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<b>APPLICATION NO.</b>	TPO.TVBC.1255
<b>SUBJECT TYPE</b>	TREE PRESERVATION ORDER
<b>SITE</b>	Kings Chase Development, Straight Mile, <b>AMPFIELD</b>
<b>ORDER MADE</b>	23.01.2023
<b>CASE OFFICER</b>	Rory Gogan

Background paper (Local Government Act 1972 Section 100D)  
Appendix: TPO.TVBC.1245 (provisional order)

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## 1.0 INTRODUCTION

- 1.1 This matter is reported to the Southern Area Planning Committee to consider an objection received in respect to the making of a new Tree Preservation Order (TPO) and decide whether the TPO should be confirmed.
- 1.2 TPO.TVBC.1255, was made in response to a perceived threat to trees from information provided by application 23/00010/SCOS - Scoping Opinion under the Environmental Impact Assessment Regulations 2017 for the provision of a residential scheme.
- 1.3 A provisional Tree Preservation Order (TPO.TVBC.1255) was made in response to those concerns. The Order has effect provisionally unless and until it is confirmed. Confirmation must take place no later than six months after the TPO was made.
- 1.4 An objection to this provisional TPO has been received.
- 1.5 The Council cannot confirm a TPO unless it first considers objections and representations duly made and not withdrawn. If a TPO is confirmed, it may be confirmed with or without modifications.

## 2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The trees and woodland subject to this report stand on land to the south of the new Ganger Farm development and north west of Ganger Wood which is a designated Ancient Woodland. The land is currently agricultural fields, through the central area, with extensive wooded areas to the east, west and south of the agricultural fields.
- 2.2 The trees and woodland subject to the TPO are:
  - W1 a linear woodland to the west, of the area of proposed development, that runs from Ganger Farm Lane, south as far as Winchester Road. Part of W1 to the south is designated ancient woodland.

- W2 a woodland on the north west boundary of Ganger Wood. W2 is identified by Natural England Ancient Woodland Inventory as semi-natural ancient woodland. In addition one veteran tree has been identified in the south eastern part of the site.
- Area A1 is situated between W1 and W2 and consists of four groups of mature broadleaved trees predominately Oak.

The trees and woodland subject to the TPO positively contribute to the areas character and provide a good level of public amenity and are seen from a number of public locations, refer para 6.2.

### **3.0 BACKGROUND**

3.1 A scoping opinion under the Environmental Impact Assessment Regulations 2011, for the provision of a residential scheme has been submitted and latterly an outline planning application, reference 23/00964/OUTS, for a residential development of up to 309 dwelling, delivered across three severable residential parcels and one access parcel with associated infrastructure and works.

For this reason, a TPO was considered expedient as there is now a known threat that trees of significant landscape importance that could be felled without the appropriate protection being in place.

### **4.0 REPRESENTATIONS**

4.1 An objection has been received from Barrell Tree Consultancy following instruction by Barratt David Wilson, Southampton Division, to inspect the trees included in the TPO at Kings Chase Development, Romsey and to make appropriate representations on their behalf. The objections are bullet pointed below:

- The area at King's Chase is subject to several TPOs, dating from 1951, 1994 and 2020 respectively. This TPO appears to have been made to fill in the gaps left by the older TPOs, and protect all remaining trees not already protected, even though there has been no obvious reduction in tree cover, nor is there an anticipation of extensive tree loss.
- Not all the trees proposed in this TPO completely fulfil the criteria set out in guidance now available from the Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities and Local Government <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>. The implementation of tree preservation orders is governed by The Town and Country Planning (Tree Preservation)(England) Regulations 2012.
- Visual amenity in isolation is not enough, and yet the sole reason for making the TPO has not been extended into any of the above contributory features. There are no public rights of way on or adjacent to the site. Some of the trees are visible only from surrounding residential property and roads, but only on the periphery, and certainly not the majority of trees in the interior of the site. The trees are not within a conservation area, and therefore do not have a direct impact on its character or appearance.

- The TPO shows all trees of whatever species being protected within the area A1. However, the vast majority of the area is open arable field, with just a belt of trees to the east, and small number of trees on the edge of the woodland to the south, and a small clump of trees in the north east corner. Not all the trees are in good condition, nor are they prominently visible from a public place, and so I recommend that the area classification is omitted from the TPO.
- The extent of W1 shown on the provisional TPO seeks to fill in the gaps from previous confirmed TPOs, and whilst this is an admirable attempt to protect all the trees, I question the assumed threat to the woodlands. It is evident that there has been no loss of woodland, or significant trees, and the landowner has no plans to undertake works that are anything less than sound management. Part of W1 to the south is designated ancient woodland, and there are two sections of open marsh devoid of trees, which can't be considered as woodland. I also point to fact that no works can be carried out to woodlands without first obtaining permission from the Forestry Commission, and the TPO on woodland would appear to be unnecessary.
- The area shown as W2 is the last part of Ganger Wood not previously subject to TPO, but it is already subject to Ancient Woodland designation, and therefore afforded a high degree of protection. There is no threat to the integrity or fabric of this woodland area.
- There is a strong mechanism available to LPAs to secure trees as part of the planning process, either through landscape plans or conditions, and so to protect poor quality trees to ensure tree cover on a potential future development is unnecessary, and could be regarded as a heavy handed application of authority.
- The purpose of the TPO system is to identify and conserve trees that make a useful contribution to local character. This is clearly demonstrated in the Government approach to appeals where an equitable and reasonable balance is sought between the contribution a tree or woodland makes to amenity and the inconvenience its retention may entail. On this basis, I believe that it is acceptable to remove trees on grounds of good management, whether for individual trees, or woodlands.
- For the reasons set out above, it is my advice that the proposed TPO as drafted is not expedient, the trees and woodland are not under threat, are not prominent visually and do not have the degree of public amenity that the council is suggesting. Accordingly, the TPO should not be confirmed.

## **5.0 POLICY AND NATIONAL GUIDANCE TOWN AND COUNTRY PLANNING ACT 1990**

- 5.1 The Local Planning Authority may make a TPO if it appears to them to be: 'expedient in the interests of amenity to make provision for the preservation of trees and woodlands in their area'. TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.

## **6.0 TPO CONSIDERATIONS**

- 6.1 In assessing trees for possible inclusion in a new TPO, the Council therefore assesses whether the trees in question have public amenity value. Before doing so, however, it first determines, by reference to a list of detractors, whether the making of a new order would be defensible.
- 6.2 Further to the points raised by the objector, the following response is provided for the Committee's consideration:

### **Public Amenity Value Negative Impact**

In this case the TPO has been put place to protect woodlands and individual trees because their removal would have a significant negative impact on the local environment and its enjoyment by the public. It is expedient to proceed with the making of a new TPO to protect trees in this instance due to the risk that trees will be felled, pruned or damaged. Such actions would have a detrimental impact on the amenities of the locality.

### **Assessment of Amenity Value Visibility**

Objection raised - There are no public rights of way on or adjacent to the site. Some of the trees are visible only from surrounding residential property and roads, but only on the periphery, and certainly not the majority of trees in the interior of the site.

Response - Views of the woodland and individual trees may be achieved from the following public locations:

- Ganger Farm Lane
- Winchester Road
- Scoreys Crescent
- Ganger Farm Way
- Peel Close
- Hunters Crescent
- Silverwood Rise
- Footner Close
- Anderson Close

### **Individual, collective and wider impact**

Objection raised - Public visibility alone will not be sufficient to warrant an order.

Response - The authority has assessed the importance and amenity of the trees and woodland by reference to its characteristics including:

- **Size and form** – The age range and size of the individual trees and trees within the woodland is variable although the trees are predominately mature up to and including veteran status trees. The form of the trees is good, in its widest sense, not all of the trees are straight and perfect some contain cavities, loose bark, dead wood and climbing plants all representing good niche habitat for the varied fauna and flora of the area.
- **Future potential as an amenity** – The future potential of the trees and woodland as an amenity is self-evident; as the Ganger Farm residential areas develop there will be an increasing demand from the local population for areas for recreation. The trees and woodland are essential in this regard, supporting the health and well-being of current and future residents.
- **Rarity, Cultural or historic value** – as previously mentioned, part of TPO woodland W1 and all of W2 are subject to Ancient Woodland designation, a veteran tree and many trees with veteran features have been identified. Ancient woodland and veteran trees are described as irreplaceable in the National Planning Policy Frameworks (NPPF). The TPO both compliments and reinforces the designations.
- **Other Factor** – Authorities may consider taking into account other factors such as nature conservation and climate change.

In making the TPO the authority have taken note of the close proximity of the New Forest - Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar (intergovernmental environmental treaty) and Mottisfont Bats SAC and Sites of Importance for Nature Conservation SINC,s

The making of the TPO has taken account of the Test Valley Borough Council "Adaption to Climate Change" document, that outlines the need for robust protection of natural resources with Test Valley

Objection raised - The TPO shows all trees of whatever species being protected within the area A1. However, the vast majority of the area is open arable field, with just a belt of trees to the east, and small number of trees on the edge of the woodland to the south, and a small clump of trees in the north east corner. Not all the trees are in good condition, nor are they prominently visible from a public place, and so I recommend that the area classification is omitted from the TPO.

Response – Further survey and site inspection, following the making of the provisional order has revealed that the Area A1 requires reclassification, the TPO should be modified to a group classification, prior to confirmation, to show four distinct groups to the north east south and west of the current Area A1.

## 7.0 CONCLUSION

A Scoping opinion under the Environmental Impact Assessment Regulations 2011 for the provision of a residential scheme has been submitted and latterly an outline planning application, reference 23/00964/OUTS, for a residential development of up to 309 dwelling, delivered across three severable residential parcels and one access parcel with associated infrastructure and works. This demonstrates that there is threat to the trees from possible future development.

The TPO is proposed not to prevent development but to ensure that the trees and woodland are full considered and protected during the planning process. The trees and woodland are important features within a rural landscape and add to the sylvan character of the area, it is entirely reasonable that the Order is confirmed with one modification, to make the Area A1 into four smaller groups (G1 – G4)

**8.0 RECOMMENDED:**

**That TPO.TVBC.1255 is confirmed with modification, as described above.**

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