

PLANNING DEVELOPMENT CONTROL COMMITTEE

16 February 2010

CONFIRMATION OF TREE PRESERVATION ORDER 1981 – LAND AT 9
BRICKMAKERS ROAD COLDEN COMMON HAMPSHIRE.

REPORT OF THE HEAD OF ENVIRONMENT

Contact Officer : Ivan Gurdler (Tel 01962 848 403) igurdler@winchester.gov.uk

RECENT REFERENCES

None

EXECUTIVE SUMMARY:

To consider the confirmation of Tree Preservation Order 1981 to which letters of objection have been received.

RECOMMENDATION:

That, having taken into consideration the representations received, Tree Preservation Order 1981 be confirmed.

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DETAIL:

1. TPO 1981 Land at 9 Brickmakers Road Colden Common Hampshire
 - 1.1 Following receipt of information, the Arboricultural Officer attended 9 Brickmakers Road, on 19 October 2009 and requested that Arboricultural Contractors, who were about to start work on 3 mature oak trees to the front of the property, stop work.
 - 1.2 The Arboricultural Officer considered the removal of these oaks would be detrimental to the visual amenity of the local landscape and was satisfied the criteria for a Tree Preservation Order (TPO) to be served had been met.
 - 1.3 A TPO was made and served on the 19th October 2009.
 - 1.4 The grounds for making the order were: "*significant trees that contributes to the visual amenity of the area.*"
 - 1.5 There are four letters of objection to the Tree Preservation Order and three letters of support, plus support from the Parish Council.
2. Formal Objections
 - 2.1 Correspondence has been received from the owners of 9 Brickmakers Road. who object to the Order for the following reasons:
 - 2.2 The owners have stated that confirmation of this TPO will be a financial burden on them. They are concerned that branches falling from the trees will damage their property and cars in the lay-by near by.
 - 2.3 The owners object to the TPO, as there was no Order on trees when they purchased the property in May 2009.
 - 2.4 The owners wish the trees to be removed as the survey they commissioned highlighted that falling branches and roots could damage their property and they consider that the removal of the trees would enhance the area.
 - 2.5 In the letter of objection the owners claim that, as the house is built on clay, the trees are causing cracking in the rooms inside the building.

- 2.6 The owners further comment that the trees block out natural sunlight, and that they do not have the time for leaf collection and disposal and that they regard this as another pressure imposed on their family.
- 2.7 Letters of objection have also been received from residents in Brickmakers Road and Thacking Green who dispute that the trees have amenity value.
- 2.8 Comments have been forwarded about the amount of leaves that are produced by trees in this area and the task of clearing them from their gardens every autumn.
- 2.9 Concerns have also been raised that the roots may break the new drain that Highways have just installed in Brickmakers Road.
3. Summary of Support to confirm the Tree Preservation Order.
- 3.1 The Parish Council requested that a TPO be served to stop the felling of these trees. Letters in support of the TPO have also been received from other residents in Brickmakers Road and Thacking Green. A supporter said he was attracted to live on this estate because of the greenery and mature trees. Another comment from a supporter was that the trees were a vital part of the character of this residential area and provide habitat for local wildlife.
4. Matters raised that are irrelevant to the confirmation of this TPO.
- 4.1 That Council only provided one green waste sack and there is an additional charge for extra sacks.
- 4.2 The Council leaf clearing is inadequate.
- 4.3 Objection that public money is being spent on serving TPO's.
- 4.4 The unusual speed with which the order was made
- 4.5 Trees and bushes are not being maintained by the Highway Authority.
- 4.6 The long term objective of the Council should be to reduce the number of offending trees in Brickmakers Road, perhaps replacing them with small ornamental species.
5. Officer Comments
- 5.1 The three oaks are mature specimens and are of reasonable health with vigour and shoot extensions normal for this age and species of tree. All three trees are visible from Brickmakers Road and are a significant feature in the local landscape. Oak trees are part of the character of Colden Common and are common through out the Parish.
- 5.2 Investigations have shown that the house was underpinned in 1976, following a summer of exceptional hot weather. The clay sub soil will have shrunk due to the lower moisture content, thus causing damage to the property.

- 5.3 If the TPO is not confirmed and the trees are felled, the clay sub soil will re-hydrate thus causing heave which could crack the foundations, and therefore defeat the object of removing the trees for alleged subsidence.
- 5.4 There is no engineers report, DNA tests, or crack monitoring to establish whether tree roots are the cause of cracking or not.
- 5.5 Along the front of the properties of Thacking Green, there is a substantial drain as indicated by the way the soil has settled. It is more than likely when this drain was installed at the time the houses were constructed that the roots of T2 &3 were severed. Due to the distance away from the trees, the severance has not had a detrimental effect on the stability of the trees. The trees have responded to their new rooting environment. Without an engineer's report it is impossible to establish whether the roots of these trees are cracking this drain. It is more likely that the roots are growing along the tree side of the drain because of the uncompacted soil when the drain was backfilled. Other factors such as the construction type and depth will depend on whether the roots have breached the drain or not.
- 5.6 There is not a tree conditions report to justify the felling of these trees. Without a tree report, the owner has no indication if any works are required and whether there is scope to carry out some pruning works to alleviate light issues.
- 5.7 The Highways drain is approximately two metres in depth and encased in concrete. This is an environment in which tree roots will not grow as there are no nutrients there. It is unlikely that the oak tree roots will grow this deep. Most roots are within the top metre of the soil.
- 5.8 To reduce the risks of falling branches the trees, the dead wood may be removed.
- 5.9 Under common law issues such as light, leaves and pollen are not regarded as a nuisance. Overhanging branches are regarded as a nuisance and two properties have to be involved so an owner cannot claim that trees in their own garden are the cause of a nuisance to themselves. Therefore these issues would not be justification for removal of the trees.

OTHER CONSIDERATIONS:

6. SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):
- 6.1 The Confirmation of this Tree Preservation Order will contribute to the High Quality Environment outcome of the Sustainable Community Strategy.
7. RESOURCE IMPLICATIONS:
- 7.1 There are no resource implications for the City Council.

8. RISK MANAGEMENT ISSUES

8.1 There are no risk management issues for the City Council.

9. BACKGROUND DOCUMENTS:

Tree Preservation Order 1981 – Land at 9 Brickmakers Road Colden Common

Winchester City Council Tree Strategy consultation draft 2007. Policy TPO 1

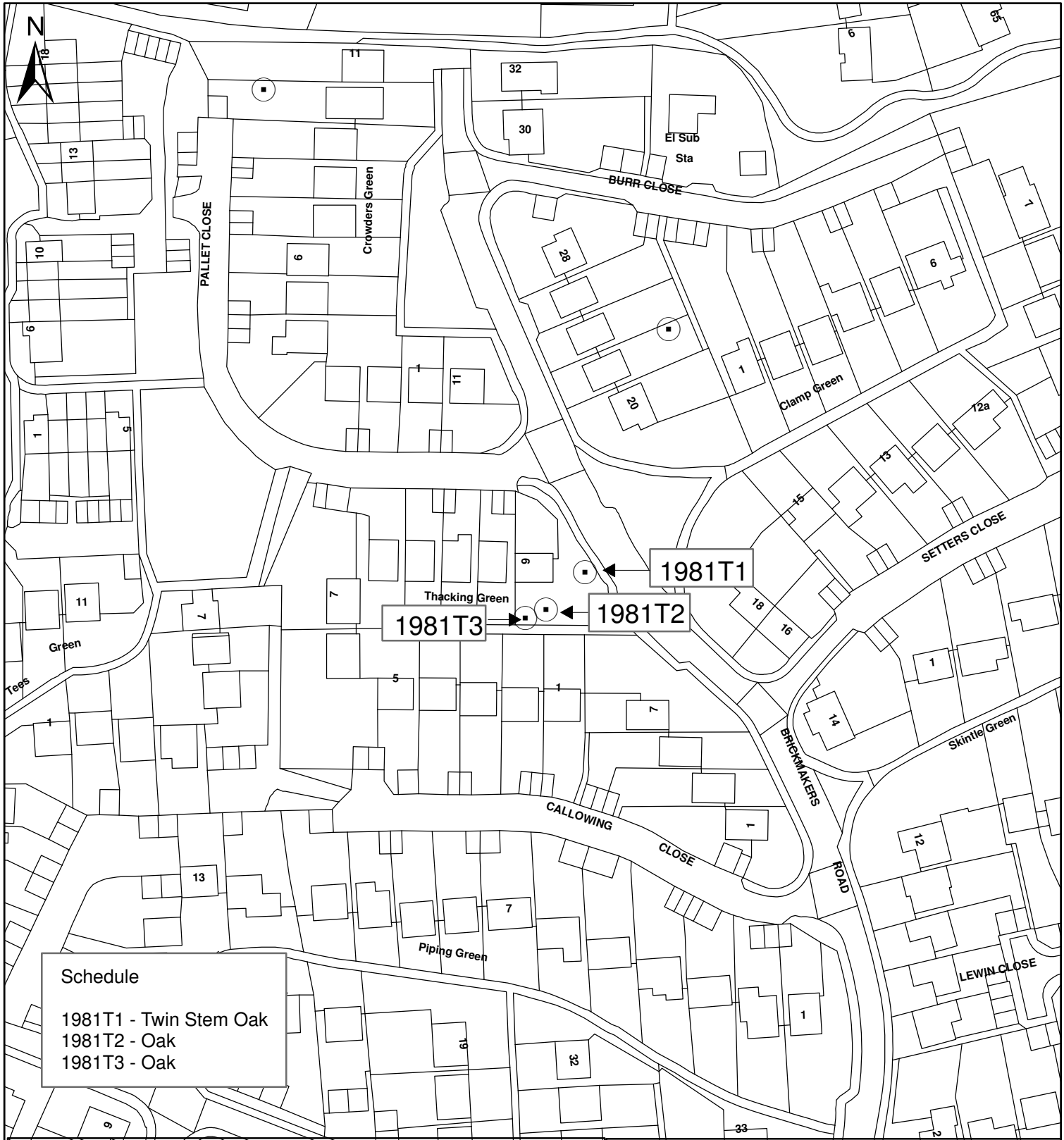
Tree Evaluation Method for Preservation Orders (TEMPO)

Tree Preservation Orders: a guide to the law and good practice

Winchester District Local Plan Review (July 2006)

APPENDICES:

Map



Schedule
 1981T1 - Twin Stem Oak
 1981T2 - Oak
 1981T3 - Oak

- A1 ••• Area
- G1 ■ Group
- W1 Woodland
- T1 ◻ Tree

TOWN AND COUNTRY PLANNING ACT 1990
 Section 198 - 201

Tree Preservation Order No. 1981

Location: **9 Brickmakers Road**
Colden Common
SO21 1TX

OS Grid: 4721 Scale: 1:1250@ A4 Date: 19/10/09



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