

PLANNING DEVELOPMENT CONTROL COMMITTEE

20 February 2008

CONFIRMATION OF TREE PRESERVATION ORDER 1891 (AS AMENDED) – COURT ROAD, KINGS WORTHY

REPORT OF DIRECTOR OF DEVELOPMENT SERVICES

Contact Officer : Ian Cupper Tel 01962 848 317

RECENT REFERENCES

None

EXECUTIVE SUMMARY:

To consider confirmation of Tree Preservation Order 1891 to which objections have been made.

RECOMMENDATION:

That having taken into consideration the representations received, that Tree Preservation Order 1891, Land at Court Road, Kings Worthy, is confirmed subject to modification.

PLANNING DEVELOPMENT CONTROL COMMITTEE20 February 2008CONFIRMATION OF TREE PRESERVATION ORDER 1891 (AS AMENDED) – COURT ROAD, KINGS WORTHYREPORT OF DIRECTOR OF DEVELOPMENT SERVICESDETAIL:1. TPO 1891, Land at Court Road, Kings Worthy

1.1 During July 2006 Winchester City Council received information from a number of neighbours to suggest that trees situated on Land at Court Road, Kings Worthy were at risk of felling in order to remove the constraints that trees may place upon proposed development of the land.

1.2 An arboricultural officer attended the site July in 2006 to assess the impact that the removal of trees would have on the visual amenity of the area. Observations were made from all the points that the tree was visible to the public.

1.3 The arboricultural officer's report stated that:

"The trees are an important landscape feature adding greatly to the character and amenity of the area".

1.4 It was decided that if a provisional Tree Preservation Order (TPO) was not served; significant trees could be lost denuding the area of tree cover with the subsequent loss of character and amenity within this part of Winchester district.

1.5 A TPO was made and served on 3 August 2006 to protect the trees from possible felling. Due to administration problems confirmation of this TPO is now a priority.

1.6 Formal Objections

1.7 Correspondence has been received from 10 Court Road, Kings Worthy.

1.8 There have been objections on the grounds that:

Both T7 & T8 (silver birch) have been pollarded and are out of balance; consequently they sway dangerously. Also the trees deprive the property owners of light and regularly lose branches.

T9 (horse chestnut) is a poor tree that has also been pollarded and is now a one-sided bush. This also deprives the property owners of light and leaves a carpet of mess on the pavement and road.

T10 – has caused complaints about light and proximity.

1.9 Officer Comments

Both T7 & T8 (silver birch) have been pollarded and are out of balance consequently they sway dangerously.

T9 (horse chestnut) is a poor tree that has also been pollarded and is now a one-sided bush. The trees have been assessed using the Tree Evaluation Method for

Tree Preservation Orders (TEMPO) and the visual observations of the arboricultural officer. TEMPO is a nationally recognised tool for assessing trees for suitability for TPO and is recommended for use by the Winchester City Council Tree Strategy – consultation draft.

- 1.10 None of the trees have been pollarded in the past; all of trees are maiden trees (i.e. have a shape and form that one would accept to be the normal growth habit for species).
- 1.11 It is accepted that some of the crowns are not symmetrical and form cohesive groups, however, trees are self optimising organisms therefore this does not suggest they are structurally defective. The site assessment conducted by the Council's arboricultural officer did not reveal any serious biomechanical faults or parasitic infections that may result in imminent or catastrophic failure.

“The trees regularly lose branches” and leave “a carpet of mess on the pavement and road”.

- 1.12 Case law has determined that trees are natural living things and thus falling leaves, berries, nuts, fruits, cones, etc. are something that comes with them. To prevent a TPO being confirmed for this reason would effectively exempt every tree from being the subject of TPO and this is clearly not what the government legislation set out to do.
- 1.13 Falling branches are more of a concern. However, the assessment of the trees indicates that they are living and healthy specimens well worthy of TPO. Trees will naturally self prune so dead branches and crown dieback is an accepted part of their biological process. This is reflected in government guidance which specifically exempts removal of dead wood from the crown of a tree from the need for an application. The responsibility for removal of dead branches rests with the tree owner. Lack of management often results in a build up of minor dead material which falls as debris. This could easily be remedied with an exercise to remove the dead material under exemption and should not prevent the confirmation of this TPO.

Light and proximity

- 1.14 Trees T7 to T9 are on the boundary of 10 Court Road. T10 is located on the boundary of 9 and 10 Court Road.
- 1.15 Trees T7 to T9 are located to the north of both properties. Therefore these trees do not form a shadow on 9 and 10 Court Road as the sun tracks across the southern sky from east to west.
- 1.16 The objector states that T10 has caused complaints from previous owners of number 9 with regard to light and proximity. No formal objection was received by the current owner. The tree is on the south western side of the property at number 9 so some shading would occur to the property towards the end of the day. This is considered acceptable when balanced against the benefit of such a good, prominent tree in the landscape.
- 1.17 The crown clearance from the properties and 9 and 10 Court Road are considered acceptable for T7 to T10.

1.18 Conclusion

1.19 The trees have been assessed using a nationally recognised tool. Winchester City Council has followed the relevant guidance contained within *Tree Preservation Orders: a guide to the law and good practice*. Therefore the grounds for making the order are sound.

1.20 Management of minor debris could be undertaken under exemption contained in section 198(6) of the Town and Country Planning Act and would not require an application to the local planning authority.

1.21 Light and proximity complaints are unfounded in regards of T7 to T9 as these trees are to the north of the property and have adequate crown clearance from the houses at 9 and 10 Court Road

OTHER CONSIDERATIONS:

CORPORATE STRATEGY (RELEVANCE TO):

Looking after the built and natural environment is a key objective.

RESOURCE IMPLICATIONS:

None

BACKGROUND DOCUMENTS:

Tree Preservation Order 1891

Tree Evaluation Method for Preservation Orders (TEMPO)

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

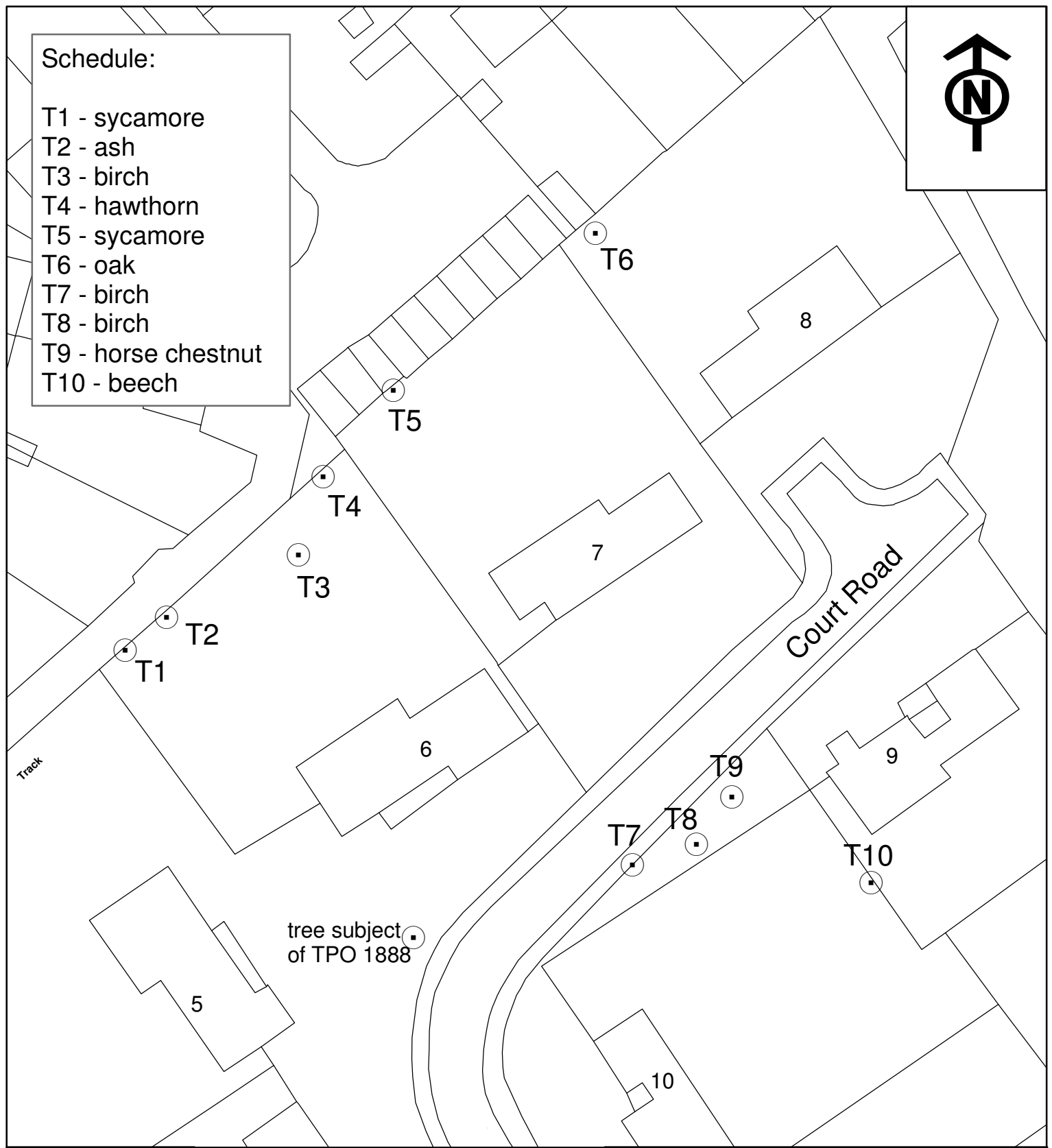
Winchester City Council Tree Strategy consultation draft 2007. Policy TPO 1

APPENDICES:

The location of T10 on the TPO map has been amended for clarity.

Schedule:

- T1 - sycamore
- T2 - ash
- T3 - birch
- T4 - hawthorn
- T5 - sycamore
- T6 - oak
- T7 - birch
- T8 - birch
- T9 - horse chestnut
- T10 - beech



- A1 Area
- G1 Group
- W1 Woodland
- T1 Tree

TOWN AND COUNTRY PLANNING ACT 1990
Section 198 - 201

TREE PRESERVATION ORDER No: 1891

Location: **Court Road,
Kingsworthy**



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