

**To: The Deputy Leader and Members of the
Planning and Development Board**

**(Councillors Butcher, Barber, L Dirveiks,
Humphreys, Lea, May, B Moss, Phillips,
Sherratt, Simpson, A Stanley, Sweet, Turley,
Watkins and Winter)**

For the information of other Members of the Council

This document can be made available in large print and electronic accessible formats if requested.

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For enquiries about specific reports please contact the officer named in the reports

PLANNING AND DEVELOPMENT BOARD AGENDA

13 APRIL 2015

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Monday 13 April 2015 at 6.30 pm.

AGENDA

- 1 **Evacuation Procedure.**
- 2 **Apologies for Absence / Members away on official Council business.**
- 3 **Disclosable Pecuniary and Non-Pecuniary Interests**

**PART A – ITEMS FOR DISCUSSION AND DECISION
(WHITE PAPERS)**

- 4 **Planning Applications** – Report of the Head of Development Control.

Summary

Town and Country Planning Act 1990 – applications presented for determination

The Contact Officer for this report is Jeff Brown (719310).

- 5 **Proposed Tree Preservation Order - Land at College Farm, Dingle Lane, Nether Whitacre** – Report of the Head of Development Control.

Summary

The purpose of this report is to confirm or otherwise a Tree Preservation Order made in respect of one willow tree situated at College Farm, Dingle Lane, Nether Whitacre.

The Contact Officer for this report is Erica Levy (719294).

- 6 **Proposed Tree Preservation Order - Land Adjacent Manor Croft, Newton Lane, Austrey** – Report of the Head of Development Control.

Summary

The purpose of this report is to confirm or otherwise a Tree Preservation Order made in respect of one willow tree situated at Manor Croft, Newton Lane, Austrey.

The Contact Officer for this report is Erica Levy (719294).

**PART C – EXEMPT INFORMATION
(GOLD PAPERS)**

- 7 **Exclusion of the Public and Press**

Recommendation:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

8 **Breaches of Planning Control** – Report of the Head of Development Control

The Contact Officer for this report is Jeff Brown (719310).

9 **Review of the Development Control Section** – Report of the Assistant Chief Executive and Solicitor to the Council

The Contact Officer for this report is Jeff Brown (719310).

JERRY HUTCHINSON
Chief Executive

Agenda Item No 5

Planning and Development Board

13 April 2015

**Report of the
Head of Development Control**

**Proposed Tree Preservation Order
- Land at College Farm, Dingle
Lane, Nether Whitacre**

1 Summary

- 1.1 The purpose of this report is to confirm or otherwise a Tree Preservation Order made in respect of one willow tree situated at College Farm, Dingle Lane, Nether Whitacre. The tree lies immediately adjacent to an existing pole barn which is situated on the north side of Dingle Lane close to its junction with Ridley Lane and Reddings Lane.

Recommendation to the Board

That the Tree Preservation Order be confirmed.

2 Background and Observations

- 2.1 The Council made a Tree Preservation Order (TPO) in respect of one willow tree. The TPO took provisional effect from 22 December 2014. It will provisionally remain in force for six months. The owners/occupiers of the property and the adjoining owners/occupiers had until 31 January 2015 to make representations/objections.
- 2.2 The report which was considered at the time that Board resolved to make the Order is attached as Appendix A for information.
- 2.3 No letters of objection have been received.
- 2.4 Tree Preservation Orders are made under Section 198 of the Town and Country Planning Act 1990. The Council may make a Tree Preservation Order if it appears to them that it is "...expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area". The Act does not define "amenity", nor does it prescribe the circumstances in which it may be in the interests of amenity to make a Tree Preservation Order. It is normally recognised, however, that the tree or trees should have a reasonable degree of public visibility, and be protected for the public's benefit.
- 2.5 In this instance, the willow tree is visible from public land and makes an important contribution to the amenity of the area. It is considered that the Order should be confirmed.

2.6 It is for the Board to decide whether or not to confirm the Order.

3 **Report Implications**

3.1 **Financial Implications**

3.1.1 The confirmation of the Order has no implications, but in certain limited circumstances, claims for compensation can be made.

3.2 **Crime and Disorder Implications**

3.2.1 The felling of a tree protected by an Order is an offence.

3.3 **Legal and Human Rights Implications**

3.3.1 There is a balance here between the importance to public amenity in retaining the trees and controlling works to them. In the future, should consent be refused for works to the trees, appeals can be lodged with the Secretary of State.

3.4 **Sustainability Implications**

3.4.1 The value of the trees as a living resource would be retained if the Order is confirmed.

The Contact Officer for this report is Erica Levy (719294).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000
Section 97

Background Paper No	Author	Nature of Background Paper	Date
1	North Warwickshire Borough Council	Tree Preservation Order dated	22 12 14

APPENDIX A

Tree Preservation Order

**Planning and Development Board
15 December 2014**

**Report of the
Head of Development Control**

**Land at College Farm, Dingle
Lane, Nether Whitacre**

1 Summary

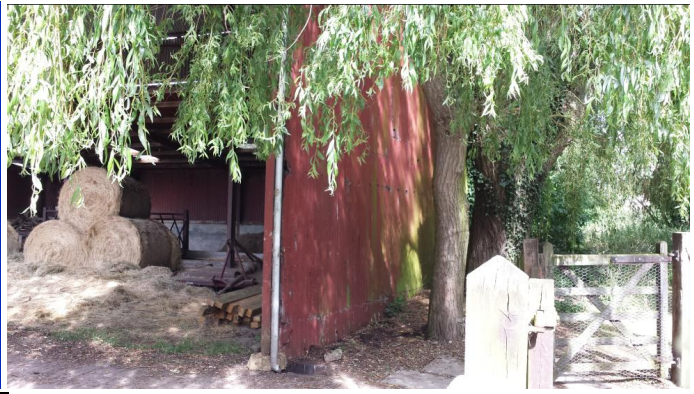
- 1.1 Two willow trees lie immediately adjacent to an existing pole barn which is situated on the north side of Dingle Lane close to its junction with Ridley Lane and Reddings Lane.
- 1.2 The larger of the two willow trees is highly visible in the street. It is located at the position shown on the attached OS plan as T1 (Appendix 1).
- 1.3 The tree has been inspected and is considered worthy of a Tree Preservation Order.

Recommendation to the Board

That a Tree Preservation Order be made with immediate effect, in respect of the willow tree located at College Farm, Dingle Lane, Nether Whitacre, for the reasons given in this report, and that any representations received be referred to the Board for it to consider whether to make the Order permanent.

2 Background and Statement of Reasons

- 2.1 The former agricultural building which is situated close to the willow tree was recently the subject of a prior notification application which sought a change of use of the building to two dwellings (PAP/2014/0323). The notification resulted in confirmation that the development could proceed. During the consideration of the notification the effect of the proximity of the willow trees was discussed with the applicant's agent. The agent concluded that the trees should have no negative effect on foundations (no new being introduced). He further concluded that leaves would be an issue but suggested this could be dealt with using a leaf guard (plastic mesh that fits over a gutter).
- 2.2 Nevertheless the trees are close to the building and, without the protection of a Tree Preservation Order, could be removed without any requirement for permission. The barn conversion would be easier to execute without the impediment of the willow trees.
- 2.3 The tree in question, and the building which has authority to be converted, is shown in the photographs below:



This tree is at the roadside edge, of some considerable height and is visible in the street. It is shown in the street scene in the photographs below:



- 2.2 The County Forestry Officer was consulted and asked to undertake an assessment of whether the trees were worthy of protection by a Tree Preservation Order. He recommended that the larger of the two willow trees was worthy of protection with a preservation order. The rationale for his assessment is set out in the Tempo forms attached as Appendix 2.
- 2.3 The willow tree is considered to be a good specimen in terms of its physiological and structural condition; there is no visible defect and it has good longevity. The tree is large and clearly visible across a significant public area, meaning that it has high amenity value and is strong suitability for protection with a Tree Preservation Order.
- 2.4 Given the above, a Tree Preservation Order is recommended. The owners/occupiers of the property and the adjoining owners/occupiers will be served with copies of the TPO and will have an opportunity to make representations/objections.
- 2.5 A further report will be presented to the Planning and Development Board for Members to consider whether the TPO should be confirmed and made permanent.

3 Report Implications

3.1 Legal and Human Rights Implications

- 3.1.1 The owners of the land and those with an interest in it have the opportunity to make representations to the Council before any Order is confirmed.
- 3.1.2 The tree to be protected exhibits an amenity value for both the present and the future amenities of the area, given its appearance and prominence in the street scene.

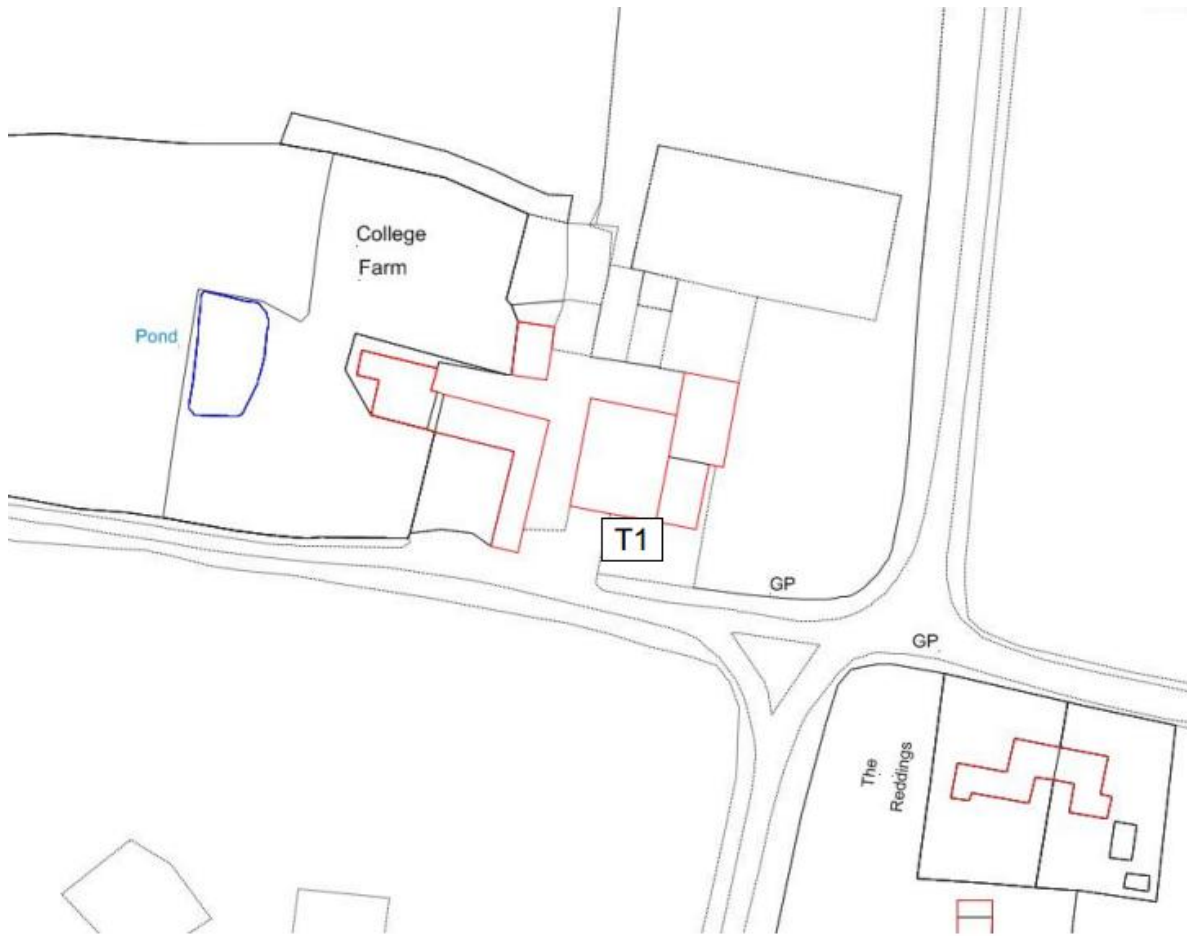
Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
1	County Forestry Officer	TEMPO Evaluation	4/8/14

The Contact Officer for this report is Erica Levy (01827 719294)

Appendix 1



Appendix 2

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 1 Aug 2014		Surveyor: Mr Clint Parker	
Tree details		Tree/Group No:	Species: Willow
TPO Ref (if applicable):		Location: College Farm, Dingle Lane	
Owner (if known):			

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

5) Good	Highly suitable	Score & Notes 5
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead/dying/dangerous*	Unsuitable	
<small>* Relates to existing context and is intended to apply to severe irreparable defects only</small>		

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes 2
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	
<small>* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality</small>		

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes 3
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of arboricultural features, or veteran trees	Score & Notes 1
4) Tree groups, or members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features (inc. those of indifferent form)	

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Score & Notes 3
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 14	Decision: TPO defensible
1-6	TPO indefensible		
7-11	Does not merit TPO		
12-15	TPO defensible		
16+	Definitely merits TPO		

Agenda Item No 6

Planning and Development Board

13 April 2015

Report of the
Head of Development Control

Proposed Tree Preservation Order
- Land Adjacent Manor Croft,
Newton Lane, Austrey

1 Summary

- 1.1 The purpose of this report is to confirm or otherwise a Tree Preservation Order made in respect of one willow tree situated at Manor Croft, Newton Lane, Austrey. The tree lies close to Newton Lane on the boundary of the properties known as Manor Court and Manor Croft.

Recommendation to the Board

That the Tree Preservation Order be confirmed.

2 Background and Observations

- 2.1 The Council made a Tree Preservation Order (TPO) in respect of one ash tree. The TPO took provisional effect from 22 December 2014. It will provisionally remain in force for six months. The owners/occupiers of the property and the adjoining owners/occupiers had until 31 January 2015 to make representations/objections.
- 2.2 The report which was considered at the time that Board resolved to make the Order is attached as Appendix A for information.
- 2.3 No letters of objection have been received.
- 2.4 Tree Preservation Orders are made under Section 198 of the Town and Country Planning Act 1990. The Council may make a Tree Preservation Order if it appears to them that it is "...expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area". The Act does not define "amenity", nor does it prescribe the circumstances in which it may be in the interests of amenity to make a Tree Preservation Order. It is normally recognised, however, that the tree or trees should have a reasonable degree of public visibility, and be protected for the public's benefit.
- 2.5 In this instance, the ash tree is visible from public land and makes an important contribution to the amenity of the area. It is considered that the Order should be confirmed.
- 2.6 It is for the Board to decide whether or not to confirm the Order.

3 Report Implications

3.1 Financial Implications

3.1.1 The confirmation of the Order has no implications, but in certain limited circumstances, claims for compensation can be made.

3.2 Crime and Disorder Implications

3.2.1 The felling of a tree protected by an Order is an offence.

3.3 Legal and Human Rights Implications

3.3.1 There is a balance here between the importance to public amenity in retaining the trees and controlling works to them. In the future, should consent be refused for works to the trees, appeals can be lodged with the Secretary of State.

3.4 Sustainability Implications

3.4.1 The value of the trees as a living resource would be retained if the Order is confirmed.

The Contact Officer for this report is Erica Levy (719294).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
1	North Warwickshire Borough Council	Tree Preservation Order dated	22 12 14

APPENDIX A

Tree Preservation Order

**Planning and Development Board
15 December 2014**

**Report of the
Head of Development Control**

**Land Adjacent Manor Croft,
Newton Lane, Austrey**

1 Summary

- 1.1 The rear garden/land to the rear of Manor Court and adjacent to Manor Croft, Austrey, is the subject of a current planning application proposing the development of the land with 5 dwellings (PAP/2014/0433). The site contains a number of trees which include ash trees and a birch tree.
- 1.2 The trees have been inspected and two, one ash tree and one beech tree, are identified as worthy of a Tree Preservation Order. The trees are visible from surrounding streets. They are located at the approximate positions shown on aerial photography (Appendix 1). However, for the reasons set out in the report it is proposed to protect only the ash tree with a TPO.

Recommendation to the Board

That a Tree Preservation Order be made with immediate effect, in respect of the ash tree located at Land Adjacent Manor Croft, Newton Lane, Austrey, for the reasons given in this report, and that any representations received be referred to the Board for it to consider whether to make the Order permanent.

2 Background and Statement of Reasons

- 2.1 The planning application (PAP/2014/0323) is an outline application for 5 dwellings on an L-shaped area of land. The application however seeks approval of details of means of access, appearance, layout and scale. The proposed site layout is as shown below. Retained trees and illustrative new planting is shown in green:



- 2.2 The large ash trees that sit close to the boundary of the site and are shown to be retained within the layout of the proposed development; however, the beech tree is at a central position within the site and would be felled in order to facilitate the construction of the proposed dwellings.
- 2.3 There are two ash trees which are of considerable height and are highly visible from surrounding land. They are shown in the street scene in the photographs below:

View from Newton Lane:



- 2.4 There Ash tree furthest from the road in this photograph has basal decay and is therefore not suitable for a TPO, however the ash tree closest to Newton Lane is considered to be a good specimen in terms of its physiological and structural condition; there is no visible defect and it has good longevity. The tree is large and clearly visible across a significant public area, meaning that it has high amenity value and is strong suitability for protection with a Tree Preservation Order. The County Foresters TEMPO report shown in Appendix 2 supports this.
- 2.5 The County Forestry Officer also recommended that the Birch tree within the site be protected by a TPO because he considered it to be a valuable screen – indeed he found

that the whole group would make a good screen. The photo below shows the Birch tree to the left and the TEMPO evaluation for the tree is set out in Appendix 2.



- 2.3 The Ash trees are both visible above houses in Ivy Croft Road, and whilst the beech tree is also visible, it is less prominent:



- 2.4 Whilst the advice of the County Forester is noted, and the merit of the birch tree is acknowledged, the retention of the birch tree, at a central position within the land would limit the ability to develop the submitted housing layout. Its retention, primarily for screening purposes would not be justified. If planning permission is granted in due course, replacement alternative tree planting will, in the relatively short term, fulfil such a screening purpose.
- 2.5 Though the proposed site layout shows the retention of the healthy ash tree it would nevertheless be close to the proposed development site, without the protection of a Tree Preservation Order, it could be removed or substantially cut back without any requirement for permission. The development would be easier to execute without the impediment of the ash trees. Protection with a TPO is justified.

- 2.4 Given the above, a Tree Preservation Order is recommended. The owners/occupiers of the property and the adjoining owners/occupiers will be served with copies of the TPO and will have an opportunity to make representations/objections.
- 2.5 A further report will be presented to the Planning and Development Board for Members to consider whether the TPO should be confirmed and made permanent.

3 Report Implications

3.1 Legal and Human Rights Implications

- 3.1.1 The owners of the land and those with an interest in it have the opportunity to make representations to the Council before any Order is confirmed.
- 3.1.2 The tree to be protected exhibits an amenity value for both the present and the future amenities of the area, given its appearance and prominence in the street scene.

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
1	County Forestry Officer	TEMPO Evaluation	11/9/14

The Contact Officer for this report is Erica Levy (01827 719294)

Appendix 1



Appendix 2

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE PAP/2014/0433

Date: 11.09.14		Surveyor: Clint Parker	
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Tree details			
TPO Ref (if applicable):	Tree/Group No:	Species: Ash	
Owner (if known):	Location: Newton Lane Andover		

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

<ul style="list-style-type: none"> 5) Good 3) Fair 1) Poor 0) Dead/dying/dangerous* 	<ul style="list-style-type: none"> Highly suitable Suitable Unlikely to be suitable Unsuitable 	<p style="text-align: center; margin: 0;">Score & Notes</p> <p style="text-align: center; font-size: 24px; margin: 10px 0;">5</p>
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* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

<ul style="list-style-type: none"> 5) 100+ 4) 40-100 2) 20-40 1) 10-20 0) <10* 	<ul style="list-style-type: none"> Highly suitable Very suitable Suitable Just suitable Unsuitable 	<p style="text-align: center; margin: 0;">Score & Notes</p> <p style="text-align: center; font-size: 24px; margin: 10px 0;">4</p>
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*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

<ul style="list-style-type: none"> 5) Very large trees with some visibility, or prominent large trees 4) Large trees, or medium trees clearly visible to the public 3) Medium trees, or large trees with limited view only 2) Young, small, or medium/large trees visible only with difficulty 1) Trees not visible to the public, regardless of size 	<ul style="list-style-type: none"> Highly suitable Suitable Suitable Barely suitable Probably unsuitable 	<p style="text-align: center; margin: 0;">Score & Notes</p> <p style="text-align: center; font-size: 24px; margin: 10px 0;">4</p>
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d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

<ul style="list-style-type: none"> 5) Principal components of arboricultural features, or veteran trees 4) Tree groups, or members of groups important for their cohesion 3) Trees with identifiable historic, commemorative or habitat importance 2) Trees of particularly good form, especially if rare or unusual 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) 	<p style="text-align: center; margin: 0;">Score & Notes</p> <p style="text-align: center; font-size: 24px; margin: 10px 0;">1</p>
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Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

<ul style="list-style-type: none"> 5) Immediate threat to tree 3) Foreseeable threat to tree 2) Perceived threat to tree 1) Precautionary only 	<p style="text-align: center; margin: 0;">Score & Notes</p> <p style="text-align: center; font-size: 24px; margin: 10px 0;">3</p>
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Part 3: Decision guide

<ul style="list-style-type: none"> Any 0 1-6 7-11 12-15 16+ 	<ul style="list-style-type: none"> Do not apply TPO TPO indefensible Does not merit TPO TPO defensible Definitely merits TPO 	<p style="text-align: center; margin: 0;">Add Scores for Total:</p> <p style="text-align: center; font-size: 24px; margin: 10px 0;">17</p>	<p style="text-align: center; margin: 0;">Decision:</p>
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TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

PAP/2014/0433

Date: _____ Surveyor: C. J. H.

Tree details
 TPO Ref (if applicable): _____ Tree/Group No: _____ Species: Birch
 Owner (if known): _____ Location: Newton Lane Austrey

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

5) Good	Highly suitable	Score & Notes <u>5</u>
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead/dying/dangerous*	Unsuitable	
* Relates to existing context and is intended to apply to severe irremediable defects only		

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes <u>2</u>
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	
*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality		

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes <u>3</u>
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of arboricultural features, or veteran trees	Score & Notes <u>1</u>
4) Tree groups, or members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features (inc. those of indifferent form)	

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Score & Notes <u>3</u>
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: <u>14</u>	Decision:
1-6	TPO indefensible		
7-11	Does not merit TPO		
12-15	TPO defensible		
16+	Definitely merits TPO		

Agenda Item No 7

Planning and Development Board

13 April 2015

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

Agenda Item No 8

Breaches of Planning Control - Report of the Head of Development Control.

Paragraph 6 – by reason of the need to consider appropriate legal action

Agenda Item No 9

Review of the Development Control Section - Report of the Assistant Chief Executive and Solicitor to the Council

Paragraph 1 – by reason of the report referring to individual staff

The Contact Officer for this report is David Harris (719222).