

**REPORT FOR THE SOMERSET WEST AND TAUNTON PLANNING COMMITTEE,
30th MARCH 2023**

**Objection to Somerset West and Taunton (West Buckland No.2) Tree
Preservation Order SWT69 (2022)**

The Tree Preservation Order protects 28 individual trees and 4 groups of trees growing within (or close to) hedgerows around fields and garden mainly to the south, east and west of 'Meadows', Chelston.

RECOMMENDATION

It is recommended that the Tree Preservation Order is confirmed but modified slightly with regards to G4.

Background

The Tree Preservation Order (TPO) SWT69 was served on 9th November 2022.

The grounds for serving the TPO were stated on the Notice as follows:

Hedgerow trees have recently been cut down to the northwest of Meadows, and trees bordering Meadows may now be under threat of either being felled or excessive pruning. The trees are important in the landscape and can be seen from public footpaths and nearby properties. SWT69 replaces SWT59, which will not be confirmed.

The earlier TPO, SWT59, was served on 4th August 2022 and was identical to the current one in question, SWT69. The owner of the fields to the northwest of Meadows, Mrs Smith, did not receive notice of SWT59 due to a change in address from that recorded by the Land Registry. A copy of SWT59 was attached to a tree on the site and found some time later by Mrs Smith, although details regarding the time limit for objections were omitted. It was therefore decided to re-serve the TPO to allow Mrs Smith to raise an objection within the 28-day time limit.

SWT69 has been served to protect 28 individual trees and 4 groups of trees that are within (or close to) hedgerows bordering land to the south, east and west of Meadows. Most of the trees are oaks, but also included are groups of beech and one willow.

In May 2022 it was brought to the council's attention that some mature trees had been felled along the hedgerow to the west of Meadows, and that there had been the threat that all the trees bordering that field would be 'sided up', ie. pruned entirely back to the boundary lines once the bird nesting season had passed. The tree felling was investigated by the Forestry Commission but was found to have been insufficient to have required a Felling Licence, and the works had not removed the hedgerow itself.

The hedgerow trees in this area are an important feature in the landscape and can be seen from various properties, public footpaths and to some extent the main A38. The TPO was served to ensure that the trees were retained and that any future management works to them were justified, in accordance with the recommendations in BS3998, not excessive and therefore unlikely to harm their health or aesthetic amenity value.

Trees belonging to Mr and Mrs Eyles of Meadows were also included, on the basis that they overhang land that may be developed in the future.

Procedure

A Tree Preservation Order comes into force on the day that it is served for a period of 6 months. The TPO lapses after that date unless it has been confirmed by the Council. If there are no objections to the TPO, it can be confirmed. If any objections are received, the points raised must be considered and a decision made as to whether to confirm the TPO, either with or without modification. The decision whether to confirm a TPO that raises objections is taken by members of the Planning Committee.

When deciding whether to serve and confirm a TPO, the present or future public amenity value of the trees must be considered. Tree Preservation Orders are served to protect selected trees if their removal would have a significant impact on the local environment. TPO trees should therefore be visible from a public place, such as a road or footpath.

In assessing a tree's amenity value, consideration must be paid to its visual impact, its health and structural integrity, its life expectancy and its suitability to the location. The tree's potential impact on highways, services and structures should be considered.

Representations

One objection to the TPO has been received, from Mrs Smith, owner of the field to the west of Meadows.

The reasons given for the objection can be summarized as follows:

- a) The TPO was applied without the owner's permission, and without anyone asking for her permission.
- b) There is no risk to the trees. The only trees that have been removed in the past 50 years were removed because damaged or dangerous.
- c) G4 is not a group of young beech trees but is a beech hedge and therefore cannot be included in the TPO.
- d) Beech trees within groups G2 and G3 are diseased and decayed and should therefore not be included in the TPO.

e) Any future management works required to enable the field to be used would require a TPO application.

Determining Issues and Considerations

Most of the trees included in the TPO are mature hedgerow oaks. Also included are some younger groups of beech, and a willow growing just inside the garden of Meadows but overhanging the adjacent field. The hedgerow trees in this area are an important feature in the landscape and can be seen from various properties, public footpaths and to some extent the main A38 to the north and west.

The TPO was served to ensure that the trees were retained and managed, if necessary, in accordance with best arboricultural practice.

In response to the points raised in the objection to the TPO:

a) The Council does not need to obtain permission from the owner of trees before it serves a Tree Preservation Order. Where it is stated 'anyone can apply but if they are not the owner, they need the owner's permission' this is referring to applications to fell or prune TPO trees. In that case, the above statement is true, and would be relevant if there was a desire to prune overhanging branches of trees belonging to the neighbour.

b) It is reassuring to hear that there is no intended threat to the trees. The TPO will ensure that this is the case and should not prevent reasonable management works if required.

c) Where an overgrown hedgerow becomes a line of trees can be a grey area, and in the case of G4 it does appear to have been a hedgerow that has in parts been allowed to grow into trees. It is agreed that parts of G4 are still essentially hedgerow, but a large portion of it contains young trees, albeit growing in close proximity. It is therefore proposed that the TPO is amended to reflect this, by reducing the length of G4. Permission is not required to trim a hedgerow, and the TPO would not prevent reasonable pruning of the lowest lateral branches over the fields, so long as applications are submitted to the Council for approval.

d) It is agreed that there is some decay in some of the beech trees included in the TPO. It is not unusual for mature trees to contain areas of decay, and this does not necessarily mean that the trees are unsafe or unworthy of protection. However, it is for the owner of those trees to have them professionally inspected on a regular basis to assess the extent of the decay, to determine whether there is a likely risk of branch or trunk failure. If such an assessment found that there was extensive decay and therefore high risk of failure, the Council would review the evidence and respond appropriately, by allowing trees or branches at serious risk to be removed.

e) A TPO application is now required to obtain permission to fell or prune any of the trees included in the TPO. An exception to this is where trees or branches are

considered to be dead, split, hanging or otherwise imminently dangerous. In this case the Council requires 5 days' prior notice of any proposed works.

Shortly after SWT69 was served, the case officer met the owner's husband, Mr Smith, on site to discuss the TPO. At this meeting the implications of the TPO were explained, including the process of applying to carry out management works. Crown-lifting of the lowest lateral branches over their field was agreed in principle, subject to the detail submitted in a TPO application. No TPO application has yet been received.

In conclusion, given the above points, it is therefore recommended that Tree Preservation Order SWT69 is confirmed, modified to reflect the situation with G4 (ie. the length of G4 is reduced).

Note: Dead or imminently dangerous branches can be removed from the trees, subject to written notice to the council, giving the council up to 5 days to respond.