

## Bath & North East Somerset Council

MEETING:	Planning Committee
MEETING DATE:	30 <sup>th</sup> June 2021
TITLE:	Bath and North East Somerset Council (Land Adjacent To Meadow Barn, Wick Lane, Pensford No.4) Tree Preservation Order 2021
WARD:	Pensford
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b> <ol style="list-style-type: none"><li>1. Map from Bath and North East Somerset Council Bath and North East Somerset Council (Land Adjacent To Meadow Barn, Wick Lane, Pensford No.4)</li><li>2. Objection letter</li></ol>	

### 1.0 SUMMARY

- 1.1 The Tree Preservation Order entitled Bath and North East Somerset Council (Land Adjacent To Meadow Barn, Wick Lane, Pensford No.4) was made because the tree is within a parcel of land which has been the subject of past planning applications for development and gates have recently been erected on the site which has raised concerns within the community regarding the future of the tree. A Tree Preservation Order is considered expedient in the interest of public amenity to ensure that the tree is fully considered in any subsequent development proposal.
- 1.2 The Oak tree is considered to have sufficient visual amenity to contribute towards the local environment being on raised ground to the south of the village and visible to the public. It is also considered to have ecological value by virtue of its size and age. The TPO was provisionally made on the 1<sup>st</sup> April 2021.
- 1.3 The TPO has been brought to the Planning Committee because an objection has been received from the landowners following the making of the TPO.
- 1.4 The making of the TPO has been supported by Publow and Pensford Parish Council and representations from six residents.

### 2.0 RECOMMENDATION

- 2.1 The Planning 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 considered. 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 contributes towards the visual amenity being on raised ground to the south of the village and being of sufficient ecological value by virtue of its age.
- 3.6 Council Wide Impacts: The Tree Preservation Order will need to be taken into consideration when considering any application for development or alterations on the site which might affect it.

### **4.0 THE REPORT**

#### **4.1 Background**

- 4.2 The Council received communications from concerned residents that the tree was under threat from potential development, particularly since new gates and access have been formed.
- 4.3 The tree was assessed and the Tree Evaluation Method for Preservation Orders (J Forbes-Laird) was used as a decision-making guide, and it was concluded that the tree contributed sufficiently towards the visual amenity and character of the area to support the making of a TPO. Given the past planning history and recent activity on site it was considered expedient to make a Tree Preservation Order.

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

- 4.5 The Council is required to consider all duly made objections and representations before deciding whether to confirm the TPO.
- 4.6 One objection has been received to the making of the Order from the landowner so a decision on whether the TPO should be confirmed or not must therefore be made by Councillors. Committee Members are advised to read the objection email which is attached to this report.

- 4.7 Publow and Pensford Parish Council support the Tree Preservation Order.
- 4.8 The Council also received supporting comments from six residents.
- 4.9 A summary of the objections to the TPO from the landowner are:
- i. The tree is not a fine specimen.
  - ii. The tree is precariously rooted at the top of a vertical drop and could fall without warning. The tree is considered a potential safety risk.
  - iii. The tree is not within view from a public location and is not considered to be a public amenity.
- 4.10 The objections outlined in section 4.9 have been considered by the officer and the following comments are made:
- i. The tree is considered a notable tree. Visually it has developed a wide spreading canopy representative of an open grown Oak which has not been influenced by neighbouring, competing trees. The general appearance and silhouette are characteristic of Oak. The tree appears in reasonable condition exhibiting good vitality. It is also considered to have ecological value in view of its species; age and characteristics such as hollows between buttress roots suitable for habitation by wildlife. Currently the trunk and primary branches are supporting advanced ivy growth which may be obscuring additional characteristics indicative of a veteran tree.
  - ii. The tree is growing immediately adjacent to the exposed earth face above the parcel of land. Some soil erosion is evident, however, there are no apparent indications that the tree is unstable and likely to fail without warning. The landowners have not provided any documentation or arboricultural report to support their concerns and there is no evidence that any works have been carried to the tree to reflect these concerns. It is in an exposed location so root growth is likely to have been stimulated by this exposure to grow to the south east within undisturbed land to provide stability in addition to providing water and nutrients to support growth.
  - iii. The scale of the tree and elevated position mean that it is visible from the A37 and several roads within the village including Wick Lane, Church Street and Stanton Lane. The comments received in support of the TPO indicate that local residents can see the tree to value it.

#### **4.11 Relevant History**

- 4.12 17/02827/FUL – application returned. Erection of nine dwellings including parking, cycle and bin storage provision, with highway access onto Wick Lane and associated infrastructure and landscaping (Resubmission)
- 4.13 16/00532/FUL - application withdrawn. Erection of nine dwellings including parking, cycle and bin storage provision, with highway access onto Wick Lane and associated infrastructure and landscaping

## 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.

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 follows 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 Oak. The new TPO was made on 1<sup>st</sup> April 2021 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; Core Strategy and Placemaking Plan District-wide Strategy and Policies

Paragraph 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.'

Paragraph 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.'

Paragraph 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 Oak contributes towards the local visual amenity.
- 6.2 Confirmation of the TPO would help to support the retention of the tree and would ensure that the contribution it makes 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.

<b>Contact person</b>	Jane Brewer 01225 477505
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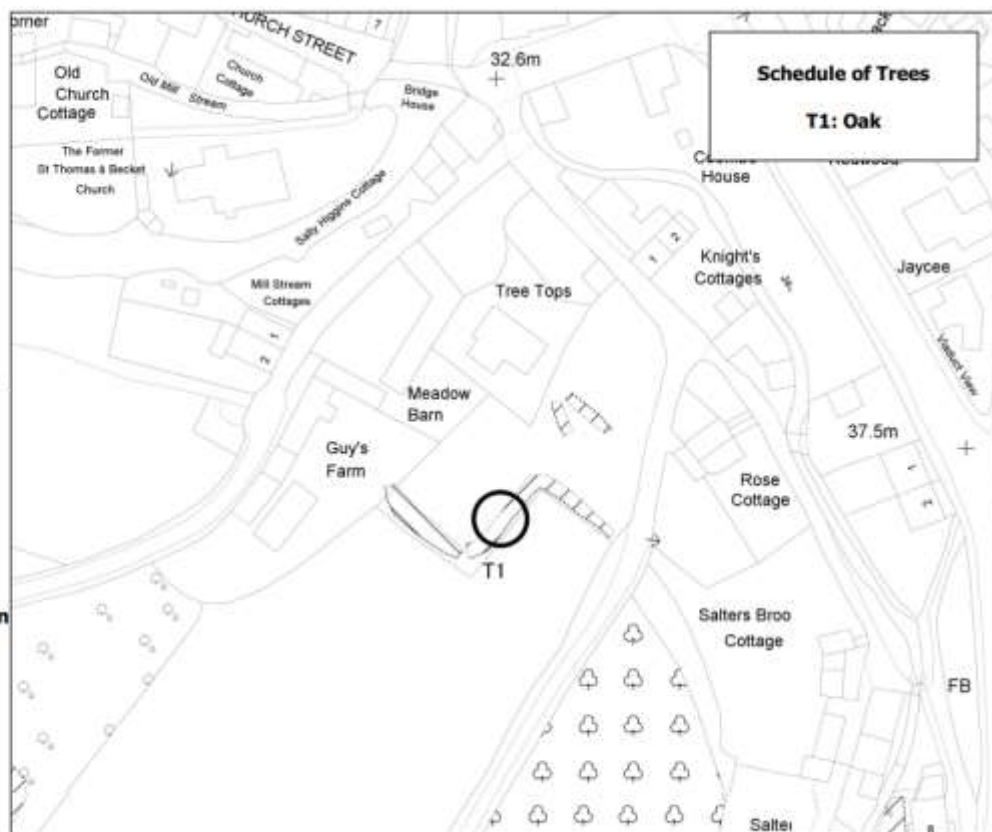
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Date: April 2021  
Plan No: 537/4;  
21/00001/TPO  
Grid Ref: ST 619636

Title:  
TOWN AND COUNTRY  
PLANNING ACT 1990  
BATH AND NORTH EAST  
SOMERSET COUNCIL

(Land Adjacent To  
Meadow Barn, Wick Lane,  
Pensford no.4)

TREE PRESERVATION  
ORDER 2021

Paula Freeland  
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Protection



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Ms Paula Freeland  
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16 April 2021

Dear Ms Freeland,

Oak Tree at Wick Lane

I reply to your letter of 6 April 2021.

We have been monitoring this tree you refer to for some years, principally because of our concern about its safety. As you will know from your inspection, it is precariously rooted at the top of a vertical drop.

You may be aware that this parcel of land was part of Guys Farm until it became an uneconomically small agricultural unit and now has no practicable use other than, we believe, for housing for which there is, of course, considerable need.

Hence, we have been preparing plans for some years. The tree location would not be particularly convenient for housing but neither would it be inconvenient. It is not a fine specimen and I had in mind proposing that it is replaced with another oak on grounds that, one day, it is likely fall without warning. It can hardly be said that it is not a potential safety risk. If the council consider the tree should be retained, it would only be reasonable for the council to take responsibility for its safety.

As you will have noticed from your own visit, this oak is, so far as I am aware, not within view from any public location so I do not believe it is a public amenity. For these reasons, I request that the Temporary Order be lifted and not given permanent status.

Would it be useful to meet on site?

With kind regards,