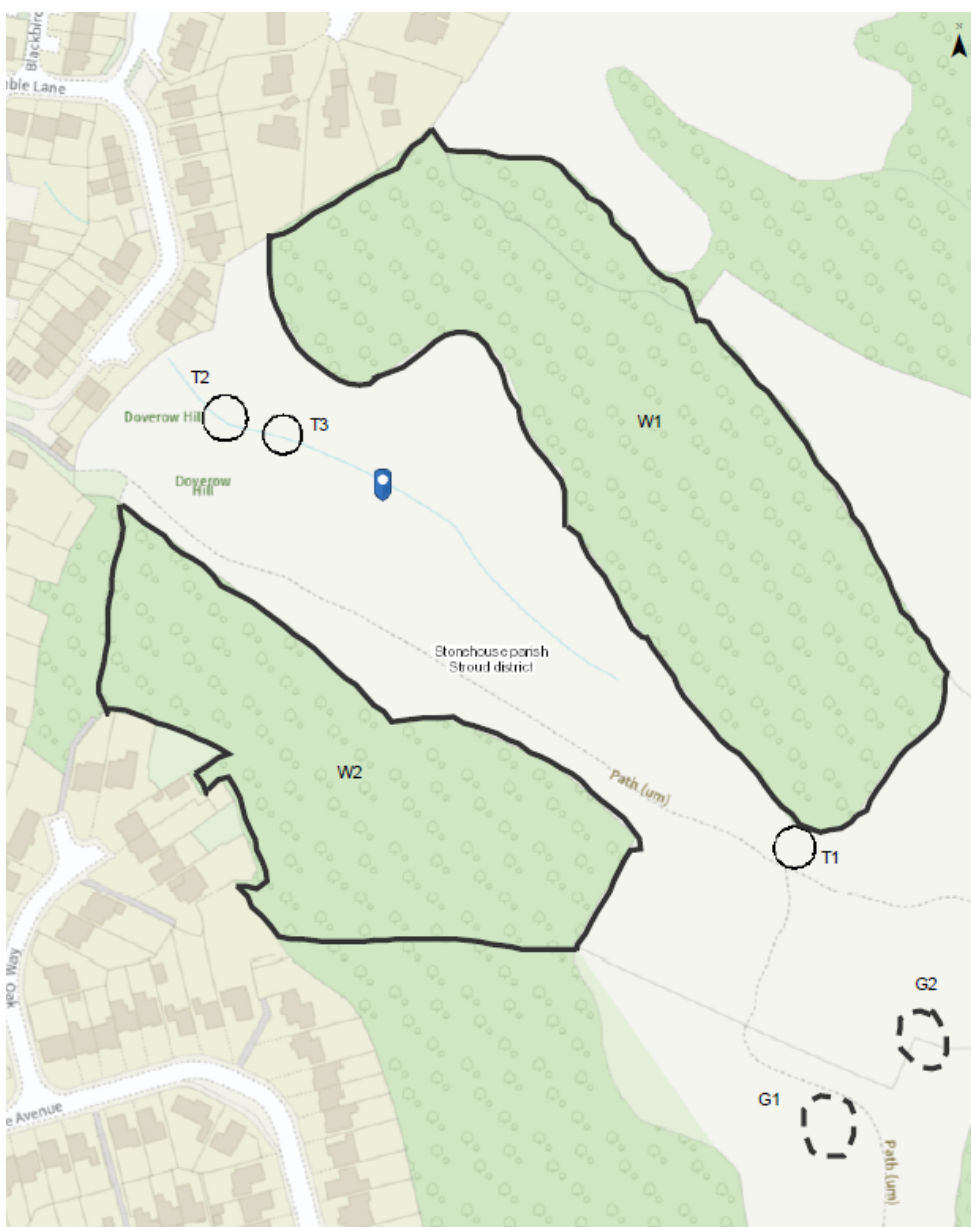




## Development Control Committee Schedule 14/11/2023

|                         |   |
|-------------------------|---|
| <b>Item No:</b>         | <b>01</b>   |
| <b>Application No.</b>  | S.23/2113/NEWTPO  |
| <b>Site Address</b>     | Land Known as Verney Fields, Bramble Lane, Stonehouse, Gloucestershire  |
| <b>Town/Parish</b>      | Stonehouse Town Council   |
| <b>Grid Reference</b>   | 381041,205484   |
| <b>Application Type</b> | New Tree Preservation Order   |
| <b>Proposal</b>         | New TPO/0586 - Land Known as Verney Fields, Stonehouse, Gloucestershire |
| <b>Recommendation</b>   | Confirm the Tree Preservation Order without modification                |
| <b>Call in Request</b>  | Requested by Head of Planning   |





## Development Control Committee Schedule 14/11/2023

|                              |  |
|------------------------------|--|
| <b>Applicant's Details</b>   | Stroud District Council<br>Ebley Mill, Ebley Wharf, Stroud, Gloucestershire, GL5 4UB |
| <b>Case Officer</b>          | Justin Hobbs   |
| <b>Application Validated</b> | 26.10.2023   |
| <b>Constraints</b>           | Stonehouse Town Council  |
|                              | <b>OFFICER'S REPORT</b>  |

### 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 0586 in respect of trees, groups of trees and woodlands on Land known as Verney Fields, Stonehouse, Gloucestershire 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 December 2021 Stonehouse Town Council requested that the Stroud District consider the expediency of making a TPO on trees on land known as Verney Fields, Stonehouse. The request was made due to a potential change in land ownership, and an allegation of damage being caused to trees on site at the time.

#### DESCRIPTION OF TREE/SITE

Land known as Verney Fields covers an area on the western slope of Doverow Hill and is just located north-east of Stonehouse train station. Close to central Stonehouse, the site is well used with several public rights of way across the site and the more elevated parts of the site providing far reaching views. Until recent the land known as Verney Fields could be described as mixture of low use grazing, scrub, and secondary young woodland with prominent scattered trees around the site.

The TPO protects three individual oak trees, two groups of close grown mature sycamore trees, and two areas of young woodland. These are listed on the schedule TPO, and TPO plan, respectively as T1, T2, T3, G1, G2, W1 & W2. (Appendix 1)

#### 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:



## Development Control Committee Schedule 14/11/2023

ES8 - Trees, hedgerows and woodlands.

National Planning Policy Guidance (NPPG).

### RELEVANT PLANNING HISTORY

TPO/0585 - TPO made 09.03.2023 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/0586) 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:

- size and form;



## Development Control Committee Schedule 14/11/2023

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

Following the original request to the council to consider making a TPO, and a change in land ownership, the consultant tree officer visited site on 03.03.2023 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 0585 was duly made on 09.03.2023. 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.

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 - "- 2 Woodland areas, 2 groups of trees and 3 individual trees" was not accurate enough and would not satisfy the Regulations.

It was decided that the most expedient course of action was to allow TPO 0585 to lapse (i.e to not be confirmed) and to make a new TPO to, in effect, replace TPO 0585.

TPO 0586 Land Known as Verney Fields, Stonehouse, Gloucestershire (2023) was duly made on 10.07.2023. 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.



## Development Control Committee Schedule 14/11/2023

The period for any objections and representations to be made to the Council in respect of the TPO ended on 07.08.2023.

### REPRESENTATIONS

Within the period for any objection and representations to be made to the Council in respect of making this TPO:

Three correspondences objecting to the making of this TPO were received.

Twenty six (26) correspondences in support of the making of this TPO were received.

Summary of objection comments received:

1. The TPO is invalid as it "fails to effectively indicate where the specific trees of interest are or give reference to the number of trees and species contained within 'said groups'".
2. The map annexed to the TPO is vague and includes areas of land in which there are no trees present.
3. The council has not made the TPO publicly available as soon as practicable after making the TPO "leaving no opportunity for our client, and other members of the public (to) make full and considered representations".
4. The reasoning provided in the Notice accompanying the TPO is insufficient, making the TPO invalid.
5. The confirmation of the TPO would prevent the landowners from utilising the protected trees for produce such as maple syrup, acorn related produce, and prevent unrestricted tree and woodland "maintenance".
6. The amenity value of the trees, groups of trees and woodlands subject to the TPO is not sufficient to justify making the TPO and some of the trees cannot be seen from a Public Right of Way (PROW). Some of the trees subject to the TPO are in a poor condition and are a significant risk to public safety.
7. It is not expedient for the TPO to be confirmed as there is no risk to trees at the application site.

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

### RESPONSE TO OBJECTIONS

1 & 2. It is your officers opinion that the TPO, including the map (or plan) annexed to the TPO is valid and fulfils the requirements of the Regulations. The Regulations require that woodland being protected by a TPO is identified as an area on a map with a continuous black line and referenced as W1, W2, etc. The map annexed to the TPO clearly indicates areas referenced as W1 & W2 and the area is bounded by a continuous black line. Groups of trees to be protected should be identified as a shape boundary by a dashed line and references as G1, G2, etc. Individual trees should be identified using a circle with a solid black line and references as T1, T2, etc. As well as an accurate plan produced using the council GIS mapping system, trees, tree groups and the woodlands have also been identified by grid referencing numbers, or with the woodlands by a description of their location in the area. There are small areas of the woodlands that are not covered by trees - It is your officers opinion that open areas can form a natural part of any woodland, and that in time these areas can become wooded, and therefore it is valid to include such areas within the TPO.



## Development Control Committee Schedule 14/11/2023

3. In summary, the Regulations state that as soon as practicable after making a TPO, the authority must serve all interested parties with a copy of the TPO, a notice that includes the reasons for making the TPO, information regarding objections and representations and that a copy of the order should be made available for inspection, free of charge, at all reasonable hours at the Stroud District Council Offices. The TPO is available to view at the council's offices from the day it is made, and as per the Regulations, all interested parties (such as the site owners) were sent a Notice and a copy of the TPO on the date the TPO was made. I would suggest the amount of correspondence received in relation to the making of the TPO would suggest that there was opportunity for all interested parties and members of the public to make considered responses.

4. Regulation 5(2)(a) requires the council to explain the reasons for making the TPO by stating these on the Notice accompanying the TPO. The reasons for making the TPO are stated on the Notice as:

"The trees are worthy of a Tree Preservation Order (TPO) by virtue of their public amenity value and their value as a natural habitat. The tree could be affected by future development or changes in land use and the TPO is considered expedient to the full consideration of the amenity value the trees provide in any future changes. The trees (including groups of trees and areas of woodland) are important assets and of significant public amenity value and ecological value, the making of the TPO recognises these factors and helps safeguard the trees for future generations".

It is your officer's opinion that the reasons stated above are clear and fulfil the requirements of the regulations.

5. The TPO does not prevent tree works being undertaken. At this stage, and if the TPO confirmed, the Legislation requires that apart from limited exceptions, permission must be sought from the council prior to the proposed works being undertaken by using a standard application form. The council has a duty to consider applications and reasoning provided on them in relation to the amenity value provided by the trees protected by the TPO.

6. A nationally recognised system of evaluation has been undertaken and the results indicated the trees, groups of trees and the woodlands are worthy of a TPO. All the trees (including the woodlands) are visible from very well used PROW's. The interest of the Town Council and considerable public support for the TPO infers a clear public interest and value. The amenity, ecological, and landscape values of woodlands is well documented. The woodlands are relatively young (approximately less than 40 years old) therefore it is not unreasonable to suggest that the amenity, ecological and landscape value is likely to increase in time. 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 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



## Development Control Committee Schedule 14/11/2023

for remedial works to remove unacceptable risks and/or for appropriate arboricultural/silvicultural management.

7. The change in ownership of the land has brought with in a degree of uncertainty. Since the making of the TPO potentially damaging trenching has been undertaken in close proximity to the tree identified as T1 on the TPO schedule and plan. For these reasons, in addition to the amenity, landscape and ecological values mentioned previously, I believe there is an expediency in confirming this TPO.

### **ASSESSMENT/APPRAISAL**

The trees, groups of trees and woodlands subject to the TPO all make a significant and positive contribution to the surrounding area. A very well used network of PROW's run through, and across the site. The site is on the edge of the Cotswolds AONB, the Cotswold Way is very close and the site is adjacent to an ancient woodland. The elevated position of the trees and woodlands mean they are viewed and can be seen from beyond the site.

All this provides a clear indication of the public amenity, landscape and ecological values of the trees, groups of trees and woodland protected by this TPO.

The site and the trees are not in a conservation area, without the protection of a TPO, the trees could be removed. Potentially damaging works have already been undertaken close to one protected oak tree. Confirming the TPO does not prevent applications for tree or woodland works; it allows the council and the local community to consider applications for works and/or future land uses changes that may affect the trees, in relation to the value these trees, groups of trees and woodlands provide.

### **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.



## **Development Control Committee Schedule 14/11/2023**

### **RECOMMENDATION**

The trees, groups of trees, and woodlands that comprise this TPO contribute positively and significantly to public amenity, landscape and ecology in the vicinity and beyond. Assessment has shown it is expedient to confirm this TPO.

It is therefore recommended that TPO 0586 Land known as Verney Fields, Stonehouse, 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.