PDC 1063
FOR DECISION
WARD: COLDEN
COMMON & TWYFORD

PLANNING COMMITTEE

18 AUGUST 2016

CONFIRMATION OF TREE PRESERVATION ORDER 2177 – LAND AT TRELLISSICK, COLDEN COMMON, SO50 6HW

REPORT OF THE HEAD OF LANDSCAPE AND OPEN SPACES

Contact Officer: Stefan Kowalczyk (Tel: 01962 848210)
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RECENT REFERENCES:

None.

EXECUTIVE SUMMARY:

To consider confirmation of Tree Preservation Order 2177 to which 1 letter of objection has been received.

RECOMMENDATION:

That, having taken into consideration the representations received, Tree Preservation Order 2177 be confirmed.

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DETAIL:

1.1 The Council's tree officers had an onsite meeting with the owner and arboricultural representative on the 24 June 2016 when it was brought to the attention of the tree officers that one tree had not been included in the serving of the TPO 2165.

1.2 A provisional Tree Preservation Order was made on 11 July 2016, which will expire on 7 January 2016 unless it is confirmed.

1.3 This matter comes to Planning Committee because at the time of writing this report, one letter of objection has been received. A summary of any further letters of objection received before Committee will be included in the update sheet.

SUMMARY OF OBJECTION LETTER:

Misleading and incorrect information.

1.4 The map supporting the TPO includes references to roads in Stanmore.

1.5 The tree was not included in TPO 2165.

1.6 The tree officers were unable to answer a question as to why the tree covered by TPO 2177 was not included in TPO 2165.

1.7 The statement "the tree is prominent in the public right of way and contributes to the character and amenity of the area" is factually incorrect as the tree is not "in" the public right of way, it is adjacent to a public highway in private land.

Expediency.

1.8 Mr Thomas is a good custodian of mature trees in his ownership. Recent felling of a mature oak was requested by the Highway Authority under section 154 of the Highways Act.

1.9 The objector references Charles Mynors – *'The Law of Trees, Forests and Hedges, Second Edition (2002.)'* "Although a tree may merit

protection on amenity grounds it may not be expedient to make it the subject of a TPO."

1.10 Guidance states that "public visibility alone will not be sufficient to warrant an order."

1.11 '*Tree Preservation Orders: a guide to the law and good practice*' states that *"*it is unlikely to be necessary to make an order in respect of trees which are under good arboricultural or silvicultural management.*"*

1.12 Condition 6 is considered valid, offering protection to the trees.

1.13 The owner has not removed any of the trees not subject to TPO since the serving of a 154 Notification dated 11December 2014.

Amenity assessment.

1.14 '*Tree Preservation Orders: a guide to the law and good practice'* states that "LPAs should be able to explain to landowners why their trees or woodlands have been protected by a TPO. They are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way."

1.15 It is the objector's opinion that a lack of any formal process omits a reasoned assessment of expediency and proves the Council's arboricultural officers are not adhering to government guidance in respect of a system being "structured and consistent*."*

1.16 The objector states that there is a "perceived threat to the tree" rather than "immediate threat to tree" or "foreseeable threat to tree."

SUMMARY OF SUPPORT LETTERS:

1.17 No letters of support have been submitted to the Local Planning Authority.

ARBORICULTURAL OFFICER'S RESPONSE:

Misleading and incorrect information.

1.18 The references to roads that are not in relation to the actual address of the TPO are due to a technical failure on the ARC GIS Mapping system and can be amended on confirmation of the TPO.

1.19 The tree was not included in TPO 2165 as it was not taken into consideration at the time of original inspection. This was explained to

both the owner and appointed arboriculturalist on site at a meeting requested by the appointed aboriculturalist.

1.20 Two separate trees were requested for potential emergency TPO, two trees were then served with a TPO two days later – TPO 2165. In the meantime, new information came to light and a new, separate order was served – TPO 2177.

1.21 The statement "the tree is prominent in the public right of way and contributes to the character and amenity of the area" is indeed factually incorrect and can be amended upon confirmation of the TPO if seen necessary to do so. Members should bear in mind that TPOs are usually made as an emergency measure, as a result of which errors are sometimes made. Ultimately, as long as the TPO is legally made and served, minor errors do not prevent the TPO being valid and capable of being confirmed.

Expediency.

1.22 It is expedient, in the interests of amenity, to make provision for the preservation of these trees due to the recent granting of a Lawful Development Certificate which confirms that planning permission for the construction of two dwellings on the site has been implemented and therefore two dwellings can be built on the site.

1.23 No conditions in the granted planning permission protect these trees from development. Although Condition 6 of the planning permission states that there shall be no "felling, topping, or lopping without previous consent of the Local Planning Authority," this is insufficient to protect the trees from development as there is no sanction if the condition is breached.

1.24 The recognised procedure to protect trees from construction activities is to serve a Tree Preservation Order. Planning conditions should not solely be used to protect trees and as such, Condition 6 does not offer sufficient protection for the trees.

1.25 In the Planning Practice Guidance it states that orders should be made in respect of trees where it appears necessary in connection with the granting of planning permission, in order to ensure the protection and or the replanting of replacement trees.

1.26 Policy DP4 states "In order to maintain or enhance the district's townscape and landscape, development will not be permitted where it will detract from, or result in the loss of: (iii) trees and hedgerows." Although the current granted planning permission does not result in the removal of any trees, it will affect them, hence the need for more robust protection that includes protection from future development.

1.27 Paragraph 3.33 of DP4 states "Where the trees are to be retained, their relationship with the development should be carefully considered to ensure their future wellbeing. In particular, there should be no intrusion on the canopy or root spread and adequate space should be allowed

for future growth. Proposals that could lead to subsequent pressure for removal, or the premature demise of trees, should be avoided."

1.28 Paragraph 3.35 of DP4 states "The management and protection of trees and hedgerows in the District will be given high priority. The City Council will continue to serve Tree Preservation Orders where appropriate."

1.29 It is important to note that although planning permission has been granted and implemented, the outline of the proposals can be changed going forward, strengthening the need for protecting these trees through the TPO process.

1.30 The confirmation of a TPO will ensure high quality of work and that reasonable management works are undertaken following the guidance outlined in *BS3998:2010 'Tree Work – Recommendations'* and supported by sufficient justification.

Historical significance.

1.31 The Colden Common Village Design Statement states that Upper Moors Road is one of the oldest thoroughfares in the village. The trees and hedges which line the section between Church Lane and Tees Farm Road, where they still exist, grow on high banks which are a characteristic of ancient trackways. Although not a sufficient point to warrant a TPO, with the recommendation of the Secretary of State this does offer such importance as to be taken "into account other factors, such as importance to nature conservation," "rarity, cultural or historic value."

Quality and suitability of trees

1.32 T1 covered by TPO2177 is a small, young tree in good condition located to the front of the property on the south side of the entrance to Trellissick. The tree fronts onto Upper Moors Road with up to 40% of its canopy stretching over one lane of the road. Colden Common School is located to the east with its vehicle entrance situated slightly to the south.

1.33 Oak trees generally have a life span of 200-300 years but are frequently know to live for much longer periods, up to 1000 years. In this case, the tree is estimated to be between 40 and 70 years old, with a further greater than 100 year life span.

1.34 Oak trees support more life forms than any other native trees, hosting hundreds of species of insect, and supplying many British birds with food sources. By ensuring the protection of these trees, biodiversity within the area will be maintained and enhanced.

1.35 These trees are in close proximity to the local school, housing estate and Parish Council owned play area and therefore their protection will benefit a number of people who live, play and go to school in close proximity to the trees.

Amenity Assessment

1.34 It is the Secretary of State's view that Tree Preservation Orders should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.

1.35 T1 subject to TPO 2177 can be seen from a public place; a footpath, and a two carriageway road, both serving Colden Common Primary School. The trees are significant in the street scene and can be seen in full view from both carriageways. Their visibility from the public footpath that runs on the easterly side of the road is significant.

1.36 As it stands, it offers a present and future contribution to the surrounding area through biodiversity and environmental benefits of air quality improvement, rain fall dissipation and its contribution of species enrichment to the surrounding area.

1.37 Taking into consideration the proposed development, this tree along with other trees along the boundary will serve as part of a varied screen of vegetation to any potential future development. These factors contribute to "a reasonable degree of public benefit," as stated in Charles Mynors – '*The Law of Trees, Forests and Hedges, Second edition (2002.)'*

1.38 The Secretary of State's Planning Practice Guidance states "When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way."

1.39 Two amenity assessments have been carried out to support the recommendation of the Local Planning Authority that a TPO is confirmed.

1.40 Amenity Evaluation for Tree Preservation Orders. This system incorporates methods of evaluation and includes the three relevant criteria as identified in the 'Planning Practice Guidance' - visibility, individual impact and wider impact. A benchmark total score of 15 is appropriate to indicate that a tree is worthy of inclusion in a TPO. The resulting score in this case was 21.

1.41 A second assessment was carried out using the Tree Evaluation Method for Preservation Orders (TEMPO). The bench mark score for this system is 15+ points. The tree assessment result after undertaking the survey was 17 points, therefore meriting a TPO.

Serving of a 154 Notice by Hampshire County Council Highways Authority

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1.42 One objection to the confirmation of this TPO is that the landowner is a good custodian of mature trees in his ownership and the example given

to support this view was the request by the Highways Authority to fell a mature oak.

1.43 In all situations, Hampshire County Council Highway Authority only serve a 154 Notice if, in the interests of safety, the tree(s) is a danger to the highway and they consider that the owners have not taken the necessary precautions to ensure that any obvious safety threats to the public highway are remediated. The 154 Notice in this situation refers to the tree being in significant decline with large deadwood greater than 100mm in diameter present in the tree over a frequently used public highway. As this had not been removed, the County Council felt it necessary to serve the 154 Notice.

OTHER CONSIDERATIONS:

2. COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):

2.1 The confirmation of this Tree Preservation Order will contribute to the High Quality Environment outcome of the Community Strategy by maintaining the environmental quality and character of the area.

3. RESOURCE IMPLICATIONS:

3.1 There are no financial implications for the City Council.

4. RISK MANAGEMENT ISSUES

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

BACKGROUND DOCUMENTS:

Tree Preservation Order 2165 – Trellissick, Upper Moors Road, Brambridge, Eastleigh, Hampshire (2016)

Colden Common Village Design Statement (2012)

Planning Practice Guidance - Tree Preservation Orders and trees in conservation areas

http://planningguidance.communities.gov.uk/blog/guidance/tree-preservation-orders/

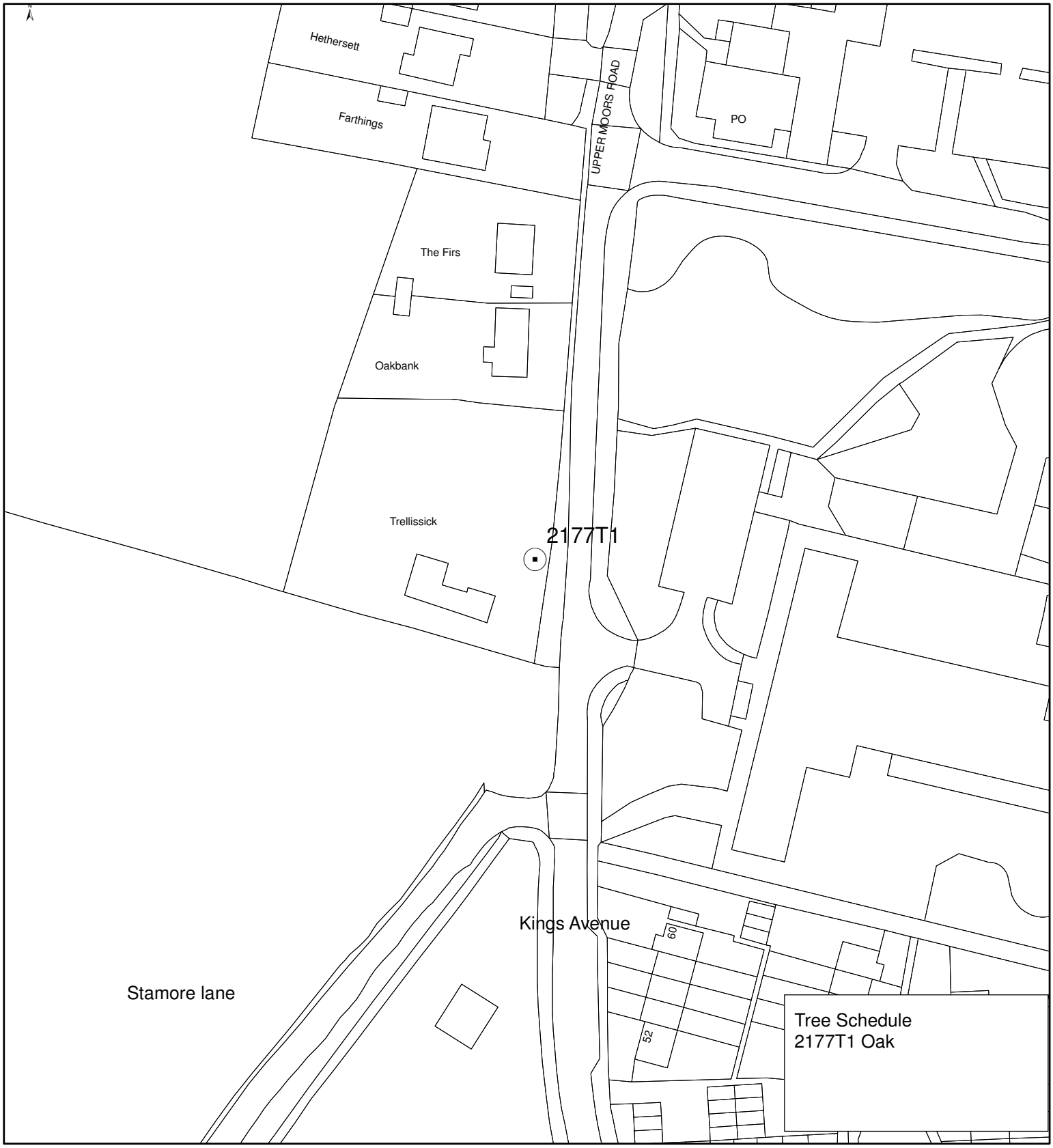
Charles Mynors – The Law of Trees, Forests and Hedges, Second Edition (2002)

Torbay Council – Amenity Evaluation for Tree Preservation Orders

Forbes-Laird Arboricultural Consultancy - Tree Evaluation Method for Preservation Orders (TEMPO) (2009)

APPENDICES:

Appendix 1 Map.



A1 Area

G1 Group

W1 Woodland

T1 Tree

TOWN AND COUNTRY PLANNING ACT 1990
Section 198 - 201

Tree Preservation Order No. 2177

Location: Trellissick
Upper Moors Road
Brambridge
Eastleigh
SO50 6HW

OS Grid: 4629 Scale: 1:300 @ A4 Date : 5th July 2016

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