

Bath & North East Somerset Council

MEETING:	Development Management Committee
MEETING DATE:	24 th April 2019
TITLE:	Bath and North East Somerset Council (Land to West of Weston All Saints Primary School, Osbournes Hill, Upper Weston, Bath No. 318) Tree Preservation Order 2018
WARD:	Bathavon North

AN OPEN PUBLIC ITEM

List of attachments to this report:

1. Map from Bath and North East Somerset Council (Land to West of Weston All Saints Primary School, Osbournes Hill, Upper Weston, Bath No. 318) Tree Preservation Order 2018.
2. Objection letter from the land owner
3. Objection email from Lansdown Grange Farm
4. Support letter from Charlcombe Parish Council
5. Support letter from Friends Of The Orchard
6. Support letter from Bath Preservation Trust
7. Summary of support comments received from residents.
8. Map from Wansdyke District Council (Charlcombe No.3) Tree Preservation Order 1988

1.0 SUMMARY

- 1.1 The Tree Preservation Order entitled Bath and North East Somerset Council (Land to West of Weston All Saints Primary School, Osbournes Hill, Upper Weston, Bath No. 318) Tree Preservation Order 2018 (“the TPO”). was made following requests from local residents following the sale of the land and subsequent commencement of tree felling.
- 1.2 The woodland is considered to provide an important visual amenity and contributes towards the character of the locality and green infrastructure. The TPO was provisionally made on the 6th November 2018.
- 1.3 The TPO has been brought to the Development Management Committee because two objections have been received from the land owner and the owner of Lansdown Grange Farm following the making of the TPO.
- 1.4 The making of the TPO has been supported by Charlcombe Parish Council, The Friends of The Orchard, Bath Preservation Trust and representations from in excess of 100 residents.

2.0 RECOMMENDATION

2.1 The Development Management Committee is asked to confirm the Tree Preservation Order without modification.

3.0 FINANCIAL IMPLICATIONS

3.1 Financial: Under the law as it stands the owner of the trees cannot claim compensation from the Council for making them 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 woodland which is the subject of this report makes an important contribution towards the visual amenity and green infrastructure in the local area. The site is located within the setting of the World Heritage Site and adjacent to the Green Belt and Area of Outstanding Natural Beauty. There are known records of bat activity on and adjacent to the site.

3.6 Council Wide Impacts: Officers from Development Management will need to take account of the Tree Preservation Order when considering any application for development or alterations on the site which might affect it.

4.0 THE REPORT

4.1 Background

4.2 A number of emails had been received reporting that tree felling had commenced following the sale of the site and that the sales particulars indicated that it was a possible development opportunity suggesting that more felling was expected. A Tree Preservation Order was requested.

4.3 The entire site was assessed as a result of the requests and it was concluded that the trees contributed towards the visual amenity of the area and green infrastructure as a whole. It was therefore considered expedient to make a Tree Preservation Order. The woodland TPO category was determined to be the most appropriate because the combined contribution was greater than the merits of the individual trees making up the woodland. The woodland category also protects trees and saplings which are planted or grow naturally after the TPO is made. This assessment complies with paragraph 28 of the Planning Practice Guidance titled Tree Preservation Orders and trees in conservation areas.

4.4 The Cotswolds Area of Outstanding Natural Beauty and the Green Belt boundaries border the northern and part of the western boundary of the site. The site lies within the designated landscape setting of the settlement of Bath and the boundary of the World Heritage Site borders the eastern boundary.

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 Two objections have been received to the making of the Order. One letter has been received by the owner of the land and an email has been received from the resident of Lansdown Grange Farm. The decision on whether the TPO should be confirmed or not must therefore be made by Councillors. Committee Members are advised to read the letter and email which are attached to this report.

4.8 Charlcombe Parish Council submitted comments in support of the Order. The comments of the Parish Council are attached.

4.9 The Friends Of The Orchard and Bath Preservation Trust have submitted representations in support of the Tree Preservation Order. Both representations are attached at the end of this report.

4.10 The Council also received over 100 individual representations from residents in support of the Order. A summary of the comments are included within the Table of Representations attached to this report.

4.11 A summary of the objections to the TPO listed within section 3 of the objection letter from the land owner are:

- i. An existing TPO already protects trees in the site and adequately protects the landscape character and green infrastructure.
- ii. The removal of undergrowth would enhance the visual amenity because the stream would become visible from Osbournes Lane.
- iii. The TPO prevents effective or sensitive woodland management such as thinning operations to the detriment of the trees including those protected by the existing TPO.
- iv. The landowner has aspirations to build housing on the site but would be amenable to a legal agreement to secure a woodland management plan.
- v. Any development proposal would incorporate planting and bat and nest boxes which the landowner considers would improve habitat diversity.
- vi. A sewer exists on the site and an easement would be necessary for maintenance purposes. The trees could damage the sewer and cause access difficulties.
- vii. The TPO will render the site unusable, including the most recent use for stabling horses.

4.12 The objections outlined in section 4.11 have been considered by the officer and the following comments are made:

- i. The existing TPO was made in 1987 and related to eleven individual trees within the site. A copy of the map from the TPO is attached to this report. The owner will be aware that the condition of these trees is variable and has resulted in an application for works which included the felling of two of the Horse Chestnuts. The existing TPO is not considered to be sufficient to reflect the current appearance of the site or the contribution which the natural regeneration which has subsequently developed provides.
- ii. Insufficient information has been provided regarding the intentions of the landowner to demonstrate that works would be an enhancement to the visual amenity of the site as a whole.
- iii. A TPO does not prevent proactive and planned woodland management. Paragraph 071 of Government guidance on application states: *Where appropriate, authorities should encourage single applications for regularly repeated operations and phased works or programmes of work on trees under good management. In these cases the authority should satisfy itself that the proposed works are appropriate for this type of consent and that the relevant evidence supports this. The authority must ensure that applications clearly specify the proposed works and their timing or frequency. A programme of works could describe the classes of works which will need to be carried out as routine maintenance during the specified period. A programme including tree felling should be more specific and should, where appropriate, cater for replacement tree planting.*
- iv. A legal agreement with the Council is not required to develop a woodland management plan. No planning application has been received on which to comment in respect of the suitability of the site for development.
- v. An ecological assessment of the site would inform what enhancements might benefit wildlife.
- vi. No information has been provided regarding the position of the sewer on which to comment, however, the Council's consent is not required in certain circumstances for work carried out by, or at the request of statutory undertakers as listed under regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.
- vii. The land owner has referred to aspirations to build on the site. The Council offers a pre-application advice service which gives an Officers opinion on whether or not a particular scheme is likely to receive permission or to indicate that this land use is appropriate for the site in the first instance. The opinion is based on planning issues and other topics including ecology, drainage and flood risk, as well as trees. Pre application advice is not published on the web site, however it will be released if requested under the Freedom of Information Act.

- 4.13 The objections to the Tree Preservation Order from the owner of the adjacent property, Lansdown Grange Farm, are:
- i. The TPO appears to be the result of complaints following the erection of fencing.
 - ii. The trees have developed on a former paddock as a result of non-management of the land.
 - iii. The making of the TPO, restricting the use of the land by the owner, appears unfair.
 - iv. The removal of a few trees and shrubs should not have a significant impact on the wildlife.
- 4.14 The objections outlined in sections 4.13 have been considered by the officer and the following comments are made:
- i. The TPO was the result of requests following the commencement of tree felling. Complaints relating to the erection of fencing would not trigger a TPO assessment.
 - ii. The TPO assessment is based on the present condition of the land, not past condition or use. Trees generating from natural regeneration over time are no less important than trees which have been planted.
 - iii. The making of the TPO does not necessarily restrict land use. The land owner has referred to aspirations to build houses but with no supporting documentation to indicate that this is a suitable use for the land.
 - iv. The TPO would ensure that any form of tree removal is sensitively undertaken and would prevent wholesale clearance.

4.15 Relevant History

4.16 17/05304/TPO – works to 1 x Horse Chestnut – CONSENT

4.17 18/05660/TPO - works to 20 trees including the felling of 5 trees – SPLIT DECISION

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 TPOs 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 woodland. The new TPO was made on 6th November 2018 and took effect immediately and continues in force for a period of six months (6th May 2019).

Planning Policy

- 5.6 Bath and North East Somerset Placemaking Plan 2015

272. ‘Trees are an important part of our natural life support system: they have a vital role to play not just in the sustainability of our urban and rural areas, but as an important component of green infrastructure networks. They benefit:

- the local economy – creating potential for employment, providing a sustainable source of compost and biofuels and the raw materials for businesses, encouraging inward investment, bringing in tourism and adding value to property.
- the local environment - by reducing the effects of air pollution by removing sulphur dioxide, ozone, nitrogen oxides and particulates and reducing storm water run-off and soil erosion, acting as carbon sinks and producing oxygen; reducing energy consumption through moderation of the local climate by providing shelter and shade and reducing glare, reflection and wind speeds. They can provide screening and privacy or emphasize views and architecture. They provide a wide range of wildlife habitats.
- the health and wellbeing of our community – by providing shade from harmful ultra-violet radiation and improving the visual quality of our landscape and our sense of wellbeing. Studies have shown that the calming effect of trees can reduce stress levels and improve recovery time after surgery. Trees and woodlands provide opportunities for recreation and education.’

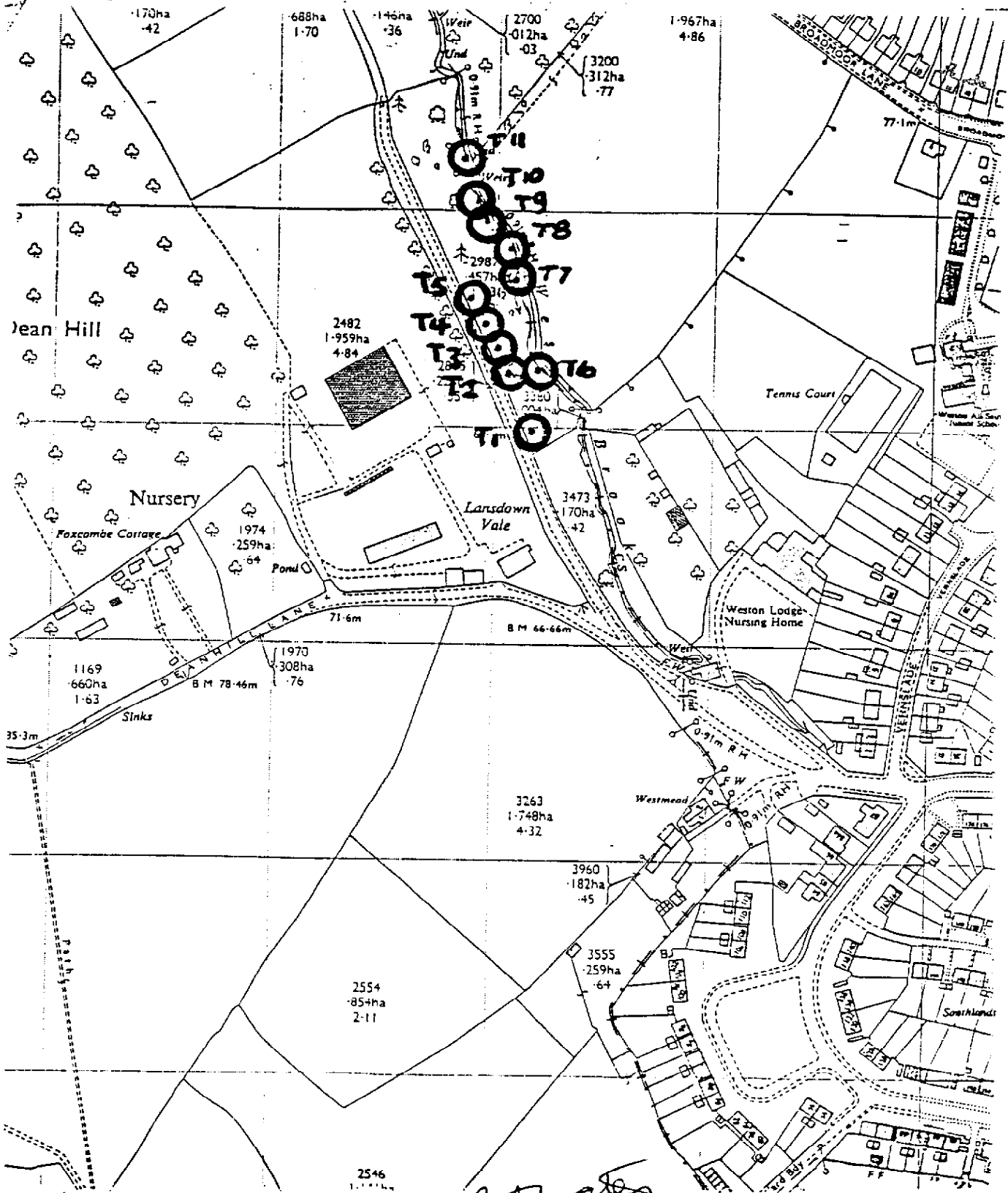
273. ‘Much of the tree cover in the urban areas is in a critical condition and there is little or no replacement planting for over-mature trees in decline. Infill development has often reduced the space available for planting large tree species. In addition, new tree planting takes many years to mature.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

274. '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.'

6.0 CONCLUSION

- 6.1 The woodland contributes towards the local visual amenity and landscape character of the area.
- 6.2 Confirmation of the TPO would help to support the retention of the woodland and would ensure that their contribution is duly considered when determining any future planning applications.
- 6.3 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 or replacement planting as appropriate.
- 6.4 In keeping with the Council's commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO without modification.

Contact person	Jane Brewer 01225 477505
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Scale: 1:2500	Date: DECEMBER 1987	Drawn By: [Signature]
Grid Ref: ST 72306685	SECTION: DEVELOPMENT PLANNING SERVICES	
TITLE: WANSDYKE DISTRICT COUNCIL (CHARLCOME N° 3) TREE PRESERVATION ORDER 1987		WANSDYKE DISTRICT COUNCIL PLANNING DEPARTMENT TOWN HALL KEYNSHAM BRISTOL BS18 1EF
		Plan Ref No. PL 11/2/0506/3

BY RECORDED DELIVERY AND EMAIL

To: Bath & North East Somerset Council
Development Management
Planning Services
Lewis House
Bath
BA1 1JG

Attention: Mark Reynolds, Group Manager (Development Management)

Email: development_management@bathnes.gov.uk

Date: 12 December 2018

Dear Mr Reynolds

Town & Country Planning (Tree Preservation) (England) Regulations 2012 – Notice of Making Tree Preservation Order (Land to the West of Weston All Saints Primary School, Osbournes Hill, Upper Weston, Bath No. 318) (the "Property") dated 6 November 2018 (the "Temporary TPO")

1. Introduction

1.1 I refer to:

- (a) the Temporary TPO, a copy of which is attached at Schedule 1 to this letter; and
- (b) the tree preservation order having immediate effect issued by Wandsdyke District Council (Charlcombe No.3) dated 10 March 1988, a copy of which is attached at Schedule 2 to this letter (the "**Existing TPO**").

1.2 I am writing to respond to the Temporary TPO and register my objection to the order being permanently adopted.

2. Background to erection of fencing around the Property

2.1 As you will be aware, there have been some complaints from the local community as a result of the erection of some fencing around the Property. The fencing was erected as a result of a request by Paul Jones, the caretaker of Weston All Saints Primary School ("**WASPS**"). Paul Jones requested that I make the Property secure in order to prevent people using the Property to access WASPS. This has previously happened on a number of occasions, leading to the school being vandalised. The fencing was erected as a reasonable means of protecting a council asset, as well as for the reasons stated below.

2.2 The Property has also been widely known to be used for drug abuse, fly tipping, criminal damage and generally anti-social behaviour. In order to protect the Property from such anti-social behaviours, I felt compelled to erect the fencing around the Property.

2.3 Thirdly, the Property is not subject to any public right of way. People using the Property are doing so in breach of trespass laws. I therefore felt it would be prudent to erect the fencing around the Property to prevent any access in breach of those laws.

2.4 I have taken reasonable measures to prevent the Property being subject to trespass. I have also sought to ensure that unlawful entry is avoided and the potential risk of harm occurring to trespassers is minimised by preventing access to the Property.

2.5 Since the fencing was erected around the Property, there have been further acts of vandalism and fly tipping on the Property. I have attached some photographs at Schedule 3 to this letter to illustrate this. My objective with the Property (as stated in Section 3 below) is to engage with the local authority to secure a well structured and appropriate woodland management plan. This will improve the visual amenity of the Property in a responsible manner. It will not damage the Property or the trees located upon it. If there is to be any development proposal made in respect of the Property, I am intending to do this in a way which would be beneficial to the local community, sensitive to the existing wildlife and trees located on the Property, and in accordance with all existing environmental protections over the Property.

3. **Reasons for objecting to the Temporary TPO**

I believe that there are a number of reasons why the Temporary TPO should not be confirmed. I have set these out below, and would be happy to discuss these further with you at your earliest convenience.

3.1 **The Existing TPO adequately protects the Property and the trees which are located on it**

3.1.1 The Existing TPO has been in place for a number of years now, and has allowed the trees protected under the Existing TPO to become a key and lasting feature of the Property.

3.1.2 The Existing TPO will ensure a green corridor for any wildlife. The landscape character and green infrastructure of the Property cannot be materially adversely affected as a result of the Existing TPO.

3.1.3 Additionally, any work on clearing the undergrowth at the Property will enhance its visual amenity, as the stream will be visible from Osbournes Lane, the main access road to the Property.

3.2 **Confirmation of the Temporary TPO would be detrimental to the trees protected under the Existing TPO**

3.2.1 The health and wellbeing of woodlands relies on effective management in order for the woodlands themselves to thrive. The woodland is a secondary woodland, which has developed due to land abandonment and neglect. In the absence of a well structured management plan and my intervention as the landowner, any woodland could struggle to achieve a healthy mixed age structure. A large number of the trees covered by the Temporary TPO are self-seeding saplings. These could be detrimental to the health of the larger, more established trees on the Property, which are covered by the Existing TPO.

3.2.2 Whilst the temporary TPO ensures that no unauthorised works will take place, it fails however to secure sensitive management of the woodland. Sensitive management would allow selective and native plants to survive and thrive. Without a sensible and informed management plan, which would include selective thinning, the woodland would suffer and the visual amenity of the Property would be impeded as a result.

3.2.3 Whilst I have aspirations to develop part of the site, potentially to allow for local housing, I would be happy to work with the local authority to safeguard much of the existing woodland. A sensitive and informed development proposal would enable a bilateral and enforceable legal agreement to be entered into in respect of a woodland management plan. Such a facility would be lost to the Council should the Temporary TPO be made permanent.

- 3.2.4 Whilst inevitably some of the existing self-seeded vegetation would be removed as part of any development proposal, further planting of appropriate native species as part of a well-constructed landscape scheme and the inclusion of bat boxes and nest boxes for birds could and would be included to allow for an improved diversity of habitats.
- 3.2.5 Removing and thinning out of some vegetation would allow the trees on the Property to thrive, as opposed to competing with each other for light which can result in trees becoming tall and spindly. A well-structured management plan included with any development proposal will allow light to the woodland floor and ensure the remaining trees are given more space to develop and flourish.
- 3.2.6 I have arranged to submit an application to carry out remedial works and maintenance of the established trees protected under the Existing TPO. I anticipate that this will be submitted by 14 December 2018. These works are to ensure the health and safety of children at WASPS school and any pedestrians walking along Osbournes Lane.

3.3 Confirmation of the Temporary TPO will be detrimental to both man made and green infrastructure located on the Property

- 3.3.1 There is a sewer located on the Property, which takes waste from Broadmoor Lane, Leighton Road and Napier Road. This sewer runs through the length of the Property and access will be required to it for any maintenance and repairs.
- 3.3.2 Confirmation of the Temporary TPO would be detrimental to this crucial piece of infrastructure on the Property in two principal ways:
 - (a) any trees which grow in close proximity to the sewer could cause significant damage, which could result in a substantial cost and disruption to the local community; and
 - (b) access to the sewer is required throughout the Property. Confirmation of the Temporary TPO would make such access increasingly difficult over time.
- 3.3.3 There is also a stream which runs down the entire northern boundary of the Property. Access to this stream is essential should there ever be a blockage which caused a flood. Confirmation of the Temporary TPO would make such access increasingly difficult over time.

3.4 Confirmation of the Temporary TPO will render the Property unusable

- 3.4.1 The proposal that the Temporary TPO covers the entire Property will render the Property unusable.
- 3.4.2 I do not have any firm plans for what I intend to do with the Property yet; however, any form of proactive conservation or responsible development of the Property will be prohibited if the Temporary TPO is confirmed. This will be economically and environmentally detrimental to the local community.
- 3.4.3 As you can see from the photographs attached Schedule 3 to this letter, the fly tipping and vandalism which currently occurs on the Property should not be allowed to continue. Confirmation of the Temporary TPO will discourage any meaningful attempts on my behalf to protect and enhance the Property.
- 3.4.4 The most recent use of our land was as stables for horses. Even this would be unviable if the Temporary TPO is adopted.

3.5 **The Temporary TPO is disproportionate in its scope for what it seeks to achieve**

3.5.1 The points set out in Sections 3.1 to 3.4 above establish that there is no need for the Temporary TPO to be confirmed for the following reasons:

- (a) The Existing TPO is an entirely suitable measure for ensuring that the trees located on the Property continue to:
 - (i) provide an important visual amenity;
 - (ii) contribute to the landscape character of the Property; and
 - (iii) contribute to the green infrastructure of the locality.
- (b) If the Temporary TPO is confirmed, it could have detrimental effects on the more established trees, which are already protected under the Existing TPO.
- (c) If the Temporary TPO is confirmed, it could have detrimental effects on important manmade and green infrastructure located on the Property.
- (d) If the Temporary TPO is confirmed, it will render the Property unusable in any meaningful respect. Any ability for a well managed woodland management plan required as part of a sympathetic development proposal will be lost to the Council. Without proper and suitable management the woodland could simply fail.

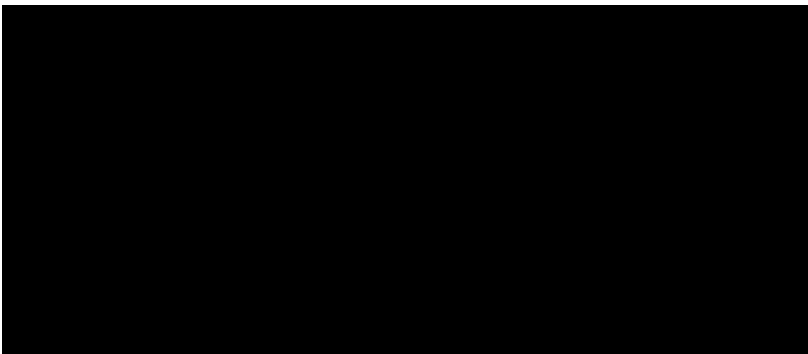
4. **Next Steps**

4.1 Thank you for taking the time to consider my objection. I am happy to meet with your team and discuss a management plan for the Property.

4.2 I am interested in working with the Development Management Team at Bath & North East Somerset Council to protect and enhance areas of the woodland located on the Property, and I would like to work with you to improve the visual amenity of the Property for everyone in the local community. We currently have no obligation to carry out any tree works, but we would be willing to enter into a legally binding agreement to ensure the good stewardship and landscaping of our land.

4.3 I look forward to hearing from you in due course.

Yours sincerely



SCHEDULE 1
THE TEMPORARY TPO

BATH AND NORTH EAST SOMERSET COUNCIL

**(Land to West of Weston All Saints Primary School, Osbournes Hill, Upper Weston,
Bath No. 318)**

TREE PRESERVATION ORDER 2018

TOWN AND COUNTRY PLANNING ACT 1990

Relating to a deciduous woodland within a strip of land along Osbournes Hill, Upper Weston,
Bath

in the District of Bath and North East Somerset

Town and Country Planning Act 1990

The Bath and North East Somerset Council (Land to West of Weston All Saints Primary School, Osbournes Hill, Upper Weston, Bath No. 318)

TREE PRESERVATION ORDER 2018

The Bath and North East Somerset Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

- 1.1 This Order may be cited as the Bath and North East Somerset Council (Land to West of Weston All Saints Primary School, Osbournes Hill, Upper Weston, Bath No. 318) Tree Preservation Order 2018.

Interpretation

- 2 (1) In this Order “the authority” means the Bath and North East Somerset Council.
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

- 3 (1) Subject to article 4, this Order takes effect provisionally on the date on which it made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,
- any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

2. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate

provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 6th November 2018

Signed on behalf of the BATH AND NORTH EAST SOMERSET COUNCIL

A handwritten signature in black ink, appearing to read 'Mark Reynolds', written in a cursive style.

Mark Reynolds
Group Manager (Development Management)

Authorised by the Council to sign in that behalf

SCHEDULE

Specification of trees

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

Groups of trees

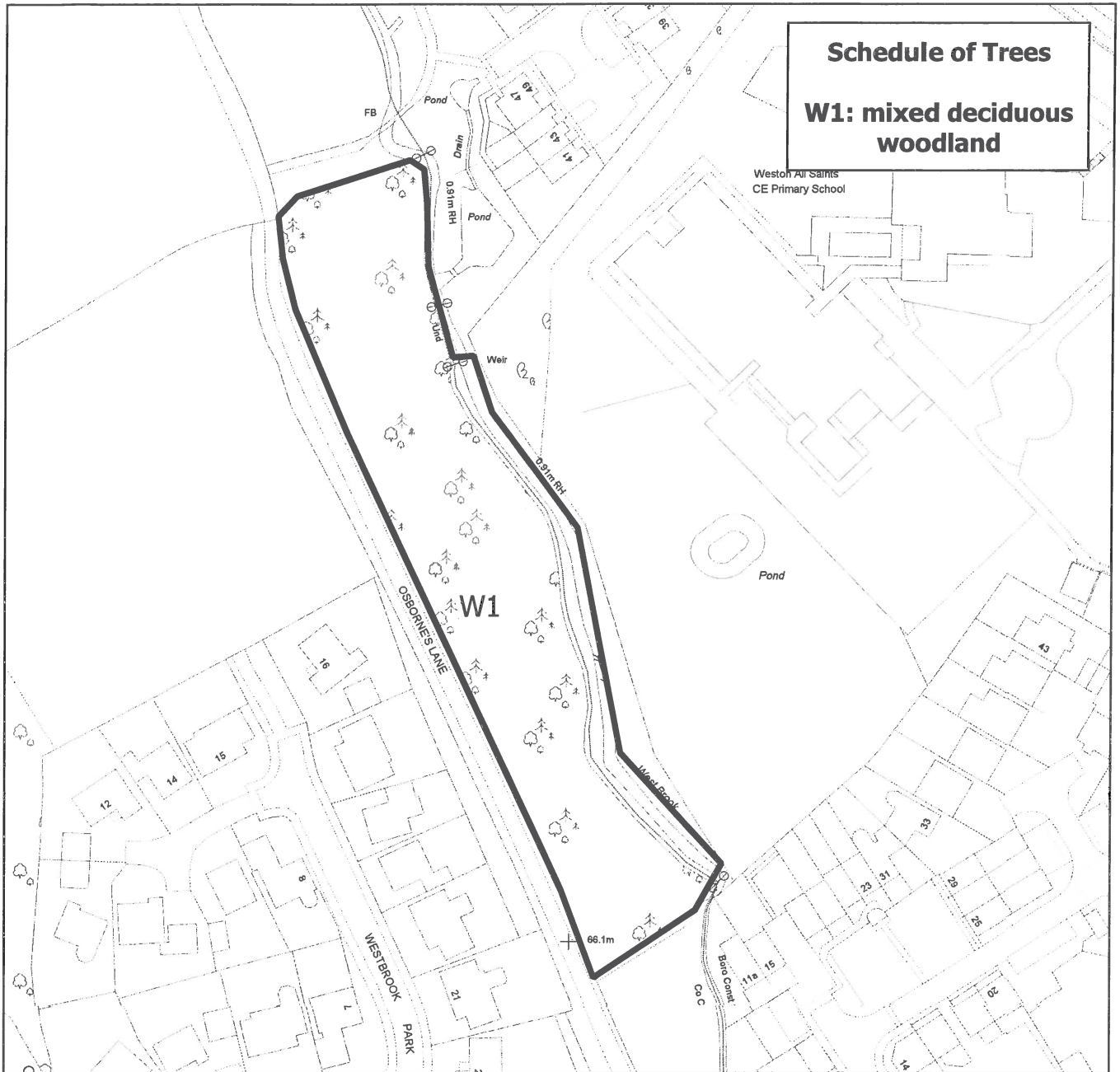
(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
NONE		

Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Deciduous woodland	Located within a strip of land along Osbournes Hill, Upper Weston, Bath Ordnance Survey ref; ST 722668



Title:
TOWN AND COUNTRY
PLANNING ACT 1990
BATH AND NORTH EAST
SOMERSET COUNCIL
(Land to West of Weston All Saints
Primary School, Osbornes Hill, Upper
Weston, Bath No. 318)
TREE PRESERVATION
ORDER 2018

Scale 1:1250
Date: November 2018
Plan No: 500/318;
18/00004/TPO
Grid Ref: ST 722668

Mark Reynolds, Group Manager
Development Management

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SCHEDULE 2
THE EXISTING TPO

WANSDYKE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACTS 1971-1974

WANSDYKE DISTRICT COUNCIL (CHARLOMBE NO) 3 TREE PRESERVATION ORDER 1988

THE WANSDYKE DISTRICT COUNCIL (in this Order called "the Authority") in pursuance of the powers conferred in that behalf by Section 60 and 61 of the Town and Country Planning Act 1971 (as amended by 10 (1) of the Town and Country Amenities Act 1974 and Section 90 of the Local Government Planning and Land Act 1980) and, subject to the provisions of the Forestry Act 1967, hereby make the following Order:

1. In this Order -

"the Act" means the Town and Country Planning Act 1971; "owner" means the owner in fee simple either in possession or who has granted a lease of tenancy of which the unexpired portion is less than three years; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession, and "the Secretary of State" means the Secretary of State for the Environment.

2. Subject to the provisions of this Order and the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the Authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups or trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed hereto, which map shall, for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the First Schedule.
3. An application for consent made to the Authority under Article 2 of this Order shall be in writing stating the reasons for making the application, and shall be reference if necessary, to a plan, specify the trees to which the application relates, and the operations for the carrying out of which consent is required.
4. (1) Where an application for consent is made to the Authority under this Order, the Authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof as the Authority may think fit, or may refuse consent).

Cont'd ...

NOTE: If it is desired to fell any of the trees included in this Order whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should not be made to the Authority for consent under this Order but to the Conservator of Forests for a licence under that Act Section 15 (5)).
Provided that where the application relates to any woodland specified

in the First Schedule to this Order the Authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the Authority it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

- (2) The Authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the Authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.
5. Where the Authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent, certify in respect of any trees for which they are so refusing or granting consent that they are satisfied -
- (a) that the refusal or condition is in the interests of good forestry; or
 - (b) in the case of trees other than trees comprised of woodlands, that the trees have an outstanding or special amenity value.
6. (1) Where consent is granted under this Order to fell any part of a woodland other than consent for silvicultural thinning then unless -
- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, or
 - (b) the Authority with the approval of the Secretary of State, dispense with replanting.

the Authority shall give to the owner of the land on which that part of the woodland is situated, a direction in writing specifying the manner in which and the time within he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provisions of this Order and Section 175 of the Town and Country Planning Act 1971, replant the said land in accordance with the direction.

- (2) Any direction given under paragraph (1) of this Article may include requirements as to -
 - (a) species
 - (b) number of trees per acre (hectare)
 - (c) the erection and maintenance of fencing necessary for protection of the replanting
 - (d) the preparation of ground, drainage, removal of brushwood, lop and top; and
 - (e) protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of the Order, or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the Authority shall if such condition or direction relates to land in respect of which byelaws made by a water authority since 31 March 1974, by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1 April 1974 exercised the functions in respect of which the byelaw was made, by a drainage board, or by the Greater London Council in exercise of any of its functions in relation to the maintenance, improvement or construction of watercourses or of drainage works restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the water authority, the drainage board, or the Greater London Council under those byelaws and the condition or direction shall have effect accordingly.
8. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act, adapted and modified for the purpose of this Order, shall apply in relation thereto.
9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the Authority within the time and in the manner prescribed by this Order, be entitled to recover from the Authority compensation in respect of such loss or damage.

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing compensation payable under the last preceding Article, account shall be taken of:
 - (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 60 of the Act or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) Act 1943, or any compensation which has been paid or which could have been claimed under any provisions relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932 and
 - (b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.
11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the Authority, such service to be effected by addressing the claim to the Authority and leaving it at or sending it by post to the principal office of this Authority.

- (2) The time within which any such claim shall be made aforesaid shall be a period of twelve months from the date of the decision of the Authority, or of the Secretary of State, as the case may be, or where an appeal has been made to the Secretary of State against the decision of the Authority, from the date of the decision of the Secretary of State on the appeal.
12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 179 of the Act.
13. i. The provision of Section 61 of the Town and Country Planning Act 1971, as amended by Section 90 of the Local Government Planning and Land Act, 1980 shall apply to this Order which shall take effect on this day, 10th March 1988.
- ii. (This Order shall apply to any tree specified in the First Schedule hereto, which is to be planted as mentioned therein as from the time when that tree is planted).

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding £1000 or twice the sum which appears to the court to be the value of the tree, whichever is the greater, or on indictment to a fine. The penalty for any other contravention of this Order is a fine not exceeding level 4 on the standard scale of fines on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by Section 60 (6) of the Town and Country Planning Act 1971 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the Local Planning Authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than 5 days previous notice of the removal, etc., should be given to the Authority to enable the latter to decide whether or not to dispense with the requirement.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY (encircled in black on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T1	Lime	
T2	Lime	
T3	Lime	

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T4	Lime	
T5	Lime	
T6	Alder	On land north of
T7	Horse Chestnut	Lansdown Vale House
T8	Horse Chestnut	and west of the West
T9	Horse Chestnut	Brook in the Parish
T10	Horse Chestnut	of Charlcombe
T11	Lime	Ordnance Survey
		Ref. ST7230-6685

TREES SPECIFIED BY REFERENCE TO AN AREA
(within a dotted black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
	None	

GROUPS OF TREES
(within a broken black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
	None	

WOODLANDS
(within a continuous black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
	None	

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the Authority to:

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where
 - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
 - (b) the cutting down is in accordance with the plan of operations approved by the Forestry Commission under such deed.
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under Section 43 of the Forestry Act 1967 except a scheme which applies to a forestry dedication covenant;
- (3) the cutting down, uprooting, topping or lopping of a tree
 - (a) in pursuance of the power conferred on the Post Office by virtue of Section 5 of the Telegraph (Construction) Act 1908 and Section 21 of the Post Office Act 1969; or by or at the request of the Post Office where the land on which the tree is situated is operational land as defined by the Post Office Operational Land Regulations and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking
 - (b) or by or at the request of
 - (i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking; or
 - (ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance or working of any such line; or
 - (iii) a water authority established under the Water Act 1973, a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930, or the Greater London Council, where the tree interferes or would interfere with the exercise of any of the functions of such water authority, drainage board, or Council in relation to the maintenance, improvement or construction of watercourses or of drainage works; or

- (iv) the Secretary of State for Defence, the Secretary of State for Trade, the Civil Aviation Authority or the British Airports Authority where in the opinion of such Secretary of State or Authority the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;
- (c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
- (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.
-

NOTE:

Section 62 (1) of the Act requires, unless on the application of the owner the local authority dispense with the requirement, that any tree removed or destroyed under Section 60 (6) of the Act, shall be replaced by the owner by another tree of appropriate size and species at the same place as soon as he reasonably can.

THIRD SCHEDULE

Provisions of the following parts of Part III of the Town and Country Planning Act 1971 as adapted and modified to apply to this Order.

33 - (1) Without prejudice to the following provisions as to the revocation or modification or consents, any consent under the Order, including any direction as to replanting given by the Authority on the granting of such consent, shall (except in so far as the consent otherwise provides) ensure for the benefit of the land and of all persons for the time being interested therein.

35 - (1) The Secretary of State may give directions to the Authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the Authority.

35 - (2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

35 - (3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

35 - (4) Where an application for consent under the Order is referred to the Secretary of State under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the Authority.

35 - (5) Before determining an application referred to him under this section the Secretary of State shall, if either the applicant or the Authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

35 - (6) The decision of the Secretary of State on any application referred to him under this section shall be final.

36 - (1) Where an application is made to the Authority for consent under the Order and that consent is refused by the Authority or is granted by them subject to conditions, or where any certificate or direction is given by the Authority, the applicant, if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Secretary of State.

36 - (2) A notice under this section shall be served in writing within twenty eight days from the receipt or notification of the decision, certificate or direction, as the case may be, or such longer period as the Secretary of State may allow.

36 - (3) Where an appeal is brought under this section from a decision certificate or direction of the Authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the Authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

36 - (4) Before determining an appeal under this section, the Secretary of State, shall, if either the appellant or the Authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

36 - (6) The decision of the Secretary of State on any appeal under this section shall be final.

37. Where an application for consent under the Order is made to the Authority, then unless within two months from the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the Authority, the Authority either -

- (a) give notice to the applicant of their decision on the application; or
- (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under Section 35 above;

the provisions of the last preceding section shall apply in relation to the applications as if the consent to which it relates had been refused by the Authority, and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.

45 - (1) If it appears to the Authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the Authority may by Order revoke or modify the consent to such extent as they consider expedient.

45 - (2) Subject to the provision of Section 46 and 61 of the Act an Order under this section shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such Order submitted to him either without modifications or subject to such modifications as he considered expedient.

45 - (3) Where an Authority submit an Order to the Secretary of State for his confirmation under this section, the Authority shall furnish the Secretary of State with a statement of their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the Order, and it within the period of twenty eight days from the service thereof any person on whom the notice is served so required, the Secretary of State, before confirming the Order shall afford to that person, and to the Authority, an opportunity of appearing before, and being heard by a person appointed by the Secretary of State for the purpose.

45 - (4) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed:

Provided that the revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

45 - (5) Where a notice has been served in accordance with the provisions of Sub-Section (3) of this section, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Secretary of State under Sub-Section (2) of this section.

46 - (1) The following provisions shall have effect where the Local Planning Authority have made an Order (hereinafter called "such Order") under Section 45 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Secretary of State for confirmation by him and the owner and the occupier of the land and all persons who in the Authority's opinion will be affected by such Order have notified the Authority in writing that they do not object to such Order.

46 - (2) The Authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which no such notice is given to the Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretary of State.

46 - (3) The Authority shall also serve notices to the same effect on persons mentioned in Sub-Section (1) above.

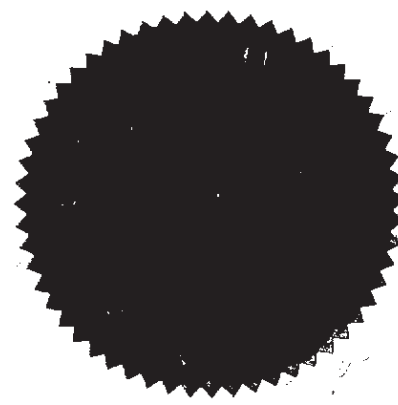
46 - (4) The Authority shall send a copy of any advertisement published under Sub-Section (2) above to the Secretary of State, not more than three days after the publication.

46 - (5) If within the period referred to in Sub-Section (2) (a) above no person claiming to be affected by such Order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in Sub-Section (2) (b) of this section take effect by virtue of this section and without being confirmed by the Secretary of State as required by Section 45 of the Act.

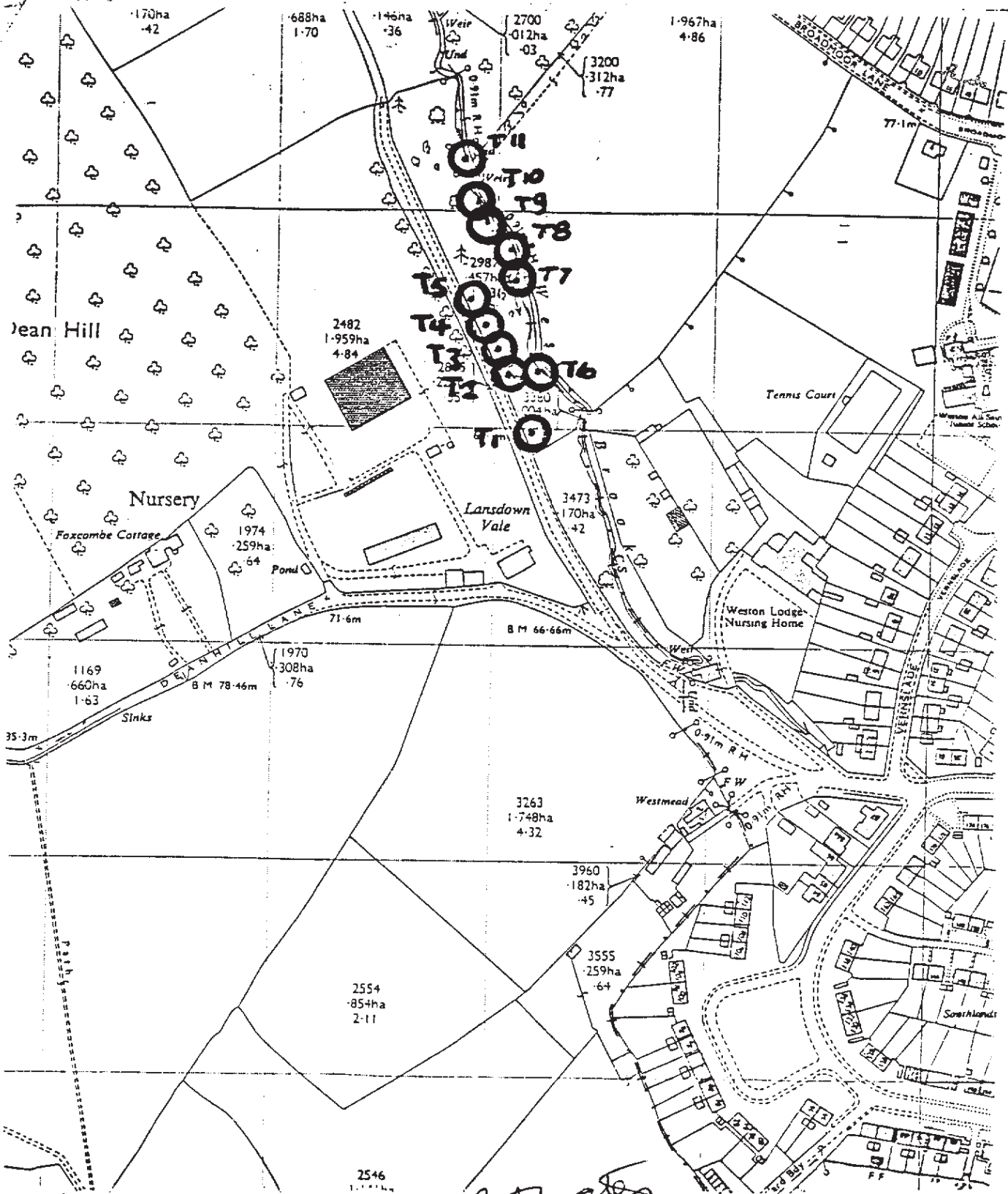
46 - (6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III, Part IV or Part V of the Act.

THE COMMON SEAL OF THE WANSDYKE DISTRICT)
COUNCIL was affixed hereto this 10th day)
of March. Nine-teen)
hundred and eighty-eight in the presence of:-)


G.M. COATES
Administration Manager



No. of Sealing Register
8219



8219.

Scale: 1:2500	Date: DECEMBER 1987	Drawn By: [Signature]
Grid Ref: ST 72306685	SECTION: DEVELOPMENT PLANNING SERVICES	
TITLE: WANSDYKE DISTRICT COUNCIL (CHARLCOME N 3) TREE PRESERVATION ORDER 1987		WANSDYKE DISTRICT COUNCIL PLANNING DEPARTMENT TOWN HALL KEYNSHAM BRISTOL BS18 1EF
		Plan Ref No. PL 11/2/0506/3

Under the power conferred upon it by the Town and Country Planning Act, 1971 as amended by the Local Government Planning and Land Act, 1980 the Wansdyke District Council hereby confirms the foregoing Order.

THE COMMON SEAL OF THE WANSDYKE DISTRICT)
COUNCIL was hereto affixed this)
hundred and eighty in the presence of:-)

G.M. COATES
Administration Manager.

No. in Sealing Register

WANSDYKE DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING
ACT 1971-1974 (AS AMENDED)

TREE PRESERVATION ORDER

RELATING TO:- Trees situated on land north
of Lansdown Vale and west of the West Brook
in the Parish of Charlcombe

Made : 10th March 1988

Confirmed :

Coming into effect : 10th March 1988

P. MAY,
District General Manager,
The Hollies,
Midsomer Norton,
Bath, BA3 2DP.

Ref: PL12.506.4

IMPORTANT - THIS NOTICE AFFECTS YOUR PROPERTY

WANSDYKE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1971 (AS AMENDED)

NOTICE OF MAKING OF A TREE PRESERVATION ORDER HAVING IMMEDIATE EFFECT

WANSDYKE DISTRICT COUNCIL (CHARLOMBE NO. 3) TREE PRESERVATION ORDER 1988

To: [REDACTED]

TAKE NOTICE that Wansdyke District Council made the above Tree Preservation Order on 10th March 1988 for the following reason:-

The trees make a particularly valuable contribution to the visual amenity of the area.

The Order contains a direction that the provisions of Section 61 of the Town and Country Planning Act 1971 (as amended) apply to the Order. The effect of the Direction is that the Order provisionally takes effect on 10th March 1988 and shall continue in force by virtue of this Section until:-

- (a) the expiration of six months beginning with the date on which the Order was made; or
- (b) the date on which the Order is confirmed.

A certified copy of the Order and the map contained in it may be inspected at the Council Offices, The Hollies, Midsomer Norton and at the Town Hall, Keynsham during normal working hours.

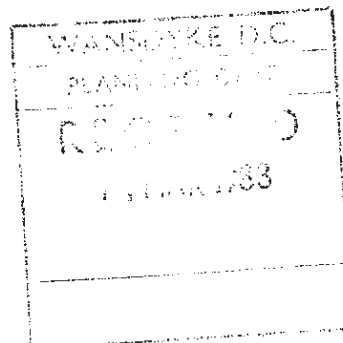
Any objection or representation with respect to the Order should be in writing in accordance with Regulation 7 of the Town and Country Planning Tree Preservation Order Regulations 1969, as amended (a copy of which Regulation is quoted overleaf) to the District General Manager stating the grounds thereof and specifying the particular trees, group of trees and woodlands in respect of which it is made. This must be done within 28 days of the date of the service of this notice.

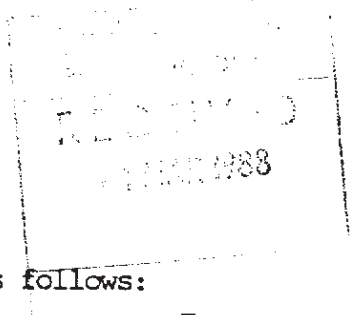
If no objections or representations are made or if any so made are withdrawn then at the expiration of 42 days from the date hereof the Order may be confirmed (but without modification) as an unopposed Order by the Council.

Dated this 10th day of March 1988

P. May

P.M. May,
District General Manager,
The Hollies,
Midsomer Norton,
Bath, BA3 2DP.





NOTES

(a) The Town and Country Planning Act 1971 provides as follows:

"Section 60 (6) - Without prejudice to any other exemptions for which provision may be made by a tree preservation order, no such order shall apply to the cutting down, uprooting, topping or lopping of trees which are dying or dead or have become dangerous or the cutting down, uprooting, topping or lopping of any trees in compliance with any obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention of abatement of a nuisance.

Section 102 (1) - If any person, in contravention of a tree preservation order, cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it, he shall be guilty of an offence and shall be liable:

(a) on summary conviction to a fine not exceeding £1000 or twice the sum which appears to the court to be the value of the tree, whichever is the greater; or

(b) on conviction on indictment, to a fine, and, in determining the amount of any fine to be imposed on a person convicted on indictment, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

Section 102 (2) - If any person contravenes the provisions of a tree preservation order otherwise than as mentioned in sub-Section (1) of this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale of fines.

Section 102 (3) - If, in the case of a continuing offence under this section, the contravention is continued after the conviction, the offender shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding (£5) for each day on which the contravention is so continued".

(b) Regulation 7 of the Town and Country Planning (Tree Preservation Order) Regulations 1969, as amended, provides as follows:

"7 (1) Every objection or representation with respect to an order shall be made in writing to the Council and shall state the grounds thereof and specify respect of which it is made.

particular trees, groups of trees, or woodlands in

(2)

Any objection or representation shall be duly made if it complies with paragraph (1) of this Regulation and is received by the Council within 27 days from the date of the service of the notice of the making of the Order".

SCHEDULE 3

PHOTOGRAPHS OF DAMAGE TO FENCING ERECTED ON THE PROPERTY









Jane Brewer

From: Development Management
Sent: 13 December 2018 09:00
To: Jane Brewer
Subject: FW: TPO No.318. Ref: 18/00004/TPO

From: [REDACTED]
Sent: 12 December 2018 17:45
To: Development Management
Subject: TPO No.318. Ref: 18/00004/TPO

FAO Mark Reynolds.

I am writing to you as someone who was born and has lived at Lansdown Grange Farm all my life. The family having owned the farm since 1925. The farm lies at the end of Osborne's Lane and therefore I feel qualified to give a subjective opinion on the land in question, which is now owned by [REDACTED]

I strongly object to the council implementing the short term TPO on the land, which as I understand was done after complaints were submitted to the council after [REDACTED] erected a fence to prevent general access to his land, which you have to agree he is totally entitled to do.

The previous owners, used to have the field as a horse paddock with two stables on a concrete base just inside the gateway. After the horse's were sold the land was left, therefore it turned into a scrub land with self propagating saplings and brambles.

There is already an existing TPO on a number of trees in the paddock, so to place an order over the whole area seems grossly unfair on [REDACTED] as it will restrict what he is able to do with his land. The previous owners turned a blind eye to people accessing the ground in recent years, to exercise their dogs and children used to do what children do. That doesn't mean that everyone has a right to dictate what [REDACTED] wants to do with his land, after all he bought the land on the open market, so everyone had the same opportunity. If I had bought it I would have put barbed wire fence around the whole field, I guess as a farmer that would have been acceptable? [REDACTED] should be treated the same.

The question of wildlife in the area. The very nature that they're called wildlife means they are wild and have the ability to adapt, move and live wherever they want, cutting down a few trees and clearing some bushes will have barely any impact.

I ask the council to look at this and come to a sensible decision and not be influenced by the hysteria which seems to be surrounding [REDACTED] purchase, or indeed what his intentions are?

My cattle used to graze on fields around the farmyard that are now house's, I find it slightly ironic that many of the complaints will be from those residents.

Kind regards [REDACTED]

TREE PRESERVATION ORDER 2018

LAND TO WEST OF WESTON ALL SAINTS PRIMARY SCHOOL, OSBOURNES HILL, UPPER WESTON, BATH NO 318

CHARLCOMBE PARISH COUNCIL COMMENTS

Charlcombe Parish Council discussed the creation of a blanket Tree Preservation Order to protect trees sited on land to the west of Weston All Saints Primary School, Osbournes Hill, Upper Weston, at its meeting on 20 November 2018. Councillors unanimously agreed the following comments in support.

Charlcombe Parish Council welcomes the creation of this blanket Tree Preservation Order. The land in question lies within the Parish of Charlcombe and this well-established woodland represents a very important ecological habitat, a key local asset and a valuable element of the Green Infrastructure network. It provides a significant wildlife corridor supporting many animals and insects including owls and 9 species of bat. The woodland adjoins the formally-designated Local Green Space known as “The Orchard” on the opposite side of the Westbrook stream and has been accessed by the local community for at least 30 years for recreational purposes. The woodland is also prominent in the local landscape and makes a valuable contribution to its character and beauty.

Preserving the woodland under a blanket TPO will protect this important environment, to the benefit of both the wildlife for which it provides a habitat, and the local community. Charlcombe Parish Council very strongly supports the creation of this TPO.



Report in support of a Tree Preservation Order (TPO) at Land to West of Weston All Saints Primary School, Osborne's Lane, Upper Weston, Bath. No. 318. Ref: 18/00004/TPO.

Jim Phillips BSc (Hons) MA MCIEEM
On Behalf of Friends of The Orchard

Date: 14th December 2018

Our reference: FOTO/Woodland/2018

Contact for correspondence: Unit 2 The Old Estate Yard | North Stoke Lane | Upton Cheyney | Bristol | BS30 6ND

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2.0 Description of the Site	4 - 6
3.0 Policy considerations	7 - 11

1 Qualifications and experience

- 1.1 This report has been written by Jim Phillips, I hold a BSc (Hons) degree in Environmental Biology from the University of Essex and a Masters in Management with merit from the University of the West of England. I have been a full member of the Chartered Institute of Ecology and Environmental Management (CIEEM) since 2011.
- 1.2 I am the Managing Director of Ethos Environmental Planning Ltd (Ethos), a company I established in November 2013. Ethos is a multi-disciplinary environmental planning consultancy providing specialist advice to inform decision making for planning and development. Ethos' specialism includes Ecology, Open Space, Arboriculture and GIS. Under my management, Ethos employs 16 full time and seasonal ecologists and environmental professionals.
- 1.3 I have been commissioned by 'Friends of The Orchard' to prepare a report in support of a proposed Tree Preservation Order (TPO) at Land to West of Weston All Saints Primary School, Osborne's Lane, Upper Weston, Bath. No. 318.
- 1.4 As a local resident to the site for 8 years, I have visited the site well over 100 times, and have also undertaken ecology surveys in and around the site, which I make reference to in this report.
- 1.5 My report has been prepared and provided in accordance with the Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct. I confirm that the opinions expressed are my true and professional bona fide opinions.
- 1.6 Within the report, I have first described the site considering trees, landscape, green infrastructure and ecology. I have then considered the value of the site in relation to adopted national and local policy.

2 Description of the site

Trees and Woodland

- 2.1 The site comprises a deciduous woodland located along the bank of the West Brook adjacent to Osborne's Lane in Bath. The woodland comprises several mature trees with a mixture of semi-mature trees within.
- 2.2 The mature trees within the woodland are of high value and themselves are subject to established TPOs. The semi mature trees, individually do not currently hold the same value as the mature trees. However, collectively they are an integral part of the woodland structure within which the mature trees are located, and as such are collectively of high value.
- 2.3 The woodland itself has been largely unmanaged for many years, and whilst in private ownership, has until recently been accessible and used by the local community.
- 2.4 The woodland would benefit from appropriate woodland management which would sustain its value in the long term.

Ecology

- 2.5 The woodland itself is used by a variety of foraging mammals and I have recorded fox, badger, roe deer and hedgehog. There is no evidence of badger setts within the woodland.
- 2.6 There is a varied assemblage of bird species, and whilst I have only recorded common species, the woodland is a valuable food and breeding resource for birds.
- 2.7 The West Brook runs along the immediate boundary of the woodland and whilst I have recorded no evidence of protected species such as otter (*Lutra lutra*) or water vole (*Arvicola amphibius*), the brook does have a moderate invertebrate and fish population and contributes significantly to the ecological value of the woodland.
- 2.7 I have recorded nine species of bat along Osbornes Lane and from within the woodland itself. These records have been gathered by a combination of activity surveys and static detector surveys from 2017 and 2018. The bats recorded were common pipistrelle (*Pipistrellus pipistrellus*), soprano pipistrelle (*Pipistrellus pygmaeus*), Nathusius's pipistrelle (*Pipistrellus nathusii*), Brown long-eared bat (*Plecotus auritus*), Leisler's bat (*Nyctalus leisleri*), Serotine (*Eptesicus serotinus*), Noctule (*Nyctalus noctula*), *Myotis spp.* and Lesser horseshoe bat (*Rhinolophus hipposideros*) which is an annex II species¹.

¹ Lesser horseshoe bats appear in Appendix II of the Berne Convention (Convention on the Conservation of European Wildlife and Natural Habitats). This requires that they be strictly protected against deliberate killing, capture, damage/destruction of breeding and nesting sites, disturbance, trading (including parts and derivatives), etc.

- 2.8 I have assessed activity along Osbornes Lane and the woodland to be high, with the corridor providing an important commuting and foraging route for bats including lesser horseshoe bats. I have also observed Serotine bats emerging from the woodland on a number of occasions, in numbers that indicate a roost of this species within the woodland.
- 2.9 It is my assessment that the foraging, commuting and roosting resource that is provided by the woodland is of district value.
- 2.10 The woodland is an important element of an ecological corridor linking local greenspaces and infrastructure, providing movement for a variety of notable species.

Landscape

- 2.11 The woodland offers landscape value within its immediate surrounds, creating a ‘rural feel’ walking along Osborne’s Lane, linking to the rights of way linking to the Cotswold Way. The woodland can also be seen from key vantage points from the Cotswold Way (within the AONB) – see figure 1 below.
- 2.12 Whilst I have not undertaken a landscape and visual impact assessment of the woodland, it is my opinion that the loss of the woodland would likely have a high negative impact on landscape value. The woodland marks the perimeter of the World Heritage Site and contributes to its green setting. If this woodland were lost, there would be a loss of the demarcation between the City and outlying Charlcombe Parish.

Figure 1 Views of the woodland from the Cotswold Way (within the AONB)



Green Infrastructure

- 2.13 The woodland forms an important part of the green infrastructure network, providing a key link between the adjacent Orchard to the north, Weston Park to the south and the AONB to the immediate north and west of the woodland, as illustrated on figure 2.

Figure 2 Woodland as an ecological corridor and contribution to green infrastructure



2.14 In performing its function as GI, the woodland meets many of the benefits delivered by GI, in particular the following (as listed in the B&NES GI Strategy²):

- supporting healthy lifestyles and thriving communities;
- providing active access to the outdoors (now restricted due to the site being fenced);
- enhancing landscape character and built heritage;
- enhancing biodiversity;
- supporting healthy ecosystems;
- providing climate change solutions;
- enhancing sense of place.

² Valuing people, place and nature: a green infrastructure strategy for Bath & North East Somerset

3 Policy Considerations

- 3.1 Within this section, I have outlined key policies related to the woodland, which support the proposed TPO. I have quoted policies and followed this up with comments which are relative to the woodland TPO and the policy.

National Planning Policy Framework (NPPF)

- 3.2 Para 170. Of the NPPF states:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

- 3.3 There are a number of points above which relate to the importance of the woodland and the TPO:

- Point a) above notes the requirement for protecting and enhancing sites of biodiversity value. From the ecology assessment undertaken, it is considered that the woodland is of at least moderate ecological value as a habitat, and of high value for bats;
- Point b) above specifically lists trees and woodland in relation to “*the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services*”;
- Point d) requires “*establishing coherent ecological networks that are more resilient to current and future pressures*”. The assessment included within this report demonstrates the value of the woodland as part of an ecological network. As it is

in private ownership, it is thus considered that a TPO on the woodland would ensure its value is “*more resilient to current and future pressures*”. Without the TPO, there is little that affords protection to the woodland outside of the planning system.

Policy B1 Bath Spatial Strategy

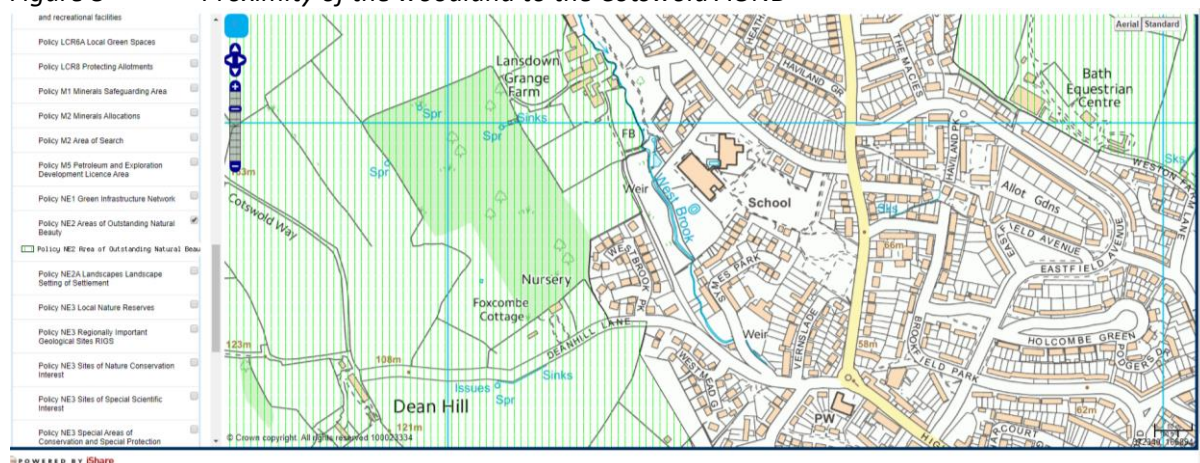
3.4 Natural and Built Environment

Sustain and enhance the significance of the city’s heritage assets, including:

- a) *The Outstanding Universal Value of the City of Bath World Heritage Site and its setting.*
- b) *Listed buildings, the Bath Conservation Area and their settings.*
- c) *Archaeology, scheduled ancient monuments, and historic parks and gardens.*
- d) *Non-designated heritage assets of local interest and value.*
- e) *Giving great weight to conserving landscape and scenic beauty in the Cotswolds Area of Outstanding Natural Beauty.*
- f) *The network of green spaces and wildlife corridors including the River Avon and Kennet and Avon Canal, Local Nature Reserves, formal and informal parks and recreational areas, trees and woodlands.*
- g) *The biodiversity resource including species and habitats of European importance.*

3.5 Point f) in the above policy lists the value of landscapes in the Cotswold AONB. The woodland immediately abuts the AONB (see figure 2), and forms an important visual buffer when viewed from the Cotswold Way (see section 2.11). It is therefore considered that the woodland contributes towards achieving the aims of Policy B1.

Figure 3 Proximity of the woodland to the Cotswold AONB



Policy CP6 Environmental quality

3.6 Within this policy, I have listed the relevant sections related to the woodland TPO.

3.7 Nature Conservation

The quality, extent and robustness of protected sites and valued habitats will be enhanced, and networks of valued habitat will be restored or created, by measures which:

- a) Improve the quality and/or increase the size of current sites and valued habitat.*
- b) Enhance connections between, or join up, sites and valued habitats.*
- c) Create new sites and valued habitats.*
- d) Reduce the pressures on wildlife by improving the wider environment.*

New Development will protect and enhance international, national and local sites and existing networks of valued habitats; facilitate migration and dispersal through the natural and built environment; and seek to reduce fragmentation of existing habitats. The Council will promote the management, conservation, enhancement or restoration of environmental assets. Sustainable opportunities for improved access to and enjoyment of these assets will be promoted where it does not compromise the integrity of the asset.

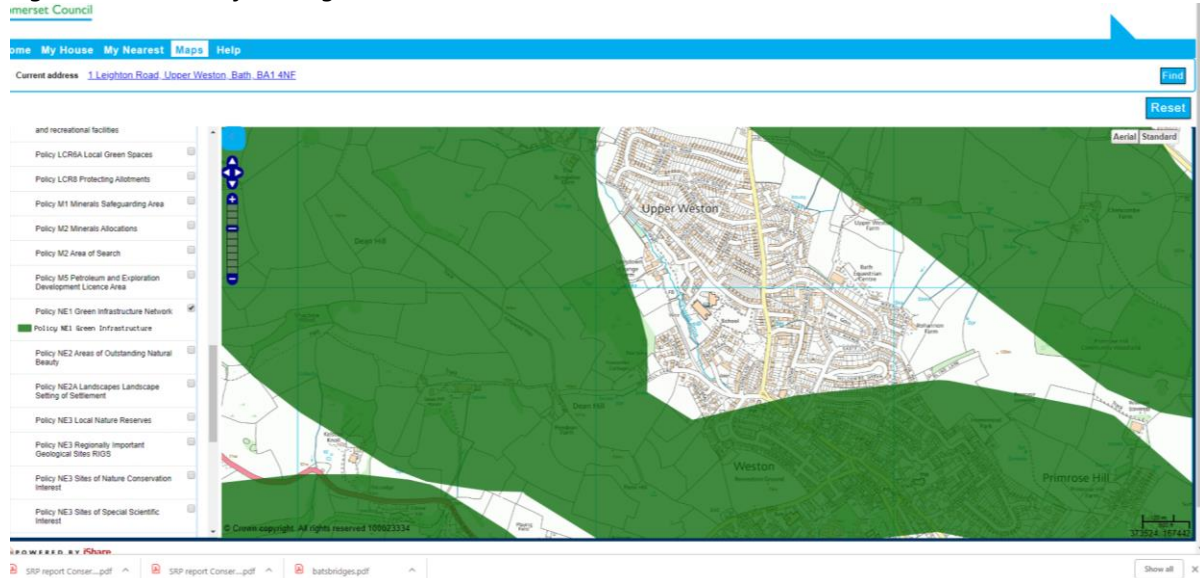
3.8 The above policy is strongly linked to the NPPF, thus the value of the TPO in relation this is largely assessed at para 3.2. However, it is worth noting in the above local policy the reference to the value of networks of habitats, and the need to reduce the fragmentation of existing habitats. It is thus considered that the woodland is important in this, and the proposed TPO will ensure Policy CP6 is giving due consideration.

Policy CP7 Green Infrastructure

3.9 *The integrity, multi-functionality, quality and connectivity of the strategic Green Infrastructure (GI) network will be maintained, protected and enhanced. Opportunities will be taken to connect with, improve and extend the network. Existing and new GI must be planned, delivered and managed as an integral part of creating sustainable communities.*

3.10 The policy above requires the maintenance, protection and enhancement of the GI network and seeks opportunities for connecting, improving and extending the network. Figure 4 below shows the current strategic GI network which is just under 100 metres west of the woodland. Figure 2 (section 2.13), shows how the woodland is important locally in terms of GI, and with such close proximity to the strategic network provides a significant opportunity for creating links and extending the network. If the woodland is not afforded protection through a TPO, its loss would be detrimental to the delivery of Policy CP7.

Figure 4 Location of strategic GI network



Policy NE5 Ecological Networks

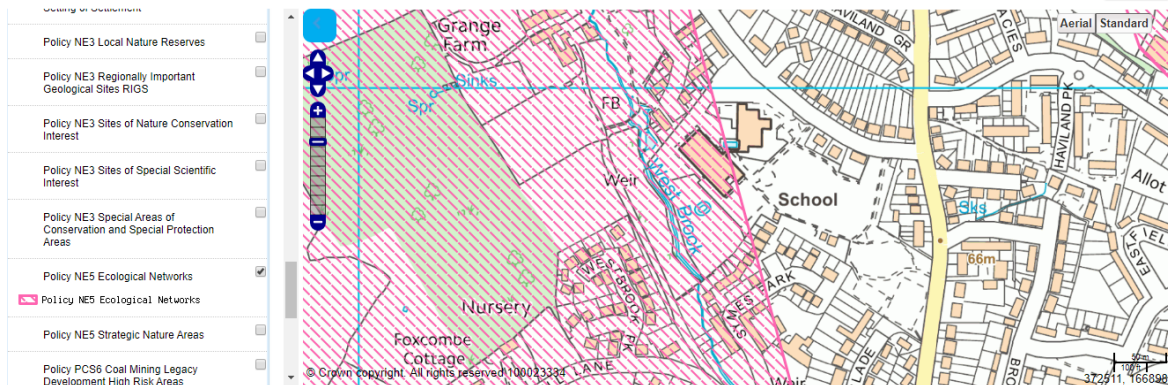
3.11 *Development proposals will be expected to demonstrate what contribution will be made to ecological networks as shown on the Policies Map through habitat creation, protection, enhancement, restoration and/or management.*

Key components of ecological networks:

- *Rivers*
- *Protected Wildlife Sites*
- *Priority Grassland Habitats*
- *Priority Woodland Habitats*
- *Priority Habitat Restoration areas*
- *Strategic Nature Areas*

3.12 The woodland is located within the identified Ecological Network (Policy NE5) as shown on figure 5. Woodland habitats are a key component of this network. The ecological surveys undertaken by myself support this designation, particularly in terms of its value as a corridors for notable species.

Figure 5 Location of the woodland within the Ecological Network



Policy NE2A Landscape setting of Settlement

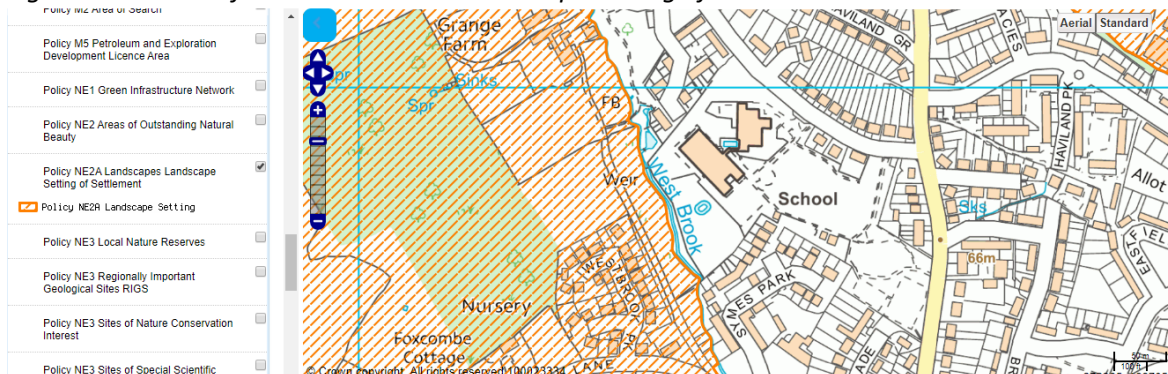
3.13 The woodland falls within the landscape setting of a settlement (Policy NE2A), as shown on figure 6.

3.14 *“Policy NE2A seeks to protect key landscapes and landform, landmarks and views / viewpoints which particularly contribute to the landscape setting of settlements within Bath and North East Somerset (B&NES). Landscape setting in the context of this policy is taken to include the surroundings of the settlement as well as undeveloped or well ‘treed’ areas which may be within the settlement and are important to the context of the developed areas”³.*

3.15 The main purpose of the policy lists ‘treed’ areas as being a key consideration in this policy, and woodland is listed as one of the key factors which contribute to the District’s distinct character.

3.16 It is thus considered that the loss of the woodland would be contrary to Policy NE2A, and without a TPO, the woodland would be at risk of loss without due consideration.

Figure 6 Location of the site within the landscape setting of the settlement



³ Landscape Setting of Settlements (Policy NE2A) Placemaking Plan Evidence Base December 2015

Tree Preservation Order - Westbrook Woodland

Bath Preservation Trust would like to offer comments on this provisional order which we understand will be heard by Development Management Committee in April.

We support the blanket Tree Preservation Order for the woodlands known as Westbrook adjacent to the West Brook, which is an historical brook that used to run through Weston village but is now culverted underground at Symes Park.

The reasons for our support are:

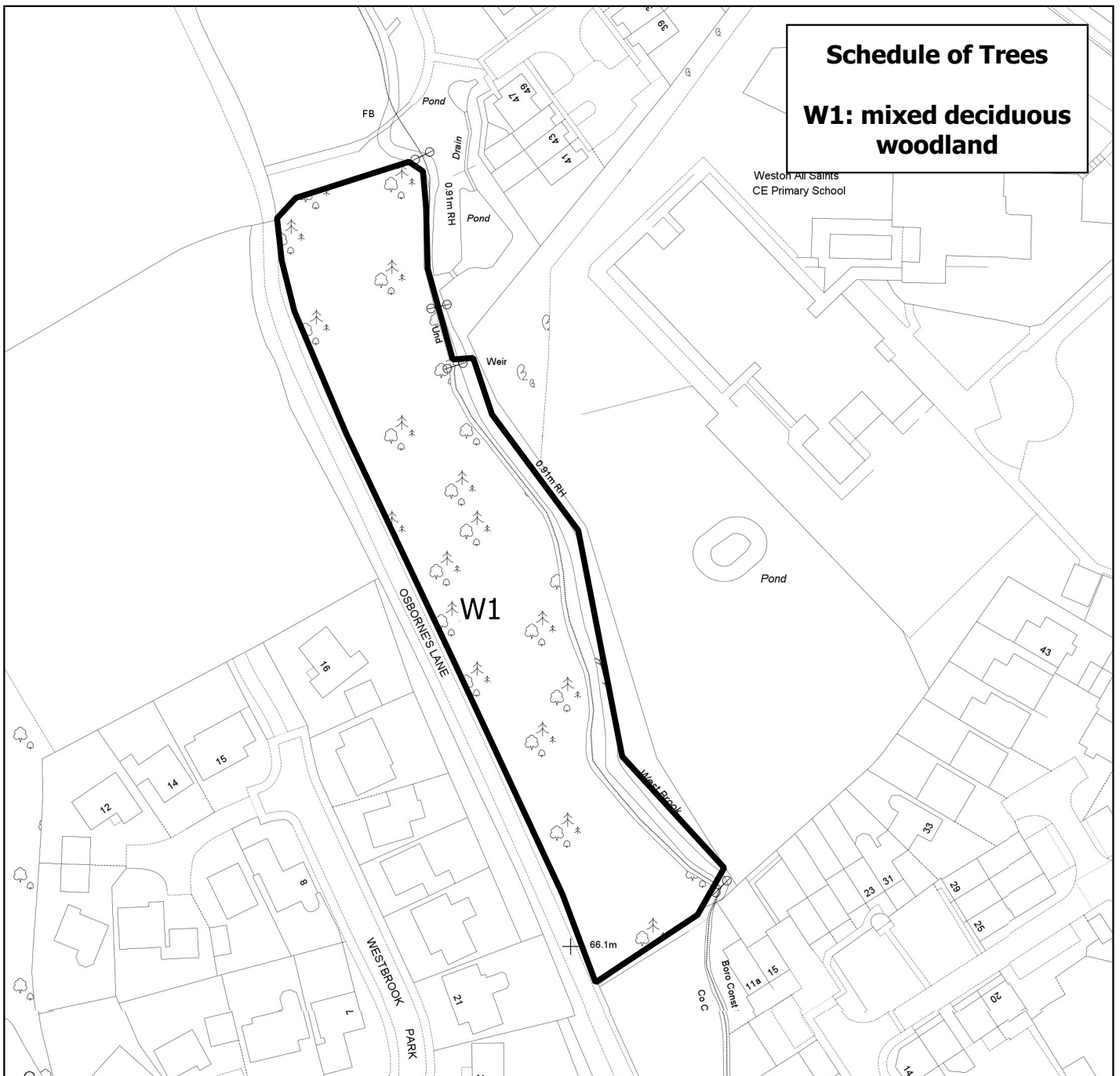
- The West Brook and its natural environment has been a key landscape feature of Weston for centuries and appears in maps dating from the 1700's. Indeed a nearby cottage on the corner of Deanhill Lane appears on maps as Westbrook Cottage, and remains of an old bridge can still be seen next to the house.
- The fact the brook is now culverted above the Weston village means that much of this historic communal feature is now lost and its contribution to the local spirit of place is also in danger of fading from memory. The preservation of the natural woodland that surrounds the brook logically offers protection of the site from built development and this is an important factor in our support of the order.
- This woodland is extremely well established and forms a valued part of the landscape setting of the World Heritage Site, which is recognised for its Outstanding Universal Value, and contributes to the setting of the nearby Green Belt and to the character and local distinctiveness of the Cotswolds AONB.
- The woodland has specific protection under Policy NE2A as it forms part of the landscape setting of the settlement (Weston village). Given its unspoilt, bucolic and verdant nature, the woodland makes an important contribution to the rural character of the settlement edge.
- The woodland makes a significant contribution to the visual amenity of the local area and softens/screens the appearance of suburban development, making it an important transitional feature connecting the village edge with the beauty of the surrounding landscape which sweeps up to Kelston Round Hill and the Cotswold Way.
- In panoramic views over the World Heritage Site from local vantage points both north and south the woodland is a positive natural feature which enhances the views.

Failure to protect this woodland would put this green space at risk of harm and loss, and this will threaten the landscape setting of the World Heritage Site in this location.

Summary of 104 residents comments provided in support of:

**Bath and North East Somerset Council
(Land to West of Weston All Saints Primary School, Osbournes Hill, Upper
Weston, Bath No. 318) Tree Preservation Order 2018.**

1. The appearance of the woodland and the wildlife it supports is valued.
2. The woodland provides a wildlife corridor between the urban area and Broadmoor orchard and beyond.
3. The woods are visible from the countryside such as Cotswold Way forming part of the green landscape setting of the Bath World Heritage Site.
4. The woodland is an essential part of Weston Village providing one of a few wild spaces left in the area.
5. The trees are clearly visible from the school, enriching the children's experience.
6. The site borders Weston All Saints Primary School nature reserve so any impairment to the quality of the site could impact on the schools' nature reserve.
7. The wood would be greatly missed if it was felled which would be detrimental to the appearance of the local area.
8. The wood is beside one of the last wild stretches of the West Brook in Weston enhancing the wildlife value of both.
9. The wood contributes towards the landscape setting of the World Heritage Site, the setting of the Green Belt and local distinctiveness of the Cotswold AONB.
10. The wood contributes towards the setting of Weston Village and the rural character of the settlement edge providing a transitional feature connecting the village to the surrounding landscape.
11. Failure to protect the woodland would place it at risk of harm and loss which would threaten the landscape setting of the World Heritage Site.
12. The woodland contributes towards a pleasant route for walkers to access Cotswold Way and for residents of Upper Weston to access local facilities.
13. The woodland contributes towards the 'green lungs' around Bath which are improving air quality.
14. Nine species of bat have been recorded in the vicinity using the woodland as a commuting and foraging route including Lesser Horseshow and Serotine.
15. The woodland contributes towards the green infrastructure and so delivers many of the functions included within the Bath and North East Somerset Councils' Green Infrastructure Strategy.
16. Without the TPO in place there is little that affords protection to the woodland outside of the planning system or planning policies.



Schedule of Trees
W1: mixed deciduous woodland

Weston All Saints
 CE Primary School

W1

Title:
TOWN AND COUNTRY
PLANNING ACT 1990
BATH AND NORTH EAST
SOMERSET COUNCIL
(Land to West of Weston All Saints
Primary School, Osbornes Hill, Upper
Weston, Bath No. 318)
TREE PRESERVATION
ORDER 2018

Scale 1:1250
Date: November 2018
Plan No: 500/318;
18/00004/TPO
Grid Ref: ST 722668

Mark Reynolds, Group Manager
Development Management