

Report To:	PLANNING COMMITTEE
Date:	26 OCTOBER 2022
Heading:	TREE PRESERVATION ORDER – CAULDWELL HOUSE, CAULDWELL ROAD, MANSFIELD, NG18 5BL
Executive Lead Member:	COUNCILLOR SARAH MADIGAN, EXECUTIVE LEAD MEMBER FOR CUSTOMER SERVICES AND STRATEGIC PLANNING
Ward/s:	SUTTON JUNCTION AND HARLOW WOOD.
Key Decision:	No
Subject to Call-In:	No

Purpose of Report

To advise Members of one objection received in response to the making of a Tree Preservation Order at Cauldwell House, Cauldwell Road, Mansfield, NG18 5BL.

Recommendation(s)

Having considered and notwithstanding the objection, it is recommended to confirm the Tree Preservation Order subject to a modification, as outlined in the report.

Reasons for Recommendation(s)

The trees in question are considered to contribute to the visual amenity of the area. Their visual amenity benefit would also be increased in the event that planning permission is granted for further residential development on the plot/within the vicinity.

Alternative Options Considered

- A) To confirm the Tree Preservation Order as originally produced.
- B) To refuse to confirm the Tree Preservation Order.

The alternative options above are not recommended as they would not adequately protect the trees, or they would protect a tree which is no longer considered to warrant protection by a TPO.

Detailed Information

Summary:

On 05th August 2022 a formal notice was provided to interested parties advising them that the Council has made a Tree Preservation Order (TPO) in respect of three individual trees (x1 Larch, x1 Sweet Chestnut and x1 Oak) and an area of woodland at Cauldwell House, Cauldwell Road, Mansfield, NG18 5BL.

The Legal power to make a Tree Preservation Order is drawn from the Town and Country Planning Act 1990, and in particular section 198(1) of the Act which states:

'If it appears to a Local Planning Authority that it is expedient in the interest of amenity to make a provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order'.

Proposed Amendment:

Since the placement of the TPO a further review has been undertaken of the chosen protected trees and it is considered that the Larch Tree (indicated as T1 on the original TPO Schedule Plan) should be omitted from the Order due to a decline with its physiological condition which is thought to have been exacerbated and accelerated by the recent droughts.

It is the view of officers therefore that the Order be amended to now read as follows:

'Woodland Order and x2 Individual Trees (x1 Sweet Chestnut, x1 Oak)'.

Amenity:

The trees themselves are located within the site curtilage of Cauldwell House and partly incorporates some of the neighbouring woodland trees along the north-west boundary of the site. The trees are considered to provide visual amenity benefit to the existing occupiers/neighbours, and their visual amenity benefit would also be increased in the event that planning permission is granted for further residential development on the plot/within the vicinity.

It should be noted that the area of woodland to the north of Cauldwell Road, between the highway and the residential dwelling, is already protected by a separate woodland TPO.

Letter of Objection:

The Council have received an objection to the placement of the Order from the landowner of the woodland in relation to the TPO, who raise the following points:

1. Consider a drafting error has occurred which has included trees managed by Forestry England within the Order.
2. TPO boundary should be redrawn to the curtilage of the Cauldwell House only.
3. Canopy from trees from 'W1' woodland do span over the boundary line but originate from within the grounds of Cauldwell House.
4. Cauldwell Wood is part of a long-term woodland lease to the Forestry Commission and is managed by Forestry England.
5. Cauldwell Wood is commercial plantation.

Officers Response:

The principle point of the objection received related to trees on adjoining land being included within the TPO. These trees are located on and in close proximity to the boundary of the property and they provide a tree screen around this garden. It is accepted that they are on the edge of a plantation but they do provide a valuable amenity to the character and appearance of the area. The placement of the TPO on the trees on the edge of the plantation is considered to be a reasonable and an appropriate approach to protect the amenity.

Trees on adjoining land form part of the backdrop to the existing and proposed development, and could possibly be adversely affected should the site be developed as currently proposed or through any future iterations. As such any impact upon the trees on and adjacent to the site would be a material planning consideration.

Therefore the premises of protecting the trees as a woodland, including those on a portion of the adjoining site, ensures that the visual amenity of the area and wider amenity of the landscape is not adversely affected by any development.

As with all trees, their management is the responsibility of the relevant landowner(s). The placement of a TPO on these edge of woodland trees does not remove any rights but does enable the future management to protect the amenity of the area. As such an objection to prevent the confirmation of the Tree Preservation Order on these grounds is considered not to be reasonable, subject to the above recommended modification.

For the avoidance of doubt this TPO would be a consideration during the submission of a detailed planning application being forthcoming at a later date, and not at outline stage where the principle of development is being considered.

Options available to the Committee:

Members are reminded that they must properly consider the above issues before coming to a fully reasoned conclusion as to whether to:

- 1) Confirm the Tree Preservation Order as drafted; or
- 2) To refuse to confirm the Tree Preservation Order; or
- 3) To confirm the Tree Preservation Order with modifications.

In doing so, Members must clearly give reasons as to why they have reached their decision.

Implications

Corporate Plan:

To support the Council's place aspirations by using TPO legislation to proactively ensure the ingredients for a good quality of life are in place and ensure attractive neighbourhoods are protected.

Legal:

It is considered that there are no specific legal implications arising directly from this report.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	N/A.
General Fund – Capital Programme	N/A.
Housing Revenue Account – Revenue Budget	N/A.
Housing Revenue Account – Capital Programme	N/A.

Risk:

Risk	Mitigation
N/A.	N/A.

Human Resources:

None.

Environmental/Sustainability

No implications.

Equalities:

No implications.

Other Implications:

None.

Reason(s) for Urgency

N/A.

Reason(s) for Exemption

N/A.

Background Papers

N/A.

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