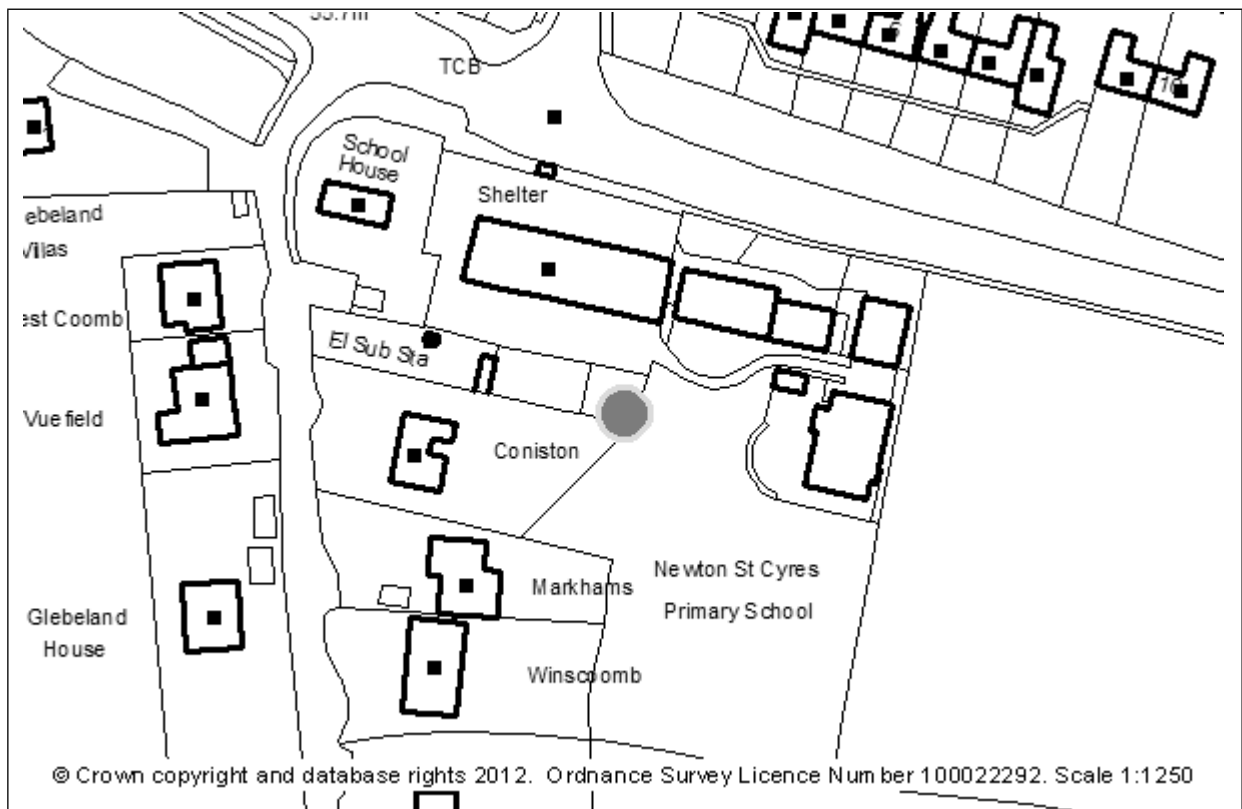


Tree Preservation Order: 20/00002/TPO

Grid Ref: 288408 : 97777

Location: Former Primary School Site
Newton St Cyres
Devon

Proposal: Tree Preservation Order for 1 Beech tree



TREE PRESERVATION ORDER: 20/00002/TPO

MEMBER CALL-IN

REPORT OF THE HEAD OF PLANNING AND REGENERATION

Reason for Report:

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

RECOMMENDATION

That the Tree Preservation Order 20/00002/TPO is confirmed.

Relationship to Corporate Plan:

The proposal impacts upon the Corporate aim of 'Protecting the natural environment'

Financial Implications:

None

Legal Implications:

Tree Preservation Orders are made under the Town and Country Planning Act 1990 as amended by the Town and Country Planning (Tree Preservation) (England) Regulations 2012. Local Planning Authorities can make a Tree Preservation Order if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area.

Risk Assessment:

None

Consultation carried out with:

1. The landowners have been notified of the imposition of the Tree Preservation Order and provided with the opportunity to object to its confirmation.

PROPOSAL:

Tree Preservation Order for 1 Beech tree

RELEVANT SITE HISTORY/DESCRIPTION:

This Tree Preservation Order was made following an assessment undertaken by the Tree Consultant acting for the Local Authority of the Beech tree following a request by a neighbouring occupier to its visual amenity merit and protection following the sale of the former Primary School in Newton St Cyres.

One letter of objection has been received in relation to Tree Preservation Order 20/00002/TPO from the new owners of the site.

The planning history of the site is as follows:

97/01394/FULL - PERMIT date 10th November 1997

Consultation by Devon County Council under Regulation 3 of the Town and Country Planning General Regulations 1993 for the erection of a new classroom

00/01380/FULL - PERMIT date 4th October 2000

Erection of a single storey extension, underneath existing canopy roof, to provide new lobby and headteachers room

04/01595/FULL - WDN date 22nd September 2004

Erection of new classroom block and associated works

04/02087/FULL - PERMIT date 23rd December 2004

Erection of new classroom block and associated works and infill under canopy with store and WC

08/01289/DCC - DCCGNT date 9th October 2008

Regulation 3 application for erection of two storey extension following demolition of existing kitchen and erection of first floor extension

10/00481/DCC - DCCGNT date 26th May 2010

Regulation 3 application for the erection of a new pre-school unit on school field, formation of new play area DCC - GRANTED PERMISSION (24/5/2010)

AMENITY EVALUATION:

The tree adds a significant amenity/landscape value to the surrounding area. An amenity evaluation undertaken by the Tree Consultant for the Council gave the tree a score of 18. Following this amenity evaluation of the Beech tree, it was deemed necessary to place further protection on it in the form of a Tree Preservation Order. A recent evaluation by the recently appointed Tree Officer for the Council following receipt of the objection resulted in a tree score of 15, therefore still being of merit to be protected.

REPRESENTATIONS:

One objection to the TPO has been made from a senior consultant at Advanced Arboriculture on behalf of the site owner on the following grounds:

1. The tree is in poor structural condition such that it offers negligible future potential as an amenity as detailed within Government guidance [see *Tree Preservation Orders and trees in conservation areas*, updated 6th March 2014, paragraph: 008 Reference ID: 36-008-20140306];
2. No evidence has been provided to suggest that the decision to formally protect the tree has been informed by a structured and consistent evaluation undertaken by a suitably experienced arboricultural expert;
3. The Tree Preservation Order has significant potential to prejudice the balanced appraisal of any forthcoming planning application by members of the public;
4. The tree is of an inappropriate species for a confined space within a development environment.
5. Trees will inevitably form a material consideration within any forthcoming planning application, whereby the developer will be seeking to offer landscaping proposals which offer a significant enhancement to the long-term future potential of the local landscape,

as well as seeking to retain those additional trees on the site which are genuinely worthy of retention in a development context.

MATERIAL CONSIDERATIONS AND RESPONSE TO THE OBJECTIONS:

Background

A request was made for a tree protection order to be made on a tree on the site of the former school at Newton St Cyres School so that this is protected during any redevelopment. Following the request for a tree protection order a site visit and evaluation was carried out by a tree consultant (acting as tree officer for MDDC). The standard evaluation form (Poole System) was completed on the 27.11.2019. An evaluation score of 18 was recorded (>15 merits consideration for a Tree Preservation Order).

It is the understanding that the Tree Preservation Order (TPO) was served on the 10.02.2020. Formal objection of the tree preservation order was submitted by Mr Hurley, Senior Consultant of Advanced Arboriculture Ltd on the behalf of Mr Nicholas Jenner of Jenner Homes (client). Mr Hurley of Advanced Arboriculture Ltd has provided a tree report in accordance with Regulation 6 of the Town and Country Planning (Trees Preservation) (England) Regulations 2012, noting that that tree does not merit protection.

Following the objection to the tree preservation order a request was made for the Council Tree Officer to review the original tree evaluation by the tree consultant, review the objection and undertake an additional evaluation to determine in the tree merits protection.

Original Evaluation

The previous amenity evaluation rating for TPO carried out by a tree consultant on the behalf of MDDC awarded a combined score of 18 for the mature beech tree. Informing the tree should be protected. The consultant viewed the mature beech within the former school grounds but adjacent to rear of Coniston, observing from the garden of Coniston as there was no access to the school grounds, noting it appears in normal health, some included bark junctions but exhibiting compensatory natural bracing. The tree can be seen from parts of Sand Down Lane to the east and contributes significantly to local amenity, while it would merit a TPO.

The methodology used in the amenity assessment is a standard process as derived by the Poole system and is utilised by MDDC for all amenity evaluation rating for TPO's. This method is utilised by a number of local authorities.

Objection

Summarising Mr Hurley of Advanced Arboriculture Ltd objection reports notes the Beech in question is a mature specimen has significantly compromised structural form with a series of heavily included forks and unions.

The tree was unlikely planted with the intention of it becoming a large specimen tree and was likely planted originally as a hedge.

Crown management works has been previously carried out to mitigate structural weakness. This has been negated by the tree's continued growth and likely increases the decay within a major fork.

Tree roots are potentially conflicting with a clay pipe. This is currently under investigation.

Tree has limited amenity value due to its location in the wider landscape. Mr Hurley of Advanced Arboriculture Ltd has provided his own amenity valuation. This is the same method used by MDDC. In this instance Mr Hurley amenity valuing score is 12 informing the tree should not be protected.

A tree preservation order has significant potential to prejudice the balanced appraisal of any forthcoming planning application by members of the public and that the tree is inappropriate species for a confined space within a development environment.

No evidence has been provided to suggest that the decision to formally protect the tree has been informed by a structured and consistent evaluation undertaken by a suitably experienced arboricultural expert.

Tree Officer Amenity Evaluation and Appraisal

The site visit by the Council's Tree Officer was carried out on the 03.04.2020. The assessment is cursory and is not a detailed inspection of the tree/safety. Assessment of the tree was carried out from the A377, Sand Down Lane and from Tytheing Close. Amenity valuation or assessment of the tree was not carried out within the former school grounds.

The mature beech when viewed from the A377 is estimated to be very large (a crown m² size of greater than 200m²). The life expectancy and contribution amenity value for the beech tree is estimated to be between 15-40yrs. However, contribution could easily be much longer and more diverse as tree becomes over-mature to potentially veteran tree status. The current form of the beech is viewed as average.

The objection report by Mr Hurley of Advanced Arboriculture Ltd reports the tree has significant compromised structural form with a series of heavily included forks and unions. Bark included unions are not desirable features of trees due to their perceived heightened risk of failure but also because they can court diseases such as Phytophthora. However, bark included unions are common features on trees. The photographs included unions presented in the report are a cup-shaped unions with noticeable bulging and wide-mouthed back inclusions. Though such unions are noted to be weaker than a normal formed union, in general the likelihood of failure is low. Often these forms of bark included junctions that are weaker than a normal formed union are mitigated with the presence of natural braces. The original amenity assessment notes compensatory natural bracing present.

Previous crown management has been carried out on the tree to mitigate bark inclusions. These works do not overtly detract from the overall form of tree. Also the presence of a cavity highlighted in the objection report does not detract from the form of the tree. The presence of a cavity does not necessarily indicate a high likelihood of failure where it is present. In general the structural condition of the tree highlighted within the objection report does not detract from the tree from meriting a Tree Preservation Order where the tree was to merit it.

The views of the tree is limited and seen with difficulty. From the A377, only the upper aspect of the crown can be viewed when directly opposite the former school grounds within the public space. Similarly when on Sand Down Lane the upper crown is only visible from a public view point. From this point the opinion of the Tree Officer of the visibility of the tree differs from the original assessment and is in agreement with the objection report assessment. In reviewing the amenity evaluation carried out by the tree consultant acting on the behalf of MDDC, in viewing the tree from private garden space has influenced their score. The score awarded should be based on public view and not from a private space such as a garden where a tree might be clearly visible.

The tree is viewed as fairly suitable for its current location. The tree does not conflict with buildings and does not cause undue nuisance. Where the tree was to be served with a tree preservation order. This should not disproportionately prejudice the balanced appraisal of a forthcoming planning application. This is not viewed as a suitable justification to avoid meriting a tree protection.

The objection report notes that roots of the beech tree may be conflicting with an underground clay pipe. Trees are often blamed for causing damage to underground pipes. Often where roots are associated with damaged pipes, the pipes have previously deteriorated or broke, which allows tree roots to enter and block them. Older pipes with poor seals and rigid joints are most susceptible. In these instances, replacing the pipe will resolve the issue and should not be viewed as negative attribute on meriting a tree with a TPO.

Having carried out a further amenity evaluation for a tree preservation order, the tree has been assessed to still merit a tree preservation order were it viewed as expedient to serve. The total score is 15. In affording a tree a protection order this will not unduly limit future tree management works, where management works are viewed as reasonable. Where sites are to be developed, existing trees can be incorporated within development plans. Particularly those trees that are located near boundaries.

CONCLUSION:

A structured and consistent evaluation method was originally carried by MDDC. When at the time of the original assessment employed tree a tree consultant to act on their behalf. The objection report by Mr Hurley of Advanced Arboriculture notes a number of reasons why the tree should not merit protection and provides a second amenity evaluation justifying this. The objection raised in the report should not overtly detract from the tree being afforded a tree protection order where in the view of the current tree officer it would merit protection. In undertaking a third amenity evaluation, the score awarded to the tree would inform that the tree would merit a tree preservation order were it is viewed as expedient to serve.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Contact for any more information	Tim Jarratt, Tree Officer 01884 234304
File Reference	20/00002/TPO
Circulation of the Report	Members of the Planning Committee