

REPORT TITLE: CONFIRMATION OF TPO 2263 – LAND AT 49 STONEY LANE  
WINCHESTER

14 NOVEMBER 2019

REPORT OF CABINET MEMBER: Cllr Jackie Porter Cabinet Member for Built  
Environment and Well Being.

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WARD(S): ST BARNABAS

PURPOSE

To consider confirmation of Tree Preservation Order 2263 to which two letters of objection and three letters of support has been received.

RECOMMENDATIONS:

That having taken into consideration the representations received, Tree Preservation Order 2263 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 Two letters of objection and three letters of support were received.

### 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

## 10.1 None

<b>Risk</b>	<b>Mitigation</b>	<b>Opportunities</b>
<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comes to Planning Committee because two objections to the making of TPO 2263 have been received and have not been withdrawn.

- TPO 2263 was issued on 31 May 2019 following the receipt of planning application (19/00645/FUL) to redevelop the land at 49 Stoney Lane, Winchester which included the removal of 3 mature Birch trees (T1 – T3) that are located along the front northern boundary of the property.

11.2 The trees are in full public view from the public highway in Stoney Lane giving them high visual public amenity value.

11.3 The protection of the 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.” Any tree removal at this property for development purposes would have a detrimental impact on the visual public amenity value that trees currently provide.

11.4 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.

12 Planning Application 19/00645/FUL for the proposed development at 49 Stoney Lane was refused. The Planning case officer commented “The proposal would result in the loss of trees, covered by a Tree Preservation Order to the detriment of the visual amenity of the surrounding area. It would therefore be contrary to policies CP20 of Winchester District Local Plan Part 1 and DM23 of Winchester District local Plan Part 2”.

### 13 OTHER OPTIONS CONSIDERED AND REJECTED

- 13.1 In response to serving TPO 2263 the Council received 2 letters of objection and 3 letters of support.

### 14 SUMMARY OF OBJECTIONS AND SUPPORT

- 14.1 The objectors assert that it is not expedient to protect T1- T3 (Birch) by a tree preservation order as they consider that the trees' health is in decline. The foliage has thinned over the past 5 years with the trees becoming bare with dead twigs and branches being deposited on the grass area under the trees.
- 14.2 The objectors assert that the trees have less than 10 years safe useful life expectancy as they are all over 50 years of age. A local tree surgeon has recommended to them that the trees are removed as they may become colonised by a decay fungi that has been found on an adjacent Birch that is not protected by TPO 2263.
- 14.3 The objectors further assert that T1-T3 are of low amenity value following their own TEMPO assessment of the trees and request that TPO 2263 is not confirmed as their planning application (19/00645/FUL) was **REFUSED** and therefore there is no longer a foreseeable threat to the trees other than old age and disease.
- 14.4 A supporter of the TPO has commented *"These three prominent trees are beautiful and highly valued Silver Birches that symbolise the semi-rural nature of Stoney Lane and enhance the street scene, they make an incalculable contribution to this leafy and family orientated area. Aside from the myriad of environmental benefits that these particular trees bring, they are intrinsic to the long corridor of mature trees that is synonymous with the appeal of Stoney Lane and runs the entire length of the road."*
- 14.5 T1 – T3 are located near to the road junction of Stoney lane and St Matthews Road. Further comments from the supporters of the TPO received have stated that the trees have very significant softening effect on this very prominent corner, and the removal of them would have a detrimental effect on the local environment.
- 14.6 As T1-T3 contribute towards the removal of pollution from the atmosphere, the supporters hope that the order is made permanent because the retention of the trees will contribute towards the City Council's climate emergency measures and a greener approach to life with a target of zero emissions to combat climate change.

### 15. ARBORICULTURAL OFFICERS RESPONSE

- 15.1 The main triggers to the making of a Tree Preservation Order are that the tree(s) must have amenity value and must be under threat. T1–T3 are prominent features within the local landscape and have high public visual amenity value. Primarily, this will be interpreted as meaning that they are

clearly visible from a public place and add value to the street scene or local landscape. The loss of the trees or damage to them would have a significant impact on the local environment and its enjoyment by the public and there is a significant risk of this happening if a tree preservation order is not made. T1-T3 do not cause excessive problems that unreasonably affect the quality of life of tree owners or their neighbours

- 15.2 The trees are in reasonable health and condition, have a reasonable life expectancy and are not known to be causing damage to buildings;

**Government guidance states:**

- (i) “It is expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area.”
- (ii) “It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.”

- 15.3 Under the UK planning system local authorities have a statutory duty to consider the protection of trees when assessing planning applications. The confirmation of this TPO will satisfy this duty.

- 15.4 T1-T3 (Birch) are mature trees. Dead twigs and occasional branches with thinning foliage are normal occurrences of trees within this age class; and a natural process for the tree which is not an automatic indication that the trees are diseased.

- 15.5 The advice given to the owners to fell T1–T3 because they may become colonised with a decay pathogen that has already colonised an adjacent tree has not been evidenced or adequately justified and is therefore not consistent with good arboricultural and forestry practices.

- 15.6 The Arboricultural survey that was submitted with planning application 19/00645/FUL states that the trees are of good and fair structural condition with good and fair physical condition and did not make any recommendation to fell. There is no arboricultural justification to fell the trees.

- 15.7 The confirmation of this TPO will not hinder or stop further maintenance from being carried out to T1-T3.

Other Background Documents:-

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

Tree Evaluation Method for Preservation Orders- (TEMPO)

TEMPO is designed as a field guide to decision-making, and is presented on a single side of A4 as an easily completed pro forma.

TEMPO is based on the accumulated scores derived in Parts 1 & 2 of the survey sheet and identifies four outcomes, as follows:

Decision guide

- Any 0 points Do not apply TPO
- 1-6 points TPO indefensible
- 7-10 points Does not merit TPO
- 11-14 points TPO defensible
- 15+ points Definitely merits TPO

Trees scoring 15 points or more are those that have passed both the amenity and expediency assessments, where the application of a TPO is fully justified based on the field assessment exercise.

The following Tree Evaluation Method for Preservation Orders (TEMPO) assessment has been carried out to evaluate the amenity value of T1 –T3 (Birch).

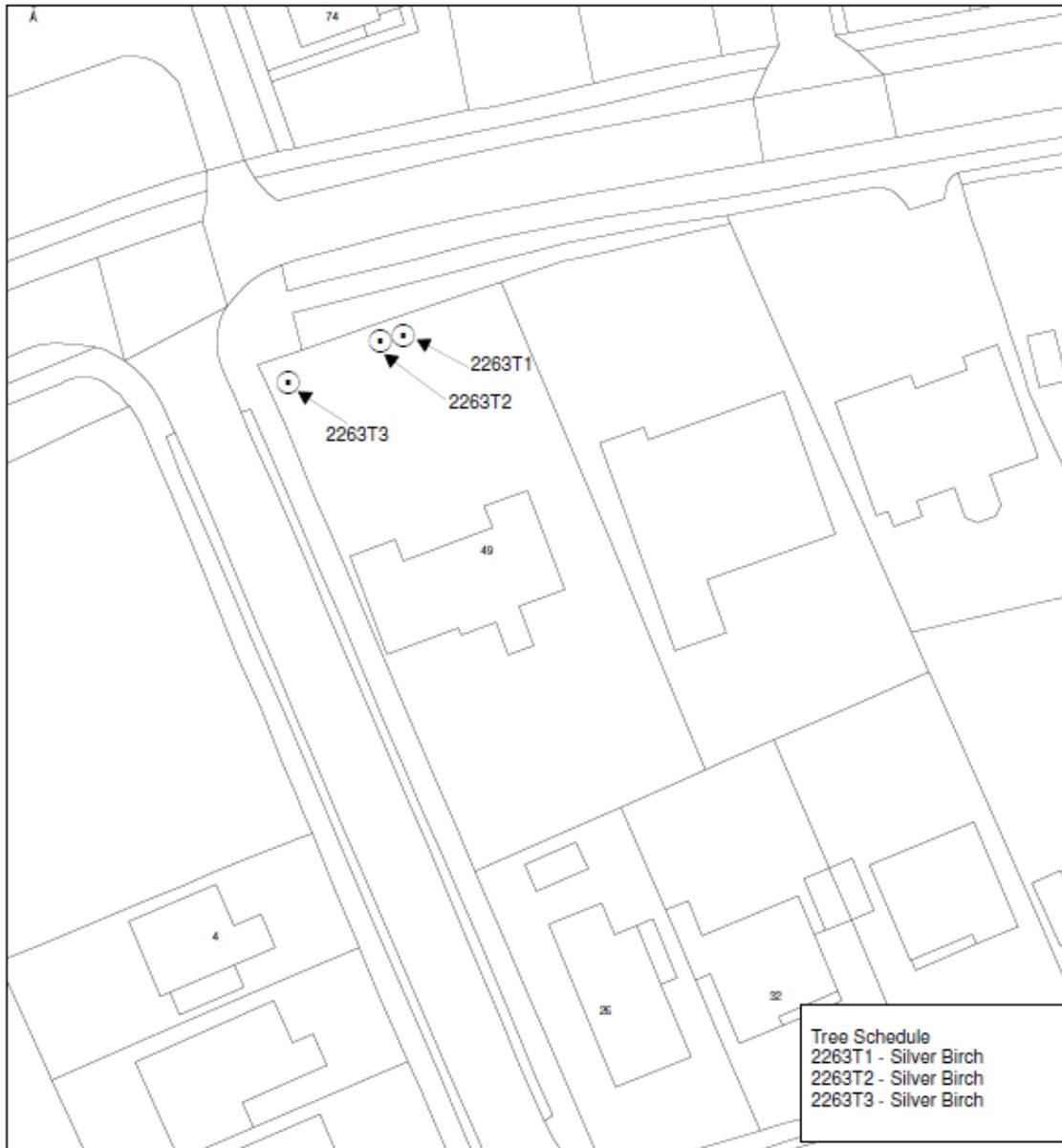
Condition & suitability for TPO	Fair	Suitable	3 points
Retention span (in years)	20 - 40	suitable	2 points
Relative public visibility & suitability	Large or medium trees clearly visible to the public	suitable	4 points

Other factors	Trees with none of the above additional redeeming features	Trees must have accrued 7 or more points (with no zero score) to qualify	1 point
Expediency assessment	Threat to trees	Immediate	5 Points
<b>Total</b>			15 points awarded - Definitely merits TPO

T1-T3 (Birch) scores a total of 15 points which establishes that the trees definitely merit a TPO and confirms that the trees are of sufficient public visual amenity value to be protected by a TPO.

APPENDICES:

Appendix 1 – TPO PLAN



-  Area
-  Group
-  Woodland
-  Tree

**TOWN AND COUNTRY PLANNING ACT 1990**  
Section 198 - 201

Tree Preservation Order No. 2263

Location: 49 Stoney Lane  
Winchester  
SO22 6DP

OS Grid: 4630      Scale: 1:500 @ A4      Date : 16 :05 :2019



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