

# TREE PRESERVATION ORDER REPORT



Application Number	TPO 531 332 Old Laira Road, Plymouth
Date Valid	

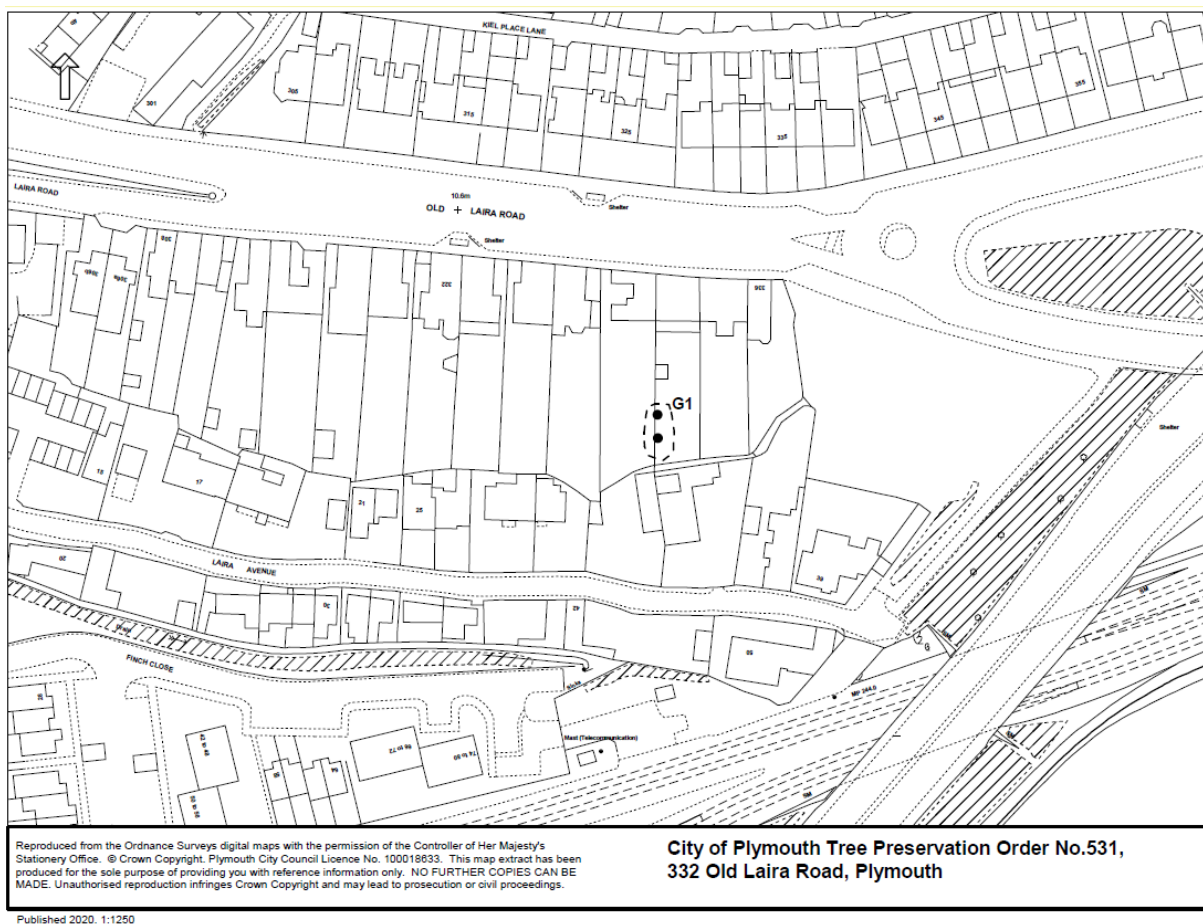
Item	02
Ward	Efford and Lipson

Site Address	332 Old Laira Road		
Proposal	Objection to Tree Preservation Order no.531 332 Old Laira Road.		
Applicant			
Application Type			
Target Date		Committee Date	11/2/21
Decision Category			
Case Officer	Jane Turner		
Recommendation	To confirm TPO 531 without modification.		

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## I. Background and description of site

- I.1 Under delegated authority on the 12<sup>th</sup> August 2020 a group Tree Preservation Order (TPO) was placed on two Monterey Cypress (*Cupressus macrocarpa*) trees at 332 Old Laira Road following a request from a local resident concerned that the trees were going to be removed by a new owner.
- I.2 The site is the rear garden of 332 Old Laira Road, located at an elevated location above Laira Avenue. The Two Monterey Cypress trees that have grown together are situated near the boundary with 330 Old Laira Road and overhang this property as well as 33 Laira Avenue located below.
- I.3 One of the two trees has been reduced in height in the past and the other tree closest to 332 Old Laira Road which originally had 3 stems has had the stem closest to the house removed in the past. More recently the new owner had most of the branches removed on one side of one of the two remaining stems just prior to the TPO being made.



### **Tree Preservation Order No. 531 map showing location of trees**

- I.4 The trees are a prominent feature and make a contribution to the visual amenity of the local area being visible from the adjacent Old Laira Road, Laira Avenue and to all those who use Embankment Road from where they can be clearly seen as you leave or enter the City. In addition they have biodiversity interest. They were protected as a group due to their close proximity to each other.
- I.5 Objections to the Order have been received from the new owner that remain unresolved and the owner of a property in Laira Road. In accordance with our delegated procedures this report has been prepared for the Planning Committee to decide whether or not to confirm the order subject to modifications.

In addition to the objection to the order an application to:-

T1 Monterey Cypress - reduction of lower crown on south side over Laira Avenue by 2m.

T2 Monterey Cypress - reduce height of two stems by approximately 8m to point indicated in the submitted photo and a reduction of the remaining lateral branches over the neighbour's property at 330 Old Laira Road of 1 to 2m to partially redress the balance.

has been submitted on behalf by the new owner Ms Paton based on her Arborist report from Kristian Chesterman of All Arboriculture.

- I.6 The Council is minded to grant permission for works to the trees for reasons of safety but due to legitimate issues raised by local residents in relation to protected species, the condition of the trees, risk to nesting birds and disposal of wood has asked the owner for an extension of time until May 2021 to determine the application so these matters can be addressed. The owner has agreed to this extension.
- I.7 In the meantime the temporary order to protect the trees is due to expire on the 12<sup>th</sup> February hence the need for the Committee to decide whether or not to confirm the order.

**View of GI (2 Monterey Cypress) from Embankment Road**



**TPO 53I view of GI from owners garden 332 Old Laira Road.**



**TPO 53I view of GI from neighbours garden 330 Old Laira Road**





## View from Laira Avenue



### 2. Pre-application enquiry

N/A

### 3. Relevant correspondence/history (available on request)

Tree Preservation Order No. 531

e-mail requesting Tree Preservation Order

2x Letter of objection to TPO and tree report from All Arboriculture

5x letters of support for TPO

Tree Preservation Application for work to the trees

### 4. Consultation responses

See below

### 5. Representations

#### Objections

Written objections to the making of the order have been received from the owner Ms Paton and a resident who lives in 33 Laira Avenue below the tree. The objections can be summarised as follows:-

**Mrs Paton 332 Old Laira Road** – objects to the protection of the two trees in the group for the following reasons:-

- 1) Serious and imminent danger to our neighbours in Old Laira Avenue whom have requested the tree to be reduced.
- 2) Detrimental impact on house value for our neighbours in Old Laira Avenue
- 3) Detrimental effect to light on our neighbours in Old Laira Avenue

- 4) The over mature nature of the trees
- 5) The over size of the trees
- 6) The previous mismanagement of the trees
- 7) Prominent elevated position – risk of lightning strike, fear of storm damage
- 8) Screening value – consider this is minimal due to height of trees
- 9) Public amenity value – works already carried out have effectively ruined the “look” of the tree

### **Mr and Mrs Coombs 33 Laira Avenue**

Main concern is the height and spread of the 2 Monterey Cypress trees on their neighbour's property at 332 Old Laira Road and if the trees, or their branches were to fall they would cause significant damage to their home which is located at a lower level. They would like them reduced but retained for wildlife.

### **Support**

5 Letters of support have been received from:-

Mr. Attwell of 330 Old Laira Road,

Helen Brookes from 330 Old Laira Road,

Tess Muttlebury of 330 Old Laira Road,

Mrs Muttlebury 334 Old Laira Road and

Mr Gray of 334 Old Laira Road, Plymouth.

Dr Edgcumbe of Banbury

Their reasons for requesting and supporting the TPO are similar and are summarised as follows:

- The trees provide an important habitat for nesting birds and potential bat roost. They support bees and insects. Birds that use the trees include, Crows, Pigeon, Heron and Owls.
- Significant landmark seen from Embankment Road and further afield
- They screen the view of the Laira Rail Depot
- Act as a buffer to noise, light and air pollution from Laira rail depot and Embankment Road.
- Help stabilise the slope
- Benefit to health and wellbeing; benefit of greenery to mental health
- Part of the historic Village of Laira

## **6. Relevant Policy Framework**

Plymouth's Plan for Trees

**Protect** – We will *protect* Plymouth's special trees and woods for future generations:

- Identify existing tree cover and its condition across the city to understand the variety, number and quality of trees within Plymouth
- Maintain an updated record of the extent and make-up of Plymouth's trees and woodlands;
- Update, review and create new strategies and guidance to ensure that trees are an important element of the sustainable growth of the city;
- Use all available planning and forestry legislation and powers to safeguard Plymouth's trees.

DEV28 Trees, woodlands and hedgerows of the Joint Local Plan.

Development that would result in the loss or deterioration of the quality of:

Ancient woodland, aged or veteran trees or impact on their immediate surroundings;  
Other woodlands or high amenity trees including protected trees;  
Important hedgerows including Devon hedgebanks; will not be permitted unless the need for, and benefits of, the development in that location clearly outweigh the loss and this can be demonstrated.

## **7. Analysis**

7.1 Outlined below is the Natural Infrastructure Officer's response to the objections raised in order:-

### **1) Serious and imminent danger to our neighbours in Laira Ave**

A Tree Preservation Order assessment form was used to decide whether or not the trees were considered worthy of protection. Consideration is based on visual amenity, tree health, impact on surrounding structures and special factors such as age, habitat and climate change.

When the order was served, the Natural Infrastructure Officer viewed the trees from the garden and considered that the trees were in reasonable condition but acknowledged that there was an area of the crown in the taller tree that had died back. This was discussed with the owner at the time and explained that the removal of deadwood is exempt and does not need permission to be removed. At the time of the officer's visit, most of the branches had been removed from one stem of the tree closest to the house, before the TPO was served.

The owner's Tree Consultant carried out a Tree Risk Assessment dated 3<sup>rd</sup> September 2020 of the trees that states that both trees are in moderate condition and over mature. The works recommended were considered in the report as medium priority and the trees have a life expectancy of between 6-25 years. Nowhere in the report does it state that the trees are in serious and imminent danger of failing.

The serving of the TPO does not prevent an owner or neighbour from applying for works to the part of the tree that overhangs their property – the Council is not likely to refuse consent for reasonable pruning works.

### **2) Detrimental impact on house value for our neighbours in Old Laira Avenue**

This is not a matter the Council can take into consideration when assessing a tree for a TPO. It considers the impact on surrounding structures e.g.; property but as these trees are a reasonable distance from the property in Laira Avenue and Old Laira Road this was not considered to be an issue.

### **3) Detrimental effect to light on our neighbours in Old Laira Avenue**

The objector from Laira Avenue has not raised the issue of light to their property in their objection letter summarised above. The trees are located to the north of the property in Laira Ave and therefore would not have an impact on access to sunlight.

### **4) The over mature nature of the trees**

The trees are undoubtedly mature, but it does not follow that this maturity makes them dangerous. The Tree Risk Assessment report states they are over mature and in final stages of life

but also of moderate condition and fair vitality. It is the Natural Infrastructure Officer's view that they are in reasonable condition for their age and may have a life expectancy of up to 20 years.

#### 5) The over size of the trees

Being large trees does not necessarily mean that they require maintenance or that they are dangerous. Trees adapt to the location they grow in and put out roots accordingly to maintain their health and stability. As long as there has been no damage to their rooting system e.g.: through change in levels/excavation or disease a tree is unlikely to fail. Although this should be caveated – 'in exceptionally high winds even the healthiest tree can be impacted'.

The shorter tree closest to Laira Avenue has been reduced in height in the past. This type of tree does not regrow from the top and so is not getting taller. The adjacent tree is significantly taller and as it has been recently exposed on one side through the removal of branches, the Council considers that some form of reduction should be carried out to ensure it is safe going forward. This is the subject of a current tree work application.

#### 6) The previous mismanagement of the trees

Officers do not know the reasons why previous works were carried out to these trees. The tree closest to Old Laira Road originally had 3 stems. The closest of the 3 stems to the house was removed by a previous owner. The other tree closest to Laira Ave has had its top removed in the past.

#### 7) Prominent elevated position – risk of lightning strike, fear of storm damage

The trees are prominent being in an elevated location hence their high amenity value. No evidence of a lightning strike or storm damage has been described in the tree risk report. They have grown together as a group and shelter each other. However, since the recent removal of branches on one side of one of the stems, the Council does consider that the taller tree is now more exposed and vulnerable to potential storm damage and considers that some form of reduction should take place to address the imbalance whilst retaining the trees for amenity and wildlife. This is the subject of a current tree work application.

#### 8) Screening value – consider this is minimal due to height of trees

It is clear that the supporters of the TPO do not agree that the screening value of the trees is minimal. They have all referred to the screen that the trees provide and provided photos to illustrate this. Officers consider the trees do have some screening value.

#### 9) Public amenity value – works already carried out have effectively ruined the "look" of the tree

It cannot be denied that the recent removal of branches on one side of one of the 2 trees has reduced its amenity value when viewed from certain angles. However, despite this the Council still considers that the trees are prominent in the area and even if the taller tree is reduced, as a group they will still have amenity value.

7.2 The existence of the TPO will not prevent any regular inspections or any urgent work being carried out when required by the owner. Officers consider that the group can be safely retained to provide amenity, continue to benefit the local wildlife, provide screening, filter pollution and provide a positive impact on health and well-being.

7.3 If a branch is imminently dangerous e.g.: broken/hanging down then the minimum work necessary to make it safe can take place without the need to apply as long as the owner notifies us soon after the event.

7.4 To conclude, a TPO does not prevent the sensible management of trees. It gives the Council control over what works are carried out through the TPO application process. It is acknowledged



that some work should take place to both trees for maintenance/safety reasons and the Council will not withhold reasonable consent for works. However, it is not accepted by officers that there is justification to remove the order from this group of two trees.

## **8. Human Rights**

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

## **9. Local Finance Considerations**

There are no additional financial costs arising from the imposition and administration of the Order that are not included in existing budgets.

## **10. Equalities and Diversities**

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty and has concluded that the application does not cause discrimination on the grounds of gender, race and disability.

## **11. Conclusions**

It is considered that the objections raised with regard to the TPO do not justify the removal of the TPO from this group of 2 trees. It is the Council's view that many of the objections can be overcome by the granting of specific works under a TPO application that is currently being considered.

## **12. Recommendation**

To confirm TPO 531 without modification.

## **14. Conditions**

Not applicable