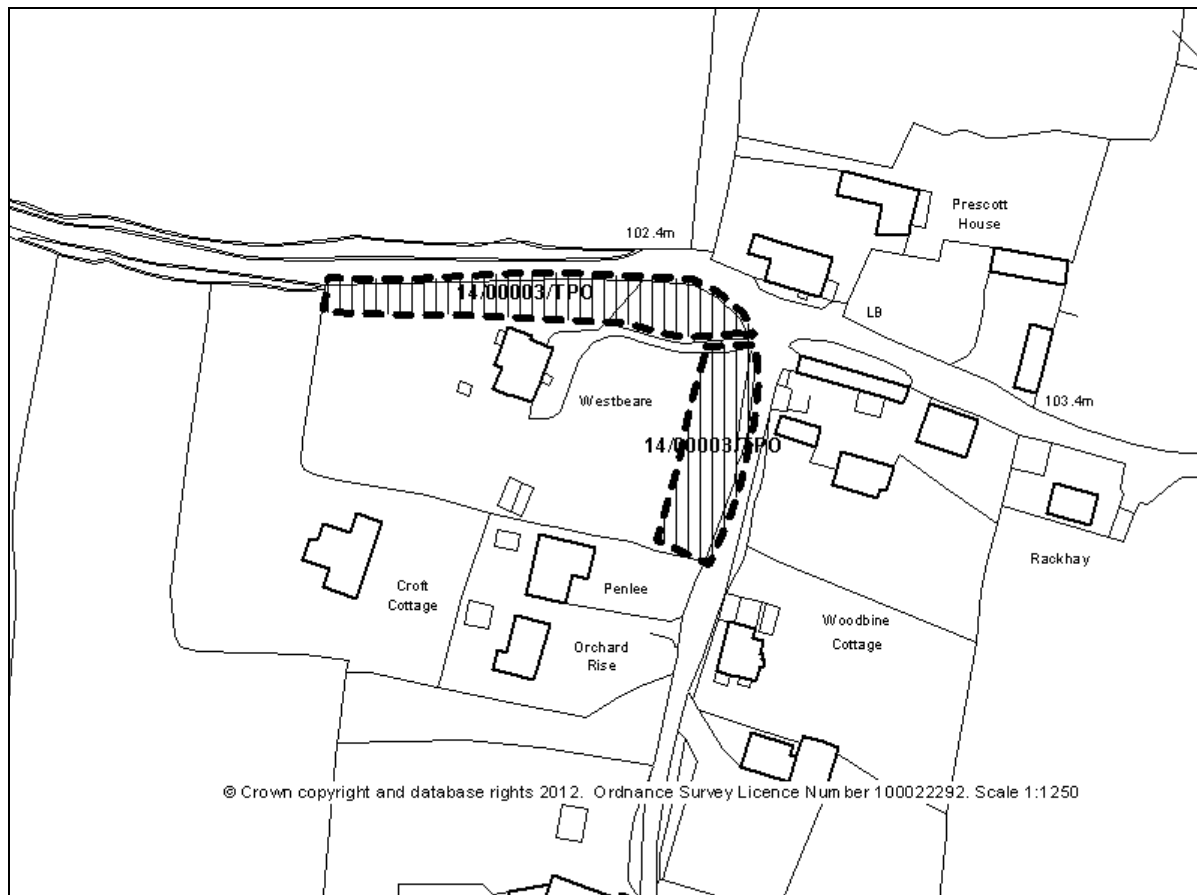


Grid Ref: 114284 : 308762

Location: Westbeare
Prescott Uffculme
Cullompton



REPORT OF THE HEAD OF PLANNING AND REGENERATION

14/00003/TPO

**WESTBEARE,
PRESCOTT
UFFCULME
CULLOMPTON
DEVON
EX15 3BA**

G1 - Group of trees (Beech, Yew, Sycamore) located on the northern boundary of Westbeare.

G2 - Group of trees (Beech, Sycamore, Yew) located on the eastern boundary of Westbeare.

Reason for Report:

To consider whether a Tree Preservation Order should be confirmed in light of the objections that have been received.

RECOMMENDATION

That the Tree Preservation Order is confirmed.

Relationship to Corporate Plan:

The proposal impacts upon the Corporate Plan Priority 'Caring for our Environment'.

Financial Implications:

None.

Legal Implications:

None.

Risk Assessment:

None.

Consultation carried out with:

1. Mid Devon District Council's Tree Officer

1.0 DESCRIPTION/SITE HISTORY

1.1 This Tree Preservation Order was made following a request from the resident of the property who was insistent that the trees were under immediate threat. A brief discussion to establish whether the trees were under threat concluded with the resident still insisting that they are.

1.2 The trees are a significant feature of the hamlet area. The majority are large mature trees and some are in close proximity to neighbouring properties. Two group Tree Preservation Orders have been issued covering a mix of species including Beech, Yew and Sycamore. The groups are located along the northern and eastern boundaries of Westbeare respectively.

1.3 Initially properties attached to Westbeare were formally notified of the Tree Preservation Order and neighbours at Prescott House and Woodbine Cottage have since been notified.

2.0 AMENITY EVALUATION

2.1 The Hamlet of Prescott is dominated by the mature trees at the property of Westbeare. They are a significant feature of the area but there is a perceived conflict between the trees and neighbouring properties, due to the size of the trees in proximity to the properties.

2.2 The trees are visible on the landscape from several surrounding viewpoints. An amenity evaluation rating for Tree Preservation Order's resulted in the trees receiving a score of 15. 15 is the benchmark score for considering a tree or trees for protection by a Tree Preservation Order.

3.0 REPRESENTATIONS

3.1 4 Letters of objection summarised as follows:

The trees present a risk to the safety of nearby residential properties

No management or maintenance is carried out to the trees or retaining walls, which are already damaged.

Professional advice should be sought before an Order is placed.

Limbs and branches hanging over the highway are dangerous.

If limbs were to fail this would block the highway.

4.0 MATERIAL CONSIDERATIONS AND RESPONSE TO THE OBJECTIONS

4.1 The majority of the objections are regarding the safety of the trees and the lack of management. In no way does a Tree Preservation Order serve to not allow the correct and safe management of trees. The duty of care still falls with the landowner with regards to ensuring that trees are correctly managed and maintained. If a tree

is dead or dangerous, it is considered exempt from the Tree Preservation Order. The land owner has a duty to deal with such trees. The Local Planning Authority would, where possible ask for a 5 day notification before the removal of dead and dangerous trees but understand that where a tree is imminently dangerous such a notification may not be practical. It would be advisable to take photographic evidence before removing a dangerous tree.

4.2 Objection 1 - The trees present a risk to the safety of nearby residential properties. It is possible to assess whether a tree poses an acceptable level of risk to property using various risk assessment methods. The land owners could request a risk assessment to be carried out via their chosen Arborist. Although I did not carry out a full inspection of the trees, they appeared to be in reasonable health and with the absence of obvious defects the risk would be deemed acceptable despite the relatively close proximity to the properties.

4.3 Objection 2 - No management or maintenance is carried out on these trees or retaining walls which are already damaged. As previously stated the Tree Preservation Order does not serve to stop good tree management. It offers a certain amount of control to ensure best industry practice is followed.

4.4 Objection 3 - Professional advice should be sort before an order is placed. The Tree Officer at Mid Devon District Council has 15 years' experience working in the field of Arboriculture and is qualified to HND level in the subject.

4.5 Objection 4 - Limbs and branches hanging over the highway are dangerous. At the time the Order was made no cracks or obvious defects were observed in the limbs overhanging the lanes that run to the side of both groups of trees in the Tree Preservation Order. A more in depth inspection would be recommended. There is a minimum clearance required over highways which Devon County Council would be able to advise further on. It would be the land owners responsibility to maintain the adequate clearance, the fact that the trees are protected does not remove this responsibility.

4.6 Objection 5 - If limbs were to fail this would block the highway. In Britain we have many trees in close proximity to roads and often they add to the character of an area. It is advisable that landowners carry out basic inspections and required maintenance to roadside trees but there is always the possibility of debris in the roads, particularly on country lanes. There is no justification to remove trees simply because they may drop limbs into roads unless there are obvious defects.

4.7 Discussions with residents in the area. On the 1st April 2014 a meeting took place with residents at Prescott to discuss the Tree Preservation Order and explain that the landowner's duty of care regarding the trees is not altered by the Tree Preservation Order. The trees owner or whoever has control over them has a duty of care in both civil and criminal law to take reasonable management measures to avoid foreseeable harm or injury. Trees which pose the potential for harm should be visually checked on a regular basis, appropriate to the level of risk. The Tree Preservation Order covers the Beech, Sycamore and Yew at the property. The understory, mixed shrubby species are not covered by the Tree Preservation Order. Due to the concern expressed by the residents should the Tree Preservation Order

be confirmed, it may be helpful to alter the Tree Preservation Order by picking out individual trees rather than having the group Tree Preservation Order.

5.0 CONCLUSION

5.1 The Tree Preservation Order was made in response to a request from the resident of Westbeare. The trees are a significant local feature. The objections to the Tree Preservation Order relate more to concerns regarding the management of the trees than the Tree Preservation Order itself and this should be addressed by the landowner who has a duty of care regarding the trees on the land.

Contact for any more information	Miss Cathy Lynch, Tree Officer Telephone number 01884 234304
Background Papers	None.
File Reference	14/00003/TPO
Circulation of the Report	Councillor Richard Chesterton Members of the Planning Committee