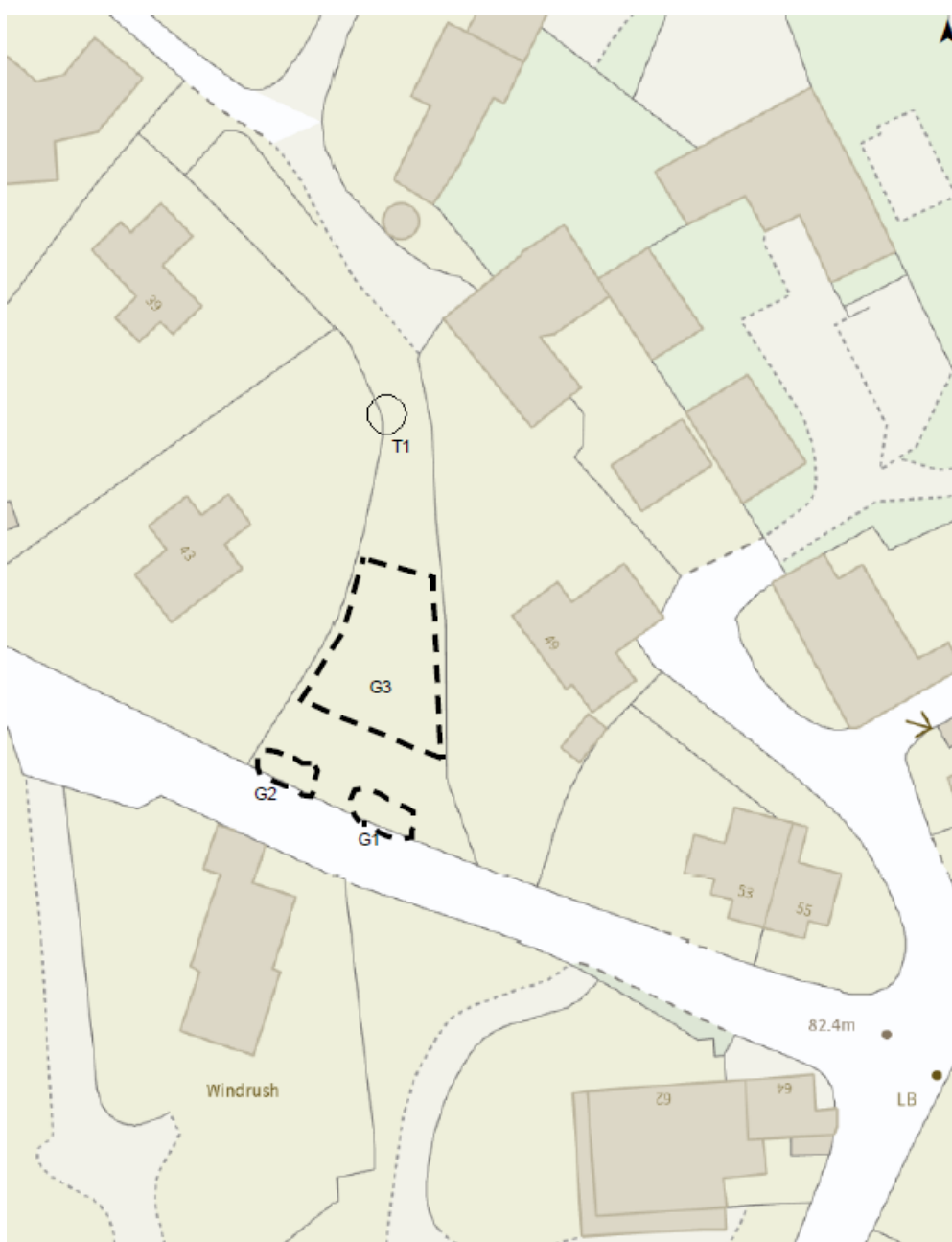




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Item No:	02
Application No.	S.23/1901/NEWTPO
Site Address	Land At, Gunhouse Lane, Bowbridge, Stroud
Town/Parish	Brimscombe And Thrupp Parish Council
Grid Reference	386173,203952
Application Type	New Tree Preservation Order
Proposal	TPO/0587 - Land at Gunhouse Lane, Stroud, Gloucestershire 2023
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	Justin Hobbs
	CONSULTEES
Comments Received	Parish Council 58 Thrupp Lane Mulberry House The Old Coach House
Constraints	Brimscombe and Thrupp Parish Council
	OFFICER'S REPORT

CONFIRMATION OF TREE PRESERVATION ORDER

PURPOSE OF REPORT

To consider objection and support comments received to the making of Stroud District Tree Preservation Order No 0587 in respect of trees on Land at Gunhouse Lane, Stroud 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

In September 2022 a member of the public requested that the council consider the expediency of making a TPO on a trees on land at Gunhouse Lane, Stroud. The site owner was recently deceased and there was concern about the future of the trees on the land.

DESCRIPTION OF TREE/SITE

Land at Gunhouse Lane is a plot located at the southern end of Gunhouse Lane immediately adjacent to Thrupp Lane, in Thrupp Parish. A thin, triangular piece of land with a well-used public footpath running through it connecting Thrupp Lane with Gunhouse Lane. The TPO protects one mature Lawsons Cypress tree towards the northern end of the plot, a group of 15 yew trees in the main body of the plot and two groups of mature lime trees adjacent to Thrupp Lane.

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.



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National Planning Policy Guidance (NPPG).

RELEVANT PLANNING HISTORY

TPO/0584 - TPO made 07.02.2023 to protect the trees on site. Due to a naming error on the TPO title it was decided to allow this TPO to lapse (not be confirmed) and the current TPO (TPO/0587) was made to, in effect, replace this TPO.

LEGISLATION BACKGROUND/TPO PROCEDURE

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. The Authority has a statutory obligation to protect trees worthy of preservation by means of TPOs.

The power to make a Tree Preservation Order (TPO) is contained in The Town and Country (Tree Preservation) (England) Regulations 2012. This specifies that 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 woodlands in their area'.

Authorities can either initiate this process themselves or in response to a request made by any other party. When deciding whether a TPO is appropriate, authorities are advised to take into consideration what 'amenity' means in practice, what to take into account when assessing amenity value, what 'expedient' means in practice, what trees can be protected and how they can be identified.

When deciding whether a TPO 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. Before authorities make or confirm an TPO they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

When considering whether trees should be protected by a TPO, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant a TPO. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- o size and form
- o future potential as an amenity
- o rarity, cultural or historic value
- o contribution to, and relationship with, the landscape; and



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- o contribution to the character or appearance of a conservation area.

Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

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.

Once a TPO is made, the council has a maximum of 6 months to decide whether to confirm the TPO as made, confirm the TPO as made but with modifications, or to not confirm the TPO. Allowing the 6 month period to pass without confirmation renders the TPO as lapsed and the trees are no longer protected.

The purpose of the maximum period of 6 months between making the TPO and confirming, modifying, or not confirming the TPO, is to allow a for representations to be made to the council about the TPO before deciding whether to confirm, modify, or to not confirm the TPO.

BACKGROUND TO THE TPO

In September 2022 a member of the public made officers at Stroud District Council aware that the owner of a plot of land known as land at Gunhouse Lane, Bowbridge, Stroud had passed away. Concern was raised about potential future land use changes and requests made to the council consider making a TPO to protect trees on site.

The consultant tree officer visited site on 20.01.2023 and undertook an assessment for expediency to make a TPO using the TEMPO system. The results of the assessment indicated it was expedient to make a TPO to protect trees on site (Appendix 2).

TPO 0584 was duly made on 07.02.2023. The council served notice on the owner and those affected by the TPO in accordance with Regulation 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (The Regulations hereafter). A site notice was also posted on site.

An objection and supporting comments to the making of this TPO were received within the statutory 28 day period following the making of the TPO. Officers re-examined the TPO considered the title of the TPO - "A small copse" was not accurate enough and would not satisfy the Regulations.

It was decided that the most expedient course of action was to allow TPO 0584 to lapse (i.e to not be confirmed) and to make a new TPO to, in effect, replace TPO 0584.

TPO 0587 Land at Gunhouse Lane, Stroud, Gloucestershire (2023) was duly made on 20.07.2023. The council served notice on the owner and those affected by the TPO in accordance with Regulation 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. A site notice was also posted on site.



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The period for any objections and representations to be made to the Council in respect of the TPO ended on 17.08.2023.

REPRESENTATIONS

Four objection correspondences to this TPO and the original TPO (TPO 584) have been received.

One supporting correspondence from the Parish Council to the making of the original TPO (TPO 584).

Summary of objection comments received:

The objections primarily focus on concern about the health of the trees, a lack of management or maintenance, overhanging branches, the overbearing nature of the trees, and the title of the TPO.

An objection from The Executors of the Estate of the deceased owner of the land have objected to the TPO on grounds that the TPO affects the Beneficiary of land, and the value of the land, and this affecting the Probate process.

A full copy of the support and objection letters are appended to this report at Appendix 3.

RESPONSE TO OBJECTIONS

When assessing the trees for expediency to make this TPO, no significant or obvious defects were apparent with the trees now subject to the TPO. However, it is not appropriate for the council to undertake detailed and extensive tree condition surveys when making a TPO. The making of a TPO does not confer responsibility for the trees onto the council, this remains with the landowner. The making of a TPO does not prevent applications for works to be undertaken on the trees protected by the TPO. The council would not refuse justified, reasonable, and evidence based applications for remedial works to remove unacceptable risks and/or for appropriate arboricultural management.

Officers are satisfied that the title of the TPO meets the requirements of the Regulations as it accurately reflects the geographical location of the trees, and the name is used locally.

In the absence of any evidence submitted, the affects to the Beneficiary of the Estate are based on supposition. It should be noted again that the making and confirming of a TPO does not prevent applications being made for works or development.

ASSESSMENT/APPRAISAL

The trees subject to the TPO all make a positive contribution to the surrounding area. Being mature, and in an elevated position they can all be seen from a wide area.

The lime trees form an impressive avenue like feature adjacent to Thrupp Lane. It may be appropriate to reduce the lime trees in the future, but the protection and retention of this local arboricultural feature is clearly desirable. They are protected as groups on the TPO schedule as G1 & G2.



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The group of yews through which the public footpath runs provides an attractive semi-rural characteristic to the plot and will provide welcome shade during hot conditions. The trees are protected as a group as individually they may not be the best specimens, but when taken as a whole, as a group they provide considerable amenity. The 15 yew trees that make up the group are listed as G3 on the TPO schedule.

The Lawsons Cypress tree stands alone and is a prominent landmark tree, visible from distance. The tree is therefore identified and an individual tree on the TPO schedule (T1).

The site and the trees are not in a conservation area, without the protection of a TPO, the trees could be removed at any time.

The TEMPO assessment undertaken resulted in scores and recommendations of "TPO defensible" or "Merits TPO".

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 not confirm 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

The trees that comprise this TPO contribute positively to amenity in the vicinity by virtue of their prominence and public visibility. Assessment has shown it is expedient to confirm this TPO.

It is therefore recommended that TPO 0587 Land at Gunhouse Lane, Stroud, Gloucestershire (2023) should be confirmed as served and long term protection provided for the trees.

There is no right of appeal 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.