

## Bath & North East Somerset Council

MEETING:	Development Control Committee
MEETING DATE:	15 <sup>th</sup> January 2014
TITLE:	Tree Preservation Order: Bath and North East Somerset Council ( Gay Court, London Road West, Bath No.289 ) Tree Preservation Order 2013
WARD:	Lambridge
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b> Tree Preservation Order map Letters of objection	

### 1 THE ISSUE

1.1 Identical objection letters have been received from all family members of 164 London Road West and the resident of 162 London Road West. following the making of the Tree Preservation Order entitled Bath and North East Somerset Council ( Gay Court, London Road West, Bath No.289 ) Tree Preservation Order 2013 (“the TPO”), which was provisionally made on the 14<sup>th</sup> August 2013 to protect eight individual trees comprising five Sycamores, one Yew, one Oak and one Horse Chestnut. The trees are identified on the map and make a contribution to the landscape and visual amenity of the area.

### 2 RECOMMENDATION

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council ( Land between Vivien Avenue and Wellow Brook, Midsomer Norton No.30 ) Tree Preservation Order 2013 with a modification to rectify the identification of T7 which is the Horse Chestnut and T8 which is the Sycamore.

### **3 FINANCIAL IMPLICATIONS**

3.1 Financial: Under the law as it stands the owner of a tree cannot claim compensation from the Council for making a tree the subject of a tree preservation order. However if a tree is covered by a tree preservation order and the Council refuses an application to fell the tree, the owner may be able to claim compensation if he or she suffers a loss or damage as a consequence of that refusal.

3.2 Staffing: None.

3.3 Equalities: In deciding to make the TPO the provisions of the Human Rights Act 1998 have been taken into account. It is considered that Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property) of the convention rights apply in this matter. Confirmation of the TPO is however, considered to be a proportionate interference in the wider public interest.

3.4 Economic: None.

3.5 Environment: The trees which are the subject of this report make an important contribution to the visual amenity and landscape in the local area.

3.6 Council Wide Impacts: The confirmation of the TPO will involve officers from Legal Services. Officers from Development Control will need to take account of the trees when considering any application for development or alterations on the site which might affect them.

### **4 THE REPORT**

#### **4.1 Background**

4.2 The trees which are the subject of the TPO are growing within the grounds of Gay Court near to the south western boundary and identified as eight individual trees shown on the accompanying plan.

4.3 The Order was made following a recent review of the pre-1975 Tree Preservation Order which was subject to the previous TPO The City of Bath ( Apsley House, London Road West) Tree Preservation Order 1970 which was made prior to the development of Gay Court. The review follows best practice recommended by Government. The trees continue to provide an important contribution to the landscape character and amenity of the area. The intention is to revoke the old TPO that provided that the current TPO is confirmed.

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#### **4.5 Responses to the Tree Preservation Order**

4.6 The Council are required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

4.7 Six identical letters of objection were received from the family members of 164 London Road West so one letter has been provided for the purposes of this report. One letter of objection has been received from the resident of 162 London Road West. Committee Members are advised to read the letters of objection attached.

4.8 The main objections are summarised below.

- i) T1 of the TPO is close to 164 London Road West and concern is raised over the impact which the root system may have on the properties such as causing subsidence.
- ii) The leaves from T1 fall on the public footpath located between Gay Court and 164 London Road West causing the surface to become slippery in wet conditions. People have been witnessed slipping on the path as a result.
- iii) The leaves and seeds fall into the guttering of 162 and 164 London Road West causing blockages resulting in damp problems and resulting in costs for clearance.

4.9 The objections to the Tree Preservation Order outlined in section 4.8 above have been considered by the Officer and the following comments are made in respect of each point:

- i) The base of the tree is on ground which is approximately 0.3 meters above the level of the tarmac footpath which slopes down towards Toll Bridge Road. The surface of the path is disrupted across the width of the path which is consistent with the presence of a root, however the growth of another root which is exposed at the base of the trunk has been deflected as a result of the level difference. No supporting information has been provided to indicate that damage has been caused to the properties and no records on the earlier Tree Preservation Order made in 1970 indicate that root related damage has been an issue or resulted in applications for tree work.
- ii) Leaf litter falling on an adjacent public footpath is a maintenance issue and is not considered an appropriate reason to fell trees or undertake significant works which would adversely affect their health and visual contribution.
- iii) No applications have been received by the owner of the trees in respect of any works to reduce leaf or seed drop. No supporting information has been provided to indicate the severity of the problem such as reports relating to damp or invoices indicating the frequency of gutter clearance required. There is evidence of past pruning on the side of the house which has ensured that all branch growth has adequate vertical and horizontal clearance. Some high level growth was noted over the roof of 164 London Road West. There are limited opportunities for works to T1 to reduce this aspect without affecting the health or visual contribution which the tree makes. However, the loss of a tree or significant pruning can not be justified for the reason of natural seasonal shedding alone and would set a precedent which could have significant adverse results throughout the district.

#### **4.11 Relevant History**

4.12 11/04714/TPO – Crown height reduce and reshape 1no. Sycamore tree by approximately 20 - 25% and crown thin by approximately 15%. SPLIT DECISION –

consent for 15% crown thin, refusal for crown height reduce and reshape by approximately 20 – 25%.

## **5.0 LEGAL AND POLICY FRAMEWORK**

### Tree Preservation Order

5.1 A tree preservation order is an order made by a local planning authority in respect of trees and woodlands. The principal effect of a tree preservation order is to prohibit the:

Cutting down, uprooting, topping, lopping, wilful damage or wilful destruction of trees without the council's consent.

5.2 The law on tree preservation orders is in the Town and Country Planning Act 1990 and in the Town and Country Planning (Tree Preservation) (England ) Regulations 2012 which came into effect on 6<sup>th</sup> April 2012 .

5.3 A local planning authority may make a tree preservation order if it appears

“Expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”

5.4 The Council's Arboricultural Officers have a written method for assessing the 'Amenity' of trees and woodlands. This is in keeping with Government guidance, and takes account of the visual impact of trees and their contribution to the landscape, their general overall health and condition, their longevity and their possible or likely impact on services and property.

5.5 This assessment concluded, having taken account of, visual amenity, tree health considerations and impact considerations, that it would be expedient in the interest of amenity to make provision for the preservation of the trees. The TPO was made on 14<sup>th</sup> August 2013 and took effect immediately and continues in force for a period of six months. The trees currently remain protected by the earlier TPO.

### Planning Policy

5.6 Bath and North East Somerset Local Plan including minerals & waste policies 2007

C2.22 'Trees are an important part of our natural life support system: they have a vital role to play in the sustainability of our urban and rural areas. They benefit:

- the local economy – creating potential for employment, encouraging inward investment, bringing in tourism and adding value to property;
- the local environment by reducing the effects of air pollution and storm water run off, reducing energy consumption through moderation of the local climate, and providing a wide range of wildlife habitats;
- the social fabric in terms of recreation and education'

C2.23 'Much of the tree cover in the urban areas is in a critical condition and there is little or no replacement planting for over-mature trees in decline. Infill development has often reduced the space available for planting large tree species. In addition, new tree planting takes many years to mature. The management and retention of significant trees is therefore pressing'

C2.25 'Bath & North East Somerset has a duty under the Town and Country Planning Act 1990 to ensure tree and woodland preservation wherever it is appropriate. The Council will continue to protect trees and woodlands through Tree Preservation Orders (TPOs) as appropriate. There is also a level of protection afforded to trees in Conservation Areas (CAs). However there are many trees of value outside these designations and careful consideration should be given to the removal of any tree'

## **6. CONCLUSION**

6.1 The trees contribute towards the local visual amenity and are valued by local residents and the Town Council.

6.2 Confirmation of the TPO would ensure the retention of the trees, however, an application supported by sound arboricultural reasons for pruning or felling as the need arose in the future can be made under the TPO. The Council will then be able to condition the quality of the workmanship and appropriate replacement planting if considered appropriate.

6.3 In keeping with the Council's commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO with a modification to rectify the identification of T7 which is the Horse Chestnut and T8 which is the Sycamore.

<b>Contact person</b>	Jane Brewer 01225 477505
<b>Background papers</b>	The provisional Tree Preservation Order documentation and correspondence can be viewed by contacting Jane Brewer on the above telephone number.

Julia James  
162 London Road West  
Bath  
BA1 7QU

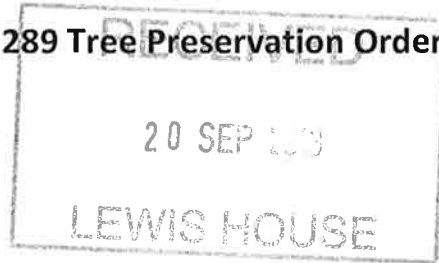
19<sup>th</sup> September 2013

Dear Sirs

**Ref: Gay Court, London Road West, Bath No 289 Tree Preservation Order 2013**

OBJECTIONS

Ref: Tree 1



- i) This tree is too close to the adjacent houses Nos 162 & 164. This row of houses are of some age and have no foundations I am therefore greatly concerned with regards to the risk of subsidence. The close proximity of the tree could not only cause costly damage but also affect any future house sale.
- ii) The constant blocked gutters caused by leaf drop and Sycamore seeds have caused ongoing damp problems to both the front and rear of my house.

Ref: Tress T1, T4 and T5

- i) The trees are a real health and safety risk. The leaves fall onto the steep lane between Gay Court and 164 London Road West and also my steep garden path. When the weather is wet and leaves are on the paths it is precarious to say the least and I would mention the Council is somewhat tardy in keeping this leaf litter to a safe level.
- ii) The frequency of the large branches which fall either into my garden or onto the public footpath they are not only dangerous but are often cleared by pedestrians onto my property to enable access. I have no means of removing them as a single woman without a car or chainsaw. Previous contact with the council regarding this matter has proved fruitless

As a final comment I would just like to mention that when questioned by Mrs Carvell as to the the ownership of these trees Gay court denied ownership. Since that time they have removed two trees which were obscuring their view and requested a preservation order on the remainder.

Yours sincerely



Julia James

164 London road West

Bath

BA1 7QU

17/9/13



To whom it may concern

I am writing to register my objections to the Tree preservation order 2013 (Gay Court, London Road West, Bath No 289) particularly in regard to tree number T1.

This tree is extremely close to the house and the root system will be having an impact as the tree is so large. I would request a structural report on this the tree T1.

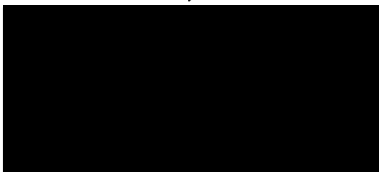
I object to the preservation of this particular tree due to these reasons and would like reassurance that this tree will not cause structural damage to our property.

I would also like to raise concerns regarding the leaves from the tree T1, these cause an ongoing problem with the public footpath down the side of the house, the leaves very quickly become wet and slippery and I have concerns for people's safety: we have witnessed many people slipping down the public footpath in these conditions.

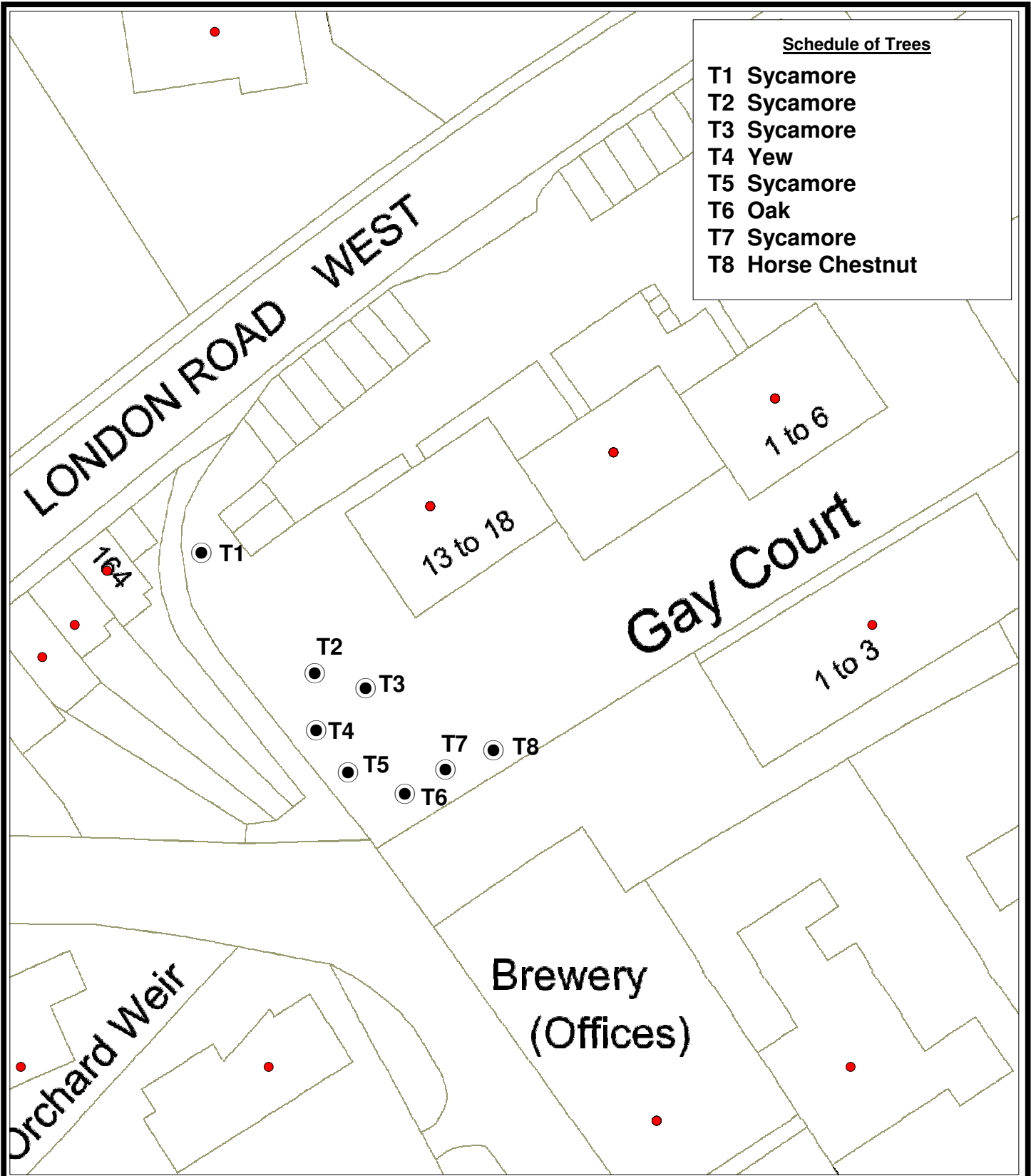
The falling leaves particularly from T1 also cause a problem with the guttering on our house as the leaves block this and this is an added cost to us.

I would suggest that the tree needs to be reduced in size to alleviate these issues, and object strongly to the trees becoming part of a preservation order.

Yours sincerely







- Schedule of Trees
- T1 Sycamore
  - T2 Sycamore
  - T3 Sycamore
  - T4 Yew
  - T5 Sycamore
  - T6 Oak
  - T7 Sycamore
  - T8 Horse Chestnut

Scale 1:500      Date: June 2013      Plan No: 500/289      Grid Ref: ST 773671

**Title:**  
**TOWN AND COUNTRY PLANNING ACT 1990**  
**BATH AND NORTH EAST SOMERSET COUNCIL**  
**( Gay Court, London Road West, Bath. No. 289 )**  
**TREE PRESERVATION ORDER 2013**

**I hereby certify that this plan referred to in the BATH AND NORTH EAST SOMERSET COUNCIL ( Gay Court, London Road West, Bath. No. 289 ) TREE PRESERVATION ORDER 2013**

*[Signature]*

Divisional Director, Planning & Transport Development