

## **Objection to Somerset West and Taunton (Trull No.2) Tree Preservation Order SWT73 (2023)**

**The Tree Preservation Order protects 9 groups of trees growing in two lines running from Dipford Road at the northern end, going south towards Gatchell House which is located on Honiton Road.**

### **RECOMMENDATION**

That the Tree Preservation Order is CONFIRMED unmodified, but mindful that a small number of the protected trees will need to be removed to allow the construction of the access road. The definitive layout will be approved under 'reserved matters'.

### **Background**

The Tree Preservation Order (TPO) SWT73 was served on 24<sup>th</sup> March 2023.

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

*SWT73 replaces SWT64, which has not been confirmed. SWT73 protects selected trees that were protected in Area 1 of SWT64. Outline planning permission has been granted to develop this land for housing. The trees protected by this Order are prominent in the landscape, have present and future amenity value and should therefore be retained as part of the detailed development layout.*

Following receipt of the objection to TPO SWT64, a site meeting was carried out between the developer's arboricultural consultant and the council's tree officer. On closer inspection a significant number of the trees within A1 of SWT64 were found to have been seriously damaged by livestock. It was therefore agreed that those most seriously affected, or otherwise in poor condition or of insignificant size, would be omitted from a revised and re-served TPO that would identify in more detail the trees considered worthy of retention. SWT73 identified 9 groups, including 41 trees in total, comprising oak, field maple, pine and birch.

### **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 the arboriculturalist at EDP on behalf of the development consortium Taylor Wimpey and Vistry.

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

a) SWT73 seeks to protect trees that have been approved for removal within outline planning application 42/14/0069 (permitted 08 August 2019), condition 2 stating that the development permitted shall be carried out in accordance with approved plans, such as the Green Infrastructure Parameter Plan, and plans in the Environmental Statement Addendum.

b) It is not considered expedient for Somerset Council to serve a TPO on trees that have been shown on approved plans to be removed, three years after that approval, and in areas of key access points for the development.

c) Further to the approved scheme, it has been agreed that some trees will require removal to facilitate the delivery of the outline planning consent. The TPO will be a hindrance to the delivery of this scheme. Furthermore, the lost trees could be replaced by new planting as mitigation and approved under 'reserved matters'.

### **Determining Issues and Considerations**

The line of trees protected by SWT73 forms a prominent landscape feature which can currently be seen from surrounding roads and properties on Honiton Road and Dipford Road. Once development of the land has occurred, their prominence will increase considerably. The trees therefore have high amenity value.

The TPO aims to protect the best trees in the line (actually two lines close together), mindful that a small number of those included will need to be removed to facilitate the construction of the access road that is proposed to flow east to west through the line.

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

a) Under the legislation relating to Tree Preservation Orders, if only outline planning permission has been granted the LPA's consent is still required to fell or carry out works to the protected trees. The approved plans, such as the Green Infrastructure Parameter Plan', relate to this outline approval, not to 'full planning permission'.

b) As the land is still only subject to outline approval, it is considered reasonable for the council to strive to retain and protect prominent trees in the landscape, albeit mindful of the requirement for the developer's access road. The retained parts of the tree line will enhance the development.

c) As stated in the objection, it has been agreed that some trees may be lost from the TPO to facilitate the construction of the access road. The plan shown in the objection shows that the road would require the removal of a small number of trees in the central part of the line, whilst those either side to the north and south are unaffected. The details of this could be finalized at the 'reserved matters' stage when the precise layout would be known and approved.

The proposal for replacement planting is not considered sufficient justification for the removal of established and prominent trees but should be carried out in addition to the retention of these trees, to enhance this landscape feature and the development as a whole.

The council accepts that this line of trees should have been included in TPO TD1076, which was served in 2010 in anticipation of the land being allocated for development. Its omission is thought to have been due to officer error rather than due to the quality of the tree line, which is clearly prominent and has been found to contain numerous

trees that merit retention and protection. The EDP tree survey shows that many of the trees have been classed as category 'A' or 'B' under the criteria in BS5837.

The plans included in the objection clearly show that it would only be necessary to remove a small number of the trees in the protected line to facilitate the construction of the access road. It should therefore be the aim to retain those trees not affected so that this established landscape feature can enhance the development and provide structure, with additional new tree planting.

The suggestion that the retention and protection of the trees in SWT73 will affect the national and local housing supply is considered somewhat of an exaggeration. Under current national and local planning policies, as well as guidance in BS5837, it is standard practice that developers are required to incorporate prominent and healthy existing trees into their layouts. There is a significant gap in the tree line at the northern end, between the protected trees and Dipford Road, that will help with the practical delivery of the scheme.

It should be noted that the council has already agreed to the removal of a significant number of previously-TPO'd trees along Honiton Road to facilitate the road junction, demonstrating the council's collaborative approach and willingness to compromise in certain situations. The loss of the belt of trees along Honiton Road has increased the importance of those within SWT73. The fact that the developer's arboriculturalist agreed the detail of SWT73 in principle on site suggests that the new TPO has merit.

In conclusion, given the above points, it is therefore recommended that Tree Preservation Order SWT73 is confirmed.