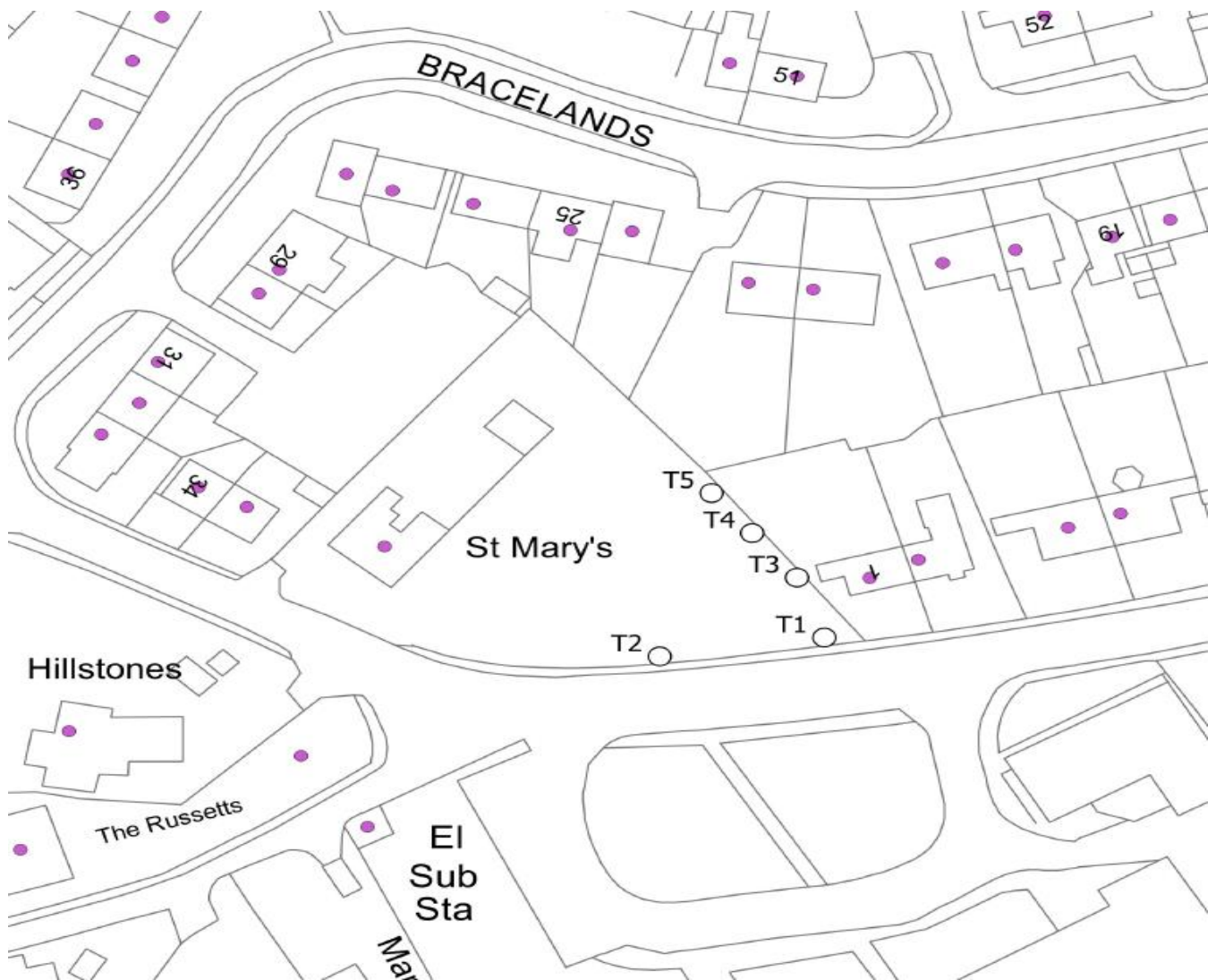




## Development Control Committee Schedule 20/07/2021

<b>Item No:</b>	<b>2</b>
<b>Application No</b>	S.21/1077/NEWTPO
<b>Site Address</b>	St Marys, Eastcombe, Stroud, Gloucestershire
<b>Town/Parish</b>	Bisley With Lypiatt Parish Council
<b>Grid Reference</b>	389018,204139
<b>Application Type</b>	New Tree Preservation Order
<b>Proposal</b>	New Tree Preservation Order TPO 580.
<b>Recommendation</b>	Confirm order
<b>Call in Request</b>	Head of Development Management





## Development Control Committee Schedule 20/07/2021

<b>Case Officer</b>	Mark Hemming
<b>Application Validated</b>	28.04.2021
<b>OFFICER'S REPORT</b>	

### CONFIRMATION OF TREE PRESERVATION ORDER

#### INTRODUCTION

A request has been received from the Parish Council to serve a tree preservation order to protect a group of trees at St Marys, Eastcombe. The land has recently changed hands and a number of trees have been felled by contractors working on behalf of the new owners.

The site is a roughly triangle parcel of land within the garden area of the existing property known as St Marys. This is located on Bracelands opposite Thomas Keeble School with residential properties on either side. The majority of the trees are located towards the boundaries of the site and include a mix of Scot Pine, Beech, Hazel, Hawthorn and Laurel Cherry.

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



## Development Control Committee Schedule 20/07/2021

The trees suitability for serving a tree preservation order was assessed using the TEMPO methodology. TEMPO is designed as a field guide to decision making, and is presented on a single side of A4 as an easily completed pro-forma. As such, it stands as a record that a systematic assessment has been undertaken. After visiting and assessing the trees using the TEMPO system, the Senior Arboriculture Officer advised that a provisional tree preservation order should be served.

The provisional order (TPO 580) were subsequently served on the 06th May 2021 based on the recommendation of the Senior Arboriculture Officer, following assessment against the prescribed criteria within the legislation. This has placed temporary protection for 6 months on the remaining mature trees (x5) covered by the order on site. In this period the Authority has to either confirm the Order, to provide long-term protection or decide not to confirm it and allow the landowner to remove the trees if they wish.

This period allows an opportunity for interested parties to comment on or object to the confirmation of the order. The views of the Parish Council can also be considered.

As objections have been received these have to be considered before making a decision to confirm the order and have therefore been placed before committee.

### **REPRESENTATIONS**

In considering whether to confirm the order the authority has notified people that the provisional tree preservation order has been made. This allows the landowner to respond.

The objections to the serving of the provisional order are summarised below;

- o Loss of light. The adjacent garden is shaded by the Beech tree and the Pine tree.
- o The trees shed leaves and create a mess.
- o Concerned that the trees are causing structural damage to the adjacent property.
- o The trees are overbearing.
- o The trees should be removed and replaced.
- o Branches fall into the road.
- o Debris blocks the drains.
- o The Pine trees may be subject to wind damage.
- o The Pine trees are of low value, limited useful life expectancy.
- o The pavement is currently not wide enough for people to pass.

### Response to the objections raised;

\* Loss of light. The removal of the trees not covered by the order will increase the levels of sunlight entering the garden. The sun in the afternoon is at its highest point in the sky, above the crowns of the retained trees thus not significantly reducing the light levels into the garden.

\* The trees shed leaves and create a mess. Leaf litter is a seasonal problem. This would not be overcome by removing the trees. The wind would carry leaf litter and debris from the newly planted trees and the remaining trees within the vicinity.

\* Concerned that the trees are causing structural damage to the adjacent property. No engineering information has been provided to support this claim.

\* The trees are overbearing. The removal of the trees not covered by the order will help to mitigate this problem. Also there is some scope to prune the trees, this will also help to improve the situation.



## Development Control Committee Schedule 20/07/2021

- \* The trees should be removed and replaced. Mature trees provide more benefits to the community in terms of carbon capture than newly planted trees. The trees are prominent in the landscape and have a high level of amenity value that can't be replaced by replacement planting.
- \* Branches fall into the road. The dead branches that fall into the road can be removed without consent from the Local Planning Authority.
- \* Debris blocks the drains. Covers can be placed over the drains to reduce the amount of debris entering them.
- \* The Pine trees may be subject to wind damage. In 2020 the country was exposed to the tail end of three hurricanes. None of the trees failed within this period. If the trees are storm damaged the landowner can submit an application to remove the damage.
- \* The Pine trees are of low value, limited useful life expectancy. The trees have a high level of amenity value and can last up to 200 years.
- \* Trees not managed, so they need to be felled! No justification has been provided for this statement and it does not provide a justification for the removal of the trees as they can be pruned to alleviate any minor defects or damage and appropriately managed going forward.
- \* The pavement is currently not wide enough for people to pass. Alterations to the highway and pavement are not part of the proposal. The footpath opposite the school appears to provide adequate space for pedestrians to pass safely along the highway, this would not be affected by the protection of the trees.
- \* The removal of the trees will allow for the upgrade of the pavement. The pavement could be upgraded without the loss of the trees. It is possible to increase the width into the existing highway without removing the trees.

### Summary of the letters of support.

- \* Mature trees must be retained as they capture carbon dioxide.
- \* Mature trees support ecosystems.
- \* The trees have a high level of amenity value.
- \* The trees should be retained to comply with the Council's policy on climate change.

### Bisley with Lypiatt Parish Council's Tree Warden

The five remaining trees are fine large, mature trees, beautiful in their own right, supportive of biodiversity, and contributing to the landscape aesthetic of Eastcombe and its skyline. I cannot understand the developer's appeal against these TPO's since there is ample room on the site for development. I would be concerned that if they are not protected they will either be felled or their roots constrained to such an extent by building work that their health is severely compromised. Furthermore, Bisley with Lypiatt Parish Council promotes tree protection as part of its policy to help mitigate against Climate Change. As global and local temperatures increase people will see the protection and the health and wellbeing that trees give to us. I am keen to support the protection of these trees and trust that the District will see the value of this by granting permanent TPO's.

### **DESCRIPTION AND APPRAISAL OF TREES**

The provisional order covers 2 Pine trees (T1 and T2), 2 Beech trees (T3 and T5) and a Sycamore (T4) identified on the location attached to this report.

As noted below some tree work has already taken place with further pine trees to the front of the site having already been removed. As they have been removed these are not covered by the provisional order.

The trees covered by the provisional order are an important landscape feature and can be widely appreciated for enhancing the rural environment. The trees make a positive contribution to the scenic



## **Development Control Committee Schedule 20/07/2021**

character and diversity of the landscape, and provide a habitat for dependant wildlife populations. The retention of trees within proposed developments provides an immediate sense of maturity, to the benefit of the site and its surroundings, raising the overall quality of a scheme and enhancing property values.

The Parish Council's Tree Warden and a Parish Cllr have identified the mature trees as having merit and contributing to the character of the area and forming the wider backdrop of the skyline and Conservation Area and that the trees provide health and wellbeing benefits as well as mitigating Climate Change. A formal comment from the Parish Council is likely to be submitted and can be reported to committee. Whilst the direct contribution to the setting of the Conservation Area maybe difficult to demonstrate the trees do provide a positive contribution to the surrounding area.

The site has recently changed hands and a planning application for works to the existing house has been submitted. The developer has also started clearance work on site and has removed several trees to the front of the site before the provisional order was served. The developer has also engaged in pre-application discussions regarding additional works on the site which could affect the remaining trees. Given the change in ownership, the works already carried out and with this potential proposal and development threat it is considered expedient to assess the merits of the trees and whether the order should be confirmed.

It is a shame that some of the trees to the front of the site had been removed before the provisional order could be made to protect them. However, this was done lawfully by the landowner and a penalty or direct reason to protect the other trees would not be considered appropriate, these trees need to be assessed on their own merits. An appropriate landscaping scheme with some replacement planting can be considered should a planning application for further development come forward.

### **CONCLUSION**

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.

Whilst some management of the trees and tree work maybe required the identified trees within the Order have a high level of public visual amenity and given their size and position positively contribute to the character of the surrounding area. It is also considered these trees could still have a longevity and provide an amenity value which cannot be overcome by replacement planting.

### **RECOMMENDATION**

It is therefore recommended that the provisional Order (TPO 580) should be confirmed and long term protection provided for the trees.

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