



Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	PLANNING AND LICENSING COMMITTEE – 09.09.2026
Subject	TREE PRESERVATION ORDER – 26/00002 – THE FOLLY, WEST END GARDENS, FAIRFORD
Wards affected	Fairford North
Accountable member	Cllr M Vann Email: michael.vann@cotswold.gov.uk
Accountable officer	Justin Hobbs (Tree Officer, Natural, Built and Historic Environment) Email: justin.hobbs@cotswold.gov.uk
Report author	Justin Hobbs (Tree Officer, Natural, Built and Historic Environment) Email: justin.hobbs@cotswold.gov.uk
Summary/Purpose	To consider the Tree Preservation Order (TPO) made on trees at The Folly, West End Gardens, Fairford. To determine whether the TPO should be confirmed, confirmed subject to modification, or not confirmed.
Annexes	Annex A – Site location and locations of protected trees Annex B – CDC TPO Assessment for the site. Annex C – Photographs of the trees subject to the TPO Annex D – H Copies of objections to the TPO
Recommendation(s)	That Planning and Licensing Committee resolves to: Confirm TPO 26/00002 as made
Corporate priorities	• Delivering Good Services • Responding to the Climate Emergency • Supporting Communities
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Head of Natural, Built & Historic Environment, Chair of the Planning and Licensing Committee, Ward Member, and Parish Council. Landowner and all interested parties were also served with a copy of the TPO and Notice as per section 6 of the Town and Country Planning (Tree reservation) (England) Regulations 2012.



1. EXECUTIVE SUMMARY

- 1.1 This report is to appraise members of a Tree Preservation Order (TPO) at The Folly, West End Gardens, Fairford (CDC ref TPO 26/00002).
- 1.2 Following objections to a granted Planning in Principle application for housing on site which indicated tree loss, an assessment to determine the expediency of making a TPO was undertaken.
- 1.3 Section 198 of the Town & Country Planning Act 1990 allows the Council to make TPOs if it appears expedient in the interests of amenity. The assessment indicated that it was expedient to make a TPO to protect some trees on site. The TPO was made and served on 08.04.2026.
- 1.4 The Council must decide within 6 months of making a TPO to either confirm the TPO (i.e. make the TPO permanent), confirm the TPO subject to modifications (for example by omitting certain trees from the TPO schedule), or to not confirm the TPO.
- 1.5 Objections to, and support for, the TPO have been submitted to the Council. The Council has a legal obligation to thoroughly consider objections and/or representations made regarding the TPO.
- 1.6 This report considers and responds to the grounds for objection.
- 1.7 The conclusion of the report is a recommendation that the TPO is confirmed as made.

2. BACKGROUND

- 2.1 The site is located to the north east of Fairford Town centre along The Welsh Way, a well-used former drove road. It consists of a 19th century dwelling set within generous grounds managed as lawned areas and areas for growing food. Trees are scattered throughout the site, particularly around the dwelling and frontage along the road. A public footpath runs along the driveway into the site and exits the site along the eastern boundary.
- 2.2 The site was subject to a full planning application for housing in 2024 (CDC ref 24/00998/FUL) which was refused, and the subsequent appeal dismissed.
- 2.3 In March 2026 a Permission in Principle (PiP) planning application (CDC ref 26/00229/PLP) was granted consent for residential development comprising the erection of a minimum of 5 and a maximum of 6 dwellings.
- 2.4 The PiP application resulted in objections, including from the Town Council to potential tree loss on site. In response to the application, CDC tree officers visited site and undertook an assessment to determine the expediency of making a TPO. The assessment indicated three groups of trees and one individual tree were worthy of a TPO.
- 2.5 On 08.04.26 and in line with the legislation relating to TPOs, all interested parties were served with a copy of the TPO and a Regulation 5 Notice.



- 2.6 The Regulation 5 Notice included the reasons for making the TPO as:

The trees contribute significantly to public visual amenity in the locality. The site is a potential development site and the TPO ensures the trees will be fully considered in any future decisions that affect it.

- 2.7 Under the provisions of the legislation the TPO takes effect immediately but must be confirmed as it was made or confirmed subject to modifications by the Council within six months if it is to take permanent effect. Prior to doing this, the Council must thoroughly consider any objections and/or representations that have been made.

- 2.8 The regulations relating to TPOs allow for a 4-week consultation period from the date the TPO is served for written representations to be submitted to the council. After this period has passed, it is for the Council to determine whether to take account of any further representations.

- 2.9 Refer to **appendix A** for site location and locations of protected trees.

- 2.10 Refer to **appendix B** for TPO assessment form.

- 2.11 Refer to **appendix C** for photographs of the trees.

- 2.12 Within the four week consultation period **nine** written submission in support of the TPO were received and **five** objections.

- 2.13 The supporting comments are broadly similar and can be summarised by one of the submissions:

I write to express my strong support for the permanent confirmation of Tree Preservation Order TPO 26/00002, specifically relating to trees T1, G1, G2 and G3 at The Folly, West End Gardens.

These trees make a significant, highly visible and attractive contribution to public amenity. The site occupies a prominent position, with open farmland to the rear and western boundary, and frontage onto Welsh Way, a well-used B road. This openness greatly increases the public visibility of the trees and their importance within the wider landscape.

In addition, the trees provide an important landscape buffer at the settlement edge, forming a natural transition between the built environment and surrounding agricultural land. Their removal would result in a clear and harmful erosion of local character and visual quality.

The trees also contribute to biodiversity, habitat continuity and climate resilience, and provide valuable screening to neighbouring properties, including New Merton to the east.

It is particularly important that these trees are protected given the site's status as a potential



development site, and the clear risk of pre-emptive removal prior to the proper determination of any planning application.

The permanent confirmation of this TPO is therefore necessary, justified and consistent with the National Planning Policy Framework, ensuring that these important trees are properly considered and retained wherever possible.

3. THE GROUNDS FOR OBJECTION TO THE TPO

3.1 The full objection submissions can be found in appendices D to H and members are urged to consider them fully.

3.2 To assist members, the grounds for objections are summarised below:

1. The amenity value of the trees:

"the trees proposed for protection are not particularly attractive, they do not provide a level of public amenity that would justify the making of a TPO"

"do not represent any historic value to the town or any link to historic woodland"

"the trees identified in the TPO make a limited contribution to public amenity in their current form and condition."

2. The ecological value of the trees:

"the trees identified within the temporary TPO are of comparatively low ecological value in the context of what is proposed."

3. The condition of the trees:

"several of the trees have limited remaining contribution and/or the remaining are of poor form."

4. Impact on the future of the site:

"The TPO, if confirmed in its current form, would jeopardise a scheme designed to optimise the use of land within the settlement boundary in a sustainable manner."

"the imposition of the TPO presents a risk of devaluing my property"

5. Beneficial aspects of future site plans are greater and override the value of the trees protected by the TPO:

"A sympathetic removal of the identified trees, coupled with a robust replacement planting scheme, would deliver a stronger long-term landscape framework in which trees, residents, buildings and public amenities can thrive."



4. OFFICER RESPONSE

4.1 The grounds for objections are considered as follows.

4.2 Grounds for objection 1 (amenity value)

4.2.1 Government Guidance (Tree Preservation Orders and trees in conservation areas - Paragraph: 007 Reference ID: 36-007-20140306) states:

'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.

Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

And at Paragraph: 008 Reference ID: 36-008-20140306:

When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way

4.2.2 The Council has developed a structured methodology for assessing the amenity value of trees when deciding whether a TPO is expedient (appendix B).

4.2.3 Not all trees on site were considered to be worthy of a TPO. Only those shown to be prominent and/or those clearly visible from public place (the road and/or the public footpath) are protected.

4.2.4 The number of individual supporting representations indicates that there is public support for the protection of trees on this site, and that the TPO brings a reasonable degree of public benefit presently and into the future.

4.3 Response to grounds for objection 2 (ecological value)

4.3.1 All trees will have some ecological value. Unless trees being considered for a TPO are ancient or veteran trees, the ecological value of trees is not a primary factor when considering expediency for making a TPO.

4.3.2 None of the trees protected by the TPO are ancient or veteran and, as explained at 4.2.1, The primary factors to be considered when making a TPO are the interests of amenity.

4.4 Response to grounds for objection 3 (tree condition)

4.4.1 It is accepted that some of the apple trees in tree group G3 could be classed as being "over mature". However, at the time of assessment officers did not consider their condition so poor that they present a significant risk to the public.



4.4.2 No obvious risk features or significant health and safety concerns were noted at the time of assessment by officers in other trees.

4.4.3 The making and confirmation of the TPO does not prevent applications for works in the future. Such applications would be treated on their merits.

4.5 Response to grounds for objections 4 & 5 (impact on site future)

4.5.1 As the site is outside a Conservation Area, and without a TPO in place, these trees could have been removed at any time.

4.5.2 The making and confirming of a TPO does not explicitly prevent development. Rather, it helps to ensure that the trees are fully considered in any future changes in land use.

4.5.3 A Permission in Principle establishes the principle of development (land use, location and amount of development). It does not grant operational development rights and does not authorise works to protected trees.

4.5.4 If a site with an extant Permission in Principle permission contains TPO trees, the applicant must still:

- Apply separately for TPO consent or
- Address tree impacts at the Technical Details Consent stage, where the Council can refuse, grant consent subject to conditions such as those relating to tree protection measures and new tree planting.

4.5.5 Alternatively, the granting of full planning permission may allow for TPO trees to be removed if this is required to implement the permission. The Council can again require conditions such as tree protection and new tree planting.

4.5.6 If a Technical Details Consent application, or a Full planning application is submitted that satisfactorily mitigates or compensates for tree loss through new and appropriate tree planting that secures long term amenity benefits greater than that currently provided by the protected trees, this may be viewed favourably from an arboricultural perspective.

5. ALTERNATIVE OPTIONS

5.1 To not confirm the Order.

5.2 To confirm the Order subject to modification.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications for the Council

7. LEGAL IMPLICATIONS

7.1 There are no legal implications of this report beyond those associated with the serving of a TPO.



8. EQUALITIES IMPACT

8.1 There are no equalities impacts related to this report.

9. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS

9.1 The protection and retention of trees can provide both climate emergency and nature recovery benefits.

10. BACKGROUND PAPERS

10.1 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)