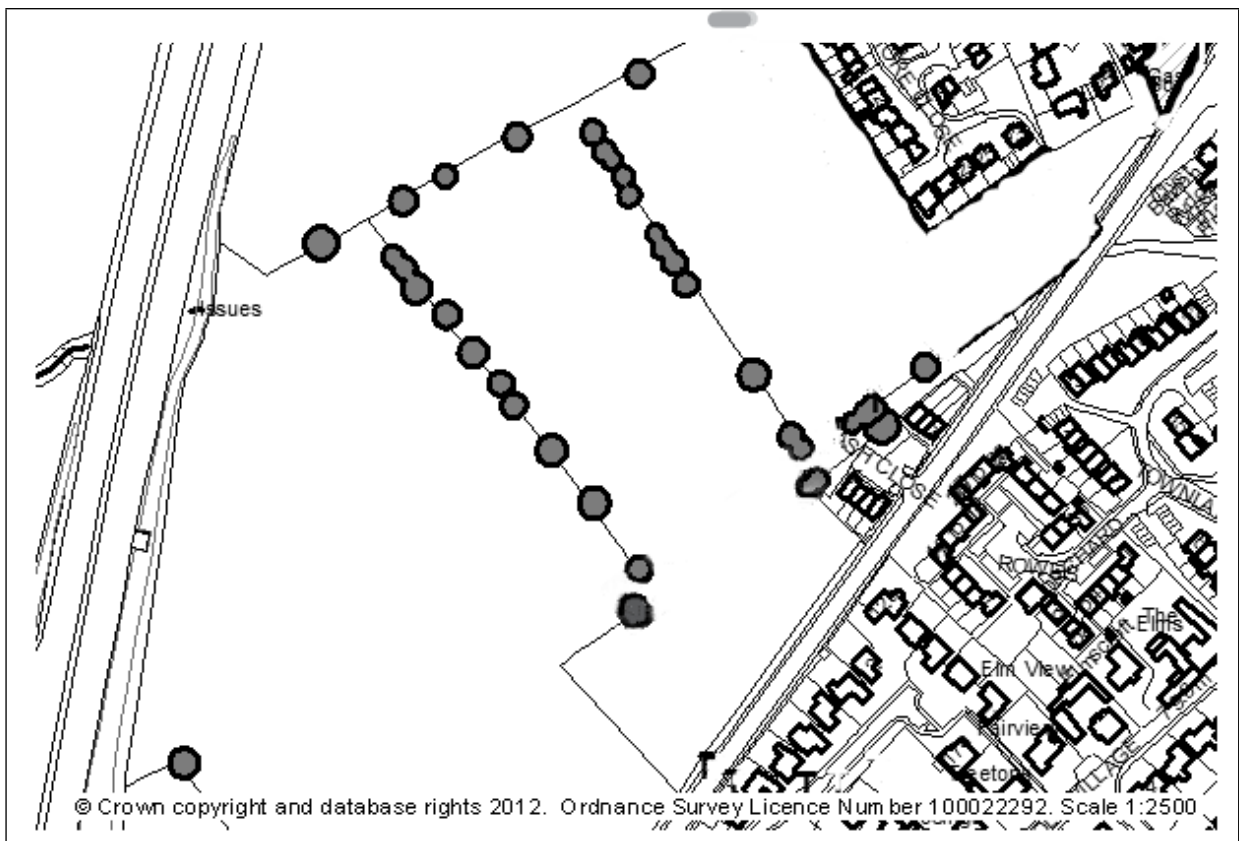


Tree Preservation Order: 20/00003/TPO

Grid Ref: 303288 : 110467

Location: Land at Meadow Park
Willand
Devon

Proposal: Tree Preservation Order for 45 Pedunculate Oaks and mixed broadleaved trees in woodland



TREE PRESERVATION ORDER: 20/00003/TPO

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 20/00003/TPO is confirmed with modification to the extent of woodlands W1 and W2 to exclude the trees which will need to be removed to provide the approved access to the site, granted consent under 18/00177/FULL.

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 45 Pedunculate Oaks and mixed broadleaved trees in woodland

RELEVANT SITE HISTORY/DESCRIPTION:

16/01811/MOUT - REFUSE date 17th March 2017

Outline for the erection of up to 259 dwellings, with public open space, landscaping and associated infrastructure (APPEAL DISMISSED 03.11.17)

18/00175/MOUT - REFUSE date 9th October 2018

Outline for the erection of up to 125 dwellings with public open space and associated infrastructure - APPEAL ALLOWED -PLANNING PERMISSION GRANTED 29/08/19

18/00177/FULL – APPROVE

Creation of access to serve residential development

AMENITY EVALUATION:

The trees add a significant amenity/landscape value to the surrounding area as well as wildlife value. The trees also contribute to the local character of the area. Following planning consent for 125 houses, it is deemed necessary to place further protection on the trees in the form of a Tree Preservation Order in order to ensure that the current amenity value is maintained and further future potential is safeguarded.

REPRESENTATIONS:

One objection to part of the TPO has been made from Ashfords LLP on the behalf of Mr M J Webber on the following grounds:

1. The TPO in part conflicts with the previously granted full consent for the entrance to the proposed development of the land granted under consent reference 18 /00177FULL.
2. The committee report for the access application accepts that some trees will need to be removed at the point of access.
3. It is our understanding that a TPO cannot now be imposed on trees for which consent has previously been granted authorising their removal.
4. Set out below a table referring to the trees as identified in the TPO and by the reference to the same trees in the attached Tree Quality Survey previously submitted in connection with the access.

TPO Ref.	TG Tree Ref.	Comments
T4	N/A	Not identified on tree survey as an individual tree. Appears to be a small specimen within the hedgerow (H2). Potentially requires removal to facilitate internal access.
T5	T18	Remove to facilitate main development parcel / access drive.
T6	T17	Remove to facilitate main development parcel / access drive.
W1	G8	Mostly retained. Removal of one tree to facilitate proposed access from Meadow Park
W2	G8	Mostly retained. Removal of 3 trees to facilitate proposed access from Meadow Park.
W3	G5 and G3	Mostly retained. Proposed reinstatement of overgrown green lane will include a new pedestrian link between the trees. Selective removal and management of understory vegetation will be required.

MAIN ISSUES:

The objection to T4, T5 and T6, (all Pedunculate Oak) are sited on the north-western field boundary between two adjoining fields. T5 and T6 have been identified as B (moderate value trees) on the Preliminary Arboriculture Impact Report carried out by Tyler Grange,

provided by Ashfords LLP when raising the objection. T4, Pedunculate oak has future amenity potential and provides an opportunity for successional tree canopy cover. The objection notes that the trees require removal to facilitate internal access. However, Members will recall that the consent granted at appeal was in outline with all matters reserved for future consideration, other than the main access from Meadow Park into the site. Whilst an indicative layout plan was provided which would indicate an internal access road in the approximate location of T5 and T6, these details would need to be provided as part of a future reserved matters application and your officers view is that these trees should all be protected in the meantime. In affording the tree protection this will either allow for suitable mitigation if the trees need removing or a preferred option which allows for the trees to be incorporated into the layout design that allows suitable space for the trees to continue growing and provide greater long-term amenity value.

Objections relating to trees identified as W1, W2 and W3, (all mixed broadleaf woodland collection) state that removal is required to facilitate proposed access from Meadow Park and reinstatement of overgrown green lane in the case of W3. It goes on to state also that the TPO in part conflicts with the previously granted full consent for the entrance to the proposed development. In each case the majority of the trees are to be retained.

Part 3, sub section 14 Exceptions of the Town and Country Planning (Tree Preservation) (England) Regulation 2012 informs “*so far as is necessary to implement a planning permission other than an outline planning permission or, without prejudice to paragraph (iii)(cc), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Town and Country Planning Act 1990 (control over development), or deemed to have been granted (whether for the purposes of that Part or otherwise)*”. In this instance in confirming the TPO it does not exceed the current planning permission for access from Meadow Park. The order should ensure that only trees required for removal to allow access are removed. W1, W2 and W3, are linear collections of trees providing high levels of amenity value to the landscape informing that it is necessary to place further protection on the trees in the form of a Tree Preservation Order. However in confirming the order, the extent of W1 and W2 can be amended so that the trees identified for removal at the access point from Meadow Park are excluded from the TPO.

SUMMARY:

In reviewing the objection it is recommended that the Order be confirmed with modification. The objections to the inclusion of T4, T5 and T6 (Pedunculate oak) are noted but given the outline status of the planning approval at the site, it is not considered that they should be excluded from the TPO at this time. Tree preservation orders placed on W1 and W2, both mixed broadleaf collection trees does not exceed the current planning consent for access from Meadow Park. It will however, provide greater protection to the majority of trees that are to be retained but it is recommended that the extent of W1 and W2 is amended so to exclude the trees at the point of access. Including W3 within the order should not restrict suitable management/pruning works in the future. The owner of the trees should be encouraged to discuss these works with the Tree Officer and submit an application where the order is confirmed to include W3.

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

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File Reference

20/00003/TPO

Circulation of the Report

Members of the Planning Committee