removal of the tree. Those who were in support of the making of the order had commented on the visual amenity of the tree and its value in screening the industrial estate. There was also evidence of wildlife in the tree; a flock of starling had been heard in the tree during the members' site visit. He was of the view that the tree should be retained as it had a number of benefits and that the concerns raised could be mitigated by remedial works. He acknowledged that there was some question as to who would undertake this work as no one had claimed ownership of the tree. Should the tree become a significant nuisance for users of the highway, this could be pursued with the Highway Authority who could undertake remedial work.

In answer to questions, the Conservation and Tree Officer confirmed that the Utilities agencies also had powers to undertake remedial works to protect their infrastructure. With regard to the potential height of the tree, the Officer stated the potential height of this species was still unknown but he was of the view that, in its current location and given the constraints of the site, this tree was unlikely to achieve its full height potential and may not know grow much taller than its existing height. He also believed the span of the tree was unlikely to increase to any great extent and in any event sympathetic tip reduction was an option to reduce the span of the branches. In response to a comment that the tree was now much larger than the google earth image indicated, the Officer commented that the google earth street map of this area of the district had potentially been carried out in 2008 and was now out of date.

In his closing statement, the Conservation and Tree Officer stated he felt the removal of the tree was not necessary to abate many of the concerns raised and would be a significant loss to the visual amenity of the street. Remedial works were relatively straight forward and the TPO would protect the tree now and protect the space for any future subsequent tree replacement.

In his closing statement, Mr Parsons stated that the majority of residents responding to the Order were against the protection of the tree and he hoped the Panel would support the majority.

The Conservation and Tree Officer and Mr Parsons then left the meeting whilst the Panel deliberated their decision. They were subsequently readmitted to the meeting and Chairman announced the Panel's decision.

Having regard to all the information before them, both written and oral, and having regard to the criteria used to make the Order, the Panel decided to confirm the Order.

The Panel was satisfied that the provisional TPO had been implemented and served in a just and appropriate manner and that the making of the Order was

expedient in the interests of amenity to make provision for the protection of the tree. They were unanimously agreed that the criteria for making the Order had been satisfactorily met and that the order should be confirmed.

It was, accordingly,

RESOLVED to confirm the Broadland District Tree Preservation Order 2021 (No 2) Land at Wood Green, Salhouse.

If any person was 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.

(The meeting concluded at 11.30 am)

Chairman

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.4)
19 Sydney Road, Spixworth, NR10 3PG.

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

Portfolio: Planning

Ward(s) Affected: Spixworth

Purpose of the Report:

To brief the Panel on the representations received to the making of a Tree Preservation Order and invite the Panel to consider the representations made and decide whether to confirm, confirm with modification or not to confirm.

Recommendations:

1. It is recommend 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 19 Sydney Road is located to the south of Crostwick Lane and west of Saint Peter's Way in Spixworth, with the two Scots Pine (*Pinus sylvestris*) trees in question, growing within the rear garden of the property, at the time the order was made.
- 2.2 Since the order was served, the land the trees are located on is going through the process of being sold to the owners of No.2 Saint Peter's Way and once complete the boundary fences will be re-aligned and the two Pine trees will then be located within the curtilage of this property.
- 2.3 The Council was contacted by a concerned resident who had become aware that the land on which the trees are growing was about to be sold to the owners of No.2 Saint Peter's Way and they believed the land was being purchased so the new owners could remove the trees, as they disliked the trees overshadowing their rear garden.
- 2.4 The Council decided to make the PTPO in order to protect the two Scots Pines 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 two letters of support, one from the Spixworth Parish Council and one from a concerned resident and six letters of objection from adjacent residents to the making of the provisional order.
- 2.6 A further indication of support was referenced to a third party within one of the support letters received.
- 2.7 Another letter expressing an opinion was also received from a local Tree Surgeon, however they have since asked that their letter is withdrawn.

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.

4. Proposed action

- 4.1 The officer's view is that the order should be confirmed without modification.

5. Other options

- 5.1 Members could also come to the conclusion that only one of the trees is worthy of protection or the Panel could decide that neither of the trees should be protected and the order should not be confirmed.

6. Issues and risks

- 6.1 The risks involved in not protecting the trees are that they could be felled.

- 6.2 **Resource Implications** – none

- 6.3 **Legal Implications** – none

- 6.4 **Equality Implications** – none

- 6.5 **Environmental Impact** – there are potential environmental implications if the trees are felled.

- 6.6 **Crime and Disorder** – none

7. Conclusion

- 7.1 The two Scots Pine trees identified as T1 & T2 within the Provisional Tree Preservation Order (PTPO) contribute to both the visual amenity and biodiversity of Sydney Road & Saint Peters Way.

- 7.2 The trees are not considered to be in an unsafe condition at this time.

- 7.3 The trees should have a remaining lifespan exceeding ten years, barring any unforeseen circumstances.

- 7.4 I do not believe the trees 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 without modification.

Appendix 1 – Case for making the TPO 2021 (No4)

How do the trees, subject of this report, make a significant contribution to the local environment?

The Scots Pine trees are significant due to their form and size, contributing to the visual amenity of the immediate and surrounding area, being prominent skyline features which are visible to the public from both Sydney Road, Saint Peter's Way and further afield from Crostwick Lane and the junction with Christine Road.

The trees are two of the most mature trees within this area of Spixworth and their loss would be at the detriment to the local landscape.

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

No evidence from a suitably qualified and experienced Arborist, to identify that the trees would be considered to be in a poor structural or physiological condition has been provided, or to verify the statements that they should be considered as dangerous.

Whilst it is acknowledged that sometimes Scots Pines can shed limbs, the probability and associated risk can be mitigated by removing dead branches and by selectively reducing any branches which maybe be excessively end-weighted, the research suggests that '*most Pine species are reasonably wind- firm on a range of soil types*' (Department of Transport & Local Government and the Regions publication -Research for Amenity Trees No.7 – by David Lonsdale).

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

At the present time the trees would be considered as early mature and if they remain healthy, should have a considerable remaining life span in excess of 10 years.

It is acknowledged that Scots Pine are a long lived tree reaching 150-300+ years of age.

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

Due to the trees being located within the land area used as rear gardens of the adjacent properties, they are some distance (between 14-17m distances, when measured using the Councils CADCORP mapping software) from the rear elevations.

The distance from the properties rear elevations will limit any associated nuisance, such as overshadowing of the dwellings and it is very unlikely that the seasonal and natural processes of needle, cone or resin fall would be a valid reason to require the trees to be removed.

In my opinion, the future management of the trees 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

Scots Pines are a native species of the UK and are an attractive and important component of our natural flora and are acknowledged to have important biodiversity value.

It is recorded that this species supports in excess of 170 insect species and 132 Lichen species having significant benefits for associated wildlife.

The trees seeds are also food for some of our native finches and the canopy also provides nesting sites and shelter for many other species of garden birds, due to the trees dense foliage, which also creates habitat for invertebrates, providing yet another food source for our native birds.

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

The Council has received two formal letters of support and six formal letters of objection to TPO 2021 (No.2).

I have summarised the points of support and objection made by the residents of Wood Green.

Comments made in support

- 1 We have all come to realise how important the environment is, and the importance trees play in preserving and enhancing the local environment while they play a key part in absorbing pollution, consuming greenhouse gases and slowing the impact of climate change.
- 2 The Spixworth Neighbourhood Plan specifically engaged the residents of Spixworth and with their support included Objectives and Policies in the Neighbourhood Plan to prevent development destroying trees that were already in place.
- 3 Objective five of the Neighbourhood Plan specifically seeks the "...protecting and enriching the landscape..."
- 4 The two Scots Pine trees definitely enrich the landscape and warrant protection.
- 5 Policy 4: Biodiversity – second part – “Features in developments that encourage flora, fauna, habitat and wildlife (such as ponds, hedgehog friendly fencing, bird boxes and bat tiles, etc.) will be supported.”

These trees are of a size and dimension that they clearly provide habitat for a variety of wildlife – numerous types of birds, likely provide roosts for bats and many insects – and fits with the flora of the area.

- 6 Policy 9: Landscaping Development to Preserve and Enhance Setting: – Section 1 - looks at visual impact.

These two trees enhance the urban landscape, are striking against the skyline and have visual impact for many residents.

- 7 Section 2 – seek to retain mature trees and existing hedgerows and goes on to require damages or results in the loss of ancient trees or trees of good arboricultural and / or amenity value will not be supported unless justified by a professionally prepared tree survey and arboricultural statement.
- 8 Section 3 requires that where trees are removed replacing trees of similar amenity value within the Parish where removal of trees of recognised importance can be justified.

- 9 Section 5 seeks for at least 20% tree canopy coverage.

There is only limited tree canopy in the location area of these two trees and their loss would seriously reduce the tree canopy.

- 10 These two Scots Pine trees are majestic trees of considerable size and age, having been in this location for a very long time and enjoyed on the Spixworth skyline by many residents. The orchard and other trees that were on this site have long since gone, making way for homes. These two Scots Pine trees are of significance and of only a few remaining trees that provide visual amenity to the wider community.
- 11 Living close to these two Scots Pine trees and appreciating them, with our garden only being approximately 20 meters from them, I would be very disappointed to see them cut down. I am saddened and disappointed to see these trees put at risk. The two Scots Pines trees are of a size that significantly enhances the natural biodiversity of the area. They provide a habitat for a mixed variety of birds and probably roosts for the many local bats. I have personally observed recently a heron landing in one of these trees before swooping down and visiting my garden.
- 12 While the area has now being developed and become urbanised, it should be remembered that these two trees were here first and the resulting new homes have been built around the remaining trees. Their location at the bottom of the garden of no.19 Sydney Road and some distance from the homes built in St Peters Way – I believe these two trees have not posed and still do not pose any danger to these homes while they remain healthy. This position should remain unchanged for the foreseeable future
- 13 The residents of Spixworth recently completed their Neighbourhood Plan and at referendum in May 2021 voted 88% in favour of adoption. The Neighbourhood Plan makes particular reference in its objectives “to preserve the character of Spixworth, including the spatial balance between the rural and built environment,” has specific policies to enhance biodiversity, retain trees and hedgerows and ensure the natural landscape is treated respectfully.

Comments made in objection

- 1 First and foremost, in mine and my neighbour's opinions, the two remaining trees are far too big for the small domestic garden, which houses them, and we believe that they are unsafe. They have foliage on the North West side only. The South West sides of the trees is bare. They are missing branches all the way up and have lots of dead branches. Often branches fall from the trees. I'm sure you are aware, when Scots pine trees die off, they never regrow. I do not believe that they are suitable to the setting they are in.
- 2 Originally there were four Scots Pine trees in this location, however approximately ten years ago the larger one's bough branch snapped off and fell into my garden, smashing the children's trampoline and the garden shed beyond repair. Had the

children been on the trampoline at the time they would have been killed. This tree had a split bough, which has the same characteristics as one of the Scots Pine subject of this order. This also has a split bough also. The remaining trees (as did the previous ones) have clear potential to pose a negative influence upon significant structures and I believe they should be deemed a nuisance. They lean towards my property and when they fall, they would pose a risk to life and property.

- 3 The two Scots pines can only be seen from a public visibility viewpoint in a very limited number of locations, as they are in the rear garden and surrounded by houses. In relation to Private visibility, they would be visible to less than 10 properties. Scots Pine trees are not locally or nationally rare. In fact, there are numerous gatherings of these trees within the village of Spixworth. They are not veteran or ancient trees and they, as far as I can see carry no Local Plan relevance. They are also not the only trees, which can be seen on the horizon. These trees are large specimens for their species, and I believe that with the previous issues and pruning their amenity value has already been reached.
- 4 There are many other young and mature trees in the visual landscape from every direction within a .5km radius. Living in Spixworth, we are very blessed with the number of trees in every direction as you walk or drive through the village. I would estimate that there are more than 69. Looking from my property I can see two mature Poplars and a medium sized Acer Crimson King in the rear garden of 32 Crostwick Lane. There are two very large trees to the front of this property too. There is a large Willow tree which has been crowned in the garden of 36 Crostwick Lane. A large Cherry Tree in the garden of 1 Saint Peter's Way and many more along the main Crostwick Lane Road, in both directions and down Saint Peters Way
- 5 We, unlike many other families within the community, are not able to enjoy the sun and relax when we choose to, because of the blocking effect of these very large trees.
- 6 Whilst I appreciate that there may not automatically be a 'right to light', this must be weighed up with the adverse effect no light has on a person / person's mental health and wellbeing. Indeed, the information you provided within the advice for the PTPO outlines the benefits of having trees within your garden or the surrounding area, two of which read, 'being surrounded by trees can make you feel tranquil and peaceful' and 'make life more pleasant'. That may be true in some cases, but the same can also be said in reverse. My Fiancée really enjoys sitting in the sun and takes that opportunity when she is off, when the sun is in the garden during the day, yet again when she is working, she is not able to do this in the afternoon / evening.

- 7 The trees drop sap, pines cones and pine needles onto the garden. On many occasions the children have cut their feet on the cones and the needles. They are now unable to play in the garden when the cones and needles drop. The needles drop and collect on my new shed, of which the roof is now rotting due to the amount of saturated pines needles.
- 8 They offer very little meaningful habitat to wildlife and the only birds which appear to roost in them are pigeons, which leave droppings all over the fences, my shed and adjoining neighbour's bench. I am unable to plant anything at the top of the garden due to the trees. Due to the trees being shallow rooted they cover the upper layers of garden and dry all the soil out. Due to the fact the other two trees have already been taken down, the existing rotting stumps, offer even less support to the existing trees, meaning they are even less stable than before.
- 9 We as a family also miss the best part of the summer sunsets due to the height of these ugly trees as they block the sun in the evening. As a family we spent a lot of our leisure time in our garden during the summer and it's disappointing that we lose the last part of sunsets because of these trees. We bought our home with its garden being a large part of the consideration as our children very much enjoy the outdoor life.
- 10 These trees are not suited to a domestic garden environment. They are natural forest trees. They have the continuous potential to break limbs and branches or even fall completely in high winds due to their shallow wide root base. When they fall their root base will take a large area around the trunk up and in this case will cause damage to the surrounding fences that around the tree base. With these trees being 50m+ high and there being very few other trees in the immediate area they are very exposed. Adding into the equation the wind is predominantly from the West and often the North these two trees are at risk of further wind damage and ultimately a danger to the property adjacent. There has already been an incident previously.
- 11 These trees naturally consistently shed needles and I have an issue with these pine needles blowing onto my property, especially the garage roof and finding their way into the guttering and the downpipe. I have to remove the downpipe periodically throughout the year to clean it out along with the guttering on my garage and the side of my house. My guttering has blocked on several occasions, there is a third tree pine tree that obviously sheds needles, but the two large ones are causing the majority of this problem due to their height and wind direction. These two trees have no real value for wildlife habitat other than Pigeons which bring with them other issues. They produce a lot of droppings, there are a lot of pigeons that live in these trees and our vehicles are under constant attack from their droppings. This is very frustrating as these bird droppings are quite acidic and if not removed quickly will cause actual damage to the vehicle paintwork.

- 12 Trees at the bottom of No19 Sydney Roads garden might be an attractive feature at No19. On the other side of the fence at No 2 Saint Peters Way, the property doesn't extend far and the same trees from this point of view are overbearing and a serious risk to life and property.

The safety of the occupants at No 2 is compromised by the trees in the grounds of No19 that overlook No 2. If a part or a whole tree(s) falls in the direction of No 4 Saint Peters Way, they may cause death, life changing injuries and damage/destruction to the home. These trees have great height and block significant natural light entering the home and garden to the extent that the lack of natural light reaching inside the home doesn't promote the pleasant and healthy place a family expects and deserves to live in.

The same type of trees overlooked my property many years ago. My family were subjected to the same safety concerns as described for No2. For years these trees were overlooked my garden and house, creating an oppressive atmosphere. Hardly any natural light penetrated the trees and living in the back of our home and garden was the most miserable experience.

Tree Officer Responses to the main points of objection

The majority of the points of objection appear to relate to the risk the trees may pose to the safety of the residents, their dwellings, visitors to the properties and also other structures within the rear gardens, such as garden sheds and children's play equipment.

Having inspected both trees from ground level, I could not identify any significant structural defects, which would raise concerns that the trees would be considered dangerous or at a high risk of failure.

The two trees have grown in close proximity and when viewed appear to for a single canopy, with the tree shown as T1 being located closer to the boundary with No.2 Saint Peter's Way and having a narrow canopy spread with T2 being closer to the rear of No.19 Sydney Road, with a more spreading and contorted form, which is a growth characteristic often seen in Scots Pines growing within Norfolk and Suffolk.

I did observe some significant amounts of dead wood within the canopies of both trees, this appears to be mostly branches of a moderate diameter and would not be considered a significant hazard.

The gradual decline of the lower branches is a natural process for this species and is not an indicator that the trees are unhealthy or in decline.

The removal of dead wood or dead branches is exempt works and doesn't require consent from the Council, any additional pruning works to live wood and which were considered necessary, could be undertaken after making a formal tree work application to gain consent, the application process is also free of charge.

Objections have been raised about the consequences if the trees should totally fail and be blown over, however this appears to be unfounded as there is no visible evidence that the trees stability is in question.

Having measured the height of both trees using a True Pulse 200 laser measuring instrument, the height of tree T1 has been confirmed as 10m (32 ft.) and the height of T2 as 12m (39 ft.)

Due to the trees being located at a distance greater than their current heights from the existing dwellings, even if the trees did get blown over they would not reach the structures of the adjacent properties.

Whilst it should also be acknowledged that healthy and structurally sound trees do get blown down during extreme weather events, the risk of death or serious harm from trees in the UK has been calculated by the Centre of Decision Analysis & Risk Management at Middlesex University as an overall risk of approximately one in ten million (National Tree Safety Groups publication).

When we compare this with other risks we all take, going about our daily lives, it is evident that the risk of harm, from falling trees or branches is very low and the removal of healthy and structurally sound trees *'just in case they fail'*, would be a disproportionate action and which would also remove the many benefits that trees provide.

The points raised regarding the seasonal nuisances such as needle, sap and cone fall do undoubtedly cause additional work, and have to be cleared from gutters, drains, paths and lawns, however the removal of the debris is a relatively straight forward process and would not be a valid reasons to justify the removal of a healthy protected trees.

Overshadowing to the adjacent gardens has also been raised, which will be limited to the afternoons due to the tree locations, with the majority of the shadow cast over the rear garden of No.2 Saint Peter's Way, which would not be considered excessive or unreasonable.

Bird fouling onto vehicles from pigeons which use the trees for habitat has also been mentioned, however there doesn't appear to be any areas used for parking close to the trees and even if the trees were removed, Pigeons would still be able to use other trees or structures in the vicinity, which are much closer to the areas in use for parking.

The suitability of the species for the location has also been questioned, whilst the Scots Pine is a species which can be grown commercially as a forest crop, it is not an alien species to the UK as many of the conifer species used for this purpose are, and it is grown across a wide selection of habitats and land uses.

Looking at the history of the location, the trees appear to predate the properties, with the land used as an Orchard prior to the development.

In my opinion the location of two trees is suitable for this species due to the space and distance from the existing buildings, with the layout of the development appearing to have been planned around the retention of the mature trees.

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

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

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. 4)

Broadland District Council

To; 19 Sydney Road, Spixworth, Norwich, NR10 3PG

THIS IS A FORMAL NOTICE to let you know that on 7 June 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 trees to the immediate area and the wider environment.

The Order took effect, on a provisional basis, on 7 June 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 5 July 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 7 day of June 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

19 Sydney Road
Spixworth
Norwich
NR10 3PG

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. 4)
19 Sydney Road, Spixworth, Norwich, NR10 3PG

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.

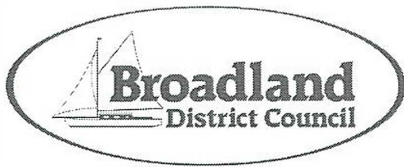
It is deemed necessary to serve a Preservation Order to cover trees as set out in the First Schedule and Map of the attached Order, to ensure their protection.

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



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

Town and Country Planning Act 1990 The Broadland District Council Tree Preservation Order 2021 (No.4)

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.4)

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 7 day of June 2021

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


Deputy Monitoring Officer



SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Scots Pine	TG 24600 15118
T2	Scots Pine	TG 24597 15119

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

BROADLAND DISTRICT

Tree Preservation Order

2021 No.4

Key

Individual Trees



T1 & T2 Scots Pine



Scale as shown



Thorpe Lodge, 1 Yarmouth Road

Thorpe St Andrew, Norwich, NR7 0DU.

Tel (01603) 431133

E-mail conservation@broadland.gov.uk

Tree Preservation
Order

8122 Deputy Monitoring Officer

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Spixworth



Tree Preservation Order 2021 No. 4

19 Sydney Road, Spixworth, NR10 3PG

Scale 1:500