



Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	PLANNING AND LICENSING COMMITTEE – 09.11.2022
Report Number	AGENDA ITEM 6
Subject	TREE PRESERVATION ORDER – 22/00005/IND
Wards affected	Bourton Village
Accountable member	Cllr N Maunder Email: <a href="mailto:nick.maunder@cotswold.gov.uk">nick.maunder@cotswold.gov.uk</a>
Accountable officer	Justin Hobbs (Tree Officer, Heritage & Design) Email: <a href="mailto:Justin.Hobbs@publicagroup.uk">Justin.Hobbs@publicagroup.uk</a>
Summary/Purpose	To consider comments of objection and support to the making of Tree Preservation Order 22/00005/IND in respect of a tree at Waterfront Tea Room, Victoria Street, Bourton on the Water.
Annexes	<b>Annex A</b> – Tree Preservation Order 22/00005/IND (Plan & Schedule) <b>Annex B</b> – Cotswold District Council Tree Preservation Order Appraisal Form <b>Annex C</b> – Photographs of the tree <b>Annex D</b> – Tree Maintenance Ltd Report in support of objection to the making of the TPO
Recommendation(s)	<i>To confirm TPO22/00005/IND</i>
Corporate priorities	<ul style="list-style-type: none"><li>• Delivering our services to the highest standards</li><li>• Responding to the challenges presented by the climate crisis</li></ul>
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Heritage and Design Manager, Chair of the Planning and Licensing Committee and the local Ward Members.



## I. BACKGROUND

I.1 A Section 211 Notification to remove a Black Walnut tree in the Bourton-on-the-Water Conservation Area at Waterfront Tea Room, Victoria Street was received by the Council on 18/05/2022. Ref 22/01728/TCONR.

I.2 Although not a requirement to do so, the Notice provided reasoning for felling the tree. These were, as stated on the Notice:

*The tree has dangerous snapped limbs overhanging the public footpath and when in leaf will become heavy and have increased risk of falling. The root are severely lifting the pavement and patio area and are causing a trip hazard on a busy high street. The roots are at risk of causing structural damage to properties near by.*

I.3 The public visual amenity of the tree was assessed and it was considered expedient to serve a TPO to prevent the tree from being felled without other options being explored in response to the reasoning provided on the Notice. Cotswold District Council Tree Preservation Order Appraisal Form is included in **Annex B**.

I.4 The reasons for making the TPO were given on the relevant TPO notice as:

*A section 211 Notice has been submitted to fell this tree. The tree is worthy of a TPO by virtue of its public amenity value. The tree is a prominent arboricultural feature and a highly visible asset to the Bourton on the Water Conservation Area.*

I.5 Photographs of the tree are included in **Annex C**.

I.6 Following consultation with the Chair of the Planning (Regulatory) Committee and the local Ward Member, the TPO was served on 21/06/2022.

I.7 Under the provisions of the legislation the TPO takes effect immediately but must be confirmed by the Council within six months if it is to take permanent effect. Prior to confirming a TPO, the Council must thoroughly consider any objections and/or representations that have been made.

I.8 There were 3 representations received objecting to the Section 211 Notification (22/00291/TCONR) to fell the tree, and 2 in support of the Notification.



## 2. MAIN POINTS

- 2.1 An email from the Deputy Area Manager For Gloucestershire Highways was received 21/06/2022 stating:

*I do not object to the making of the TPO, but consideration must be given to the maintenance liability experienced by GCC directly because of the tree and the risk to pedestrians who use the path by the tree.*

- 2.2 A letter of objection to the making of the TPO from the owner of the property was received 01.07.2022. The letter states the reasons for objecting as:

- 1) *The roots have lifted the public footpath which is a danger to the public; people are constantly tripping on the uneven pavement and shout abuse at my tenants.*
- 2) *The roots have also made the patio in the garden of the tearoom uneven and again this is a danger to the public.*
- 3) *There is at least one dead branch in the tree and it is just hanging and if it falls could hit someone and cause injury.*
- 4) *The highways department have taped around the outside of the tree on the public footpath and put up plastic barriers which looks unsightly and can surely only be a temporary solution.*
- 5) *Even if the pavement is repaired it won't be long before the roots push it back up again.*
- 6) *The roots are at risk of causing structural damage to the nearby properties including the Waterfront Tea Room which is a listed building.*

- 2.3 An email from the Parish Council was received on 14/07/2022 objecting to the TPO being made permanent (i.e. being confirmed).

- 2.4 A report objecting to the making of the TPO on behalf of the owner by Tree Maintenance Ltd was received 27/07/2022. Refer to **Annex D** for the full report. The report concludes:

*Although the tree has significant amenity value, its size, restricted growing environment and potential for future growth will continue to cause ongoing damage and create unacceptable liability for the owner and/or occupiers of the Tea Room and restaurant.*

*The boundary, footpath and paving cannot be permanently repaired, and any works undertaken with the tree retained will be only temporary, resulting in ongoing and unreasonable costs.*

*The short-term loss of visual amenity would be regrettable; however, this is somewhat mitigated by the presence of the adjacent semi-mature Lime which is*



*currently suppressed by the Walnut but could be allowed to reach its full potential by the removal of the Walnut.*

2.5 At the request of the Parish Council a site meeting was held on 15/08/2022 with your tree officer, the property owners, representatives from the parish council, and the Highway's Deputy Area Manager present to discuss the matter.

2.6 Following the meeting, an email was received from the Parish Council withdrawing their objection to the making of the TPO permanent (i.e. confirming the TPO) on 23.08.2022.

## 2.7 Officers Response

- In accordance with Government guidance a TPO was served in the first instance to offer immediate protection to the tree and allow other options to be investigated in response to the reasons given for removal.
- The making and confirmation of the TPO does not prevent applications for works in the future, and these are likely to be granted consent, if the reasoning for the works is appropriate.
- Assessment and inspection could find no significant physiological or structural defects with the tree. One dead branch in the upper canopy was noted and the owner informed that no application would be required to remove this.
- No evidence or reports has been submitted regarding any alleged damage to the main building at the address.
- The roots' impact on the adjacent public footpath will be addressed in early December, at which time the footpath is going to be repaired. Your officer will be present during the repairs and it may be possible to prune a small number of roots to assist with the repairs.
- There are alternative options and solutions to felling the tree available in regard to the patio area. Possible options include replacing patio slabs around the tree with gravel.
- The ultimate size and spread of the tree will be dictated by the immediate environmental conditions it is growing in, and around. It is highly unlikely that this tree would reach the dimensions and size it would in its natural setting. The size and spread of the tree can be managed through appropriate pruning, if this is required.
- An adjacent lime tree would not replace the amenity value that *both* these trees currently provide.



- Being located centrally within the village, and appreciated by huge numbers of tourists and local residents alike, this prominent tree provides significant amenity value, and enhances the Bourton on the Water Conservation Area.

### **3. CONCLUSIONS**

- 3.1 Assessment of the tree, and the alternative solutions available to resolve inconveniences associated with the tree, indicates it is expedient to confirm the TPO.

### **5. FINANCIAL IMPLICATIONS**

- 5.1 None.

### **6. LEGAL IMPLICATIONS**

- 6.1 The TPO is a legally binding document.

### **7. RISK ASSESSMENT**

- 7.1 No risks identified.

### **8. EQUALITIES IMPACT**

- 8.1 None.

### **9. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS**

- 9.1 The retention of old trees has both climate mitigation and ecological benefits.

### **10. ALTERNATIVE OPTIONS**

- 10.1 To not confirm the TPO.

### **11. BACKGROUND PAPERS**

- 11.1 The following documents have been identified by the author of the report in accordance with section 100D.5(a) of the Local Government Act 1972 and are listed in accordance with section 100 D.1(a) for inspection by members of the public:

- None.

(END)