

TREE PRESERVATION ORDER REPORT



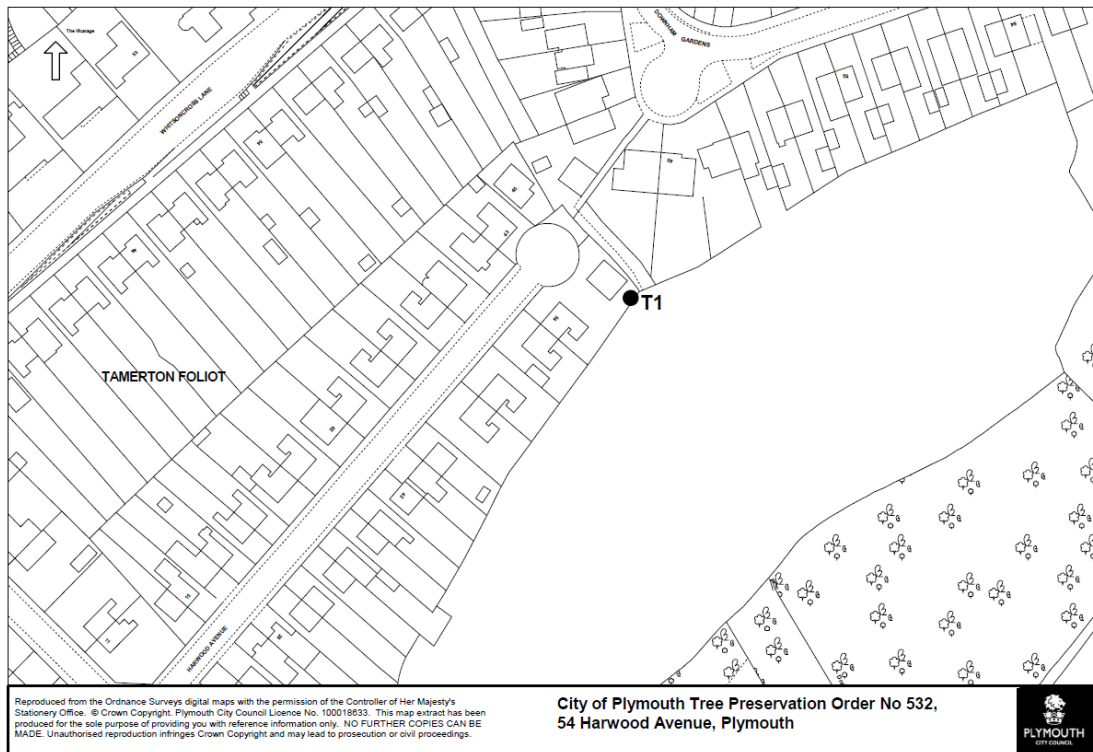
Application Number	TPO 532 54 Harwood Avenue	Item	01
Date Valid		Ward	SOUTHWAY

Site Address	54 Harwood Avenue, Tamerton Foliot		
Proposal	Objection to Tree Preservation Order No.532 54 Harwood Avenue.		
Applicant			
Application Type			
Target Date		Committee Date	11/3/2021
Decision Category			
Case Officer	Jane Turner		
Recommendation	To confirm TPO 532 without modification.		

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I. Background and description of site

- I.1 Under delegated authority on the 18th September 2020 a Tree Preservation Order (TPO) was placed on a Turkey Oak at 54 Harwood Avenue following an assessment and a request from a local resident concerned that the tree may be removed for a new development.
- I.2 The site is 54 Harwood Avenue at the top of a cul-de-sac in Tamerton Foliot. It is currently occupied by a semi-detached property with a large side garden and garage, the tree is located behind the garage near a field. An application to build a 3 bedroom dwelling next to 54 Harwood Avenue has recently been granted planning permission.



Tree Preservation Order No. 532 map showing location of tree

- I.3 The tree is a prominent feature of the site and makes a contribution to the visual amenity of the local area. It is visible as you drive up Harwood Avenue, from the cul-de-sac, various surrounding properties and can be seen by all those that use the footpath between two residential estates.
- I.4 The Natural Infrastructure Officer visited the site on 22nd October 2020 to discuss the owner's concerns about the order. The owner then submitted a letter detailing his reasons for objecting to the TPO on the 30th October 2020 which are summarised in section 4 below. The Council responded to the owner's concerns but objections still remain unresolved. In accordance with the Council's Planning Committee Terms of Reference this report has been prepared for the Planning Committee to decide whether or not to confirm the order subject to modifications.



TPO 532 view of tree from cul-de-sac turning circle at top of Harwood Avenue



TPO 532 view of tree from outside 54 Harwood Ave



Google Earth image showing location of property

2. Pre-application enquiry

N/A

3. Relevant correspondence/history (available on request)

Tree Preservation Order No. 532

e-mail requesting Tree Preservation Order

Letter of objection to TPO and Council response.

4. Representations

Objection

Received from owner of 54 Harwood Avenue summarised as follows:-

- The Arboricultural report submitted with the Planning Application 20/00891/FUL describes the Turkey Oak as class C Low Quality.
- It is the intention to keep and protect the tree but if it cannot be retained, an Ash that is to be removed due to Ash die back, would be a suitable location for replacement planting
- The Planning permission has a pre-commencement condition relating to protection during construction and a condition for protection and retention.
- Do not agree that the tree provides high amenity value and contribution to the street scene, its situation is not on the street, set back and only canopy top is not obscured by the

existing house at 54 Harwood Avenue and the new development. There is no public access and it backs onto an agricultural grass field.

- Do not agree that the tree is Widely Visible it is:-
 - at the end of a quiet cul-de-sac where there is little traffic
 - there are a very small number of houses that actually have a direct line of sight to the tree.
 - the tree is part of the agricultural landscape and not standing out from other side of valley.
- Telephone line wires run through the tree and regular trimming is necessary to protect these; having to gain this permission is considered an unnecessary hindrance and burden.

Support

A request for a TPO to be made was received in writing which is summarised below :-

- Concern that the Oak tree on the land will be felled following notification of a proposed development at 54 Harwood Avenue, Tamerton Foliot to demolish their garage and construct a 3 bedroomed house.
- Main concern is that, although in the plans submitted there is no mention of felling the tree, due to the size of the tree and its roots, there is a risk that if planning permission were accepted, it would be felled.

5. 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.

6. Analysis

6.1 A Tree Preservation Order assessment form was used to decide whether or not the tree was worthy of protection. The Tree Preservation Order assessment criteria takes into account more than just the condition of the tree, it assesses presence of other trees, impact close by and far away,

health/structure, maturity, species, size, future management, life expectancy and other special factors such as habitat, screening and climate change. The matters raised in the Arborist Contractor's report submitted with the Planning Application relate solely to individual tree structure/health and proximity of adjacent property. The tree surveyor categorized the Turkey Oak as a 'C' unremarkable tree of very limited merit or such impaired condition they do not qualify for higher categories. Officers do not agree that this is an unremarkable tree, it is mature and has been identified as being in fair structural and physical condition. Its safe useful life expectancy is considered to be more than 20 years. This categorisation is used as a tool for assessing trees in relation to development and is inevitably subjective.

6.2 Planning consent has recently been granted for a dwelling on the site with the Oak being retained. However, the planning condition only confers temporary protection/control (5 years) after which the tree could be removed. The Tree Preservation Orders and Trees in Conservation Area government Guidance recommends that local authorities apply TPOs where long term retention of trees is desirable:-

'But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.'

6.3 The owner states their intention is to retain the tree but also implies that if this is not possible it could be replaced. The justification for the TPO, therefore, results from the fact that in the future there is likely to be a new owner and that the Local Planning Authority has a duty to consider making Tree Preservation orders in relation to new development proposals where there are important trees. *'When granting planning permission authorities have a duty to ensure, whenever appropriate, that planning conditions are used to provide for tree preservation and planting. Orders should be made in respect of trees where it appears necessary in connection with the grant of permission'* (extract from Tree Preservation Orders and Trees in Conservation Area government Guidance).

6.4 The Turkey Oak, is in the officers' opinion, a healthy tree with amenity and wildlife value that can be quite easily seen. It can be seen as you drive up Harwood Avenue, by properties in Harwood Avenue, from properties in Downham Gardens, and by those who use the footpath that connects the two estates at the top of the cul-de-sac, as well as across the valley. Although it does not stand out as an individual across the valley it forms part of the treed landscape.

6.5 With regards to the telephone wires, the clearance of these cables can be granted as an ongoing consent under the TPO to reduce the burden of having to apply each time the branches interfere with the wires. The application process is not an onerous one and there is no charge. In addition if branches cause an actual fault with the line, utility providers are exempt from the need to gain consent under the TPO to rectify a fault.

6.6 To conclude, a TPO does not prevent the sensible management of a tree and is not an onerous process. It gives the Council control over what works are carried out. It is acknowledged that some pruning/reduction may be required in the future as the tree grows and to keep the cables clear. However, it is not accepted that the process to achieve this is unreasonable. Control over what works take place under the Planning condition that has been applied to the Planning Permission for a dwelling only applies for 5 years after commencement of development. A TPO is therefore considered justified for long term protection. The Council is not likely to refuse consent for reasonable pruning works.

7. 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.

8. 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.

9. 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.

10. Conclusions

It is considered that the objections raised with regard to the TPO do not justify the removal of the Tree Preservation Order and it should therefore be confirmed to ensure long term protection.

11. Recommendation

To confirm TPO 532 without modification.

12. Conditions

Not applicable