

# 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:

Tuesday 19 July 2022

9:30am for the site inspection

10.30am for the meeting

## Place:

Site Inspection: Hill House, 2 Middle Hill, Reedham, NR13 3TW

Meeting: Trafford Room, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, NR7 0DU

## Contact:

Dawn Matthews tel (01603) 430404

Email: [committee.bdc@southnorfolkandbroadland.gov.uk](mailto:committee.bdc@southnorfolkandbroadland.gov.uk)

Website: [www.southnorfolkandbroadland.gov.uk](http://www.southnorfolkandbroadland.gov.uk)

## PUBLIC ATTENDANCE:

You may register to speak by emailing us at [committee.bdc@southnorfolkandbroadland.gov.uk](mailto:committee.bdc@southnorfolkandbroadland.gov.uk) no later than 5pm on Thursday 14 July 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. **To consider the minutes of the meetings held on 30 May 2022:**  
(minutes attached – page 7 )
4. **Provisional Tree Preservation Order (TPO 2022 No 3) Hill House, 2 Middle Hill  
Reedham NR13 3T** - to consider representations received to the making of the Order;  
(procedure to be followed attached at page 5 and report attached at page 11)

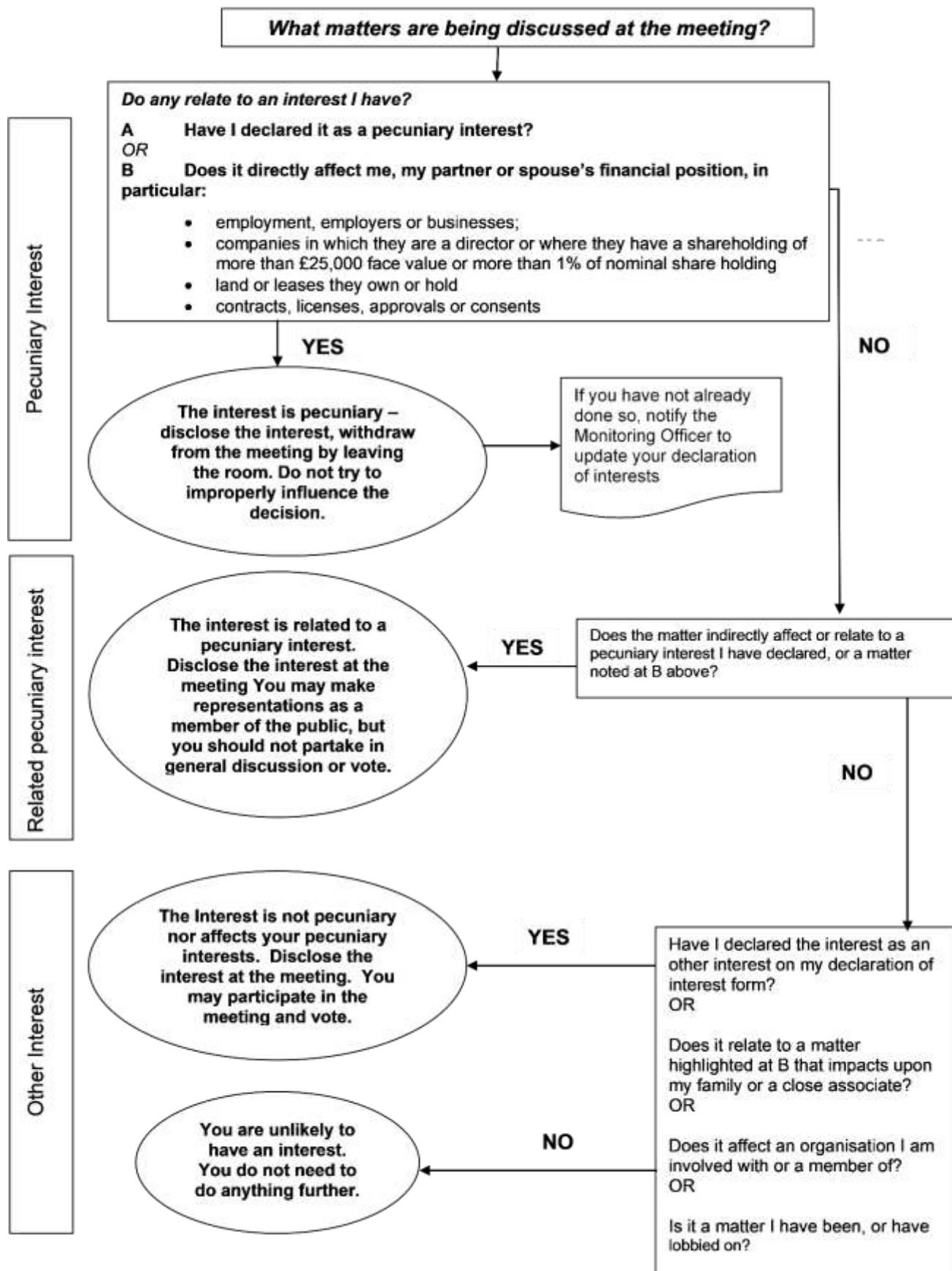
## DECLARATIONS OF INTEREST AT MEETINGS

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"> <li>1. affect yours, or your spouse / partner's financial position?</li> <li>2. relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner?</li> <li>3. Relate to a contract you, or your spouse / partner have with the Council</li> <li>4. Affect land you or your spouse / partner own</li> <li>5. Affect a company that you or your partner own, or have a shareholding in</li> </ol> <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 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.

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### **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.*

## APPEALS PANEL

Minutes of a meeting of the Appeals Panel of Broadland District Council, held on Monday 30 May 2022 at 10.30am at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich.

**Committee Members Present:** Councillors: N J Brennan (Chairman), K Lawrence and S Prutton

**Speakers present:** Ann Wren, Graham Wren, Paul Lowndes, Janet Lowndes, Rebecca Calthorpe, Cllr J Fisher (Thorpe St Andrew Town Council)

**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 were made.

### 2 APOLOGIES FOR ABSENCE

No apologies were received.

### 3 MINUTES

The minutes of the meetings held on 9 March and 13 March 2022 were confirmed as a correct record and signed by the Chairman.

### 4 PROVISIONAL TREE PRESERVATION ORDER (TPO 2021 No 13) 97 THUNDER LANE, THORPE ST ANDREW

The Chairman welcomed everyone to the meeting. Prior to the meeting, the Panel had taken the opportunity to visit the site and view the tree and its location. The following residents were in attendance at the site meeting: Rebecca Calthorpe, Anne Wren, Graham Wren, Claire Stone, Kevin Stone, Stephen Bell, Paul Lowndes and Janet Lowndes.

Members of the Panel, the Conservation and Tree Officer and the Democratic Services Officer then viewed the tree from within the garden of No 97 Thunder Lane.

The objectors had apologised for being unable to attend the Hearing and members had regard to their written representations.

In presenting his case, the Conservation and Tree Officer stated that the order had been made because of a known threat to the tree. He had been contacted by a number of concerned residents who had been advised by the owner of the property immediately adjoining the tree that they had instructed a tree surgeon to quote for the removal of the tree. Works had been agreed and had been imminent. The tree was not covered by an existing TPO nor was it in a conservation area so had no protection. There had been no previous threat to the tree to warrant its protection. Due to the size and form of the tree and its prominent location, a decision had been taken to make the order to protect the tree. There had been strong support for the protection of the tree and one objection to the Order. The Conservation and Tree Officer referred members to the report for his responses to the objections raised. Due to its type and size, it was acknowledged that there would be a degree of seasonal nuisance from the tree but this did not warrant its removal. The tree had been in place for many decades and its loss would deplete the local environment of a significant tree.

In response to questions from members, the Conservation and Tree Officer stated he believed the tree was 60+ years old and that there were very few similar species in the area. He believed the tree had achieved its full height potential at approximately 50ft and it appeared to be a healthy specimen, a view shared by the Arboricultural report commissioned by the supporters. He confirmed it appeared that a degree of pruning of lower and overhanging branches had occurred. With regard to any future pruning works, he was of the view that there was scope for a degree of sympathetic lateral reduction to help with overhanging branches but this would not hugely improve any exiting overshadowing. The tree had largely been free to grow as a single specimen and had adapted to the prevailing winds with a good root structure to support this. The tree had withstood the three recent named storms. It was leaning away from the adjoining dwelling and this could be due to the location of a walnut tree in that garden. There was no indication that the tree structure was compromised and no evidence of any lightning strike damage.

The Panel then heard representations from the following nearby residents who spoke in support of the order: Ann Wren, Graham Wren, Paul Lowndes, Janet Lowndes and Rebecca Calthorpe. They reaffirmed their desire to see the tree protected. They had commissioned a further report on the condition of the tree which had confirmed it was a mature tree in good condition and with good vitality. There was no evidence of any threat to the tree and that it warranted protection. Copies of the report were provided to members of the

Panel. The tree was a fundamental feature in the landscape and there was no reason for its removal. It would be a great loss. The tree was very important to the local residents and was a significant, longstanding feature in the landscape. The residents of Lodge Place had formed a limited company to take care of communal areas in Lodge Place and much care had been taken of the area. The residents raised concerns that they feared some degree of pruning had taken place to the tree since the order had been served. With regard to a claim that the tree was growing exponentially, the residents did not believe this was the case and that the tree had reached its full potential. It was confirmed that the tree had been a large specimen when one of the residents had first moved to the area some 36 years previous. In response to a question, the residents confirmed that no maintenance had been carried out on the tree. The tree had however lost lower branches as a result of collisions with refuse collection vehicles accessing Lodge Place.

The Panel then heard from Cllr J Fisher on behalf of Thorpe St Andrew Town Council. He drew attention to the criteria for making an order as set out in the agenda papers. He stated that the tree clearly made a significant contribution to the local and wider environment, forming part of the tree belt of Thorpe Ridge. There was no reason to believe it was dangerous, and it contributed to the biodiversity of the immediate area being full of wildlife. He added there was no justification for removing the tree and that there was a need to be mindful of the local environment and what existed in the locality before purchasing a property.

In answer to a questions, the Conservation and Tree Officer confirmed that, if the order was confirmed, any works needed to the tree would need to be the subject of a tree works application. This did not apply however to dead wood or exempt works such as the clearance of lower branches overhanging a highway. Any other work carried out to the tree without an application being submitted would potentially be deemed unauthorised work and contact could be made with the Planning Compliance team at the Council for formal investigation. The existence of a TPO also removed the common law rights to trim back branches to the boundary.

In summing up, the Conservation and Tree Officer stated that the tree was a valuable specimen and was clearly important to the residents and he invited the Panel to confirm the Order.

With the exception of the Democratic Services Officer, all present then left the meeting whilst the Panel deliberated its decision. They were subsequently readmitted to the meeting and the 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 (unanimously) to confirm the Order. The Panel was satisfied that the provisional TPO had been implemented and served in a just and appropriate

manner and was expedient in the interests of amenity to make provision for the preservation of the tree. The Panel was also satisfied that the Council's criteria for making the Order had been met: the tree made a significant contribution to the local environment, there was no reason to believe it was dangerous, it had a life span in excess of 10 years, it did not present an unacceptable or impracticable nuisance and contributed to the biodiversity of the immediate area.

It was, accordingly,

**RESOLVED** to confirm the Broadland District Tree Preservation Order 2021 (No 13) 97 Thunder Lane, Thorpe St Andrew.

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 11.30am)

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Chairman

## **STATEMENT OF CASE**

**Provisional Tree Preservation Order (TPO 2022 No.3)**  
**Hill House, 2 Middle Hill, Reedham.**

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

**Portfolio:** Planning

**Ward(s) Affected:** Reedham

### **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 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 T1 Beech tree (*Fagus sylvatica*) is located within the garden of Hill House, No.2 Middle Hill, Reedham.
- 2.2 The Beech tree is growing at the top of a slightly elevated slope of Middle Hill which sits above the Riverside Road which forms Reedham's riverside street scene adjacent to the River Yare.
- 2.3 The Provisional Tree Preservation Order (PTPO) was requested as an emergency measure by Reedham's Tree Warden, as they had concerns the tree was at risk of being felled, as residents had alerted them that another Beech tree had been removed at that location the day before, and the company undertaking the tree works had returned and had started to dismantled this tree.
- 2.4 The Council decided to make the Provisional Tree Preservation Order (PTPO) in order to protect the Cypress tree for the reasons stated within the Regulation 5 Notice: *'The Council has made the order as the tree in question contributes to the visual amenity of the immediate and surrounding land and is a significant landscape feature'*.
- 2.5 Following the serving of the original PTPO the Council received one letter of objection from the owner of Hill House, 2 Middle Hill, Reedham and one expression of support from the Parish Tree Warden.

## **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.

## **Other options**

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



## **5. Issues and risks**

- 5.1 The risks involved in not protecting the tree are that it could be felled.
- 5.2 **Resource Implications** – none
- 5.3 **Legal Implications** – none
- 5.4 **Equality Implications** – none
- 5.5 **Environmental Impact** – the felling of the Beech tree 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.
- 5.6 **Crime and Disorder** – none

## **7. Conclusion**

- 7.1 The Beech tree identified as T1 within the Provisional Tree Preservation Order (PTPO) contributes to the visual amenity of Middle Hill, The Hills, New Road and further views from Riverside and the River Yare, due to its size, form and prominent 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 2022 (No.3)**

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

The Beech tree is significant due to its size, form and prominent location, contributing to the visual amenity of the immediate and surrounding area, clearly visible to the public from public highways of Middle Hill, The Hills and New Road and a notable landscape feature when viewed from the River Yare, due to its position on the rising land between Riverside and The Hills.

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

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

The tree appears to be in good physiological health, with no evidence of decay at the base or movement of the root plate, this opinion is supported within the Tree Report provided by A.T.Coombes Associates Ltd and undertaken on behalf of the tree owner.

The tree has had part of the canopy removed prior to the emergency TPO being in place, this has changed the tree's natural crown symmetry, although the majority of the tree's canopy radii still remain balanced.

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

Growing as maiden trees this species has been recorded up to an age of 350 years in the UK, with trees which have been managed as pollards living for greater than 400 years.

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.

### **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 within the garden of Hill House, approximately 15m from the rear elevations of the property.

Some of the tree's canopy does overhang Middle Hill which is public highway, although the tree's canopy doesn't obstruct the use of this road.

Within the letter of objection received from the tree owner they mention that there had been an historic issue with roots having damaged a cellar floor and root pruning and repairs had been carried out to reinstate the floor, although no information on the origin of the roots has been provided to verify if they were from the tree in question or from the other Beech tree which was removed and located closer to the property.

If it was considered necessary to undertake similar repairs, a Tree Work Application could be made to have the tree's roots pruned back, this would be consented if the works specified followed the recommendations within British Standard 5837.

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

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

Common Beech (*Fagus sylvatica*) is a native species of the British Isles.

Its value for wildlife in the UK is far reaching including being a host to insects and moths and this species can also be colonised by rare native fungi.

Due to Beech trees being long lived, they also provide dead wood habitat, food and shelter for many birds and small mammals and also nesting sites for hole-nesting birds.

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

The Council has received one expression of support and one letter of objection to the making of TPO 2022 (No.3).

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

### Comments made in support from the Reedham Parish Tree Warden.

- 1 According to the Tree Evaluation Method for Preservation Orders (TEMPO) it would meet the requirements for a TPO- subject to tree safety being demonstrated.
- 2 It is visible from The Hills and the staithe area, and also helps 'break' views of the village from more distant viewpoints on the river, railway line and Broads National Park.
- 3 Several of the neighbours and local people are very upset and concerned.
- 4 Although mature it does not strike me as 'over-mature' and my judgement is that it might have another 50+ or 100+ years left.

### Comments made in objection

The points of objection have been referenced as the key facts within the report produced by A.T.Coombes, dated 23/02/20022.

- 1 Generally the remaining part of the tree appears to be in good condition: The root plate is level and sounding the root buttress with a soft hammer did not reveal any signs of decay. No fungal fructifications were noted either around the tree, on the stem or the branch frame work. However, possible potential weakness include; the multi-stemmed form of the tree and the presence of an included union between two stems at approximately 6 m above the garage, one stem to the north has a column of decay that is likely to have been caused by a past branch tear-out.
- 2 The risk of weak unions failing can be increased if the tree is, like this one, in an exposed position and has recently lost the shelter of a neighboring tree.
- 3 The aborted dismantling of the tree, has left it with a significant crown bias to the south, having had most of the northern part of its crown removed leaving the tree severely unbalanced.
- 4 The work carried out so far was aimed at completely dismantling the tree and therefore does not comply with the British Standard for Tree Work Recommendations (BS 3998). The plethora of large wounds and associated dysfunctional wood will leave the tree vulnerable to fungal decay in the future.
- 5 Going forward, in order to achieve a result that, as far as possible, complied with BS 3998, the tree would have to undergo an additional reduction to lessen the loading on the newly exposed and unbalanced crown. This would remove yet more of the foliage-bearing structure, which is likely to significantly and negatively impact the vitality of the tree.

## **Tree Officer Responses to the main points of objection**

- 1 Within the report from A.T.Coombes it mentions the potential for possible weakness to the trees branching structure due to the multi-stemmed form of the tree and the presence of a branch union with included bark and a single stem, located to the north having a column of decay. Whilst it is acknowledged that the tree does have a form exhibiting multiple scaffold limbs, this type of grow habit is quite natural and known as the crown break, being a common occurrence for this species. At the point of the crown break, you will often find limbs with included bark which have wide variations in structural integrity and associated risk, having looked at the branch mentioned, it appears the union is not an acute 'V' shape which have a higher probability for failures, and that the adjoining scaffold limb, to the west has already been removed, reducing the potential loading to the branch union and likelihood of future branch failures.
- 2 The report also suggests that due to the removal of the neighboring tree, it is now more exposed, increasing the risk of weak union failure, however having looked at the position of the tree which was removed, it was located to the north of the remaining one and was also of a smaller size, although the tree is now more exposed to the north, the acknowledged direction of the most frequent prevailing winds are from the west, which lessens the exposure of the trees canopy, on the northern aspect and the area opened up, due to the removal of the neighboring tree and the loss of part of its northern canopy spread. Because of its elevated location the tree has established with constant exposure to the prevailing winds and has withstood many storms.
- 3 It is also of significance that since the felling of the neighboring tree and the partial reduction of the protected trees canopy, it has been exposed to three named storm events (*Storms, Dudley, Eunice and Franklin*), which passed through the UK between 14<sup>th</sup> and 20<sup>th</sup> of February 2022, and this doesn't appear to have resulted in any notable damage to its branch structure.
- 4 Due to the dismantling works undertaken prior to the TPO being served, it is agreed that some of this work, didn't comply with the recommendations within BS3998 Tree Work and some larger wounds have been created, exceeding the maximum diameters, recognised as best practices for remedial pruning. However the British Standard (Annex C 4.1) does also allow provision for works which exceed this best practice, when there is sufficient justification and as a last resort, to allow retention of valuable tree, which maybe structurally compromised and no other solutions are available. In this case the tree was never seriously, structurally compromised, and it appears to have already started to replace some of the leaf cover that has been removed, and when viewed from the junction of The Hills and Middle Hill has a symmetrical canopy shape, with signs of some epicormic growth already being stimulated from the dormant buds, located on the retained branches and scaffold limbs, it is anticipated that this re-growth of the canopy will continue, as the tree gradually replaces the crown volume to its pre-works level and the northern canopy radii will regain symmetry, even though the resulting works didn't comply with the recommendations within BS 3998 Tree Works.
- 5 The removal of the tree and resulting loss of visual amenity to the local landscape would not be mitigated by replacement planting with fruit trees, as they would never attain the size and prominence the existing tree provides to the immediate location and wider landscape.

### 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?

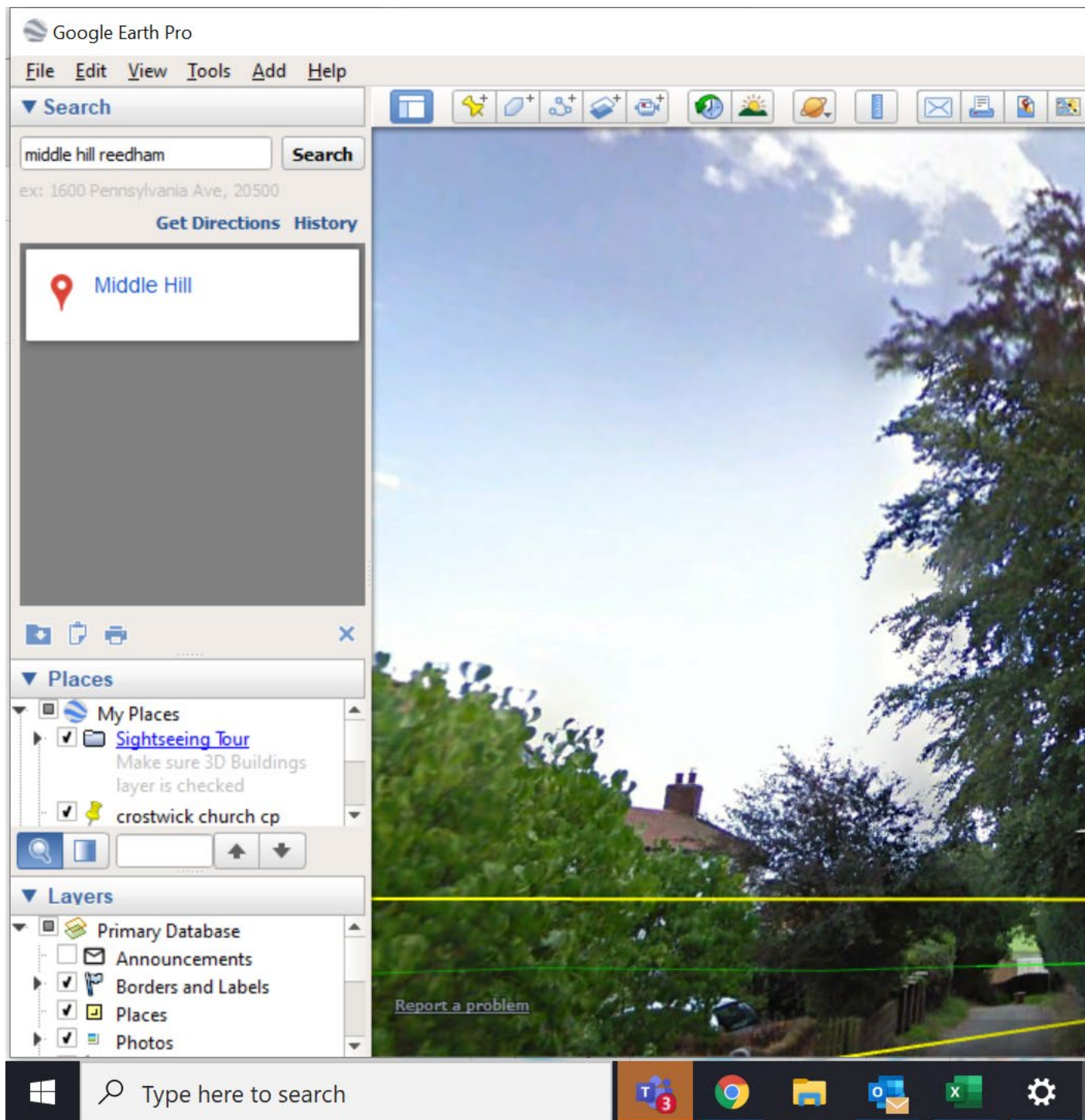
  
Dear Mark/Jamie

Hopefully one of you will see this in time as it is something of an emergency. A contact in the village just called to say that a mature beech tree on Middle Hill in the village is in the process of being felled. Only a small amount of upper crown removal has taken place so far. Is it possible to put an emergency TPO on it?

It is in the garden of Mill House cTG41980179. Apparently a neighbour queried the works today and was told that there was some sign of rot; but the tree surgeon was unwilling to discuss the point or whether the tree was unsafe as a consequence. I have not been down there myself as only just made aware. According to TEMPO it would meet the requirements for a TPO - subject to tree safety being demonstrated. It is visible from The Hills and the staithe area, and also helps 'break' views of the village from more distant viewpoints on the river, railway line and Broads National Park and several of the neighbours and local people are very upset and concerned. Although mature it does not strike me as 'over-mature' and my judgement is that it might have another 50+ or 100+ years left.

This was the 2011 Streetview image.





I can go down there tomorrow morning if need be. I understand that work to fell the tree is due to continue then.

■

Director

**The Landscape Partnership**

t: 01603 230 777 w: [thelandscapepartnership.com](http://thelandscapepartnership.com)

landscape architecture | urban design | environmental planning | ecology |  
arboriculture

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For the Attention of : **Ms T Lincoln**,  
Broadland District Council  
Thorpe Lodge,  
1 Yarmouth Road,  
Norwich,  
NR7 0DU.

01/03/2022.

**Reference – Objection to Tree Preservation Order 2022 (No.3).**

Dear Ms Lincoln,

**Statement of Events.**

[REDACTED] from Eden Tree & Hedge Care Ltd checked for TPO's on the tree prior to felling the tree, 2 weeks prior and the day before.

No TPO's were found on the trees.

Works started on Tuesday the 2<sup>nd</sup> of February.  
Eden felled the smaller tree first and made start on the bigger tree.

On Wednesday the 3<sup>rd</sup> they were stopped by the parish village tree warden at 0905 who informed us that the TPO was being put on the tree from that time and we needed to stop any further felling.

Eden then stopped as directed by the Village Tree Warden. Resulting in a full days NPT for 4 men.

[REDACTED] and I both contacted Mark Symonds reference the TPO and the fact that Eden had removed approximately 40% of the tree from the north elevation of the tree.

On the 3/2/22 at 1220 I sent email to Mark Symonds with attached photo of the trees current state and one of the sections of the tree which Eden was concerned about (3.8M section)

Mark replied agreeing with [REDACTED] concerns and that the section is at risk of falling and suggest it should be reduced back to reduce the end weight.

I then replied noting our concerns with the strong wind forecast and to enquire about who the responsibilities lie with.



Mark then replied again confirming he had spoken to [REDACTED] directly with reference the remedial works that maybe considered necessary. This work is pending.

On the 04/02/2022 we received the paperwork from BDC regarding the TPO.

We felt that with no guidance within The Town and Country Planning (Trees) Regulations 2012 covering TPOs being placed on partially felled trees, we required further independent advice from a Qualified tree surgeon. After some research we found AT Coombes Associates Ltd. Who were established in 1986 and with their level of experience we decided to contact them for guidance/advice.

I contacted AT Coombes and their advice was to have a tree survey carried out. I received a quotation and gave them the OK to go-ahead ASAP.

On the 22/02/2022 the survey was carried out. See att. Full report dates 23/02/22.

We have sent the tree survey to our insurance broker to get advice on the insurance implications and update the policy, we are awaiting their response.

## **History**

We have maintained the tree for the past 8 years, when we first moved into Hill House the tree had been left unmaintained for several years.

We employed [REDACTED] from Eden Tree & Hedge Ltd. to help us get the trees back into order.

Over the past 8 years have experienced constance complaints from people whenever branches fall into the road and the 2 neighbours across the road concerned about the tree as it over hangs the road and their property's.

In 2019 Eden removed a large number of dead branches.

In 2021 we had some damage to our cellar under the main house. The brick work floor started to lift. We had Rob Munnings from Munnings Construction come out to look at the problem. He said it was being pushed up from below and that it was likely due to roots pushing up.

When the brick work was removed from the floor which revealed that Rob was correct and that roots had pushed up the floor and caused the damage to the floor and the underside of the brick wall in 3 places. The problem was added to as the foundations to the house were on clay which had cracked sections which the roots seem to have grown through. We then carried out some research and found the following information.

## **Information on the Root System of Beech Trees**

**"Root Zone** most trees grow many of their roots in the top 4 to 8 inches of soil, where warmth, moisture and nutrients abound. Moreover, the root zone extends well beyond the edges of the branches. As a general guideline, the root zone covers a distance two to four times beyond the distance of the tree's canopy."

The roots were then cut out and removed from the cellar floor area. The maximum root removed was approximately 100mm in diameter, most were around 40mm.

████ then advised that the best way forward would be to carry out necessary under pinning to the areas of damage to the walls using concrete reinforced with steel as they formed the part of the foundation of the house and to fit a floating floor system. This work was then carried out (see photos) showing the floor dug out and under pinning in place 15/5/2021.

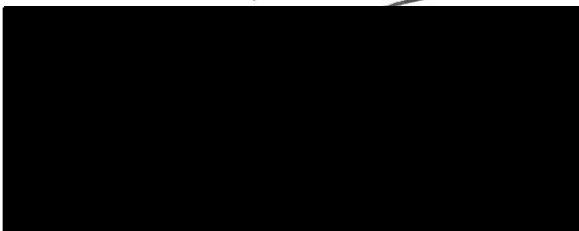
In July 2021 we asked █████ from Eden advice on the best way forward with the tree after having further complaints about the tree having falling branches in the road. █████ advised us that we could carry on with the yearly maintenance and monitor the amount of dead moving forward or fell the tree. At this point we also talked to Graham about planting some native fruit trees, further away from the house in the garden on the east side, we wanted to get trees which were established and of a reasonable size to add to the current fruit trees.

With the complaints and worry of the possibility of damaging vehicles or injuring someone along with the damage to our home we made the decision to have the trees removed. We did not make this decision easily. After the work we had carried out to the trees over the 8-year period getting them back to a good visual state along with the financial investment we had put into them to achieve this. We laboured over the difficult decision and in January we eventually gave Eden the go-ahead to remove the trees and to source and plant the new fruit trees.

***Taking the above into account we object to the TPO on the following grounds - The key facts from AT Coombes tree survey and their conclusions and recommendations with the risks noted along with the insurance implications, the cost we have encountered in NPT and extra surveying cost, leads us to hope that our objection is carefully considered.***

***Should you require any further information, please do not hesitate to contact me.***

Yours Sincerely

A large black rectangular redaction box covering the signature and name of the sender.









## A.T. COOMBES ASSOCIATES LTD

CHARTERED FORESTERS AND CONSULTING ARBORICULTURISTS

6 Chapel Street, Barford, Norwich, Norfolk, NR9 4AB Telephone & Fax 01603 759618

Mr Jason Boast  
Hill House  
2 Middle Hill  
Reedham  
Norwich  
NR13 3TW

23/02/2022

Dear Jason,

### RE: Tree report at Hill House, 2 Middle Hill, Reedham

Following our site visit yesterday, we are pleased to report on a large, partially dismantled, beech tree in your garden as follows:

#### Terms of Reference

We note that you instructed your contractors Eden Tree Care to fell two beech trees in your front garden as you had concerns about their condition. One tree was felled and, while your contractors were in the process of dismantling the second tree, Broadland District Council imposed a provisional Tree Preservation Order (TPO) and stopped the work. Prior to the issue of the TPO, there were no constraints preventing the removal of the two trees.

In the light of the above, your instructions were to inspect the remaining tree and report on its current condition, suitability for retention and any remedial work that may appropriate in the circumstances.

#### Methodology

The tree was inspected from ground level using binoculars, a nylon mallet and a metal probe.

#### Site Description

The garden slopes to the south, down to River Yare and the marshes beyond. Therefore the tree, at the top of the slope, is in an exposed position particularly to winds from the south east. The tree is close to the eastern boundary of the garden, on the edge of the drive. A second tree, also a beech and of similar stem diameter, had recently been removed a few metres to the north. Figure 1 shows a photo of the remaining tree taken at the time of the survey. A garage block has been constructed within 2 m of the tree on the south side, apparently this was built on the site of a previous outbuilding.



**Fig 1:** View of the beech from the west.

### Tree survey details

Generally the remaining part of the tree appears to be in good condition; The root plate is level and sounding the root buttress with a soft hammer did not reveal any signs of decay. No fungal fructifications were noted either around the tree, on the stem or the branch frame work. However, possible potential weakness include; the multi-stemmed form of the tree and the presence of an included union between two stems at approximately 6 m above the garage, one stem to the north has a column of decay that is likely to have been caused by a past branch tear-out. The risk of weak unions failing can be increased if the tree is, like this one, in an exposed position and has recently lost the shelter of a neighbouring tree.

As can be seen from Figure 1, the aborted dismantling of the tree, has left it with a significant crown bias to the south, having had most of the northern part of its crown removed leaving the tree severely unbalanced. Numerous large stem and branch pruning wounds resulting from the dismantling work are present, the largest of which was approximately 35cm in diameter. The tree work carried out so far was aimed at completely dismantling the tree and therefore does not comply with the British Standard: Tree work – Recommendations (BS 3998:2012) for pruning. Most notably, crown reductions should be in proportion to the trees original shape retaining a high proportion of small diameter branches and twigs, which bear foliage, to maintain vitality and cuts should not exceed 100 mm diameter. The plethora of large wounds and associated dysfunctional wood will leave the tree vulnerable to fungal decay in the future.

Going forward, in order to achieve a result that, as far as possible, complied with BS 3998:2012, the tree would have to undergo an additional crown reduction to lessen the loading on the newly exposed



and unbalanced crown. This would remove yet more of the foliage-bearing structure, which is likely to significantly and negatively impact the vitality of the tree.

### **Conclusions and recommendations**

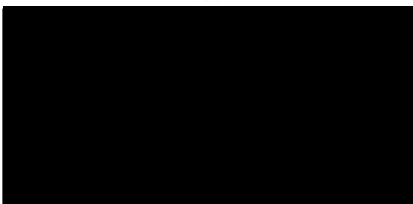
Prior to the commencement of the removal of the tree, it is considered to have been in good condition. It was prominent in the landscape therefore offering considerable amenity value. However, given the current unbalanced and artificial form and the risk of branch failure due to exposure it is recommended that the tree is removed and two new trees, selected to suit the site, are planted to help mitigate the loss of tree cover. Any attempt to re-balance the crown would require further substantial loss of live branches and would be likely to weaken the tree further.

### **Permissions and Constraints**

The tree has a temporary TPO and no work can be completed without prior written permission of Broadland District Council (BDC). I note you intend to raise an objection to the TPO and submit this report to support the objection. If the TPO is confirmed and if you still wish to fell the tree you will need to submit an application which if refused could be the subject of an appeal to the planning inspectorate.

If you have any queries on any aspect of the report, please do not hesitate to contact me.

Yours sincerely,



Andrew Coombes

Managing Director and Principal Arboricultural Consultant

A.T. Coombes Associates Ltd

Encl.







Hill House  
2 Middle Hill  
Reedham  
Norwich  
NR13 3TW

**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 2022 (No. 3)**  
**Hill House, 2 Middle Hill, Reedham, NR13 3TW**

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

**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 2022 (No. 3)**  
**Broadland District Council**

To Hill House, 2 Middle Hill, Reedham, Norwich, NR13 3TW

THIS IS A FORMAL NOTICE to let you know that on 4 February 2022 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 as the tree in question contribute to the visual amenity of the immediate and surrounding land and are significant landscape features.

The Order took effect, on a provisional basis, on 4 February 2022. 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 4 March 2022. 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 4 day of February 2022

**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