

## COMMITTEE REPORT

**Date:** 30 March 2021                      **Ward:** Guildhall  
**Team:** Design, Conservation        **Parish:** Guildhall  
& Sustainable  
Development

**References:** 21/00472/TPO and 21/00474/TCA  
**Applications at:** Quad West York St John University Lord Mayors Walk York  
**For:** Fell 9no. Lime Trees protected by Tree Preservation Order  
No. CYC383 and fell 5no. Lime trees in a Conservation Area.  
**By:** Mr Robert Scott, Facilities Directorate, York St John  
University  
**Application Type:** Tree Preservation Order and Tree works in a Conservation  
Area notification  
**Target Date:** 20.04.2021 and 06.04.2021 respectively  
**Recommendations:** i. Approve 21/00472/TPO  
ii Do not make a TPO in respect of trees proposed to be  
removed by 21/00474/TCA

### 1.0 PROPOSAL

1.1 Two tree works applications have been logged in relation to trees at Quad West, York St John University, Lord Mayors Walk, York, the combined proposals include felling 14 trees:

- 21/00472/TPO - Fell 9no. Lime Trees protected by Tree Preservation Order No. CYC383  
and
- 21/00474/TCA - Fell 5no. Lime trees (nos. C002, C003, C006, C021, C022) in a Conservation Area.

The original application has been logged as two applications, separating-out the works to the 9 lime trees protected by a Tree Preservation Order (TPO), and another 5 lime trees which are in a Conservation Area (TCA). For the purpose of this report the two applications will be considered at the same time, following the decision parameters of the TPO legislation and Conservation Area Regulations.

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1.2 A summary of the tree locations are shown in Appendix 1, the 'T' numbers (T1 – T7, T13 & T14) denote trees covered by a TPO and the 'C' numbers those in a Conservation Area (nos. C002, C003, C006, C021, C022).

1.3 The applications have been called in to Committee by Cllr Denise Craghill who is concerned that the loss of mature trees, following the significant loss that has already taken place, is a matter of significant public concern and as such should be considered in public by the Planning Committee.

## **2.0 POLICY CONTEXT**

2.1 City of York Publication Draft Local Plan 2018

GI 1 Green Infrastructure

GI 4 Trees and Hedgerows

2.2 City of York Council Development Control Local Plan 2005

CYNE1 Trees, woodlands, hedgerows

CYGP9 Landscaping

## **3.0 CONSULTATIONS**

### Guildhall Planning Panel

3.1 Object to the 21/00472/TPO application for the following reasons:

'Whilst we understand the need to 'maintain' the trees, we cannot accept the reduction in total number of trees proposed. Surely we should be adding to the total number of trees in York City.'

### Publicity and Neighbour Notification

3.2 In response to the two applications, nine objection letters were received including objection from Councillor Widdowson and Treemendous. To date no letters in support of the application have been received. The following provides a summary of the points raised in the letters:

- The trees soften the look of a congested road
- Reduce pollution, provide air filtration.
- Improves the health and wellbeing of local people.
- Support wildlife

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- Provide shade

## **4.0 APPRAISAL**

### **KEY ISSUES**

4.1 The key issues in the assessment of this proposal are the impact upon:

- Health and safety
- Public amenity
- Setting of the City
- Integrity of green corridor
- Landscape setting for the grounds of The University of St Johns Lord Mayors Walk

### **LEGISLATIVE BACKGROUND**

4.2 In considering applications for consent under a Tree Preservation Order and tree works notifications in a Conservation Area, the Local Planning Authority (LPA) should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it.

In certain circumstances, compensation may be payable by the LPA for loss or damage which results from the authority refusing consent under a TPO or granting consent with conditions.

4.3 When determining applications for consent in relation to trees covered by a TPO, the LPA may:

- (i) grant consent unconditionally;
- (ii) grant consent subject to such conditions as it thinks fit; or
- (iii) refuse consent.

The LPA must decide the application before it, so it should not issue a decision which substantively alters the work applied for. The authority could, however, grant consent for less work than that applied for.

4.4 Under section 211 of the Town and Country Planning Act 1990 someone wishing to carry out work to any tree (above 75mm in diameter at 1.5m height) in a Conservation Area must give prior Notice (a 'section 211 Notice') to the LPA.

The LPA can deal with a tree works notification in a Conservation Area in one of three ways. They may:

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- (i) make a TPO if justified in the interests of amenity. The proposal would then have to be the subject of a formal application under the TPO, or
- (ii) decide not to make a TPO and allow the six week period to expire, at which point the proposed work may go ahead as long as it is carried out within two years from the date of the notice, or
- (iii) decide not to make a TPO and inform the applicant that the work can go ahead.

The LPA cannot refuse consent, nor can they grant consent subject to conditions (such as a condition requiring the planting of a replacement tree). This is because a section 211 Notice is not, and should not be treated as, an application for consent under a TPO.

## POLICY CONTEXT

### National Planning Policy Framework

4.5 Section 15. 'Conserving and enhancing the natural environment', paragraph 170 states: Planning policies and decisions should contribute to and enhance the natural and local environment by:

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

4.6 The lime trees were planted as part of the landscape infrastructure of the grounds of The University of St Johns within the landscaped area located to the front of the original building constructed in 1845 in the Tudor style, which is a Grade II Listed building.

4.7 The York Central Historic Core Conservation Area Appraisal describes the Lord Mayor's Walk character area with reference to the trees as:

'In 1718 Lord Mayor's Walk was planted with elm trees to create an avenue. The avenue is still a distinctive feature although the original trees have been replaced.'

'Lord Mayor's Walk is a busy road lined with mature trees providing a sense of enclosure. It is framed by green spaces - the formal garden of St John's College on the northern side and the city wall ditch and ramparts on the southern side. It is a significant space where the city wall can be seen, unlike

neighbouring Gillygate where it is hidden behind houses. The College gardens are well maintained and a very attractive setting for the buildings.'

4.8 The grounds comprise of open formal garden areas. The site is bounded by the Lord Mayors Walk to the south. The trees were planted at close spacing along the boundary adjacent to Lords Mayors Walk and along the edge of various paths within the grounds of the gardens. The trees were pollarded as early as the 1970's. Pollarding is a pruning system involving the removal of the upper branches of the tree which is aimed to promote the growth of a dense head of foliage and branches. It is a method of pruning which aims to keep trees smaller, alter the natural shape of the tree and in some case prolong the life of the tree. The process requires repeating on a cyclical basis, between 2 and 15 years. If the repeat process of pollarding is not carried out the branches become weak and often fail. The lime trees within the grounds of St Johns have been pollarded on a number of occasions as a measure of keeping them safe. The result of regular pollarding has altered the natural shape of the trees as compared with the lime trees located on the opposite side of the road. The original rationale for the original pollarding is not known.

4.9 In 2009 York St John University commissioned a tree survey to assess the condition of the trees and concluded that as a result of past pruning techniques (pollarding) the trees developed varying degrees of wood decay on the main stems and the branches and that the trees had limited safe life expectancy.

4.10 In 2011 13no. lime trees were felled and the remaining trees re-pollarded, essentially to make them safe. In 2019 5no. trees were felled. The proposal was to remove the remaining 14no. lime trees in phases over a period of 10 to 15 years, 6no. trees in the first phase, 6 no. trees in the second phase, and 2no. trees in a third phase.

4.11 Another survey was commissioned in 2018 stating that since 2009 the remaining 14no. trees have developed new branches. As is often the case with pollarded trees new growth can become weak and prone to failing. It was the failure of a branch that prompted the University to implement the 2<sup>nd</sup> phase.

4.12 In February 2018 an application to fell the remaining 14no. lime trees was refused and a TPO was served.

4.13 In April and May 2018 the remaining 14no. lime trees were inspected again. On this occasion a climbing inspection took place which is much more thorough than a

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visual inspection from ground level (see Appendix 2 – Extract of 2018 Tree Report). The conclusion, again as a result of the pollarding decay and dysfunctional xylem was discovered. Dysfunctional xylem means the flow of water and nutrients are unable to flow freely resulting in poor and weak growth and the decline of the tree. To ensure the safety of the trees further large diameter wood would need to be removed. The rationale for wanting to bring forward the phases of the work is essentially to establish new trees sooner and reduce future risk.

4.14 Jo Ryan, Arboricultural Consultant, carried out an arboricultural report on behalf of their client York St John University in May 2018. This was submitted with a previous application and sections were submitted with the current application, as the information is still relevant today:

‘Approximately 15 young lime trees were planted as eventual replacements for the existing lime avenue. These trees have not established well; growth is much less than would be expected after nearly 10 years, and there is noticeable variability in tree form. Young tree development has most likely been in check as a result of competition for water, nutrients and light by the mature trees. In addition, some of the young trees show poor form and would be structurally compromised into maturity, affecting the visual unity of the new avenue’.

4.15 The Tree Preservation Order (TPO) was served in 2018 it is still relevant today, and serves to provide a public visual amenity from all directions as seen from east to west along Lord Mayor Walk and from the bar walls.

4.16 Where consent is granted to remove a tree subject to a TPO, the planting of a replacement tree can be imposed as a condition of consent, including specifying the size, species and location of the replacement tree(s).

4.17 Despite the general poor condition, shape and form of the pollarded trees, they do not pose a significant threat to life or property. However, to maintain the safety of the trees they would have to undergo the regular, cyclical work of pollarding. The consequence of this work, although prolonging the life of the trees, would not stop the decline in their health. It is important to note they would never develop into a natural form of a lime tree. Although trees can be regularly managed to keep them safe, a TPO would not be suitable when regular repeat operations are needed with high incumbent costs imposed on the tree owner.

4.18 Despite the relatively poor form of the trees, as a whole they provide a distinct, highly visible, landscape feature in the area, as viewed from east to west along Lord Mayors Walk.

4.19 In the officer's opinion it is not necessary to fell the trees specified in order to comply with health and safety requirements. However, there is no doubt that the trees are in poor health and are in slow decline. The repeated pruning the trees have undergone over the years has contributed to their poor health and has significantly altered their natural shape and form to the extent they will never recover.

4.20 It is the officer's opinion that the proposed felling operation has merit in its aim to allow better growing conditions for the replacement trees. The success of replacement planting will depend on suitable growing conditions, quality of the planting stock, species choice, suitable ground preparation, plus adequate aftercare.

4.21 It is likely that with removal of the pollarded lime trees and associated competition factors, subsequent new tree planting will perform a lot better and fill-out, to become significant sustainable landscape features and ultimately reflect the natural form of lime trees as seen on the opposite side of Lord Mayors Walk.

4.22 The pollarded tree stock on this site only provides a limited capacity to absorb CO<sub>2</sub> emissions in comparison to a fully grown mature lime tree. This is due to the continued practice of pollarding, with the removal and chipping of cut material.

4.23 Due to repeat removal of the canopy, the practice of pollarding diminishes the lime tree's wildlife value, reducing habitat and food sources.

## **5.0 CONCLUSION**

5.1 The tree stock on this site has not been well maintained for a number of years which has contributed to the poor condition of many of the trees. Given the relatively useful, safe life expectancy of the remaining 14no. lime trees it is the officer's opinion that it would be beneficial in the long term and significantly more sustainable to fell the 14no. trees and replant.

5.2 Consequently, it is felt that the proposed tree felling is acceptable. The removal of the trees presents an opportunity to replant with more suitable species of young, healthy stock, and provide a more attractive amenity feature which is significantly

more sustainable than the current situation. The removal of the trees would reduce competition for resources such as light, water and nutrients that can reduce a tree's ability to successfully establish and produce a canopy of good shape, form and structure.

5.3 The pollarded lime tree stock on this site only provides a limited amenity value and wildlife habitat and their capacity to absorb CO2 emissions is also limited in comparison to a fully grown mature lime trees. Although the planting of young trees initially would not provide the same level of amenity value, habitat for wildlife or absorb the levels of CO2 as mature trees, neither does regularly pollarded trees.

5.4 The officer's recommendation is to approve 21/00472/TPO to fell 9no. Lime Trees protected by TPO No. CYC383 with a condition to replant with 9no. replacement trees.

5.5 It is recommended that the decision is to not make a TPO in response to application number 21/00474/TCA - Fell 5no. Lime trees, and inform the person giving notification that the work can go ahead.

## **6.0 RECOMMENDATION:**

- i. Approve 21/00472/TPO to fell 9no. Lime Trees protected by TPO No. CYC383, subject to the following conditions/informative:

1 TREE4 Valid for two years

This consent is valid for two years from the date of the notice.

Reason: In accordance with the Department for Communities and Local Government Guide to Tree Preservation Orders and trees in conservation areas 2014.

2 TREE5 Branch wood not burned

The branch wood should not be burned but be either chipped or otherwise removed from site.

Reason: In the interests of the protected trees, public safety and nature conservation.

3 TREE7 Replanting

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There is a duty under the Town and Country Planning Act 1990 to replant with similar/more appropriate species or species as agreed with the Local Planning Authority.

Reason: Requirement under the Town and Country Planning Act 1990.

#### 4 Replacement planting

Before the trees are removed, a scheme for the planting and maintenance of replacement trees shall be submitted to and approved in writing by the Local Planning Authority; these works shall be carried out as approved. The details shall include soil preparation; and the position of planting; means of support and watering; and a maintenance programme. The works shall be carried out in the first available planting season (November to March) following the removal of the first tree. The replacement trees shall be agreed in writing by the Local Planning Authority. Nursery stock shall be to a minimum size of 20-22cms in girth (measured at 1 metre above soil level), and 3.0-3.5m high, with one strong main leader.

If within a period of five years from the date of the planting of that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.

#### 5 TREE9 Rights of Appeal

##### YOUR RIGHT OF APPEAL

If you disagree with our decision, you can appeal to The Planning Inspectorate. If you want to appeal, you must do so in writing to The Environment Appeals Team, Room 4/04 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, Telephone: 0117 372 8192, e-mail it to: [Environment.appeals@pins.gsi.gov.uk](mailto:Environment.appeals@pins.gsi.gov.uk) within 28 Days from the date you receive this decision.

#### 6 TREE10 Compensation

If you suffer any loss or damage as a result of this refusal of consent/imposition of conditions, you may be entitled to recover from the Council compensation. If you wish to make a claim you must do so within 12 months from the date of this decision (or, if you appeal to the Secretary of

State, within 12 months from the date of his decision). Claims should be made in writing to the City of York Council, West Offices, Station Rise, York YO1 6GA, Tel: 01904 551550.

**INFORMATIVE:**

7 TREE8 Wildlife and Countryside Act

Under Section 1 and 99 of the Wildlife and Countryside Act 1981 it is an offence to intentionally damage or destroy any birds nest whilst it is in use being built or to deliberately damage or destroy a bat roost.

Reason: Requirement under Section 1 and 99 of the Wildlife and Countryside Act 1981.

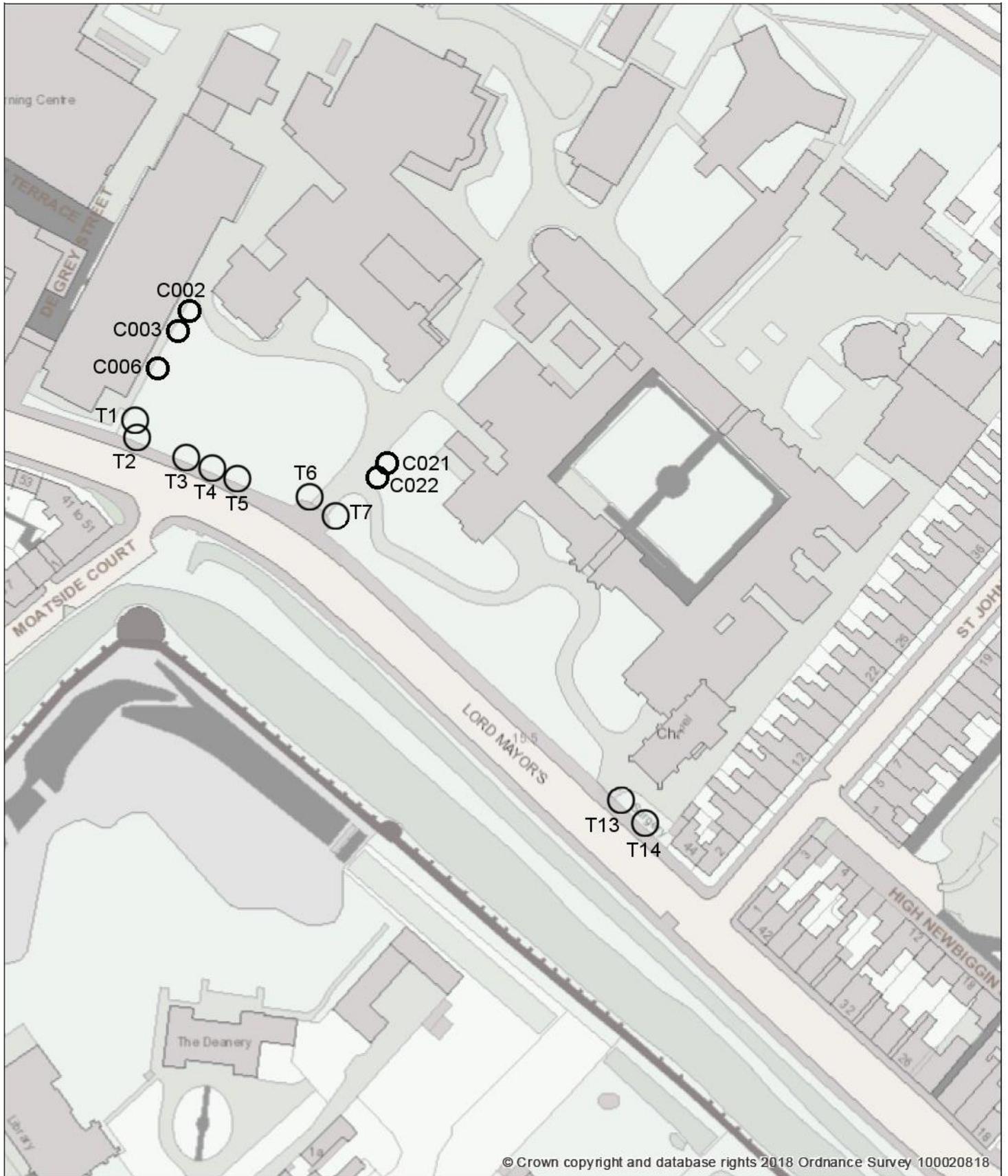
- ii. Decide not to make a TPO and inform the applicant that the work can go ahead as proposed in 21/00474/TCA - Fell 5no. Lime trees (nos. C002, C003, C006, C021, C022) in a Conservation Area.

**Contact details:**

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Appendix 1 – Tree location – trees numbered ‘T’ in applicant’s tree report and on Tree Preservation Order no. CYC383, trees in the Conservation Area are ‘C’ nos.



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