

Bath & North East Somerset Council

MEETING:	Development Control Committee
MEETING DATE:	30 th July 2014
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (63 Bloomfield Road, Bath No.299) Tree Preservation Order 2014
WARD:	Lyncombe

AN OPEN PUBLIC ITEM

List of attachments to this report:

Tree Preservation Order map

Letter of objection

Letter of support

1 THE ISSUE

1.1 An objection letter has been received from a neighbouring property following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (63 Bloomfield Road, Bath No.299) Tree Preservation Order 2014 ("the TPO"), which was provisionally made on the 2nd April 2014 to protect one Cedar. The tree is identified on the map and makes a contribution to the landscape and visual amenity of the Bath Conservation Area.

2 RECOMMENDATION

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (63 Bloomfield Road, Bath No.299) Tree Preservation Order 2014.

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 tree which is the subject of this report makes 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 tree which is the subject of the TPO is growing within the rear garden of 63 Bloomfield Road as shown on the accompanying plan.

4.3 The Council made the Order because the tree identified contributes towards the visual amenity of the area and the landscape character. A request for a tree preservation order was made by the current owners following a notification to undertake works to the tree which was submitted on behalf of the neighbour.

4.4 The tree provides an important contribution to the landscape character and amenity of the area.

4.5 Responses to the Tree Preservation Order

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

4.7 One letter of objection has been received from the resident of Hatfield Cottage, Hatfield Road 162 London Road West. A letter of support has been received from the resident of 138 Bloomfield Road. Committee Members are advised to read the letters of objection and support which are attached.

4.8 The main objections are summarised below.

- i) The tree is not considered to be a public benefit or amenity and causes a nuisance.
- ii) The tree is too large for the location in a suburban garden and should be replaced with a smaller species.
- iii) The overhanging branches cause a nuisance to adjoining properties and are potentially dangerous.
- iv) The roots are potentially undermining the foundations of neighbouring properties.
- v) The tree cuts out light from neighbouring properties.

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 tree is readily visible to the general public from surrounding roads and becomes more prominent in the skyline during the winter months when the majority of local, deciduous trees have lost their leaves. The request for a tree preservation order by the current owner and the letter of support from a resident who faces the tree supports this opinion.
- ii) The tree is not considered to be excessively large for its location and has been managed. The owner of the tree values the tree and is aware of their duty of care to neighbouring properties. The property benefits from a generous rear garden compared with those provided with more modern developments and is an average of approximately 14m by 15m in size. Should the tree require removal for sound arboricultural reasons then any replacement of a similar size could be relocated within the rear garden to the most optimum location which is considered to be no more than approximately 4m from the current position.
- iii) Previous notifications have been received to prune back overhanging branches. No supporting arboricultural evidence has been provided by the objector regarding the potential danger which is referred to, however, further work than that previously carried out is possible without adversely affecting the health of the tree or visual contribution which it provides. Conditions relating to the quality of workmanship can be applied to a tree protected by a TPO. Conditions can not be imposed on a decision relating to a tree notification for works to a tree in a conservation area alone.
- iv) No supporting documentation has been received to support the potential of damage to neighbouring properties or any evidence that neighbouring properties are already affected.
- v) The tree is located to the south west of 61 Bloomfield Road, the owner/occupants of which have not objected to the TPO. The tree is located to the north of Hatfield Cottage and one velux window was noted in the pitched roof of this property facing the tree, however, it was not evident that this window was overhung by growth from the tree because an outbuilding belonging to 61 Bloomfield Road is located between Hatfield Cottage and the garden of 63 Bloomfield Road.

4.10 Relevant History

4.11 09/01578/TCA – Remove two lowest limbs overhanging outbuilding, reduce lateral extent of limbs over outbuilding by 2.5m. NO OBJECTION

13/04069/TCA - Reduce the lowest limb overhanging the outbuilding back to the fork with the truncated branch. Reduce the branch above back by up to 2m to the next appropriate forks to increase the clearance from the roof. NO OBJECTION

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 6th 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 tree. The TPO was made on 2nd April 2014 and took effect immediately and continues in force for a period of six months.

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 tree contributes towards the local visual amenity and is valued by the owners and the occupant of a property which faces the rear garden of 63 Bloomfield Road.

6.2 Confirmation of the TPO would ensure the retention of the tree, 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.

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

**Bath and North East Somerset:
District Online**

500/299

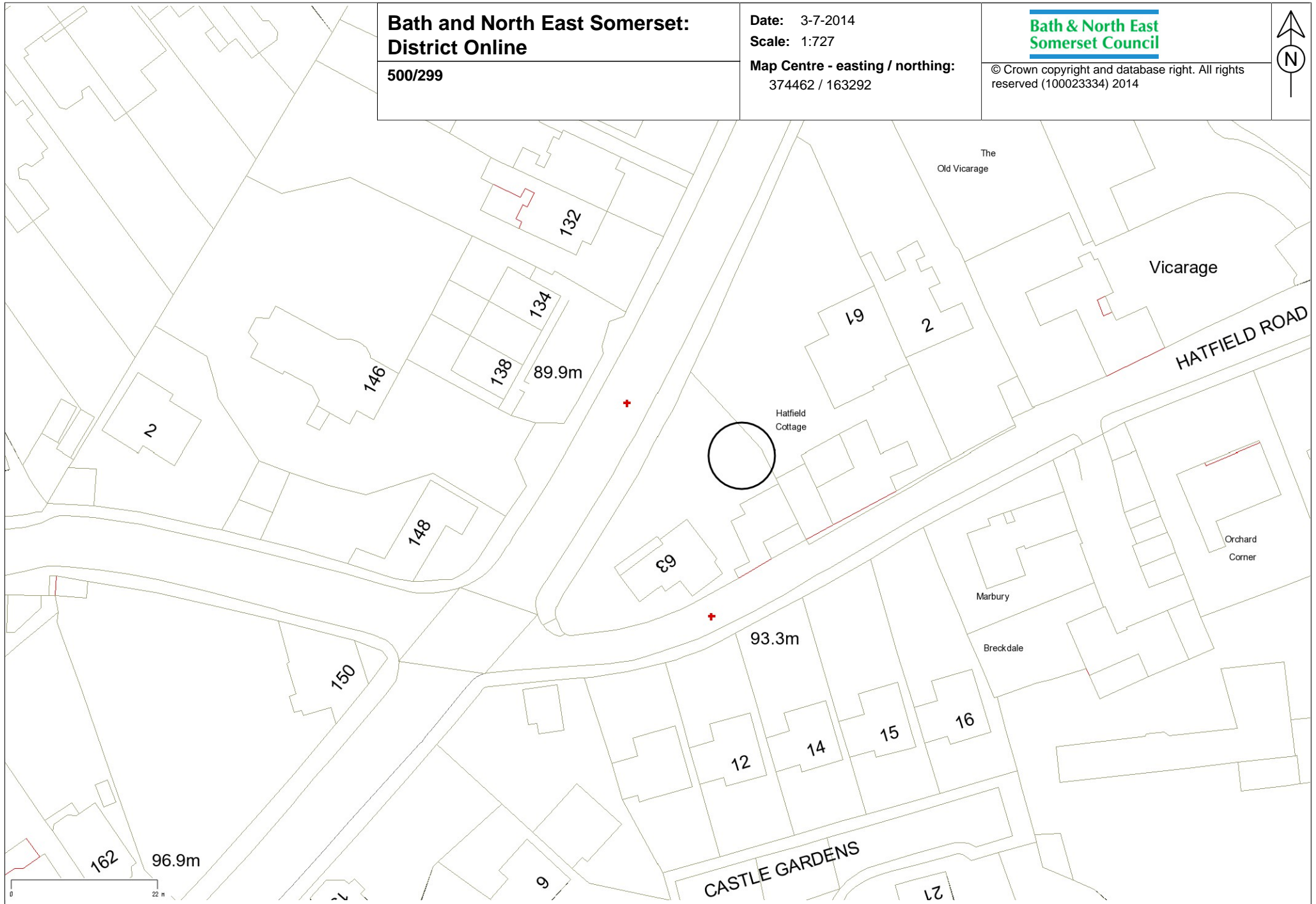
Date: 3-7-2014

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Map Centre - easting / northing:
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**Bath & North East
Somerset Council**

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Hatfield Cottage, Hatfield Road, Bath BA2 2BD

Jane Brewer
Senior Arboricultural Officer
Bath and North East Somerset Council
P.O. Box 5006
Bath BA1 1JG



15th May 2014

Dear Miss Brewer,


**Bath and North East Somerset Council (63 Bloomfield Road, Bath, No 299)
Tree Preservation Order 2014**

Thank you for your letter dated 13th May 2014. I do wish to object to the Tree Preservation Order on the following grounds:

1. The tree is of no reasonable public benefit or amenity: indeed, quite the reverse as it causes a nuisance
2. The tree is far too large for the setting, in a small suburban garden and should be replaced by a tree of a more suitable size
3. The overhanging branches cause a nuisance to adjoining properties and are potentially dangerous
4. The roots are potentially undermining the foundations of houses nearby
5. The tree is so large that it cuts out light from nearby houses

In the circumstances I trust that the Bath and North East Somerset Council will see fit not to confirm the above Tree Preservation Order.

Yours sincerely,


Laura Mosby (Miss)



138 Bloomfield Rd

Balt BA22AS

11/4/14

Dear Ms Brewer,

Tree Preservation Order
63 Bloomfield Rd, Balt, No 299.

I understand a temporary tree preservation order has been made on the cedar tree on the above mentioned property. I wish to add my support to this, as I believe the attractive and unusual tree does add to the urban landscape and character. I have noticed that its shape has been distorted and appears unbalanced, and perhaps the order will prevent this from being exacerbated by further aggressive pruning in the future. Yours sincerely,

