

**Tree Preservation Order: 22/00003/TPO**

Grid Ref: 303250 : 110816

Location: Land at NGR 303250 110816 (9-19 Tamarind, 26 Oak Crescent)  
Meadow Park  
Willand  
Devon

Proposal: Tree Preservation Order for 10 English Oak trees



## **TREE PRESERVATION ORDER: 22/00003/TPO**

### **REPORT OF THE DEVELOPMENT MANAGEMENT MANAGER**

#### **Reason for Report:**

Following the Tree Preservation Order ref: 22/00003/TPO being made on the 24/5/22 an objection was received, dated 27/5/22 from Mr Uglow of 15 Tamarind, Willand.

#### **RECOMMENDATION**

That the Tree Preservation Order 22/00003/TPO is confirmed.

#### **Relationship to Corporate Plan:**

The Tree Preservation Order contributes 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 (TPO) for 10 English Oak trees

#### **RELEVANT SITE HISTORY/DESCRIPTION:**

The ten English oak trees were afforded a tree preservation order on the 24/5/22 following an enquiry from a resident on Tamarind asking if the trees in their garden were protected. In review of the council internal mapping system it was considered that tree trees are likely outside a woodland tree preservation order ref: 73/0012/TPO. Though it has likely been believed by council personal, committee member and the local residents that they were. However the boundary of the TPO does only appear to extend up to border of the properties of 9-19 Tamarind. Though the mapping of trees and tree groups for a tree preservation order does not have to be pin point accurate it was felt this level of ambiguity could lead to significant trees being removed without suitable justification.

## AMENITY EVALUATION:

### 1. Size

	Score	Notes
1 Very small 2-5m <sup>2</sup>	7	Trees range from approximately 15 to 20 metres in height, with average crown spreads of approximately 10 to 15 metres.
2 Small 5-10m <sup>2</sup>		
3 Small 10-25 <sup>2</sup>		
4 Medium 25-50m <sup>2</sup>		
5 Medium 50-100m <sup>2</sup>		
6 Large 100-200m <sup>2</sup>		
7 Very large 200m <sup>2</sup> +		

### 2. Life expectancy

	Score	Notes
1 5-15 yrs	3	The English trees are mature (two-third life expectancy). Oak trees are potentially long-lived 200yrs +. All ten trees appear in good health informing their remaining contribution is likely to be 40yrs or greater.
2 15-40 yrs		
3 40-100yrs		
4 100yrs +		

### 3. Form

	score	Notes
-1 Trees which are of poor form	2	The 10 trees are woodland edge trees, exhibiting typical form for setting. Crown spreads are noted with minor asymmetry due to natural group suppression. However, no significant structural defects was observed from the visual amenity assessment.
0 Trees of not very good form		
1 Trees of average form		
2 Trees of good form		
3 Trees of especially good form		

### 4. Visibility

	Score	Notes
0 Trees not visible to public	3	Due to the setting of the trees they have a high visibility from the right of way path through the woodland. The collective canopy cover of the trees are highly visible in the surrounding landscape and are visible from Oak Crescent, Tamarind and partly from the motorway
1 Trees only seen with difficulty or by a very small number of people		
2 Back garden trees, or trees slightly blocked by other features		
3 Prominent trees in well frequented places		
4 Principal features in a public area.		

### 5. Other trees in the area

	Score	Notes
0.5 Wooded (70% = 100+ trees)	0.5	Trees on edge of woodland where there is a high tree count.
1 Many (30% = 10+ trees)		
2 Some (10% = 4+trees)		
3 Few (<10% = 1+trees)		
4 None		

### 6. Suitability to area

	Score	Notes
-1 Unsuitable	3	Tree are on the boundaries edges of gardens of 9-19 Tamarind and 26 Oak Crescent bordering the adjacent woodland. The trees are still viewed as important components of the woodland.
1 Just suitable		
2 Fairly suitable		
3 Particularly suitable		
4 Very suitable		

### 7. Future amenity value

	Score	Notes
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0 Potential already recognised	0	Already viewed as significant components in the landscape.
1 Some potential		
2 Medium potential		
3 High potential		

#### 8. Tree influence On Structures

#### Score Notes

-1 Significant	0	Properties built on Tamarind are in close proximity to the 10 oak trees and the woodland in general. The trees are dominate over the garden spaces. However, there should be an acceptance that the gardens will have limited light. Where crowns spreads do conflict with the dwellings this can be resolved through suitable pruning.
0 Slight		
1 Insignificant		

#### 9. Added factors

#### Score Notes

1 Rare	2	The 10 oak trees as part of the woodland are historic to the local landscape and contribute significant wildlife benefits.
1 Screening unpleasant view		
1 Relevant to the Local Plan		
1 Historical association		
1 Considerable wildlife value		
1 Veteran tree status		

*If more than one factor relevant maximum score can still only be 2.*

#### 10. Notes and total score

#### Score Notes

Not / Reasonable for inclusion within the TPO (>15 Merits consideration)	20.5	The 10 oak trees are considered to offer significant amenity value to the local landscape and are likely to continue contributing to the local setting in the long-term. Potential conflict with properties is viewed as slight as these can be resolved through suitable pruning.
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Evaluation Score: 20.5

### REPRESENTATIONS:

Mr David Uglow of 15 Tamarind, Willand has objected to the Tree Preservation Order and has raised the following objection that have been bullet pointed in this report:

1. Trees are starting to cause damage to the patio and kennel.
2. There are limbs getting to close to the house and the neighbours, blocking light and dropping huge amounts of leaves which continuously stop anything from growing in the garden. Mr Uglow advises that he has had to re-turf the garden for the 3<sup>rd</sup> time in 8 years.
3. Mr Uglow is under constant worry that they will fall onto the neighbour's property and questions who will pay for the damage. There are also concerns of who will pay out if a branch falls on someone.
4. Advises that there is no way you would be able to build a property this close to a tree of that size nowadays so why if it was ever allowed is questionable. Mr Uglow is concerned to think of the amount of damage that the roots are causing to the foundation of the house.

### MAIN ISSUES:

In response to the issues raised by Mr David Uglow:

Point 1: the trees would have been present and already mature when the properties were built. Construction of the patio and kennel should take into account trees and

engineered proportionately to avoid conflict, considering alternately material.

Point 2: where trees limbs are getting to close to the property, an application can be made to the council to suitably target and prune branches back to an appropriate point to avoid the conflict. Clearing of leaves from gutters and garden space and weeding of seeds that have started to grow are considered to be normal routine seasonal maintenance which property owners are expected to carry out. Where this impacts plants and lawn growing, consideration should be given to increasing garden maintenance of selecting plants more suitable to growing in a location that is influenced by the trees. The issue of restricted light due to the presence of trees should be considered when purchasing the property. The gardens of 15 Tamarind, Willand is north facing. Much of the light into the gardens is likely to be impacted by the property.

Point 3: the tree owner has a duty under the Occupiers Liability Acts to take reasonable steps to ensure visitors or trespassers on their land are safe. In practice, this means that if a tree falls and causes damage to a person or property then the tree owner may be liable. The council is not responsible for the safety of trees outside the council's ownership. Where the owner of the trees is concerned about their trees, it is recommended that they contact a suitable professional tree contractor/consultant and have the trees inspected.

Point 4: properties built in close proximity to trees should have adequate foundations to prevent damage from trees roots. Due to the weight of a house, no amount of physical expansion will affect the house, but garden walls and small structures such as garages or outbuildings might be at risk. Trees may cause indirect damage. When tree roots grow underneath the foundations, extract the water and cause clay soils to shrink and the structure to subside. Modern building standards mean that the risk to newer buildings tends to be isolated. Where it is believed that trees are the cause of cracking to your property it's recommended that individuals talk to insurers to determine the probable cause.

### **SUMMARY:**

The trees provide significant amenity value to the local landscape and are likely to continue contributing to the landscape in the long-term. The issues raised by Mr David Uglow of 15 Tamarind, Willand who has objected to the subject Tree Preservation Order have been reviewed. The points raised are not considered to be sufficient to outweigh the contribution that the trees have on the surrounding landscape. The issues highlighted can largely be resolved through appropriate pruning when required and routine maintenance. Pruning works to these trees will require a tree works application to the council at the relevant time. It is recommended that Mr David Uglow contacts a suitable person to have the trees inspected to address the concerns raised. This would be at Mr David Uglow's own cost. Reports resulting from such an inspection should inform suitable management that will aid a tree works application to the council in the future.

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.