

# **Tree Preservation Order No.4, 2024 (Tandridge) 71 Lincolns Mead, Lingfield, RH7 6TA**

## **Planning Committee Thursday 7<sup>th</sup> November 2024**

Report of: Principal Tree Officer

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Purpose: For decision

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Publication status: Open

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Wards affected: Lingfield and Crowhurst

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### **Executive summary:**

This report is to advise the Committee on the confirmation or otherwise of Tree Preservation Order No.4, 2024 (Tandridge).

- Under Section 198 of the Town and Country Planning Act 1990 the Council, acting as the Local Planning Authority, has the power to protect trees and woodlands by means of a Tree Preservation Order (TPO) if it appears to be expedient in the interests of amenity.
  - The report sets out the background for why the TPO was made, discusses the subsequent information that has been considered, and makes a recommendation for whether the TPO should be confirmed (made permanent) on the balance of the available information.
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### **This report supports the Council's priority of:**

Becoming a greener, more sustainable District

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### **Recommendation to Committee:**

That, in accordance with its delegated powers, the Committee determines that Tree Preservation Order No.4, 2024 is confirmed as made.

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## **Reason for recommendation:**

The Council has the power to protect trees and woodlands by means of a Tree Preservation Order (TPO) in instances where trees are under threat of removal or harmful works, and on a precautionary basis, provided it is in the 'interests of amenity'. The exercise of this power supports the Council's priority of 'Becoming a greener, more sustainable District'.

The decision is being determined at this Committee due to there being an unresolved objection to the making of the TPO.

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## **Introduction and background**

### **1.0 Legislative context**

- 1.1 The Council has the power to protect trees and woodlands by means of a Tree Preservation Order (TPO) in instances where trees are under threat of removal or harmful works, and on a precautionary basis, if necessary, provided it is 'in the interests of amenity'. These powers are contained within section 198, Part VIII [Special Controls] of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991 and the related Regulations (The Act).
- 1.2 The Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. However, the Government considers that TPOs should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. The Council should therefore be able to show that a reasonable degree of public benefit exists, or would accrue, before TPOs are made or confirmed.
- 1.3 The trees or woodlands selected for protection, or at least part of them, should normally be visible from a public place, such as a road or footpath, although the inclusion of other trees may be justified, for instance, where back garden trees can be viewed from their properties by a significant number of members of the public.
- 1.4 The benefit may be now or in the future; trees may be worthy of preservation for their intrinsic beauty, or for their contribution to the landscape, or because they serve to screen an eyesore or future development. The value of trees may be enhanced by their scarcity and the value of a group of trees or woodland may be collective only. Other factors, such as importance as a wildlife habitat, nature conservation or response to climate change may also be considered, but in the absence of the preceding elements of amenity contribution, these factors alone are not sufficient to warrant a TPO.

- 1.5 A TPO is provisional until it is confirmed, in writing, within a six-month period by the Council. This means that the TPO takes immediate effect and ensures the trees cannot be lawfully removed during the statutory 28-day consultation period that follows the serving of a TPO and before confirmation. The TPO then continues in force on a provisional basis until either the TPO is confirmed (made permanent), or the six-month period expires.
- 1.6 Once a provisional TPO has been made, the confirmation of the TPO is delegated to an authorised Officer of the Council, provided there are no unresolved objections received within the 28-day time limit. Where unresolved objections remain, the decision whether or not to confirm, or modify the TPO, is made by the Council's Planning Committee.

## **2.0 Background**

- 2.1 The Council received a public request for a TPO to be made on two oak trees. The request was made on the basis that the trees were of high amenity value and that they had heard that the owners wished to remove the trees imminently due to the inconvenience associated with raking up fallen leaves.
- 2.2 Following receipt of the request for a TPO to be made, a site visit by your Principal Tree Officer was made to assess the oak trees for the purposes of a TPO (Appendix A).
- 2.3 Following assessment of amenity and expediency (Appendix B) it was considered that the oak tree nearest to the road (T1) is very visually prominent when travelling in both directions along Lincolns Mead and from several properties. As such, the tree affords significant levels of visual amenity to the local area (Figure 1), as well as providing potentially important wildlife habitat. The tree will be seen and appreciated by a great many people daily and is a very attractive feature of the cul-de-sac.
- 2.4 The second oak tree that was subject to the request was assessed as being of lesser visual importance, being set back from the road between T1 and an offsite oak tree. The second tree is also of poor form and as such not of the quality required for a TPO to be made.
- 2.5 In light of the amenity assessment undertaken, it was considered that the oak tree was of suitable importance for a TPO to be made, and that the potential imminent threat to the tree was sufficiently realistic that the TPO should be made immediately on a precautionary basis.

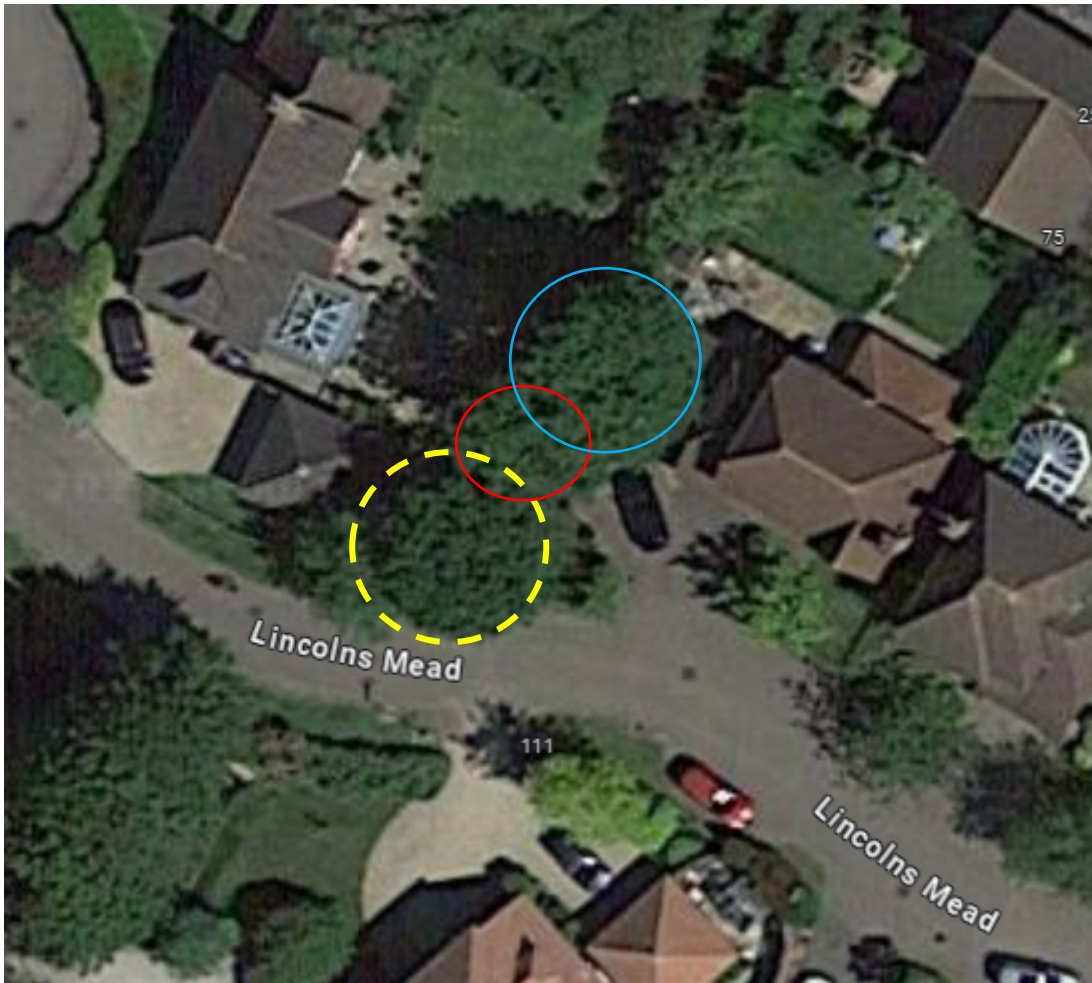


Figure 1 – Aerial view of T1 oak (ringed yellow) in relation to Lincolns Mead. Second oak tree ringed red and now removed and offsite oak tree ringed blue.

### 3.0 Objections and response

3.1 Following the making of the TPO a letter of objection was received from solicitors acting on behalf of the owner of the affected property (Appendix B). The objections are summarised below:

- a) That in terms of visibility and local importance, the removal of the tree would not have a significant impact on the local environment and its enjoyment by the public as the tree is within a wider sylvan setting, and when compared to another tree located to the west.
- b) That the tree is an inappropriate species for its setting in a suburban housing estate.
- c) That an assessment should have been made and that the reference to 'public amenity' within the notice issued to the tree owner does not sufficiently explain why the TPO was made, and any assessment should

have considered the shade cast by the tree on the property, which will increase as the tree grows.

- d) That the significance of the tree to its local surroundings should have been assessed.

### 3.2 Your officer's response to the objections are as follows:

- a) It is accepted that the tree is part of a wider sylvan setting. The prevalence of mature trees is a significant part of what gives Lincolns Mead and the surrounding area its verdant and charming character. T1 is one of two trees that were part of the request for a TPO, and only one tree has been protected for the reasons explained above. If both trees were to be removed then this would represent a significant degradation of the sylvan character of Lincolns Mead, particularly as T1 has the potential to grow into a very fine specimen that could provide amenity and wildlife habitat for well over 100 years.
- b) One of the characteristics of Lincolns Mead is the prevalence of mature trees, many of which are large species trees such as oak and lime, interspersing smaller species such as cherry and rowan. Provided there is sufficient space to grow, potentially with some minor management, there is no reason why large species trees should not be a part of a development like Lincolns Mead. Within TDC planning policy the planting of large species trees is encouraged within developments, as the benefits provided in terms of visual amenity, the environment and biodiversity are correspondingly greater as trees grow larger. The tree does not cause any significant inconvenience other than the usual natural occurrences such as leaf and acorn fall that comes with living in an area that benefits from the presence of trees. Nor does it present a hazard to the road.
- c) An assessment was undertaken prior to the making of the TPO (Appendix B). The assessment criteria are specifically based on the Government Planning Practice Guidance on the making of Tree Preservation Orders, together with relevant case law. The assessment is an internal document that is not automatically sent to tree owners but is always available upon request.

Whilst not specifically referred to, the issue of potential shade was considered along with any other 'retention span' limiting factors at part 2(b) of the assessment. In this case the position of the tree means that it will only begin to cast shade onto 71 Lincolns Mead in the very late afternoon, and even then, it will mainly affect the frontage parking area. This is not considered to be a substantial nuisance that should result in the removal of the tree.

- d) As above, the amenity value and significance of the tree was assessed prior to making the TPO.

#### **4.0 Support for the TPO**

4.1 Following the making of the TPO a letter of support for the TPO was received from a local resident. This letter also confirmed that the second oak tree referred to above has since been removed by the owner, leaving only the TPO tree remaining. This letter is included within the background documents.

#### **5.0 Discussion**

5.1 As detailed above the oak tree (T1) is highly visible and contributes significantly to the verdant character of Lincolns Mead. In that respect the TPO is justified in the interests of amenity.

5.2 It is considered that, on balance, the minor inconvenience caused to the owners of the tree by way of leaf fall and shade to the parking area is outweighed by the amenity and environmental benefits that the tree affords to the local area. If the owner wishes to undertake management works to the tree in the future, then an application can be made to the Council and provided the works are justified in the context of the reasons put forward to support the application then they would normally be granted consent. The TPO will prevent works that would otherwise harm the amenity that the tree provides, including its unjustified removal, and as such it is considered expedient to confirm the order as made.

#### **6.0 Conclusion**

6.1 Due to its contribution to the local landscape when viewed from Lincolns Mead and surrounding properties, the oak tree selected for protection is of suitable amenity value to preserve in the public interest, and it is expedient to do so on a precautionary basis only. It is therefore recommended that the TPO is confirmed as made.

#### **Other options considered:**

7.0 The TPO affects only a single tree and as such there is no modification or compromise that could be made to the TPO to lessen any concerns. There are only two options available - to confirm the TPO or decide not to confirm the TPO.

#### **Key implications:**

##### **Comments of the Chief Finance Officer**

The proposed Tree Preservation Order does not give rise to any financial implications for the Council.

##### **Comments of Legal Services**

**Caroline Daniels, Solicitor for the Council** has reviewed the report on behalf of the Council and the report has no data protection implications.

## **Equality**

The making of the Tree Preservation Order would not give rise to any equality implications.

## **Climate change**

Growing trees absorb CO<sub>2</sub> from the air. Other greenhouse gases (GHG) such as methane and nitrous oxide are also exchanged between trees and the atmosphere, so trees are a key component of the planet's GHG balance. Therefore, the functioning and management of trees and woodlands on a worldwide basis are critical to efforts to reduce climate change ('climate change mitigation') and reduce the net GHG emissions into the atmosphere ('emissions abatement').

On a local level, trees also intercept rainwater and increase soil permeability – thereby slowing the flow of water into the drains and reducing the potential for surface water flooding.

## **Appendices**

Appendix 'A' – Tree Preservation Order No. 4, 2024 (Tandridge)

Appendix 'B' - Tree Preservation Order Assessment

## **Background papers**

Objection letter and support letter available to view upon request.