

## **REPORT FOR THE TAUNTON DEANE PLANNING COMMITTEE, 20<sup>th</sup> JUNE 2018**

### **Objections to Taunton Deane Borough Tree Preservation Order TD1135, (Taunton No.1) 2018, 100-110 (evens) and 155-169 (odds) Firepool View**

**The Tree Preservation Order protects 14 birch trees. The trees were planted about five years ago, as part of the agreed landscape scheme for this Crest Nicholson Firepool development (reserved matters application 38/11/0596).**

### **RECOMMENDATION**

It is recommended that the Tree Preservation Order is confirmed, unmodified.

### **Background**

The Tree Preservation Order (TPO) was served on 4th January 2018.

The grounds for serving the TPO was stated as follows:

*The trees are healthy and have high amenity value. They were planted as part of the landscape scheme for the development. A planning condition ensured their retention for 5 years after planting. This new TPO ensures that these trees are retained once the 5 years has passed.*

### **Procedure**

A Tree Preservation Order comes into force on the day that it is served for a period of 6 months. The TPO lapses after that date unless it has been confirmed by the Council. If there are no objections to the TPO, it can be confirmed. If any objections are received, the points raised must be considered and a decision made as to whether to confirm the TPO, either with or without modification. The decision whether to confirm a TPO that raises objections is taken by members of the Planning Committee.

When deciding whether to serve and confirm a TPO, the present or future public amenity value of the trees must be considered. Tree Preservation Orders are served to protect selected trees if their removal would have a significant impact on the local environment. TPO trees should therefore be visible from a public place, such as a road or footpath.

In assessing a tree's amenity value, consideration must be paid to its visual impact, its health and structural integrity, its life expectancy and its suitability to the location. The tree's potential impact on highways, services and structures should be considered.

## **Representations**

Five representations have been received stating objections to the TPO. Eleven representations have been received in support of the TPO. It is noted that all five objections are from owners of the trees (although some properties are rented), whereas support comes from two owners and nine other addresses nearby on the development.

### **The reasons given for the objections can be summarized as follows:**

- a) The trees are of little aesthetic value, and their amenity value is questionable;
- b) They will become a nuisance as they grow taller and wider, uplifting paving and requiring pruning;
- c) They will be prone to wind-throw as they grow taller;
- d) The species is unsuitable due to its eventual size and shallow roots;
- e) The trees drop debris, such as leaves and seeds, which is a nuisance and potential safety hazard;
- f) The positions of the trees limits any future widening of the parking bays in front of the properties. The lack of a second outside parking bay is a nuisance;
- g) The trees may cause damage to drainage systems, or to foundations.

### **The reasons given in support can be summarized as follows:**

- a) The trees are elegant and attractive, forming a 'landmark avenue'. They are an important part of the aesthetics of the development;
- b) The presence of the trees was an important factor when choosing to live on the development;
- c) Removal of the trees for more parking would spoil the look of the development;
- d) The trees benefit the environment in many ways, such as absorbing CO<sub>2</sub> and pollutants, releasing oxygen, providing habitat for wildlife and improving drainage;
- e) They are an appropriate species, because they are not potentially very large trees, such limes or planes.

## **Determining Issues and Considerations**

The TPO protects fourteen birch trees. The trees were planted by the developer, Crest Nicholson, as part of the agreed landscape scheme, as shown on drawing 80130 by Stride Treglown Tektus. Each tree is in the corner of the front garden of one property, adjacent to the public footpath. In combination, they form an avenue of trees between houses 100-110 and 155-169, running north to south between Trenchard Road and the River Tone.

The development has been designed to be a modern, energy-efficient urban estate, drawing heavily on the fact that it is situated along the north side of the River Tone. It has a distinctive, contemporary feel, in contrast to the more traditional new developments on the outskirts of the town.

The design principles and philosophies are explained in the Design and Access Statements that were submitted for the planning application. The landscape scheme was an important part of the overall design for the development, and was agreed by this planning authority. Below is an extract from part 2 of the statement:

*The internal streets that run perpendicular to the southern boundary of the site are subject to avenue tree planting, helping to frame views to the north and south from the scheme and to help express their importance within the street hierarchy. Tree species are proposed as semi-mature to provide an immediate impact and reduce the likelihood of possible vandalism and have been selected to offer a different character to each street with changes throughout the seasons and strong autumnal colour to enhance the streetscape. Pockets of sensory planting within the streets offer year round interest and increased biodiversity, whilst threshold planting offers residents the opportunity to personalise and take ownership of their surroundings.*

In response to the points raised by the objectors:

- 1) Whether trees are attractive or have aesthetic value is subjective. However, the council considers that these birch trees do have amenity value, because they are a prominent feature of the development, and can be easily seen by the general public. Their amenity value and prominence will increase as they grow.
- 2) Some pruning may be required as the trees grow taller and wider. The removal of the lowest branches (crown-lifting) may help to prevent the branches from obstructing people or car parking in the future. Any proposed pruning works can be applied for by using one of the standard forms. Any dead or dangerous branches can be removed without the need for consent, subject to prior notification to this council in writing.

The roots of trees in urban areas do sometimes lift minor structures such as paving or tarmac. This would not normally be considered justification for not planting trees, or for removing them.

- 3) No healthy tree is totally immune to the effects of extreme winds. However, birch trees have a relatively light and narrow canopy that does allow the wind to pass through more easily than some other species. They will shed minor twigs in high winds, but this would not be considered justification for removing the trees.

As the trees mature and become larger, it would be for the respective owners to make sure that they were as safe as trees can be, by having them regularly inspected by a professional arborist.

- 4) Although birch trees can be quite tall, they are generally considered to have a pyramidal shape that is not particularly wide-spreading. They are not very large trees, such as beech, lime or plane. It is generally thought that most tree roots, of whatever species, are within the top 60cm of soil, because they require air, water and nutrients.
- 5) Trees do drop debris at certain times of the year, such as leaves, seeds or sap. This can be a nuisance, but when weighing this up with the overall benefits of trees, this is not considered to be a sufficient reason for removing or not planting them.
- 6) The protection of the birch trees does limit the opportunity for residents to increase the parking areas in front of their houses. However, the council considers that the trees are an integral part of the overall design of the development, and it would not want to see trees replaced by more car parking, which would be detrimental to the look of the estate.

It would have been clear that each house has two parking spaces. New houses with more parking would have been available elsewhere in Taunton and the surrounding areas. There are places nearby where visitors can park, such as the station. Registered disabled parking could be along Trenchard Way, where there is a single yellow line.

- 7) Trees do sometimes cause damage to drains and pipes. However, this is generally when the drainage system is very old. In this case, the trees should not cause damage, if at all, for many years.

It is highly unlikely that the trees' roots will damage foundations, because these are modern buildings with deep foundations. In addition, birch trees are not considered to be very high water-demanding, and the soils of this area are not heavy clays with high plasticity.

The contemporary design of the buildings, layout and landscaping of this development would be clear to any prospective purchaser of the houses. The overall design is one that the council is pleased with, and would like to preserve. In fact, the tree planting in this street follows some of the garden town principles that the Council is looking to develop further and implement in future developments.

It is therefore recommended that the Tree Preservation Order is confirmed, unmodified.

**Note:** Dead or imminently dangerous branches can be removed from the trees, subject to written notice to the council, giving the council up to 5 days to respond. Applications can be made for the pruning of the trees if necessary, using the standard form or the Planning Portal.



**Richard Bryant**  
**Democratic Services**  
The Deane House, Belvedere Road, Taunton TA1 1HE  
Tel 01823 356414 Fax 01823 356329  
Email r.bryant@tauntondeane.gov.uk

Our Ref: RB/PD22.950/TD1135

Date: 10 January 2018

The Owner/Occupier  
Firepool View (100, 102, 104, 106, 108 & 110)  
Taunton  
TA1 1PS

Dear Sir/Madam,

**Town and Country Planning Act 1990**  
**Taunton Deane Borough (Taunton No.1) Tree Preservation Order 2018**

I enclose a formal Notice of the making of the Tree Preservation Order which affects trees on land in your ownership. I also enclose a certified copy of the Tree Preservation Order and a plan of the affected trees.

A Local Planning Authority may make such an Order if it appears to it that trees or woodlands should be preserved in the interests of amenity. The Order prohibits the cutting down, topping, lopping, uprooting, wilful damage to or wilful destruction of such trees or woodlands without the Authority's prior consent. There may be circumstances where work may be undertaken without the Authority's prior consent, in particular where a tree has become dangerous. Normally the Authority will need at least five days notice of your plan to carry out the works.

If you wish to object or make representations about the Order, I would point out the last paragraph of the attached Notice.

Under Section 330 of the 1990 Act, would you please inform me within 21 days about your interest in the property and the names and addresses of any other persons known to you to have an interest in the land the subject of the Order.

If there is anything you do not understand about the Order please contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R. Bryant', with a horizontal line drawn underneath it.

**Democratic Services Manager**

Enc





**Richard Bryant**  
**Democratic Services**

The Deane House, Belvedere Road, Taunton TA1 1HE  
Tel 01823 356414 Fax 01823 356329  
Email r.bryant@tauntondeane.gov.uk

Our Ref: RB/PD22.950/TD1135

Date: 10 January 2018

The Owner/Occupier  
Firepool View (155, 157, 159, 161, 163, 165, 167 & 169)  
Taunton  
TA1 1NY

Dear Sir/Madam,

**Town and Country Planning Act 1990**  
**Taunton Deane Borough (Taunton No.1) Tree Preservation Order 2018**

I enclose a formal Notice of the making of the Tree Preservation Order which affects trees on land in your ownership. I also enclose a certified copy of the Tree Preservation Order and a plan of the affected trees.

A Local Planning Authority may make such an Order if it appears to it that trees or woodlands should be preserved in the interests of amenity. The Order prohibits the cutting down, topping, lopping, uprooting, wilful damage to or wilful destruction of such trees or woodlands without the Authority's prior consent. There may be circumstances where work may be undertaken without the Authority's prior consent, in particular where a tree has become dangerous. Normally the Authority will need at least five days notice of your plan to carry out the works.

If you wish to object or make representations about the Order, I would point out the last paragraph of the attached Notice.

Under Section 330 of the 1990 Act, would you please inform me within 21 days about your interest in the property and the names and addresses of any other persons known to you to have an interest in the land the subject of the Order.

If there is anything you do not understand about the Order please contact me.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R. Bryant', with a horizontal line drawn through it.

**Democratic Services Manager**

Enc

Systeme der Mathematik (Klausur)

**TOWN AND COUNTRY PLANNING ACT 1990, SECTION 198**

**TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 2012**

**TAUNTON DEANE BOROUGH (TAUNTON NO.1) TREE PRESERVATION ORDER 2018**

To: The Owners/Occupiers of 100, 102, 104, 106, 108 and 110 Firepool View, Taunton, TA1 1PS

The Owners/Occupiers of 155, 157, 159, 161, 163, 165, 167 and 169 Firepool View, Taunton, TA1 1NY

TAKE NOTICE that the Taunton Deane Borough Council in pursuance of their powers as Local Planning Authority under Section 198 of the Town and Country Planning Act 1990 has this day made a Tree Preservation Order (a copy whereof together with the map included therein is enclosed herewith) in respect of:-

Birch Trees on land at 100, 102, 104, 106, 108, 110, 155, 157, 159, 161, 163, 165, 167 and 169 Firepool View, Taunton, TA1.

The said Order contains a direction under Section 201 of the Town and Country Planning Act 1990, the effect of which is explained overleaf.

The grounds for making the said Order are as follows:-

The trees are healthy and have high amenity value. They were planted as part of the landscape scheme for the development. A planning condition ensured their retention for five years after planting. This new Tree Preservation Order ensures that these trees are retained once the five years has passed.

A certified copy of the Order and the map included therein may be inspected without charge at The Deane House, Belvedere Road, Taunton, between the hours of 9.00 a.m. and 4.30 p.m., Mondays to Thursdays and 9.30 a.m. and 4.30 p.m. Fridays.

Should you wish to raise any objections or make any representations with respect to the Order they should be made in accordance with Regulation 4 of the said Regulations (a copy of which is also printed overleaf) and then sent to the Legal Services Manager, Taunton Deane Borough Council, The Deane House, Taunton, within 28 days from the date of the service of the notice of the making of the Order. Every objection or representation shall be made in writing and shall state the grounds thereof and specify the particular tree, group of trees, or woodlands in respect of which it is made.

Signed  .....  
Legal Services Manager

Dated: 10 January 2018

## **NOTES**

### **TOWN AND COUNTRY PLANNING ACT 1990**

Section 201(2) of the Town and Country Planning Act 1990 provides that:-

"Notwithstanding Section 199(1), an Order which contains such a direction (a) shall take effect provisionally on such date as may be specified in it; and (b) shall continue in force by virtue of this Section until:-

- (i) the expiration of a period of six months beginning with the date of which the Order was made; or
- (ii) the date on which the Order is confirmed;

whichever first occurs."

### **THE TOWN AND COUNTRY PLANNING (TREE) REGULATIONS 2012**

#### **"Objections and representations**

4. (1) Subject to paragraph (2), objections and representations:-

(a) shall be made in writing and:-

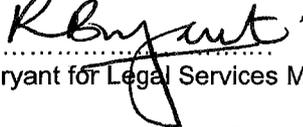
- (i) delivered to the authority not later than the date specified by them under regulation 3(2)(c); or
- (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected."

This is to certify that this is a true and correct copy  
of the Taunton Deane Borough Council (Taunton No.1)  
Tree Preservation Order 2018

  
.....  
R. Bryant for Legal Services Manager

## **Town and Country Planning (Tree Preservation) (England) Regulations 2012**

### **Town and Country Planning Act 1990**

#### **Taunton Deane Borough (Taunton No.1) Tree Preservation Order, 2018**

The Taunton Deane Borough Council in exercise of the powers conferred on them by Sections 198 of the Town and Country Planning Act 1990 make the following Order:-

#### **1. Citation**

This Order may be cited as the Taunton Deane Borough (Taunton No.1) Tree Preservation Order, 2018 (PD.22/950 – TD1135).

#### **2. Interpretation**

- (1) In this Order "the authority" means the Taunton Deane Borough Council.
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

#### **3. Effect**

- (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of Section 198 (Power to make Tree Preservation Orders) or subsection (1) of Section 200 (Tree Preservation Orders: Forestry Commissioners) and, subject to the exceptions in Regulation 14, no person shall:-
  - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of, any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with Regulations 16 and 17, or of the Secretary of State in accordance with Regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

**4. Application to trees to be planted pursuant to a condition**

In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of Section 197 (Planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this tenth day of January 2018

The Common Seal of the TAUNTON DEANE BOROUGH COUNCIL  
was affixed to this Order in the presence of: –



.....  
Duly Authorised Signatory

## SCHEDULE 1

<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
		(See accompanying map)
T1	Birch	Front garden, 100 Firepool View
T2	Birch	Front garden, 102 Firepool View
T3	Birch	Front garden, 104 Firepool View
T4	Birch	Front garden, 106 Firepool View
T5	Birch	Front garden, 108 Firepool View
T6	Birch	Front garden, 110 Firepool View
T7	Birch	Front garden, 155 Firepool View
T8	Birch	Front garden, 157 Firepool View
T9	Birch	Front garden, 159 Firepool View
T10	Birch	Front garden, 161 Firepool View
T11	Birch	Front garden, 163 Firepool View
T12	Birch	Front garden, 165 Firepool View
T13	Birch	Front garden, 167 Firepool View
T14	Birch	Front garden, 169 Firepool View

### **Trees specified by reference to an area** (within a dotted black line on the map)

<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
None		

**Groups of Trees**  
(within a broken black line on the map)

<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
None		

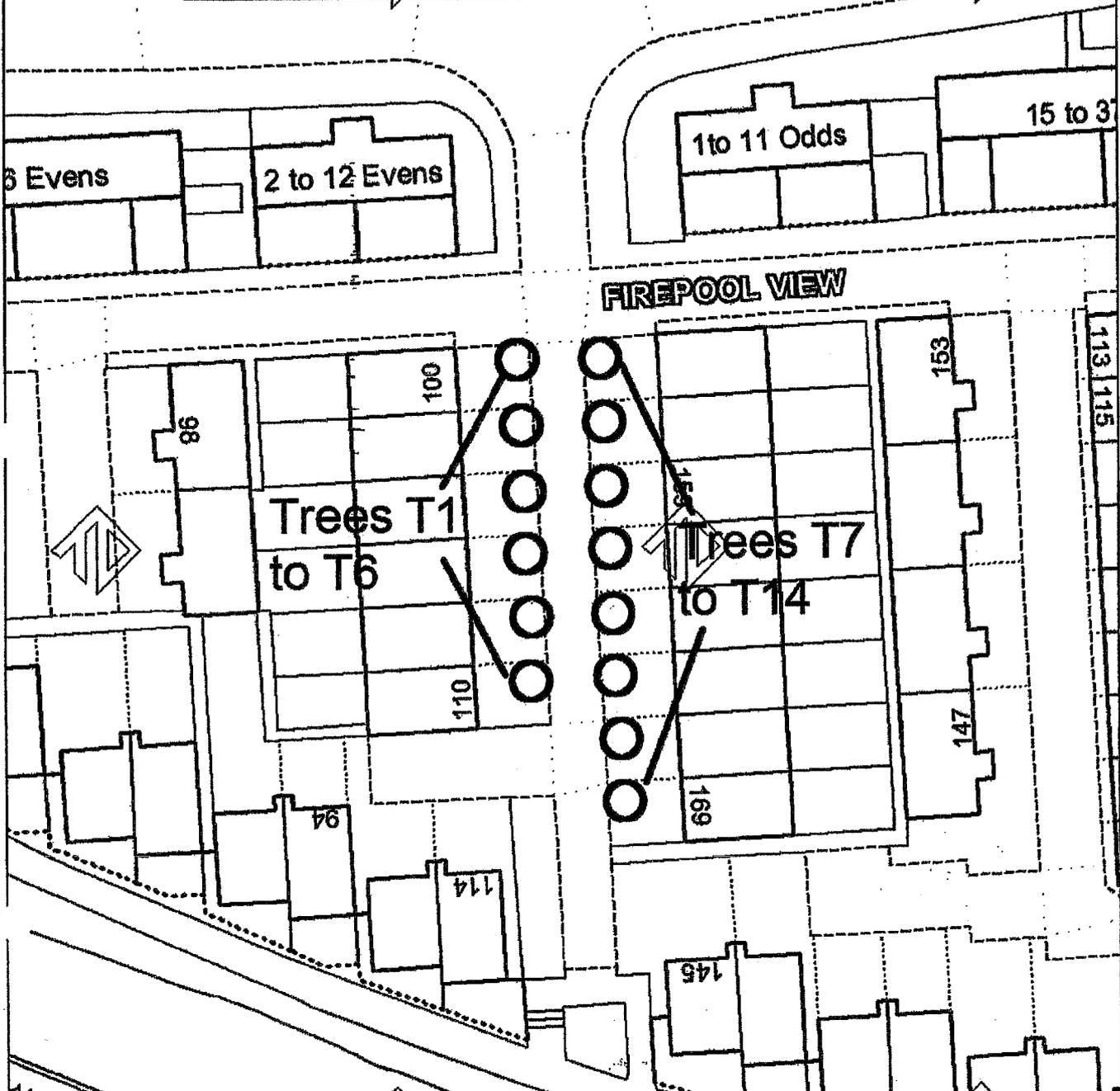
**Woodlands**  
(within a continuous black line on the map)

<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
None		

Firepool View TPO

Date: 13/12/2017 Scale 1: 500

(c) Crown Copyright and database rights 2017 Ordnance Survey 100019495 Taunton Deane Borough Council



**Taunton Deane Borough Council**

Town and Country Planning Act 1990  
Tree Preservation Order Regulations 2012

**(Taunton No.1)**

Firepool View

**Tree Preservation Order 2018**

Ref: TD1135

Date: January 2018

Drawn: DG

scale 1:500

The material contained in this plot has been reproduced from an Ordnance Survey map with the permission of the Controller of Her Majesty's Stationary Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

ter and Taunton Canal

Tow Path

