

PLANNING COMMITTEE

REPORT TITLE: TPO 2360

MEETING DATE: 15 OCTOBER 2025

REPORT OF CABINET MEMBER: COUNCILLOR JACKIE PORTER, CABINET MEMBER FOR PLACE AND LOCAL PLAN.

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WARD(S): BISHOPS WALTHAM

PURPOSE

To consider confirmation of Tree Preservation Order 2360 to which two letters of objection have been received.

RECOMMENDATIONS:

That, having taken into consideration the representations received, Tree Preservation Order 2360 be confirmed.

1. SUMMARY

- 1.1. The Council received a tree works application to remove the holm oak which is the subject of this report. This was treated as a section 211 notice as the tree was only subject to protection by virtue of being within the Bishops Waltham conservation area. The tree works application (24/01599/TPO) was subsequently refused after the TPO was made and is currently subject to an appeal to the Secretary of State.
- 1.2. Following this notification being received, the tree consultant working on behalf of Winchester City Council carried out a site inspection to assess the condition and amenity value of the holm oak to assess whether it was of sufficient amenity value. Based on this assessment, this tree was deemed to meet the criteria for protection under a Tree Preservation Order (TPO). The tree achieved a score of 19 points on the Tree Evaluation Method for

Preservation Orders (TEMPO) assessment, indicating that it warrants formal protection. As a result, TPO 2360 was issued on 24 April 2025. If not confirmed the provisional order will expire on 23 October 2025.

2. CONSULTATION

2.1. Two letters of objection to the making of this TPO were received. The key concerns are summarised as follows:

- The tree blocks sunlight, for which I believe I have a legal entitlement.
- The tree and overhanging branches are a present and constant danger to my family, grandchildren and property. The tree sways in high winds and should it uproot or fall, it would cause substantial damage to my home not to mention a danger to life.
- The tree causes very unsanitary conditions (i.e.as a result of bird mess which can cause disease).
- The tree is causing extensive damage to the ancient boundary wall, and the newer entrance wall and gate supporting pillar.
- This tree did not have a protection order on it at the date of the Winchester City Council refusal.
- Should Winchester City Council proceed with the intention to assign a TPO to this tree and refuse its removal no doubt the council will issue a legal indemnity to cover all costs incurred by me for all future loss and damage to my property and persons.

The Tree Officer's response:

- In the UK, there is generally no legal right to light for trees. This means that the owner of the tree is not legally obliged to cut a tree that blocks sunlight from a neighbour's garden.
- No diagnostic evidence from an appropriate arboricultural expert has been provided which suggests that the tree poses a safety risk. However, the protection of this tree does not prohibit maintenance from being carried out which is reasonable and in keeping with good arboricultural practice. A formal tree works application for pruning can be submitted which can then be considered by the Council.
- Whilst we appreciate that these nuisance issues can be unpleasant, the high amenity value of this tree and its contribution to the character of the conservation area is considered to outweigh the issues which have been reported.

- The previous application submitted is not supported by sufficient evidence in the form of written technical evidence from an appropriate expert, including description of damage and possible alternative solutions as required in section 8 of the application form. This supporting information can be submitted with a future application and can then be reviewed by the council.
- TPO 2360 was made on 24th April 2025 and the decision for refusal was issued on 28th April 2025, so this tree was protected on the date of refusal.
- Provisions exist within the legislation which allows for a householder to make an application for tree works consent to manage a protected tree. If such work is refused and a householder can establish that there is a causative link between the refusal and property damage a claim can be made pursuant to the statutory provisions provided which deals with such situations.

3. ENVIRONMENTAL CONSIDERATIONS

Trees such as this holm oak play a vital role in addressing the climate emergency and enhancing the district's green infrastructure. They contribute to carbon sequestration by absorbing from the atmosphere and mitigating the effects of climate change.

In addition to their environmental benefits, holm oak trees support a range of biodiversity. They provide essential habitats for a number of species, including insects and other invertebrates, along with species of birds, mammals and other wildlife benefiting from the shelter and food they provide. Therefore, it contributes to the ecological health of the area. Holm oaks support 605 species of wildlife.

4. ALIGNMENT WITH WINCHESTER TREE STRATEGY

The confirmation of TPO 2360 directly supports the objectives outlined in the Winchester City Council Tree Strategy. By preserving this mature holm oak tree that contributes to local biodiversity, visual amenity, and climate resilience, the TPO reinforces the Strategy's commitment to protecting valuable trees across the district.

The report's emphasis on the role of this tree in supporting wildlife and carbon sequestration aligns with the Strategy's goals to enhance ecological networks, promote environmental stewardship, and integrate trees into the urban landscape for the benefit of current and future generations.

5. PUBLIC SECTOR EQUALITY DUTY

None

6. RISK CONSIDERATIONS

- 6.1. The risk of legal challenge to the validity of the TPO is considered low as the TPO has been made and served in accordance with the relevant legislation and procedures. Compensation for refusal for works applied to the tree is mitigated by following correct procedures as laid down by the Secretary of State.

7. OTHER OPTIONS CONSIDERED AND REJECTED

- 7.1. If the provisional TPO is not confirmed, it will expire on 23 October 2025. The tree will then be left vulnerable to being removed. The removal of this tree will have a detrimental impact on the amenity value and also character of the conservation area.

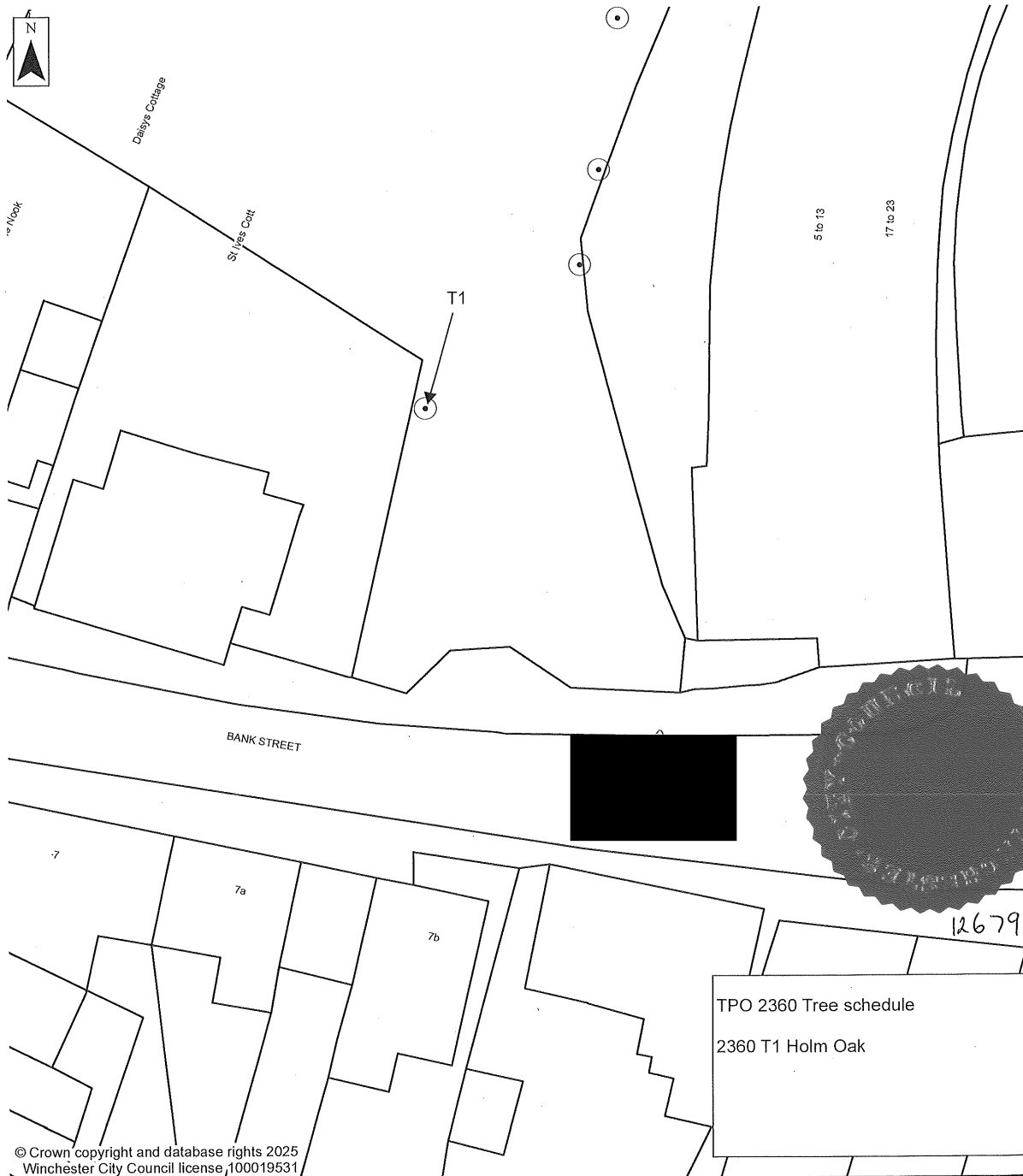
BACKGROUND DOCUMENTS: -

Planning Practice Guidance – Tree Preservation Orders and trees in conservation areas.

Website:- <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

Winchester City Councils tree strategy Website:-
<https://www.winchester.gov.uk/planning/trees>

APPENDICES: Appendix 1



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Legend	
	A1 Area
	G1 Group
	W1 Woodland
	T1 Tree

TOWN AND COUNTRY PLANNING ACT 1990
Section 198 - 201

Tree Preservation Order No. 2360

Location: Land at Oak Lodge
Bank Street
Bishops Waltham

Scale @A4: 1:265

Date: 16 April 2025



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