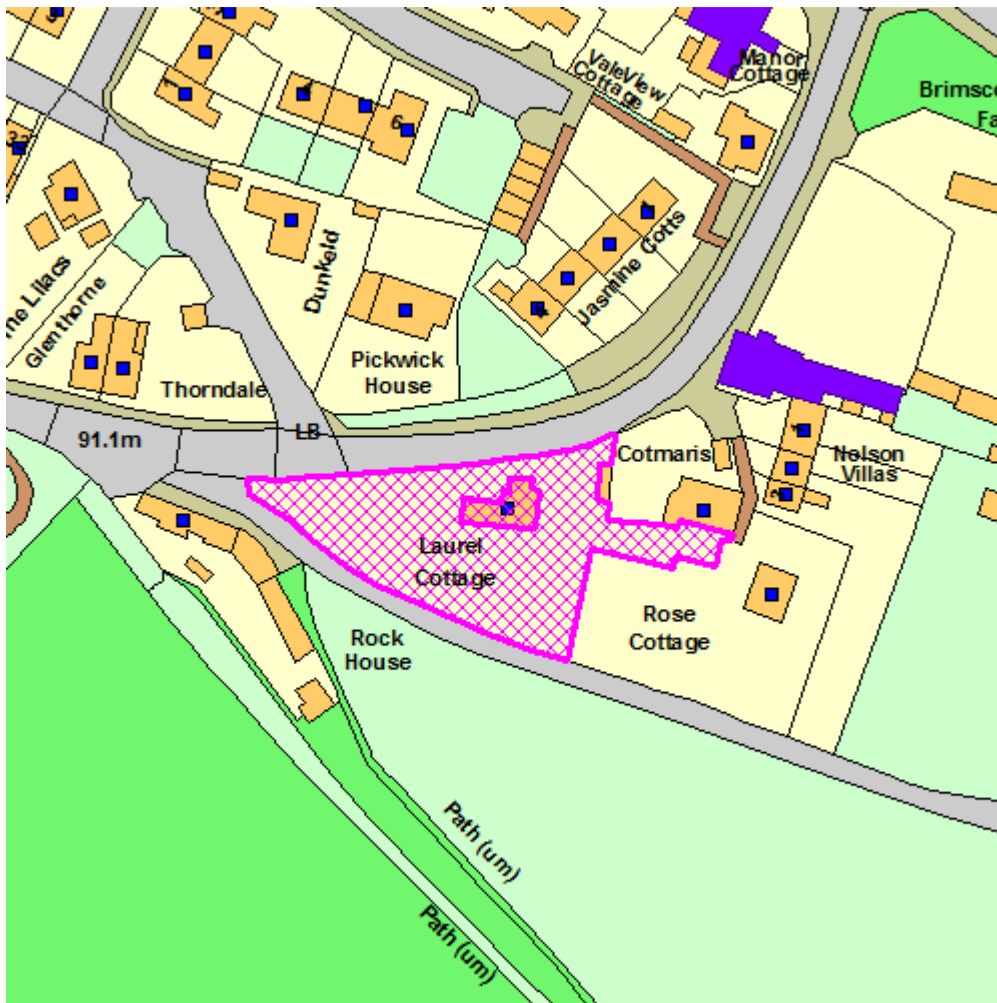




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Item No:	02
Application No.	S.18/1624/NEWTPO
Site No.	
Site Address	Laurel Cottage, Brimscombe Hill, Brimscombe, Stroud
Town/Parish	Minchinhampton Parish Council
Grid Reference	386795,202095
Application Type	New Tree Preservation Order
Proposal	TPO 571 Laurel Cottage, Brimscombe Hill
Recommendation	That the TPO be confirmed
Call in Request	Planning Manager



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Applicant's Details	Victoria Pettigrew Stroud District Council, Ebley Mill, Ebley Wharf, Stroud, Gloucestershire GL5 4UB
Agent's Details	None
Case Officer	Victoria Pettigrew
Application Validated	24.07.2018
CONSULTEES	
Comments Received	
Constraints	Aston Down Airfield Consultation Zones Affecting the Setting of a Cons Area Area of Outstanding Natural Beauty Consult area Conservation Area Kemble Airfield Hazard Within 50m of Listed Building Neighbourhood Plan Minchinhapton Parish Council Rodborough 3km core catchment zone Settlement Boundaries (LP)
OFFICER'S REPORT	

Introduction

In June 2018, a 6 week notification was received under section 211 of the Town and Country Planning Act 1990 to fell a yew tree in a conservation area. The tree is located in an elevated position to the north-east of the property and is visually prominent in the village.

The tree species is Yew *Taxus baccata* a native species to the British Isles, it is considered to be semi mature, with a trunk girth of approximately 55cm and a height of approximately 3 metres.

A visual tree assessment (VTA) was undertaken to assess the tree's structure and vitality. The tree was found to contain no significant defects and has good vitality. Vitality relates to the condition of the bark, leaves, and extension of growth.

The applicant's reasoning for felling the tree is that it offers low amenity value, caused excessive shading of the area of garden and was oppressive to their neighbours garden and their terrace immediately below.

The owner also had concerns for the dry stone retaining wall below the house and garden above the road and claims that the wall has fallen twice.



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Serving of a provisional Tree Preservation Order (TPO)

In situations such as this, the local planning authority can either agree to the works proposed in the notification or seek to protect the tree, which requires the serving of a Tree Preservation Order. The process is that the first Order served is 'provisional'; it protects the tree for 6 months but also allows the owner of the tree to respond and raise any objections to the Order.

In this case, the tree was considered to be worthy of retention for the reasons set out below and a provisional order was served on 30th July 2018.

When considering whether trees should be protected by a tree preservation order, local planning authorities are advised to develop systems for assessing the trees amenity value prior to serving the order. The suitability for serving a tree preservation order was considered using the TEMPO methodology. TEMPO is designed as a field guide to decision making. It stands as record that a systematic assessment has been undertaken prior to serving a tree preservation order (please see the enclosed completed pro-forma).

The case officer also made the following assessment of the yew tree and site:

“The tree sits to the northern edge of the owners' garden and therefore it is difficult to understand why it should cause excessive shading. The site visit (19th July 2018) showed the garden at midday to be in full sunshine, the sun rises in the east and sets in the west and takes a southern path during the day, therefore the tree to the north of the garden will not cause excessive shading to the owners garden. The majority of shade falls to the road below the tree and some shading will be apparent to a very small terrace next the road in ownership of the neighbours. The main garden in ownership of the neighbours will likely only be impacted by shade from the tree as the sun moves round to the west in the late afternoon.

The owners claim that the tree has caused the retaining wall to collapse on two occasions; however, evidence to support this claim has not been provided, which should be in the form of photographic evidence or a structural engineers report. A report of this nature would be required in order to justify that the tree was causing damage. There was no visual evidence on site to suggest that the wall was being damaged by the tree. Retaining walls can be caused to collapse for a variety of different reasons, land slides, excessive rainfall etc. Without a structural survey to justify that the tree has caused the wall collapse the Local Planning Authority cannot agree to the felling of the tree.”



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Objection to the provisional TPO

An objection has been received to the provisional TPO from neighbours of the site (Cotmaris).

The salient points of the objection are as follows:

1. Loss of light to the garden and the kitchen at Cotmaris neighbouring property to Laurel Cottage, fruit trees have subsequently died.
2. The tree is unsightly
3. The tree is causing damage to the retaining wall
4. The tree has poisonous berries/ needles which are a health hazard for children and pets
5. Steel cabling is entwined into the tree trunk which may be to the detriment of the trees health.

These objections are addressed as follows:

1. Daylight is defined as being the volume of natural light that enters a building to provide satisfactory illumination of internal accommodation between sunrise and sunset. Sunlight refers to direct sunshine. It is unclear as to whether the objector is concerned by the loss of natural light or whether the concern is the loss of direct sunlight. The loss of daylight is a material consideration when deciding whether a TPO should be served, however, the loss of sunlight is not a material consideration. Currently no evidence has been provided in the form of a day light survey to justify that the tree in question is restricting natural light to the objector's property.
2. The objector feels that the tree is unsightly within the conservation area. The tree is a young prominent native species tree within the conservation area and does form a feature within that section of the conservation area. It is quite likely that the tree has self seeded from one of the yew trees at Holy Trinity Church yard which is located close by. Yew trees have a long association with church yards and are often feature trees found within conservation areas for this very reason. Yew trees are long lived and can be pruned and trained into shapes through the art of topiary, it is clear that the tree in question has not been managed for some time and as a result has become tall and out of shape. The confirming of the order does not prohibit the owner of the tree from submitting an application to prune/manage the tree in order to make it more aesthetically pleasing.
3. The objector claims that the tree is damaging the retaining wall below it, however, no evidence in the form of a structural survey has been provided to justify that the wall is structurally unstable. There is no apparent evidence of damage to the wall currently.
4. Many plants can be poisonous if ingested by humans or animals; this is not a material consideration in the TPO serving criteria.



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5. It has been reported by the objector that there is a cable entwined through the tree. No evidence in the form of an arboricultural report has been provided to suggest that the cabling is damaging the health of the tree.

Conclusion

The tree is visually prominent and in good health and is considered to have significant amenity value which warrants its protection. Therefore, notwithstanding the objections received, officers recommend that the provisional TPO be confirmed.

1. Trees Specified Individually
(encircled in black on the map)

Reference on map -T1

Description (species) -Sycamore

Situation (location) -Land opposite Cherry Blossom Cottage,
Oakridge Lynch,