

REPORT TITLE: CONFIRMATION OF TREE PRESERVATION ORDER TPO2242 –
LAND OFF OF ORCHARD CLOSE, ALRESFORD

23 MAY 2019

REPORT OF PORTFOLIO HOLDER: To be confirmed

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WARD(S): ALRESFORD AND ITCHEN VALLEY WARD

PURPOSE

To consider confirmation of Tree Preservation Order 2242 to which one letter of objection has been received.

RECOMMENDATIONS:

1. That having taken into consideration the representation received, Tree Preservation Order 2242 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, the landowner and immediate neighbours were notified and allowed 28 days to object.
- 6.2 At the time that TPO 2242 was served there was one letter of objection.

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 the countryside and in every town and village throughout the District. Trees support the natural beauty of our countryside and diversity of our natural wildlife.

8 EQUALITY IMPACT ASSESSEMENT

- 8.1 None.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None required.

10 RISK MANAGEMENT

10.1 None.

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

11 SUPPORTING INFORMATION:

- 11.1 This matter comes to Planning Committee because the City Council has received one objection to the making of TPO 2242.
- 11.2 TPO 2242 was issued on 06 December 2018 to protect two semi-mature Lime trees located to the north of the green open space in Orchard Close, Alresford. The Council received notification that the section of land on which the trees are located had been listed for sale with guidance from the estate agent that the land could be developed, with space for one property. If TPO 2242 is not confirmed, the TPO will expire on 06 June 2019.
- 11.3 The two Lime trees are in full public view from the properties surrounding the open space and continue the line of trees around the green on the western side, giving the trees visual public amenity value. The trees are of good health and vitality and are good examples of their species.
- 11.4 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 these trees are removed, it would have a detrimental impact on the public visual amenity value that the trees currently provide.
- 11.5 There is no history of tree failure and no reports of structural damage being caused to the drainage located adjacent to the trees. No reports of damage to the surrounding road or driveways has been recorded either.
- 11.6 The Secretary of State’s view is that the higher the amenity value of the tree or woodland and the greater any negative impact of proposed works would have on amenity, the stronger the reasons needed before consent is granted.

11.7 The confirmation of TPO 2242 would not prevent future maintenance to the trees.

12 OTHER OPTIONS CONSIDERED AND REJECTED

12.1 At the time that TPO 2242 was served, the Council received one letter of objection and no letters of support.

12.2 One letter of objection was submitted on 02 January 2019 and objects to both trees included in TPO 2242.

12.3 The objector states that the impact of the removal of the trees does not warrant their protection by TPO. The Local Authority should be able to show that they provide a reasonable degree of public benefit before the order is confirmed. Their public visibility alone is not sufficient evidence to TPO the trees.

12.4 The objector states that they believe the trees to have been planted as part of the development of Orchard Close in 1988 and that they could have been placed under a TPO at the time they were planted. The objector states that it is not expedient to now place a TPO on the trees as there is no more threat to them than there has been since they were planted.

12.5 The objector states that the trees are multi-stemmed with poorly formed stem junctions, included forks and with a high likelihood of failure. They have not been properly maintained and have now reached a stage where any remedial pruning will not alleviate their likelihood of structural failure. The objector states that any reasonable works will compromise the health and structural stability of the trees and therefore makes them unsuitable for a TPO.

12.6 The objector states that the trees are in close proximity to a manhole cover, suggesting that there may be drainage nearby. The objector expresses concern that the tree roots could cause problems for the drainage and that the TPO will restrict management of the trees to alleviate any potential issues.

12.7 The objector states that the TPO on the trees deprives the landowner of their right to peaceful enjoyment of their property and restricts their management of the trees.

12.8 The objector states that the process of making the TPO is not compliant with Article 6 of the European Convention on Human Rights as the Council is both proposer and decider of the TPO.

12.9 Officers response to letter of objection:

12.10 Government guidance 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." The two Lime trees are visible in the public realm of Orchard Close and contribute to the amenity of the

surroundings. The trees are part of a landscaped area in the open space as well as being part of a line of trees surrounding the green. Their removal would have a negative impact on the landscaping of the green. A TEMPO assessment has been carried out on the tree which is commonly used for assessing the amenity value of a tree.

- 12.11 The objector states that the Council has had 40 years to place TPO's on the trees they believed that the trees warranted protection. However the land has been maintained by WCC grounds maintenance since 1988 and therefore there has been no previous threat to the trees.
- 12.12 The Council were notified that the section of land on which the two trees sit had been listed for sale with guidance from the estate agent that the land could be developed for property purposes. A change in land ownership is a common trigger for trees on that land to be assessed for TPOs and the Council responded accordingly. The advert for the sale of the land was viewable on the website of the estate agent and was accompanied by a plan of a property that could be potentially built on the land. The Council perceived this information as a new, increased threat to the trees on the land and responded accordingly.
- 12.13 The TPO on the trees does not prevent works from being carried out to the trees. 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 the risk of failure and associated harm is not imminent then an application can be made to the Council. In the event that evidence was provided to support the need to remove the two trees, the TPO would be able to ensure, by condition, that replacement planting was undertaken.
- 12.14 There are no current signs of damage to the surrounding road drains or driveways around the trees. No reports have been submitted to the Council as evidence of damage caused by the roots of the tree. In the scenario that damage has occurred or the first signs of damage are evident, an application to remove the trees would be considered by the Council.
- 12.15 The advice from the Secretary of State is that people must be given the opportunity to object to, or comment on a new Tree Preservation Order, before deciding whether to confirm an order, the local authority must take into account all duly made objections and representations that have not been withdrawn. Article 6 of the European Convention on Human Rights which states persons civil rights must be determined by an independent and impartial tribunal. The bringing of this TPO confirmation to committee complies with the legislation, the Secretary of State's guidance, Council procedure and Article 6 of the European Convention on Human Rights.

BACKGROUND DOCUMENTS:-

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

TEMPO

The following Tree Evaluation Method for Preservation Orders (TEMPO) assessment has been carried out to evaluate the amenity value of the Lime trees.

Condition & suitability for TPO	Fair	Suitable	3 points
Retention span (in years)	40-100	Very suitable	4 points
Relative public visibility & suitability	Large or medium trees clearly visible to the public	Suitable	4 points
Other factors	Members of groups of trees that are important for their cohesion		2 points
Expediency assessment	Foreseeable threat to trees	Foreseeable	3 Points
Total			16 points awarded – Definitely merits TPO

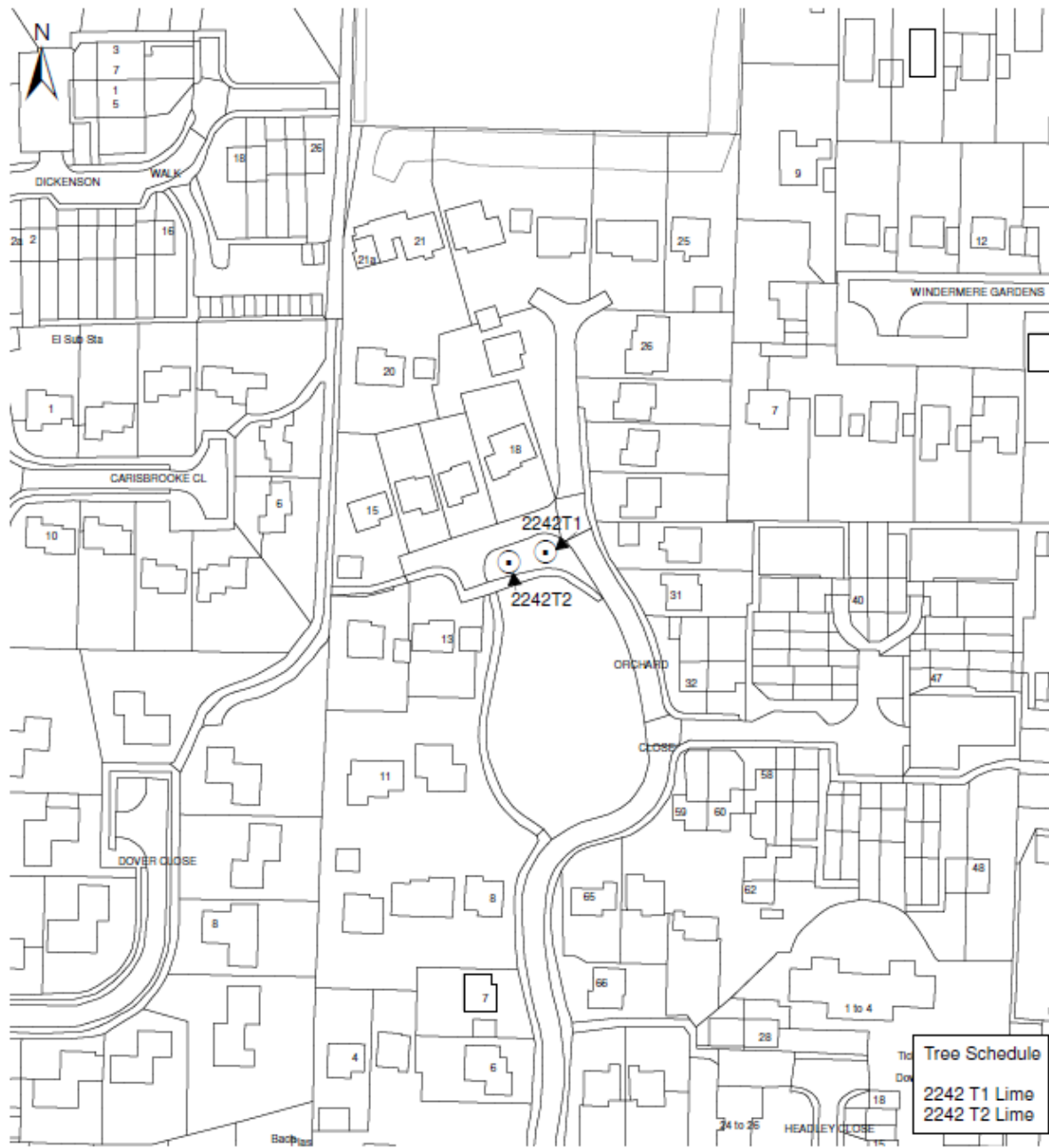
The trees score a total of 16 points which establishes that the trees definitely merits a TPO and confirms that the tree is of sufficient public visual amenity value to be protected by a TPO.

Previous Committee Reports:- None.

Other Background Documents:- None.

APPENDICES:

Appendix 1 – Map of the site.



A1 Area

G1 Group

W1 Woodland

T1 Tree

OS Grid: 4629

Scale: 1:1000 @ A4

Date : 20 November 2018

TOWN AND COUNTRY PLANNING ACT 1990

Section 198 - 201

Tree Preservation Order No. 2242

Location: Land at Orchard Close
Alesford



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