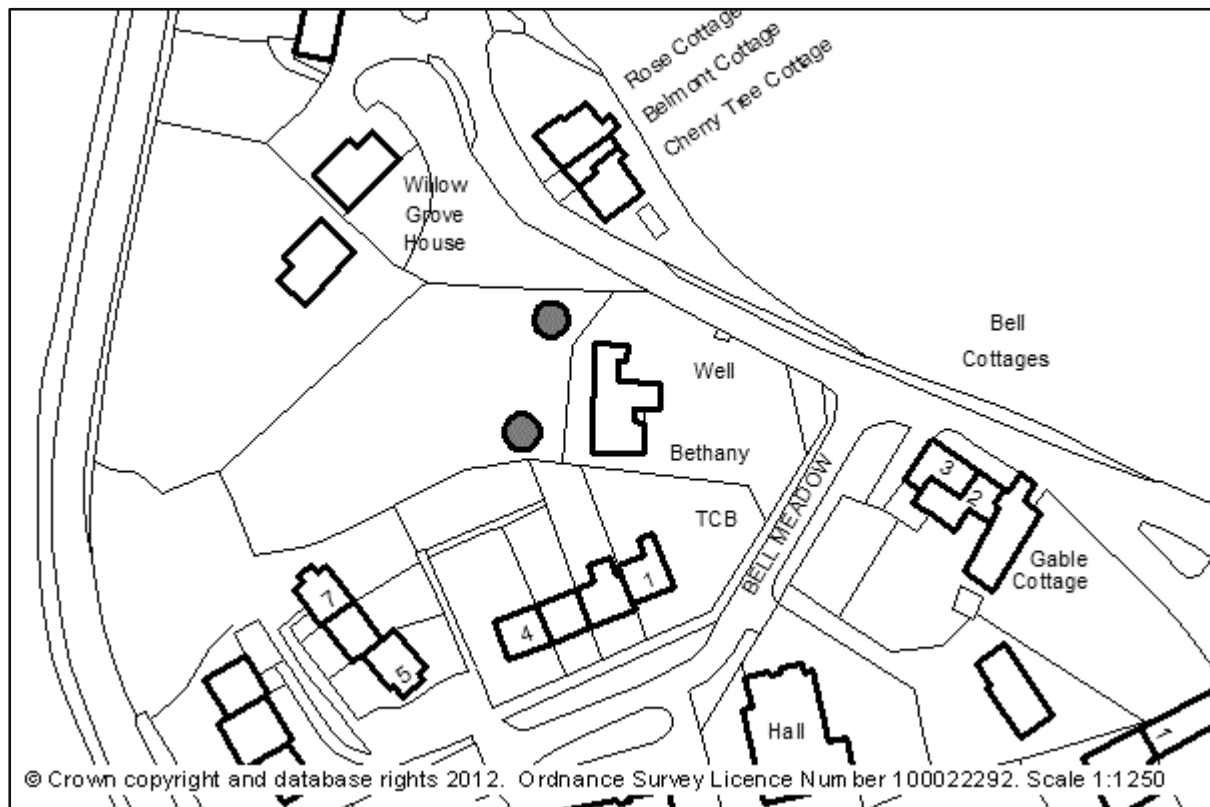


## Tree Preservation Order: 21/00001/TPO

Grid Ref: 294020 : 107201

Location: Bethany  
Bell Meadow  
Bickleigh  
Tiverton

Proposal: Tree Preservation Order for 1 Silver Birch and 1 Fir tree



## **TREE PRESERVATION ORDER: 21/00001/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 21/00001/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 Silver Birch and 1 Fir 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 Silver Birch Tree and Fir Tree following submission of a Section 211 notice for works to trees on a site within the Bickleigh Conservation Area. One letter of objection has been received in relation to Tree Preservation Order 21/00001/TPO from the owners of the site.

The relevant history of the site is as follows:

##### **17/00308/CAT** - NOBJ date 29th March 2017

Notification of intention to fell 1 Oak tree, remove dead and diseased wood from 1 Oak tree and reduce height of a mixed hedgerow within the Conservation Area

##### **20/02031/CAT** - NOBJ date 28th January 2021

Notification of intention to dismantle 1 Lawsons Cypress and 11 Ash within the Conservation Area

##### **21/00480/CAT** - NOBJ date 21st April 2021

Notification of intention to fell 1 Ash tree and reduce overhanging limbs of 1 Ash tree within the Conservation Area

## **AMENITY EVALUATION:**

The silver birch and the fir both make a significant contribution to local public amenity. Amenity evaluations undertaken by the Tree Consultant for the Council gave the trees a score of 17 and 16 respectively. Following this amenity evaluation, it was deemed necessary to place further protection on these trees in the form of a Tree Preservation Order.

## **REPRESENTATIONS:**

One objection to the TPO has been made from site owner Mr Vautier on the following grounds:

1. Tree T1 (Silver Birch) is less than 20 feet from our house. It significantly shades the property, it is covered in ivy with numerous dead branches and was identified by a professional tree surgeon (Four Seasons Tree Services) to pose a risk to our home;
2. Tree T2 as a fir tree is of particular concern: Spruce trees are naturally planted or seeded in groups; this provides the group of trees with an interlocking roots system and ensures that wind loads are shared. The Spruce (T2) is fast growing with a shallow root base, is non-indigenous and it was originally planted as an ornamental tree in the garden many years ago. It has not been maintained and grown above the surrounding tree canopy fully exposed to high winds from all directions with no other trees to interlock its roots and taking the full brunt of high winds. It should also be noted that the land falls away to the north east of the tree, it is most likely that the whole tree will be uprooted due to shallow root base and fall toward the houses below us (the prevailing winds are south westerly).
3. The proposed TPO is against the professional advice we sought and intended to follow to make the trees safe, the Order prevents any action and is the reason we believe you are exposing the Council to possible compensation claims.
4. We have spoken to our neighbours who fully support our wish to remove both trees and question either tree provides 'amenity value' which we understand is a significant basis for placing a tree under a preservation order.

## **MATERIAL CONSIDERATIONS AND RESPONSE TO THE OBJECTIONS:**

### Background

A notification for works to trees within a conservation area was submitted to the Council on 3 December 2020. The Council's tree consultant carried out a site visit and evaluations in respect of T1 (Silver Birch) and T2 (Fir) were carried out. The standard evaluation form (Poole System) was completed on the 14/01/21. An evaluation score of 17 was recorded in respect of T1; an evaluation score of 16 was recorded in respect of T2. (>15 merits consideration for a Tree Preservation Order).

The Silver Birch (T1) tree is located in the rear of the property, is 18m high with a good form and a life expectancy of between 15-40 years. It is considered to have an insignificant influence on structures. Tree easily visible from Bell Meadow, and from the road on the north side, and is also visible from the main A396 road. It is considered that the tree has a positive impact in terms on the character and appearance of the locality.

The Fir (T2) tree is located in the rear of the property, is 22m high with a good form and a life expectancy of between 40-100 years. It is considered to have an insignificant influence on structures. The health and vitality of this tree appears normal. The tree is easily seen from Bell Meadow, from the road to the north and can be seen at longer range from the A396

road to the west. This tree also has a positive impact on the character and appearance of the locality

A Tree Preservation Order (TPO) was served on the 19/01/21 in respect of trees T1 and T2.

### Objection

A formal objection of the tree preservation order was submitted by Mr Vautier on 12/02/21.

The objection to the TPO by Mr Vautier can be summarised in terms of the Silver Birch (T1) being within 20 feet of the house and shades the property. The tree is colonised by ivy and there are a number of dead branches. A tree consultant has advised that the tree is a risk to property and people. In terms of the Fir tree (T2) the objection can be summarised as the tree is a non indigenous tree and should be within a group rather than a single ornamental tree. The tree is fast growing with shallow roots and exposure to high winds could cause the tree to fall on the neighbouring property.

### Review of the Objection and Appraisal

The Tree Consultant has reviewed the objections from Mr Vautier and has concluded that a Silver Birch of this size is not so close to the house to create excessive shading to the windows of the house. Silver Birches cast a light dappled shade due to their shape and foliage and some minor pruning and management of the Silver Birch tree would alleviate the canopy encroachment on the house. This would reduce the shading issue. Furthermore under Regulation 14 of the Town and Country (Tree Preservation) (England) Regulations 2012 the ivy could be removed from the tree and any dead wood could be removed. Neither of these would require a formal approval under the Regulations. In addition there is little evidence submitted to support the contention that the tree is a risk to people and property.

In regards to the Fir tree, the Tree Consultant has commented that a Fir tree is a hardy tree and will adapt to the prevailing wind conditions to be stable even when it is planted as a single tree. No evidence has been submitted to support the contention that the tree has such shallow roots that could not support the crown of the tree, making it unstable. Furthermore no evidence has been submitted to show why the height of the tree combined with its position in the garden would pose an unusually high risk to the house.

It should be noted that it is not a requirement for a TPO to be served for the tree to be a native tree to the UK. Many varieties of native and non native trees are protected by a TPO and these trees make an important contribution to the public amenity of towns and villages. The amenity value is not low as suggested in the objection and was found to be 17 for the Silver Birch Tree and 16 for the Fir Tree as part of the evaluation; these scores indicate that both trees have a high value and are worthy of consideration for a TPO.

Overall both trees have a strong amenity value and contribute to the character and appearance of the local area

### **CONCLUSION:**

A structured and consistent evaluation method was carried out by the Council which clearly indicated that both trees merit protection under a Tree Preservation Order. Overall both trees have a strong amenity value and contribute to the character and appearance of the local area.

The objection by Mr Vautier notes a number of reasons why the tree should not merit protection. It is considered that the reasons given are not sufficient to reject the confirmation of the TPO.

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.