

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Planning Committee	
MEETING/ DECISION DATE:	18th February 2026	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	Bath and North East Somerset Council (Amenity land at Ivy Avenue, Southdown, Bath No.334) Tree Preservation Order 2025	
WARD:	Southdown	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
<ol style="list-style-type: none">1. Map from Bath and North East Somerset Council Bath and North East Somerset Council (Amenity land at Ivy Avenue, Southdown, Bath No.334) Tree Preservation Order 20252. Two objection letters		

1 THE ISSUE

- 1.1 The Tree Preservation Order (TPO) entitled Bath and North East Somerset Council Bath and North East Somerset Council (Amenity land at Ivy Avenue, Southdown, Bath No.334) Tree Preservation Order 2025 was provisionally made on 13th November 2025.
- 1.2 The local planning authority must decide whether to confirm the TPO or not within 6 months of the date that the TPO was made.
- 1.3 The TPO has been brought to the Planning Committee because two objections have been received following the making of the TPO.

2 RECOMMENDATION

- 2.1 The Planning Committee is asked to confirm the Tree Preservation Order without modification.

3 THE REPORT

3.1 Background

- 3.2 The provisional Tree Preservation Order (TPO) was made following reports of tree felling and requests from members of the public for tree protection.
- 3.3 The trees were assessed using the Evaluation Method for Preservation Orders (J Forbes-Laird) as a decision-making guide, and it was concluded that the trees contribute sufficiently towards the visual amenity and character of the area to support the making of a TPO. The TPO is considered expedient to prevent further felling without due consideration of their amenity value and contribution towards green infrastructure and the contributory roles which trees play in climate change mitigation and ecosystem services.
- 3.4 The woodland designation was used to protect the mixed deciduous trees including but not limited to sycamore, hazel, elder and ash within the parcel of land. The woodland designation was considered the most appropriate and protects any regeneration of the stumps resulting from the tree felling, subsequent natural regeneration and any new tree planting.
- 3.5 The parcel of land is immediately beside Ivy Avenue and forms a welcome break in the row of housing and contributes towards the character of the area. It offers space for larger canopied and longer lived trees compared with what can be reasonably accommodated in residential gardens.
- 3.6 The land slopes up to the rear of the properties in Hillcrest Drive so the trees on the upper slopes appear more significant as a result.

3.7 Responses to the Tree Preservation Order

- 3.8 The Council is required to consider all duly made objections and representations before deciding whether to confirm the TPO.
- 3.9 Two objections have been received to the making of the Order from the landowner and from residents of an address in Ivy Avenue. A decision on whether the TPO should be confirmed or not must therefore be made by Planning Committee. The objections which attached to this report.

3.10 Objections

- i. History of tree failure onto the public highway and public safety risk which demonstrates that the trees in their current unmanaged and neglect state and with structural defects present an ongoing and foreseeable public safety concern.
- ii. History of land movement and nearby land slip in the vicinity of this site. The Tree Preservation Order would restrict the ability to carry out proportionate, preventative arboricultural management that is necessary to secure the long term health and stability of the remaining trees.
- iii. The site is publicly visible but has limited public amenity value. The trees are of poor quality and are not worthy of protection by Tree Preservation Order. While they can be seen from the public road, they do not form a distinctive landmark, cohesive group or positive visual feature of notable

public benefit. Their form, condition and unmanaged nature detract from, rather than enhance, the wider street scene.

- iv. The land does not meet any recognised definition of woodland. There is no continuous canopy, no understorey, no characteristic woodland ground flora and no cohesive ecological structure. The scattered self-seeded trees have developed through a lack of maintenance.
- v. Nuisance caused including excessive shading, resulting in limited natural light to properties; overhanging branches which pose a potential safety risk; falling debris, such as leaves, twigs and small branches which create maintenance issues and potential hazards and the encroachment of branches extending towards residential boundaries. Local residents have commented positively regarding improved daylight to their properties following recent works.

3.11 The objections outlined in section 3.10 have been considered by the officer and the following comments are made:

- i. A TPO does not prevent works and an application supported by sound arboricultural reasons for pruning or felling as the need arises can be made. The landowner was advised that an application could be submitted for any essential works prior to a decision on whether the TPO should be made permanent or not. A TPO enables the Council to condition the quality of the workmanship or replacement planting as appropriate. The management of trees falls under the Occupiers Liability Act (1957 and 1984) where the owner owes a duty of care to avoid acts or omissions that may cause a reasonably foreseeable risk of injury to persons or property. This long-established duty places a responsibility upon landowners to manage and inspect trees as a reasonable and prudent landowner. Omissions to correctly manage trees in accordance with this legislation is an entirely separate issue. The presence of a TPO would not have assisted nor hindered the management of these trees historically, what it does do is protect their public presence and benefit from felling without sound rationale.
- ii. Further details of the location of the land movement or the reasons for that movement have not been supplied. An engineer's report has not been provided to determine whether remediation works on the site are necessary. A TPO would not prevent any essential investigations should these be necessary. An application would be necessary which must be determined by the local planning authority within 8 weeks. Tree roots and the promotion of understorey growth could assist in stabilisation of the ground. Tree and ground cover removal is more likely to result in soil erosion. A TPO application would not necessarily be refused for arboricultural management that is necessary to secure the long term health and stability of the remaining trees.
- iii. The trees provide a break in the housing offering a pocket of greenery and relief from the hard surfacing which dominates the area. The woodland forms a distinctive area which is significant in the predominantly urban setting and is readily identifiable from aerial views. The value of the trees within the site is reflected by the reports received by Bath and North East Somerset Council of tree felling on the site which extended to the

involvement of the Forestry Commission. Local residents have stated that they were shocked at the tree felling and maintain that the visual amenity as well as the wildlife seen and enjoyed assist in their health and mental wellbeing. The loss of trees and erosion of canopy cover can readily be rectified with positive tree and land management.

- iv. The sum of the whole of the site is greater than the worth of the individual trees. The objection is considered by your officer to be reliant on the recent loss of trees on the site. The appearance of the land was woodland both in aerial view and street views with closed canopy and dense understorey consistent with a woodland setting. An extract from the lease signed by residents of Ivy Avenue specifically refers to the land as a 'woodland amenity area'.
- v. The items listed as providing a nuisance to residents and users of the road and footpaths can be addressed by pruning and a TPO application for reasonable works would be supported. The submitted objections highlight that the trees had been neglected and not maintained. This indicates that inspections and remedial works had not been undertaken which would have resulted in the issues cited.

3.12 13 supporting comments have been received from individuals who live in Ivy Avenue. Comments included in support of the TPO:

- i. Peaceful area, welcome green space aesthetically pleasing and enhancing the appearance of the street in an urban area where few mature trees are.
- ii. Assists with the wellbeing and mindfulness of residents.
- iii. An oasis for wildlife including bats, visiting deer, a variety of birds with reports of a badger sett.
- iv. Offers soil protection and stabilisation, rain management to avoid road flooding and shade in Summer.
- v. Felling is against national aspirations to increase woodland cover.

3.13 The confirmation of the Tree Preservation Order would ensure that further tree felling or pruning will require an application with adequate information to support the proposal. The woodland designation does not require trees within the site to have individual merit. The TPO ensures that trees, saplings and regenerating stumps which grow naturally or are planted within the woodland area after the TPO is made are also protected to secure future amenity.

4 STATUTORY CONSIDERATIONS

4.1 Town and Country Planning Act 1990 and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 There is no legal basis for the owner of the trees to 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 a tree or trees, the owner may be able to claim compensation if he or she suffers a loss or damage as a consequence of that refusal.

6 RISK MANAGEMENT

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

7 EQUALITIES

7.1 In reaching its decision the Council is required to have regard to the duties contained in section 149 of the Equality Act 2010, known collectively as the public sector equality duty. Section 149 provides that the Council must have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.2 Officers have had due regard to these matters when assessing this Tree Preservation Order and have concluded that neither the confirming of the TPO or not confirming the TPO would be likely to have an impact on protected groups and, therefore, that these considerations would not weigh in favour of or against.

8 CLIMATE CHANGE

8.1 The retention of trees and canopy cover within urban environments positively contributes towards the mitigation of the effects of climate change and ecological emergency.

8.2 Trees store carbon and can improve air quality by cooling the air and filtering airborne particulates, assist in surface water management by regulating water flow and improving water quality, and providing wildlife habitats.

9 OTHER OPTIONS CONSIDERED

9.1 A decision not to confirm the TPO will remove protection from the site and enable the land owner to arrange for the remaining trees to be felled should they wish. This option was rejected due to the number of representations received in support of the TPO and the contribution which the trees make towards the character of the area.

10 CONSULTATION

10.1 Advice has been sought from the Monitoring Officer and S151 Officer.

Contact person	Mrs Jane Brewer 01225 477505
Background papers	Tree Preservation Order
Please contact the report author if you need to access this report in an alternative format	