



STROUD DISTRICT COUNCIL

Ebley Mill • Ebley Wharf • Stroud • Gloucestershire • GL5 4UB
01453 766321
www.stroud.gov.uk

Dated 26/07/2023

STROUD DISTRICT COUNCIL TREE PRESERVATION ORDER

**Land at Middle Hill, Eastcombe, Gloucestershire, 2023
TPO/0589**

Town and Country Planning Act 1990

**The Town and Country Planning (Tree Preservation) (England) Regulations
2012**

TREE PRESERVATION ORDER

relating to

Land at Middle Hill, Eastcombe, Gloucestershire 2023

Leading a community that is making Stroud district a better place to live, work and visit for everyone

Chief Executive: Kathy O'Leary



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TOWN AND COUNTRY PLANNING ACT 1990 THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012

STROUD DISTRICT COUNCIL TREE PRESERVATION ORDER NO TPO/0589

Land at Middle Hill, Eastcombe, Gloucestershire 2023

The Stroud District Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order-

Citation

1. This Order may be cited as TPO Number TPO/0589 Land at Middle Hill, Eastcombe, Gloucestershire, 2023

Interpretation

2. (1) In this Order "the authority" means Stroud District Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall-

- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.



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Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 26/07/2023

.....
John Chaplin – Majors and Environment Team Manager
Authorised by The Council to sign in that behalf



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CONFIRMATION OF ORDER

This Order was confirmed by the Stroud District Council without modification on the
day of 20

OR

This Order was confirmed by the Stroud District Council, subject to the modifications
indicated by

on the day of 20

Signed on behalf of The Stroud District Council

.....
John Chaplin – Majors and Environment Team Manager
Authorised by The Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Stroud District Council
on the day of 20

Signed on behalf of the Stroud District Council

.....
John Chaplin – Majors and Environment Team Manager
Authorised by The Council to sign in that behalf



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VARIATION OF ORDER

This Order was varied by the Stroud District Council on the
day of 20

by a variation order under reference number a copy of which is attached

Signed on behalf of The Stroud District Council

.....
John Chaplin – Majors and Environment Team Manager

REVOCATION OF ORDER

This Order was revoked by the Stroud District Council on the
day of 20

under the reference number

Signed on behalf of The Stroud District Council

.....
John Chaplin – Majors and Environment Team Manager
Authorised by The Council to sign in that behalf



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SCHEDULE

SPECIFICATIONS OF TREES

TPO Reference and location:

TPO/0589 Land at Middle Hill, Eastcombe, Gloucestershire

TREES SPECIFIED INDIVIDUALLY (encircled in black on the map)

Reference on map	Description	Situation
None		

TREES SPECIFIED BY REFERENCE TO AN AREA (within a dotted black line on the map)

Reference on map	Description	Situation
None		

GROUPS OF TREES (within a broken black line on the map)

Reference on map	Description	Situation
None		

WOODLANDS (within a continuous black line on the map)

Reference on map	Description	Situation
W1	Mixed Species	Grid Ref: SO 89411 03878



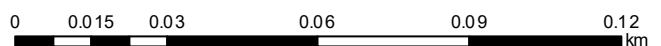
Stroud District Council
TPO/0589 Land at Middle Hill

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Scale 1:1,500
printed at A4 portrait

Date: 17/07/2023



Site: Land at Eastcombe

Date: 10.11.2022.

Proposal: Potential new TPO on land located to the north of the interchange of Old Neighbourhood and Middle Hill. Grid Ref SO 89413 03884



Comments:

The 1.4 acre. site has been offered for sale by tender in November 2022. There is concern that the sale of the land will result in the loss of the copse. I visited site on 10.11.2022 as assessed the site as a small woodland (copse) rather than as individual trees.

The copse that makes up the vast majority of the site contains standards of sycamore, ash, apple, hawthorn, goat willow & oak. Sycamore is by far the most dominant species followed by ash. The trees are all in a normal physiological condition apart from a significant number of the ash trees which are displaying symptoms of ash dieback. The average stem diameter of the standard trees is between 150 – 200mm, with a small number up to 500mm. Many trees are multi-stemmed from the base suggesting these trees have been cut to ground level in the past. The average height of the trees is approximately 10m, with some up to 14m.

The developing understorey is dominated by holly with hawthorn, privet, beech and dogwood also present.

Site photographs



The copse appears to be primarily self-set in nature. This does not detract from the amenity and habitat value it presently provides. This could be improved by selective thinning/felling, particularly the ash, leaving the deadwood in situ, and either leaving the new trees to come through by natural regeneration, or with underplanting of native trees such as oak.

A TEMPO assessment indicates the it would expedient to place a TPO on the copse (scheduled as a woodland).

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 10.11.2022	Surveyor: Justin Hobbs
Tree details	
TPO Ref (if applicable): N/A	Tree/Group No: W1 Species: Sycamore, ash, oak, holly beech, apple, willow, hawthorn, dogwood
Owner (if known):	Location:

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable |

Score & Notes 3
Ash have ADB, some M/S trees, thinning copse would be beneficial

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes 4/5
Still a relatively young woodland

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes 4
Located between two roads and on an edge of village location

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | | |
|--|----------------------------|
| 5) Principal components of formal arboricultural features, or veteran trees | Score & Notes 1 |
| 4) Tree groups, or principal members of groups important for their cohesion | |
| 3) Trees with identifiable historic, commemorative or habitat importance | |
| 2) Trees of particularly good form, especially if rare or unusual | |
| 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) | |
| -1) Trees with poor form or which are generally unsuitable for their location | |

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- | | |
|---|--|
| 5) Immediate threat to tree inc. s.211 Notice | Score & Notes 2
Site is for sale |
| 3) Foreseeable threat to tree | |
| 2) Perceived threat to tree | |
| 1) Precautionary only | |

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total:
14/15

Decision:
TPO defensible

Conclusion/Recommendation:

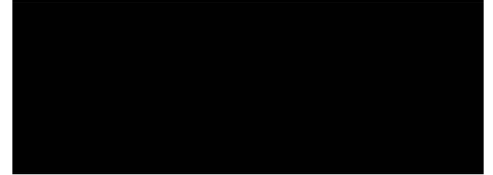
It is expedient to place a TPO on the whole site as W1 (woodland).

FAO: Tree Officer
Stroud District Council
Ebley Mill
Ebley Wharf
Stroud
Gloucestershire
GL5 4UB

Mail Room Services

15 AUG 2023

Received




By special delivery post and by email: planning@stroud.gov.uk

Our Ref: LW/RDP/13056.1

Your Ref: TPO/0589

14 August 2023


Dear Sir

Our clients: 

TPO Reference: TPO/0589 ("the Order")

Land on the East Side of Middle Hill, Chalford Hill, Stroud ("the Application Site")

1. Background

- 1.1 We are instructed by  ("our clients") who are the registered proprietors of the Application Site as registered at HM Land Registry under Title Number GR363037 ("the Registered Title"). We enclose a copy of the Registered Title which confirms our clients are the legal owners at **annex 1**. We confirm that our clients wish to object to the Order, therefore please treat this letter as a formal objection.
- 1.2 A temporary order dated 9 January 2023 ("the First Order") was withdrawn by the Council on 28 July 2023. A new notice and accompanying order, dated 26 July 2023 ("the Order") has since been served on our client in relation to a woodland located at the Application Site. For the avoidance of doubt, this objection relates to all of the trees to which that Order relates.
- 1.3 Our clients' objection is two-fold. Firstly, the Order is invalid for the reasons set out at paragraph 2 of this letter. Secondly, the Order fails to meet the requirements of section 198(1) of the Town and Country Planning Act 1990 ("the 1990 Act") in that it is not expedient in the interests of amenity to make provision for the preservation of any of the trees at the Application Site.

2. Validity of the Order

- 2.1 Regulation 3(3) of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 ("the Regulations") requires a map annexed to an order to "*give a clear indication of the position of the trees, groups of trees or woodlands to which the order relates*". In contradiction to this, the map annexed to the Order fails to give a clear indication of the position of the woodland to which it relates, instead outlining the whole of the Registered Title (including approximately 500m² of land where there are no trees present). The Order map is hopelessly vague and does not comply with the requirements of Regulation 3(3).

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Registered office: Langford Mill, Kingswood, Wotton-under-Edge, Gloucestershire, GL12 8RL

Tel: 01453 700620 Fax: 01453 700183 Email: info@loxleylegal.com Website: www.loxleylegal.com

- 2.2 The Council will be aware that it is under an obligation to make tree preservation orders available for public inspection as soon as practicable after making the order (by virtue of Regulation 5(1)(b) of the Regulations). It is submitted that the Council has failed to discharge this obligation. The Order states that it took effect, on a temporary basis, on 26 July 2023. As at the date of this letter (some 19 days later), the Order has not been made publicly available. The failure to publish the Order "as soon as practicable" has prejudiced our clients' (and others') ability to make proper representations in relation to the Order.
- 2.3 The accompanying notice to the Order ("the Notice") gives broad and vague reasons for serving the Order, none of which bear any specific relevance to the Application Site. It is, therefore, submitted that the Notice lacks sufficient information to enable members of the public a fair opportunity to rebut the reasoning in favour of the Order. This is in direct conflict with the requirement of Regulation 5(2)(a).
- 2.4 For the above reasons, both the Notice and the Order fail to satisfy the requirements of the Regulations and consequently render the Order invalid and/or ultra vires.

3. Amenity Value

- 3.1 Our clients instructed [REDACTED] of Independent Arboriculture & Urban Forestry Limited to conduct a full assessment of the trees at the Application Site ("the Assessment") following the publication of the First Order. A copy of that assessment is enclosed at **annex 2**. The Assessment remains valid in relation to the Order dated 26 July 2023 and it should not be afforded any lesser degree of weight.
- 3.2 In terms of visibility, some of the trees along the perimeter of the Application Site can be seen from the adjacent public highways (with visibility of those along the southern, eastern and western boundaries being restricted due to adjacent property, and trees on adjacent land). The majority of the trees along the perimeter are of poor form and provide little to no amenity value and so cannot be considered important assets. Therefore, the removal of any of these trees (if required in the future) would have little impact, if any, on the local environment.
- 3.3 The majority of the trees contained within the Order have no or limited visibility from the public realm and therefore cannot be said to provide public benefits. The Application Site is not a visual feature on the horizon and does not dominate the wider landscape. The wider landscape includes a number of dense wooded areas consisting of tall, mature trees. The Application Site is insignificant in comparison with these areas and provides a limited contribution to the local landscape.
- 3.4 Furthermore, none of the trees at the Application Site have cultural or historical value. There are also no rare species present that require protection. The predominant species are Sycamore and Ash, with none of the trees within these species having individual merit. Most of the larger Sycamore trees are of poor form, whilst the majority of the Ash trees are displaying symptoms of ash dieback disease. Some of the Ash trees present have already died and it is expected that most of the those remaining will perish due to their current size and maturity. As such, their ecological value is limited, as is their value as a natural habitat.
- 3.5 A covering letter was submitted in support of the application for the First Order ("the Application"), which gives several reasons why it could be necessary for an order to be made. It is assumed that the Application is still relevant to the Order dated 26 July 2023.
- 3.6 One of the reasons listed in the Application relates to the future amenity potential of the Application Site, stating that it "could also become a local green space". There are no public rights of way crossing the Application Site, nor do our clients permit members of the public to

use it for recreational or other purposes. The Application Site is strictly private land. Therefore, there are no grounds in support of this statement and it should be disregarded.

- 3.7 The Application also states that "[t]he Parish Council would also wish to retain this land as a buffer between Chalford and Eastcombe, as an important Local Gap." The Application Site is not under the ownership or control of the Parish Council and, as such, cannot be "retained" by them for this purpose. Furthermore, the presence of the trees on the Application Site has no impact on the location as a Local Gap. As the Council will be aware, Local Gaps can be bare land. Therefore, this statement is also irrelevant.
- 3.8 It appears that a trigger for the submission of the Application was the fact that the Application Site was marketed for sale. This is an unjustifiable reason for imposing the Order. Furthermore, it would also appear that the Application was submitted to the Council as a pre-emptive measure to prevent any development taking place at the Application Site. Applying for a tree preservation order over trees that do not meet the required legislative test is not an appropriate or justifiable means of seeking to limit development. In particular the Parish Council have adduced no evidence of any such proposals. Should any development be proposed in the future the Parish Council and members of the public will have an opportunity to raise any objections at the appropriate time. However, we take this opportunity to stress there are currently no plans for development or change of use of the Application Site.
- 3.9 The removal of the trees (although not currently proposed) would not have a significant negative impact on the local environment nor the public's limited ability to enjoy it. The Application Site does not provide any reasonable degree of public or ecological benefits, either now or in the future.
- 3.10 There is an electricity wayleave agreement in place relating to the Application Site, which requires some of the trees to be cut back occasionally so that the electrical cables are not damaged. The Council will be aware of this as it has an agreement with the utility company in place (as demonstrated by the letter at **annex 3**). Such works are common and justifiable for maintenance purposes.

4. Ecological Value

- 4.1 The online Government guidance relating to Tree Preservation Orders states that sufficient information should be gathered "to enable an accurate Order to be drawn up". Such information can include the "trees' importance as a wildlife habitat". The Notice makes fleeting and generalised references to the Application Site having ecological value, but fails to provide any supporting information. Prior to making such references, it would have been pertinent for a formal assessment of the ecological value to have been undertaken in order to identify any particular wildlife habitat requiring protection. Given the lack of such report, any reference to the Application Site being of ecological value is a baseless assumption and should be disregarded. It only serves to highlight the inaccuracies on which the Order is founded.

5. Expediency

- 5.1 Even if the Council considers that the trees have some amenity and/or ecological value, it is submitted that it is not expedient to confirm the Order. There is no risk of the trees at the Application Site being felled or damaged in ways which would have any impact on the amenity of the local area or any habitat. Furthermore, there are no existing development pressures to justify the imposition of the Order.

Page 4

6. Summary

6.1 In summary, it is submitted that the Order does not satisfy the provisions of the 1990 Act or the Regulations. We therefore respectfully request that the Order is not confirmed.

Yours faithfully



ANNEX 1



Official copy
of register of
title

Title number GR363037

Edition date 03.05.2012

- This official copy shows the entries on the register of title on 24 OCT 2022 at 15:41:24.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 24 Oct 2022.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Gloucester Office.

A: Property Register

This register describes the land and estate comprised in the title.

GLOUCESTERSHIRE : STROUD

- 1 (19.04.2012) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land on the east side of Middle Hill, Chalford Hill, Stroud.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (19.04.2012) PROPRIETOR: [REDACTED]
- 2 (19.04.2012) The value stated as at 19 April 2012 was [REDACTED]
- 3 (19.04.2012) RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.

End of register

ANNEX 2

Arboricultural Report: Tree Preservation Order Suitability Assessment

Land near Middle Hill

Eastcombe

Gloucestershire

Nr GL6 8BD

Dated 3rd February 2023

Subject matter: A report on suitability of trees for a tree preservation order.

On behalf of: Site owners [REDACTED]

On the instructions of: Loxley Solicitors

Reference: 86.04

[REDACTED]

Independent Arboriculture & Urban Forestry Ltd

[REDACTED]



**Independent
Arboriculture
& Urban Forestry**

Independent Arboriculture & Urban Forestry Ltd
is a company registered in England and Wales (Company No: 10833465).
Registered Office: Robinia House, GL5 2LG, United Kingdom.
VAT No.: 277 4532 76

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Appendices

None



1. Introduction

- 1.1 I am [REDACTED] I am a director and arboricultural consultant for Independent Arboriculture & Urban Forestry Ltd. My specialist fields are trees, arboriculture, urban forestry and tree work. The qualifications I hold which are most relevant to tree preservation and tree management are a post-graduate diploma in arboriculture and urban forestry, a Master of Science degree in environmental forestry and I am a chartered environmentalist and Registered Consultant of the Arboricultural Association. I have worked for a city council planning department as an Arboricultural Officer with duties focusing on the assessment of trees for new tree preservation orders, reviewing existent tree preservation orders, administering tree work applications and notifications, and commenting on other planning and development applications.
- 1.2 I was contacted by [REDACTED] of Loxley Solicitors in January 2023 on behalf of the site owner, [REDACTED] initially to review a new tree preservation order associated with land near Middle Hill, Eastcombe, Gloucestershire (near GL6 8BD). The Order, served by Stroud District Council, is titled 'TPO No - 0582 New Tree Preservation Order'. Subsequently I was instructed to document my significant findings relating to amenity and suitability for a tree preservation order in a formal report.

2. Instruction

- 2.1 Independent Arboriculture & Urban Forestry Ltd was instructed by Loxley Solicitors to:
1. Confirm current guidance on tree preservation order suitability assessment;
 2. Based on a site visit and information publicly available, assess trees at the site against the current guidance for amenity and suitability;
 3. Document significant findings in a report.

3. Tree Preservation Orders and Guidance

- 3.1 Local planning authorities (LPA), have a discretionary power under the Town and Country Planning Act (1990) to subject trees to Tree Preservation Orders if; *'it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'*¹. Such Orders prohibit certain activities such as the cutting down, lopping or wilful destruction of trees without written consent for the LPA. Trees may be designated as individual specimens, groups of trees, woodland or areas of trees.
- 3.2 Central government guidance² recommends use of a structured and consistent method to assess suitability, and in turn amenity, which considers criteria such as: expediency; visibility of the tree; individual, collective and wider impact with characteristics. Other factors such as nature conservation or response to climate change can add to the justification for making an Order but *'these factors alone would not warrant making an Order'*.

¹ Section 198 'Power to make tree preservation orders'. Town and Country Planning Act 1990. Available from <https://www.legislation.gov.uk/ukpga/1990/8/section/198>

² Ministry of Housing, Communities & Local Government. (2014) Guidance: Tree Preservation Orders and trees in conservation areas. Paragraphs 007 & 008. Available from <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#Flowchart-1-Making-and-confirming-TPO>.



3.3 Stroud District Council have published factors on their website to be considered when deciding if a tree preservation order is appropriate³:

- The visibility of the tree and amenity value to the general public rather than views from private areas such as rear gardens.
- The condition of the tree, if the tree is dying or diseased we are unlikely to confirm a TPO.
- If the particular tree(s) have significant importance in terms of its size, form, rarity, screening value or contribution to the character or appearance of an area.

3.4 My experience is that Stroud District Council use a system for assessing suitability called 'Tree Evaluation Method for Preservation Orders' (TEMPO)⁴. Over recent history Stroud District Council have attached a copy of their assessment to each served Order. In this instance such an assessment is not available to me, but I use TEMPO as a source of relevant guidance as it includes factors of visibility, amenity, condition, other factors and threat which are similar to those stated on Stroud District Council website.

3.5 Another relevant source of guidance is known as 'the Helliwell system' for visual amenity valuation of trees and woodlands⁵. Part of this guidance is useful to the layperson for understanding how significant or important characteristics and factors of amenity and suitability assessment are described. I use this in my assessment findings to help describe these to the reader by using words like; some importance, very little importance, many, few, just, moderately, etc, that relate to this guidance.

4. Assessment Process and Associated Information

4.1 I visited site on 20th January 2023 to assess amenity and suitability characteristics as recommended in Section 3. I reviewed a copy of the Tree Preservation Order on the same day.

4.2 Seven documents associated with the Order have been made available for public access on Stroud District Council planning register (Reference S.22/2551/NEWTPO). The documents include an application for a new tree preservation order from the Parish Council, copy of Order and Plan, brochure for sale of the land, three covering letters regarding the Order. I reviewed these on 3rd February 2023.

4.3 I reviewed these documents for relevant information to my assessment which includes:

- 'Sycamore, Ash, Apple, Hawthorn, Goat Willow and Oak' are listed as subject to the Order.
- The trees have been subject to a 'group' classification. The number of trees in the group are not stated.
- A sales brochure considers the land to the woodland, as does the application for a new tree preservation order.
- The application states the importance of the woodland with four reasons. However, none relate to amenity or suitability for a TPO nor threat to the trees. Some relate to 'other factors' which require the trees to have sufficient amenity (as Section 3).

³ Stroud District Council. (2017). *New Tree Preservation Orders*. Website page <https://www.stroud.gov.uk/environment/planning-and-building-control/conservation-biodiversity-listed-buildings-trees-and-hedgerows/trees/new-tree-preservation-orders>

⁴ Forbes-Laird, J. (2009). *Tree Evaluation Method for Preservation Orders (TEMPO)*. Available from <http://www.flac.uk.com/wp-content/uploads/2014/12/TEMPO-GN.pdf>

⁵ Helliwell, R. (2008). *Visual amenity valuation of trees and woodlands*. Arboricultural Association, Ampfield.



- As justification for the Order, Stroud District Council state in covering letters: '*The Order has been made because it is considered that the tree(s) are an important feature and worthy of preservation*'. No other justification or detail from an assessment process has been made available for review.

4.4 The land is privately owned and not in community, Parish Council or Authority ownership. I state this as it is relevant to some of the reasons given in the application.

4.5 Given the number (and species) of trees designated in the group are not entirely clear to me from the Order, as I would expect of a group classification⁶, I have used some discretion with the TEMPO assessment to broadly use it as a guide.

5. Assessment & Findings

5.1 I found the site to be dominated by semi-mature common ash (*Fraxinus excelsior*) and sycamore (*Acer pseudoplatanus*) trees varying between 8 and 12m tall with stem diameters of up to 200mm at 1.5m above ground level. Occasional larger trees of these species, up to 15m tall, can be found mainly in the center of the area and Southern corner.

5.2 However most of the larger sycamore trees are of poor form due to apparent historical coppicing resulting in multi-stemmed form. Overall, I consider the sycamore trees to be in fair condition but with much growth left to do. On average I consider them capable of surviving in excess of 40 years.

5.3 Regarding the common ash, which I estimate makes up 45% of trees at the site, almost all of them regardless of size show symptoms of ash dieback disease (*Hymenoscyphus fraxineus*) some of which is extensive and can be described as dying, with some trees already dead. Given the size and maturity of these common ash trees I expect most to perish due to the infection or secondary infection. However, I would expect the larger trees to shown more resistant/tolerance and may well recover but with reduced canopy cover for some time. In summary for the common ash trees, I consider them in poor condition on average with limited useful life expectancy.

5.4 Of the other genus and species listed the willow are present along a difficult to view boundary (East) and of poor form. The apple and hawthorn trees are generally of good condition, short in height, early mature, but difficult to distinguish. I consider these trees to be capable of surviving in excess of 40 years. I did not notice any oak trees.

5.5 The site is located adjacent Old Neighborhood and Middle Hill highways in a rural village location. The site is positioned on the edge of the village. Both highways are in regular use throughout the day for a rural highway, but I would not consider them busy for any type of traffic. The immediate area is not densely populated with open fields and singular houses around three of the boundaries, and seven houses and a commercial garage along the other. The site does not have authorised public access.

5.6 The wider landscape has a number of densely wooded areas with large and very tall mature trees such as woodland off The Fifth, Toadsmoor valley and around France Lynch. This site does not resemble the scale, tree size or maturity of those areas. Near to the site are many hedgerow trees and public open space further along Middle Hill surrounded by large early mature and mature trees of generally good condition.

⁶ The Town and Country Planning (Tree Preservation)(England) Regulations. (2012). *Schedule*. Available from [The Town and Country Planning \(Tree Preservation\)\(England\) Regulations 2012 \(legislation.gov.uk\)](#)



- 5.7 The site and immediate area is predominately flat to slightly sloping land and the site is not a visual feature in the horizon or clearly overlooking or dominate in the wider landscape. I describe its position in the landscape as of some importance but of no merit as individual specimens. In terms of suitability to its landscape the trees are just about suitable but lacking any distinct or special characteristics which can be attributed to many of the immediately surrounding trees and woodlands which are particularly well suited and many in number.
- 5.8 In terms of size, this area of trees covers a small area of land with small to medium sized trees. But their visibility along the Southern and Western boundaries (marked by drystone wall) is in part considerably reduced and limited due to screening from trees on adjacent land and situated in the highway verge. To the East their visibility is limited due to adjacent property. I would not expect this visibility to alter in the short to medium term.
- 5.9 No threat has been noted to the trees in the application. The sales brochure clearly describes the land as woodland with no mention of development potential. I found evidence of recent tree felling and pruning work along the line of an overhead electricity cable and to clear the boundary to adjacent property. These are examples of common and usually justifiable maintenance works to trees and woodland. Some infected ash trees had also been felled which can also be considered acceptable. I found the works quality to be acceptable which included examples of tree retention instead of removal. I do not perceive a threat to these trees merely from the decision to sell the land, at best, to my knowledge, I find any threat to be precautionary.
- 5.10 I do not consider the trees to have any other significant factors which affect amenity or suitability beyond those of other average trees or trees with poor form.

Table 1. Findings and result of TEMPO Assessment.

Factor	Score/Result	Notes in addition to points made
Part 1 Amenity Assessment	2	Condition on average fair, but poor form throughout so point deducted.
a) Condition and Suitability	4	Many trees with good retention span. Not a definable group. Most are limited to no or limited visibility given boundary trees and screening by trees on surrounding land or being in centre of group. Most are young and smaller trees in girth and height so not applicable to higher category (whilst this has been beneficial to Retention Span category), lastly, lower population village rural setting near minor road. Total more than 8, can progress to 'Other factors'.
b) Retention Span	2	
c) Relative Public visibility and suitability for TPO	a-c Total: 8	
Part 1 Amenity Assessment	-1	On average many trees with poor form are currently unsuitable due to ash dieback. Whilst some are generally indifferent given the number of trees -1 chosen, although assignment of 1 makes no difference to decision.
d) Other factors		
Part 2 Expediency Assessment	1	Has not accrued more than 10 points to qualify, but precautionary only.
Part 3 Decision Guide	8	Does not merit Tree Preservation Order.



5.11 The trees have been listed as a group rather than an area or woodland. I have used the TEMPO methodology to broadly apply my findings to the system to give an indication of amenity, expediency and overall decision on subjecting the trees to a tree preservation order in a digestible form for the reader. This is shown in Table 1. The result suggests the trees do not merit a tree preservation order at this time. However, I consider these trees to form a small woodland rather than a group, but this does not greatly affect my interpretation of guidance or the result.

6. Summary of Assessment

6.1 This is a small, fairly young wooded area which whilst visible it is not prominent, with few people viewing it, and many more significant trees and woodlands in the surrounding area. My assessment reflects these points and others and finds the trees to have limited amenity and public visibility. In turn I find them unsuitable for a tree preservation order at this time and cannot support the local authority's conclusion the trees are an *'important feature'*.

6.2 Regarding expediency to make a tree preservation order, I have not identified a current threat to the limited amenity the trees offer. With no apparent threat, and no details to review on how the local authority reached the decision to use this discretionary power, I cannot support the local authority's conclusion the trees are *'worthy of preservation'* at this time.

6.3 However, it is possible the Order was made and served as an immediate response to allow for a more comprehensive assessment to be made before confirmation of the Order. At a national scale this is a useful tool that allows local authorities time and opportunity to protect what may be significant trees from unnecessary work or removal. If this is the case, I would hope points raised in this report, and how they relate to guidance, would be noted and considered by Stroud District Council, resulting in the Order not being confirmed.

7. Author Confirmation

7.1 This report was undertaken by [REDACTED] on behalf of Independent Arboriculture & Urban Forestry Ltd.

[REDACTED]

[REDACTED] MSc Wales PgDip UCLan FArborA CEnv

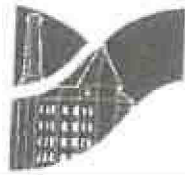
Registered Consultant of the Arboricultural Association

Director & Practicing Consultant

For and on behalf of Independent Arboriculture & Urban Forestry Ltd



ANNEX 3



STROUD DISTRICT COUNCIL

Council Offices • Ebley Mill • Ebley Wharf • Stroud • G16 4UB
Telephone 01453 766921 • Facsimile 01453 760937
www.stroud.gov.uk

Email: alison.fisk@stroud.gov.uk
Telephone: 01453 755430

3rd April 2020

RE: STATUTORY TREE PRUNING ON BEHALF OF WESTERN POWER DISTRIBUTION ON STROUD DISTRICT COUNCIL OWNED/MANAGED LAND

I write further to our recent email exchanges and those with my colleagues Richard Hannan and Mark Hemming in Development Services.

The council fully understands and supports the need for you to be able to undertake both planned and emergency tree works in order to safeguard the efficient operation of WPD's network.

In terms of land within the council's ownership and/or control, such works are permitted on the following basis:-

1. Where tree pruning is planned on behalf of WPD to trees on land within Stroud District Council's ownership and/or control, in line with the standard clearances in Technical Specification 43-8 Issue 2, 2004 - Overhead Line Clearances, our permission to proceed is given by this letter.
2. Where work is planned on behalf of WPD to cut down or carry out work to trees that are protected by a Tree Preservation Order, or are within a Conservation Area, and which is necessary:
 - (a) in the interests of safety (which we take to mean in line with the recommendations of Technical Specification 43-8 Issue 3, 2004 - Overhead Line Clearances (Energy Networks Association));
 - (b) when inspecting, repairing or renewing mains, pipes, cables and other apparatus (where this is planned and carried out in line with the recommendations of NIIIS Volume 4);
 - (c) when carrying out permitted development rights under the Town and Country (General Permitted Development Order 1995)and the separate consent of the council is not required.

This letter of permission does not, however, include 'resilience pruning' which will be dealt with as and when the need arises.

Applications will be required for any proposed felling or significant pruning of trees protected by Tree Preservation Orders if the work is specifically to fulfil the interpretation placed by Western Power Distribution relating to 'storm resilience tree management'. This is because the council has decided that it considers such work to be outside that contained within paragraph of schedule 4 of the Electricity Act 1989 and therefore not exempt under the Town and Country Planning Act 1990.

Finally, for the avoidance of doubt I would point out that the council accepts no liability for any works carried on land outside its ownership and/or control irrespective of whether it may be believed or assumed to be in its ownership. Should it be unclear whether the land is owned by the council then it should be contacted through Property Services (email: property.admin@stroud.gov.uk) to establish this before any works are carried out. Furthermore, this consent is subject to your firm having Public Liability Insurance in force at all times in the minimum sum of £5M for each and any claims.

I trust that this letter is sufficient for your purposes but if you have any queries please email Richard

Yours sincerely

Alison Fisk MRICS
Head of Property Services

Chief Executive Kathy O'Leary

Woodside Lodge
Chalford Hill
Stroud GL6 8GB

2nd August 2023

John Chaplin
Majors and Environment Team Manager
Stroud District Council
Ebley Mill
Stroud
GL5 4UB

Dear Sir,

New Tree Preservation Order TPO/0589 - Land at Middle Hill, Eastcombe, Glos. 2023

Thank you for your letter dated 26 July 2023 enclosing details of a new Tree Preservation Order affecting the area of woodland at Middle Hill, Eastcombe.

We write in support of the Order being imposed. We wholeheartedly agree that the trees in the woodland are worthy of such an order by virtue of their public amenity value and their value as a natural habitat. Living close-by we regularly see deer and foxes within the woodland and the woodland is home to numerous species of birds. We agree with the Council's opinion that were the woodland to be affected by future development or changes to its' land use consideration of the amenity value of the trees and the surrounding area should be paramount.

At a time when environmental issues are quite rightly taking center stage, we feel it is vitally important that even small areas of woodland, such as the land at Middle Hill, must be afforded a high level of protection.

Yours faithfully,

Mail Room Services

7 AUG 2023

Received