

REPORT TITLE: CONFIRMATION OF TREE PRESERVATION ORDER 2233 –  
LAND AT PITT MANOR COTTAGE, KILHAM LANE, WINCHESTER, SO22 5PR

14 FEBRUARY 2019

REPORT OF PORTFOLIO HOLDER: Councillor Caroline Brook, Portfolio Holder for  
Built Environment

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WARD: ST LUKE

PURPOSE

To consider confirmation of Tree Preservation Order 2233 to which one letter of objection has been received.

RECOMMENDATION:

That having taken into consideration the representation received, Tree Preservation Order 2233 is confirmed.

## IMPLICATIONS:

### 1 COUNCIL STRATEGY OUTCOME

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

### 2 FINANCIAL IMPLICATIONS

- 2.1 There are no financial implications for the City Council at this stage. Compensation is potentially payable only where sufficient evidence has been provided by an applicant to support an application to carry out works to the protected tree and where that application is refused.

### 3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 None

### 4 WORKFORCE IMPLICATIONS

- 4.1 None

### 5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None

### 6 CONSULTATION AND COMMUNICATION

- 6.1 On serving of the TPO, immediate neighbours were notified and were allowed 21 days to object.

### 7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 Trees have a significant impact on our surroundings, the quality of our lives and where we live. They form an important and integral part of both the countryside and in every town and village throughout the District. Trees support the natural beauty of our countryside and the diversity of our natural wildlife.

### 8 EQUALITY IMPACT ASSESSEMENT

None

### 9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None

### 10 RISK MANAGEMENT

- 10.1 None

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
<i>Property</i>		
<i>Community Support</i>		
<i>Timescales</i>		
<i>Project capacity</i>		
<i>Financial / VfM</i>		
<i>Legal</i>		
<i>Innovation</i>		
<i>Reputation</i>		
<i>Other</i>		

## 11 SUPPORTING INFORMATION:

### Summary of Objection Letter

- 11.1 One letter of objection to TPO 2233 was submitted on 14 September 2018 and directly objects to all trees included in TPO 2233.
- 11.2 The objector raises two reasons for objection.
- a) Quality and suitability of Trees;
  - b) Expediency
- 11.3 The trees are multi stemmed, self sown Sycamore. They have unbalanced crowns due to past pruning or past competition from neighbouring trees that have now been removed. The crowns are growing into utility distribution cables. "Furthermore, some of the specimens are located less than 0.5m from the property's old brick retaining wall meaning that damage to the wall is highly likely in future years."
- 11.4 The Objector considers the tree to be category C trees under the system used to assess the quality of trees in relation to their suitability for retention on building sites – British Standard 5837:2012 Trees in relation to design, demolition and construction, section 4.5 tree categorisation methods.
- 11.5 The Objector also considers the suitability of the trees using the Tree Evaluation Method for Preservation Orders (TEMPO) which is widely used to when deciding whether to TPO of not.
- 11.6 The Objector's assessment of the tree in regard to TEMPO comes to a result of 0 which "negates any possibility of TPO as these are trees that should not be placed under TPO due to exemptions within the primary legislation."
- 11.7 The Objector also goes on to say that "the trees score some points that points towards a TPO being defensible, common sense dictates that the tree protected are outgrown self-set multi stem sycamores".

- 11.8 That the trees do not have a retention span of more than 10 years due to the “proximity of T1 and T2 are such that damage to the wall is inevitable”.
- 11.9 Concerns expressed about “retaining a tree which displays a clearly observable hazard beam.”
- 11.10 “The serving of a TPO is unjustified given the observable defects and close proximity to the wall of some specimens”.

#### Expediency

- 11.11 The fact that the trees do have a public visual amenity does not alone make the TPO expedient.
- 11.12 The objector raises concern that the TPO was served on no other grounds than public visual amenity.
- 11.13 The Objector states that the trees serve “no-one and serve only to distribute public resources to administering TPOs”.

#### Conclusion

- 11.14 The trees are poor quality.
- 11.15 The trees have multiple defects.
- 11.16 The trees are likely to cause damage to a wall.
- 11.17 The trees may be unsympathetically pruned by the utility provider.
- 11.18 The trees are hidden by a wall and therefore no access from the public domain exists.

#### Summary of letters of support

- 11.19 The presence of trees in Kilham Lane is one of the defining characteristics.
- 11.20 The presence of trees in Kilham Lane makes living in the urban environment feel much more rural.
- 11.21 Disappointment towards the fact “that a significant number of trees offering varied habitat to wildlife have already been felled within the grounds of Pitt Manor Cottage.”

#### Officer’s response to letter of objection

- 11.22 This matter comes to Planning Committee because one objection to the TPO has been received. Two letters of support have also been received.
- 11.23 The Council received a notification of works being carried out to trees at Pitt Manor Cottage in February 2018.

- 11.24 A site visit was undertaken by a Tree Officer to assess the possibility of serving a TPO on remaining trees on the land at Pitt Manor Cottage. Although the majority of trees had been removed, one small group of trees remained and the Tree Officer considered this to be suitable for a TPO.
- 11.25 The tree removal works that had been undertaken had a significant impact on the public visual amenity of the area. The remaining trees were obviously under threat, and as they also had a high public visual amenity, as viewed from Kilham Lane, it was considered necessary to serve a TPO on the remaining trees.
- 11.26 The protection of these trees by Tree Preservation Order is in accordance with Government Guidance which state that “orders should be used to protect selected trees if their removal would have a significant negative impact on the local environment and its enjoyment by the public.”
- 11.27 Therefore, TPO 2222 was made on 22 February 2018 to which one letter of objection and two letters of support were received.
- 11.28 Because TPO 2222 was not brought to the Committee for confirmation within the necessary 6 months, it lapsed. Therefore the current TPO, 2233, was made on 23 August 2018.
- 11.29 If TPO 2233 is not confirmed it will expire on 22 February 2019
- 11.30 The assessment used for the categorisation of trees on building sites is not relevant. This method of assessment is used when supplying information to the Local Planning Authority (LPA) in support of a planning application for development. No such planning application has been received and therefore this categorisation method does not apply.
- 11.31 The TEMPO assessment undertaken by the Tree Officer results in a score of 16 for the Sycamores now subject to provisional TPO. This establishes that the placing of a TPO on the cedar tree is defensible and confirms that the trees are of sufficient public visual amenity value to be protected by a TPO.

Condition & suitability for TPO	Fair	Suitable	3 points
Retention span (in years)	20 – 40	Suitable	2 points

Relative public visibility & suitability	Large trees, or medium trees clearly visible to the public	Suitable	4 points
Other factors	Principle components of formal arboricultural features, or veteran trees	N/A	1 point
Expediency assessment	Immediate threat to tree	Immediate	5 Points
<b>Total</b>			15 points awarded- TPO defensible.

- 11.32 The Sycamore trees score a total of 15 points which suggests, as guidance, that the placing of a TPO on these trees is defensible and confirms that the trees have sufficient visual amenity value to be protected by a TPO.
- 11.33 The trees are Sycamores, are most likely self sown and are multi stemmed. This in itself does not mean that the trees cannot be preserved through the serving of a TPO.
- 11.34 As a collective, the trees serve as a significant landscape amenity to Kilham Lane and are the last remaining trees in a previous significant shelter belt of trees that had been removed prior to the making of the TPO.
- 11.35 The Tree Officer is of the opinion that the useful life expectancy of these trees is far more than 10 years, the more appropriate useful life expectancy is up to and over 20 years with the appropriate management.
- 11.36 If damage is imminently foreseeable or evident then on receipt of a formal TPO application form for the removal of the offending trees, it is highly likely that the Council would not refuse such an application. Any application to remove will however require the appropriate evidence to show that damage is imminently foreseeable and/or already obvious.
- 11.37 Similarly, if an obvious hazard exists and it is in risk of imminent failure and associated significant risk of harm, the hazard could be removed under the dead and dangerous exemptions to the TPO legislation. If however the risk of failure and associated harm is not imminent then a TPO application can be

submitted to the LPA. If such an application is supported by sufficient justification, in line with the Secretary of State's Guidance, it is unlikely that the LPA will refuse such an application.

#### Expediency

- 11.38 No tree is 'defect' free. They are natural structures that co-evolve and co-exist with their natural environment. The fact that trees have defects does not alone make the serving of a TPO non-expedient.
- 11.39 The fact that a tree does have a significant public visual amenity and does not pose a significant risk of harm to its existing surroundings does provide a strong reason for the preservation of such a tree – as the Tree Evaluation Method for Preservation Orders (TEMPO) result does suggest, as per the above table.
- 11.40 The trees, provide a significant landscape feature for the surrounding residents and anybody who may use Kilham Lane either by vehicle or by foot.
- 11.41 The protection of these trees by a Tree Preservation Order is in accordance with Government Guidance which states that "orders should be used to protect selected trees if their removal would have a significant negative impact on the local environment and its enjoyment by the public." If the trees are removed it would have a detrimental impact on the public visual amenity value that the trees currently provide.

#### Previous Committee Reports:-

11.43 None

#### Other Background Documents:-

11.44 None

#### APPENDICES:

Appendix 1 – Map of the site.

