

**Bodicote House, White Post Road, Bodicote, Banbury,
OX15 4AA**

Case Officer: Iain Osenton

Applicant: CDC Arboricultural service.

Proposal: TPO 21/2024 – confirmation following objection received by CDC Properties team

Ward: Adderbury, Bloxham and Bodicote

Councillors: Councillors Gordon Blakeway, Robert Pattenden and David Hingley.

Reason for Referral: Application affects Council's own land. The TPO is served on council owned land

Expiry Date: 2 December 2024

Committee Date: 16 January 2025

SUMMARY RECOMMENDATION: CONFIRM TREE PRESERVATION ORDER.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

1.1. The application site is Bodicote House, Bodicote. The site contains numerous trees of high amenity and arboricultural significance visible both internally, and externally to the site. The site is subject to future planning applications, with concerns raised by residents for trees within, and bordering the site.

2. CONSTRAINTS

2.1. There is currently a preliminary Tree Preservation Order ("TPO") on site reference 21/2024.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The TPO in question seeks to protect trees of suitable amenity, and arboricultural merit within the site. The trees have been subject to a TEMPO (Tree Evaluation Method for Preservation Orders) assessment, with qualifying trees included within the order. The TPO is made to ensure trees receive due consideration for future re-development of the site but would not obstruct re-development providing correct process is followed.

4. RELEVANT PLANNING HISTORY

None relevant

5. RESPONSE TO PUBLICITY

5.1. The site owner was notified of the TPO being served on 29th August 2024.

6. RESPONSE TO CONSULTATION

6.1. Below is a summary of the consultation responses received at the time of writing this report.

6.2. Cherwell District Council Assistant Director of Property - **No objection**

7. RELEVANT PLANNING POLICY AND GUIDANCE

7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011-2031 PART 1 (CLP 2015)

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design, and external appearance of new development

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

8. APPRAISAL

8.1. The key issues for consideration in this case are:

- The serving of the TPO.
- The map served with the TPO.
- The amenity value score of the trees.
- The expediency of the TPO.

The serving of the TPO

8.2. The TPO was served both electronically and in hard copy form. The TPO has therefore been served correctly in line with governing legislation, and this has been confirmed with CDC’s law and governance team.

The map served with the TPO.

8.3. The arboricultural officers confirm that that the map served with the TPO is compliant with the Regulations and should there be any discrepancies found with the TPO plan,

these can easily be amended upon confirmation of the Order, without the need to officially 'vary' the order.

The amenity value score of the trees

- 8.4. For the purpose of a TPO, a tree may be considered of sufficient amenity if its damage, or removal would be considered to hold a negative impact on the local environment (Department for Levelling Up, Housing and Communities, 2014). However, in order to capture amenity, a council must have a defensible scoring system.
- 8.5. For this TPO, a TEMPO assessment scoring the trees condition, retention span, relative public visibility, additional factors (veteran status, groups, or historical trees etc.) and TPO expediency was provided within the schedule.
- 8.6. The TPO was initiated following receipt of a public enquiry, expressing concerns for trees within the site, should the site be sold. Trees are visible from the publicly accessible areas of the site, and externally to the site, with the majority of trees included predating the sites use as a council office. By comparison to the definition of amenity, it is reasonable to suggest removal or damage to these trees would be detrimental. In addition, many of the trees provide enhancement to the visual amenity of the locality, to the character and appearance of the Conservation Area and to the significance of the listed building Bodicote House. Overall, therefore, their amenity is worth preserving, as evidenced by the TEMPO assessments.

The expediency of the TPO

- 8.7. The TEMPO guidance includes the receipt of an outline planning proposal as an example of when a 'foreseeable' threat score should be used.
- 8.8. The next lowest threat under TEMPO assessment is 'perceived threat to tree' which under TEMPO guidance is to be used, as an example, where a qualifying tree is situated in an infill plot, or in an area of potential development. That the site has been confirmed as being subject to future development justifies the given TEMPO score.
- 8.9. Thus, the amenity score is defensible, and the expediency score is correct.

Conclusion

- 8.10. The above points highlight that the TPO was served correctly.
- 8.11. It should be noted that the protection of trees in no way interferes with any proposal to develop the site. Planning permission would supersede a TPO. Whilst CDC Arboriculture, as statutory consultees to any development within the site, will have opportunity to comment on tree removal/retention plans with comments given in line with BS5837:2012 and local/national policy, what the TPO achieves is an assurance that all trees will be considered as a constraint to the development proposal, as amenity assets to the village.
- 8.12. If it is later judged acceptable for a TPO tree to be felled, a replacement can be secured. Whereas any trees not served by a TPO will not be a constraint to the development proposal and replacement cannot be secured.
- 8.13. It is recommended the TPO be confirmed.

9. RECOMMENDATION

CONFIRM THE TREE PRESERVATION ORDER

CASE OFFICER: Iain Osenton