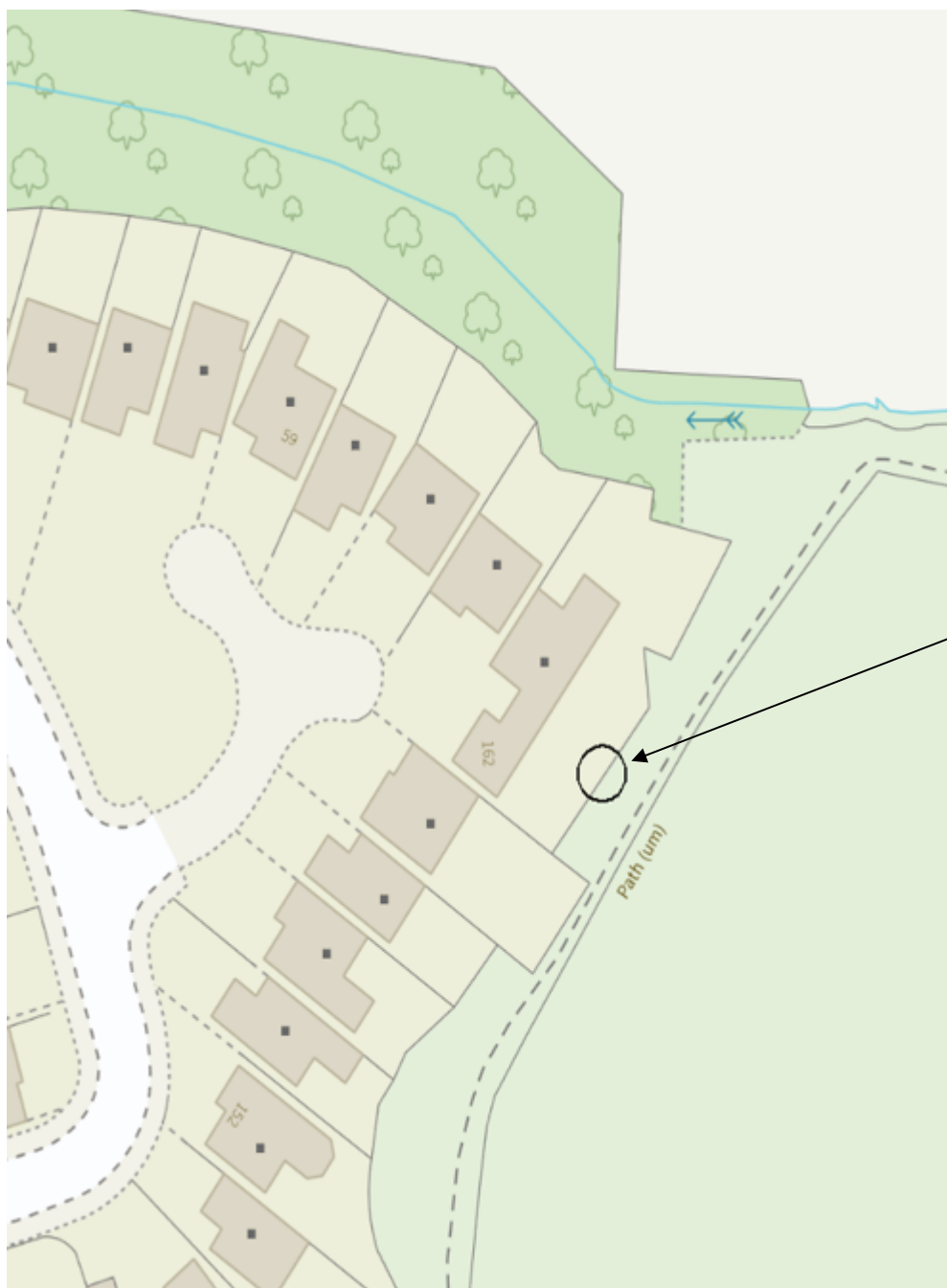




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|-------------------------|--|
| Item No: | 01 |
| Application No. | S.23/1900/NEWTPO |
| Site Address | Land Adjacent, 162 Arrowsmith Drive, Stonehouse, Gloucestershire |
| Town/Parish | Stonehouse Town Council |
| Grid Reference | 380966,206255 |
| Application Type | New Tree Preservation Order |
| Proposal | New TPO/0590 - Land Adjacent 162 Arrowsmith Drive, Stonehouse, Gloucestershire, GL10 2QR |
| Recommendation | Confirm the Tree Preservation Order without modification |
| Call in Request | Requested by Head of Development Management |





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| Applicant's Details | Stroud District Council Ebley Mill, Ebley Wharf, Stroud, Gloucestershire, GL5 4UB |
| Agent's Details | None |
| Case Officer | Francesca Ind |
| | CONSULTEES |
| Comments Received | Stonehouse Town Council |
| Constraints | Stonehouse Town Council |
| | OFFICER'S REPORT |

CONFIRMATION OF TREE PRESERVATION ORDER

PURPOSE OF REPORT

To consider the objections to the making of Stroud District Council Tree Preservation Order No 0590 - Land Adjacent 162 Arrowsmith Drive and to determine whether or not to confirm the Order.

An effective tree preservation order makes it an offence to do any works to the protected trees without first gaining consent from the Local Planning Authority unless such works are covered by an exemption within the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

INTRODUCTION

A provisional tree preservation order has been served to protect an Oak tree on Land adjacent 162 Arrowsmith Drive. The TPO was made in response to information from the County Council that the tree was to be imminently felled, which was indeed the case and so the need for a Tree Preservation Order was considered expedient.

The order was served upon the owner and occupiers of this site, along with owners and occupiers of any land adjoining the land on which the tree is situated, this is in accordance with Regulation 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. Despite a land registry search there still remains some uncertainty on the ownership of this land due to the tree being situated on the boundary of 162 Arrowsmith Drive and land which is owned by Maidenhill School, in this instance both were served this order.

These parties were given 28 days to object or make written representations about the making of the tree preservation order. A copy of the order is appended to this report.

As an objection has been received, the decision whether to confirm the order is brought before committee.

DESCRIPTION AND APPRAISAL OF TREES

The provisional order covers 1x Oak tree (T1) identified on the site location plan attached to this report.

It is felt that the tree is worthy of a preservation order by virtue of its public amenity value. The tree is prominent being located along a public right of way and within close proximity to the school. It has no significant defects and appears in good health from a visual ground level



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assessment. It is considered expedient to make this TPO in the interests of the visual amenity of this area, the size and position of the tree contributes positively and enhances the character of the surrounding area.

NATIONAL AND LOCAL PLANNING POLICIES

National Planning Policy Framework September 2023

Available to view at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

Stroud District Local Plan.

Policies together with the preamble text and associated supplementary planning documents are available to view on the Councils website: <https://www.stroud.gov.uk/LocalPlan>

Local Plan policies considered include:

ES8 - Trees, hedgerows and woodlands.

Stonehouse NDP Made on 22nd February 2018.

National Planning Policy Guidance (NPPG).

LEGISLATION BACKGROUND/TPO PROCEDURE

The power to make a Tree Preservation Order (TPO) is contained in The Town and Country (Tree Preservation) (England) Regulations 2012. This specifies that a Local Planning Authority may serve a TPO on tree or trees, which are considered to be of amenity value and are under threat. A Tree Preservation Order (TPO) is an order made by a Local Planning Authority that makes it an offence to fell, prune, uproot, wilfully damage or destroy a tree without the Authority's permission. This allows for the tree or trees to be retained and managed for the benefit of everyone. The Authority has a statutory obligation to protect trees worthy of preservation by means of TPOs.

There are national criteria set out in the National Planning Policy Guidance (NPPG) against which a tree should be assessed in order to determine whether it is worthy of preservation. When trees are considered potentially worthy of protection, they will be assessed against the prescribed criteria and if the tree meets these criteria then a provisional TPO will be served.

When deciding whether an Order is appropriate, the guidance outlines that protection should be given to trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. There is no definition of what this 'amenity value' is so authorities need to exercise judgment when deciding whether to seek to protect the tree/s. This needs a judgement of what is on the ground and the expedience for taking action. In coming to this judgment, it could include the visibility, the extent to which the trees are visible from the public place or street. However, just because it can be seen is not enough, the importance of the trees also needs to be considered. This can include size and form, rarity or historic value and the contribution to the surrounding character, landscape or Conservation Area. The importance to nature conservation or a response to climate change can also be factors but would not warrant an order on their own.

A tree preservation order does not stop development. The protected trees become a constraint or asset of the site and whilst works can be done to the trees with consent, for example keep



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them safe, any new proposal for development would have to consider the impacts on the trees and the wider area.

Stroud District Council uses a national recognised system to assess the expediency of making a TPO called Tree Evaluation Method for Tree Preservation Orders (TEMPO). TEMPO is used by many local authorities for this purpose. After visiting and assessing the tree using the TEMPO system, the Consultant Tree Officer and Trainee Tree Officer decided that a provisional tree preservation order should be served.

REPRESENTATIONS

Support comments received:

Stonehouse Town Council has supported the TPO with the response that the town council wholly supports the recommended Tree Preservation Order.

Objection comments received:

The owner of 162 Arrowsmith Drive has objected to the TPO on the grounds -

- o Tree is a hazard and danger to their property
- o Risk of bigger branches breaking and falling on to house
- o Danger to children as branches falling into their garden
- o Leaves block up the gutters
- o Makes gardens slippery and dangerous
- o Risk for damp in properties following blocked gutters
- o Expensive to have gutters cleared

A full copy of the objection letter are appended to this report.

RESPONSE TO OBJECTIONS

The objector has not to this date provided any further information / survey reports or diagnostic information to support the opinion that the tree is unsafe. If there are concerns over the trees structural integrity and should the TPO be confirmed the Council would welcome an application for works to trees supported by appropriate levels of arboricultural evidence, this could include a visual tree assessment, aerial inspection (with photographs of all bio mechanical defects) and results of any internal decay detection investigations to justify any proposed works.

Photographs have been received with the objection showing leaves, acorns and sticks, this is mostly a seasonal problem and would not warrant the removal of a mature tree for these reasons.

The Council would not refuse an application to prune or fell a tree protected by a TPO where appropriate evidence has been provided which demonstrates that the tree is in a condition that would warrant removal. At this point as no such information has been provided to the Council to demonstrate that the tree poses an unacceptable risk to residents and an inspection from the ground level only did not highlight and obvious defects which would result in allowing the TPO to lapse. The recommendation is to confirm the order which would provide the residents more time to provide evidence to substantiate their claims and submit a tree work application.



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OPTIONS AVAILABLE TO THE COMMITTEE:

Members are reminded that they must properly consider the above issues before coming to a fully reasoned conclusion as to whether to:

- 1) Confirm the Tree Preservation Order without modification; or
- 2) To confirm the Tree Preservation Order as with modifications; or
- 3) To refuse the Tree Preservation Order.

In doing so, Members must clearly give reasons as to why they have reached their decision.

It should be noted that the Order cannot be modified to include further trees outside the boundary of the order as drawn. If consideration is required to be given to protecting further trees then a new order to cover those trees should be placed. The modification of the order can only exclude trees or draw the boundary smaller but it cannot increase it because the publicity and notification has not included any greater number of trees.

RECOMMENDATION

It is therefore recommended that the provisional Order (TPO/0590) should be confirmed as served and long term protection provided for the tree.

There is no right of appeal to the confirmation of an order so the Authority and Members have to demonstrate that they have made their decision in an even-handed and open manner. Therefore, Members are asked to consider all the information before them including the comments and objections received, prior to making a decision to confirm the order.

If the order isn't confirmed, the landowner can exercise their right to remove the trees.