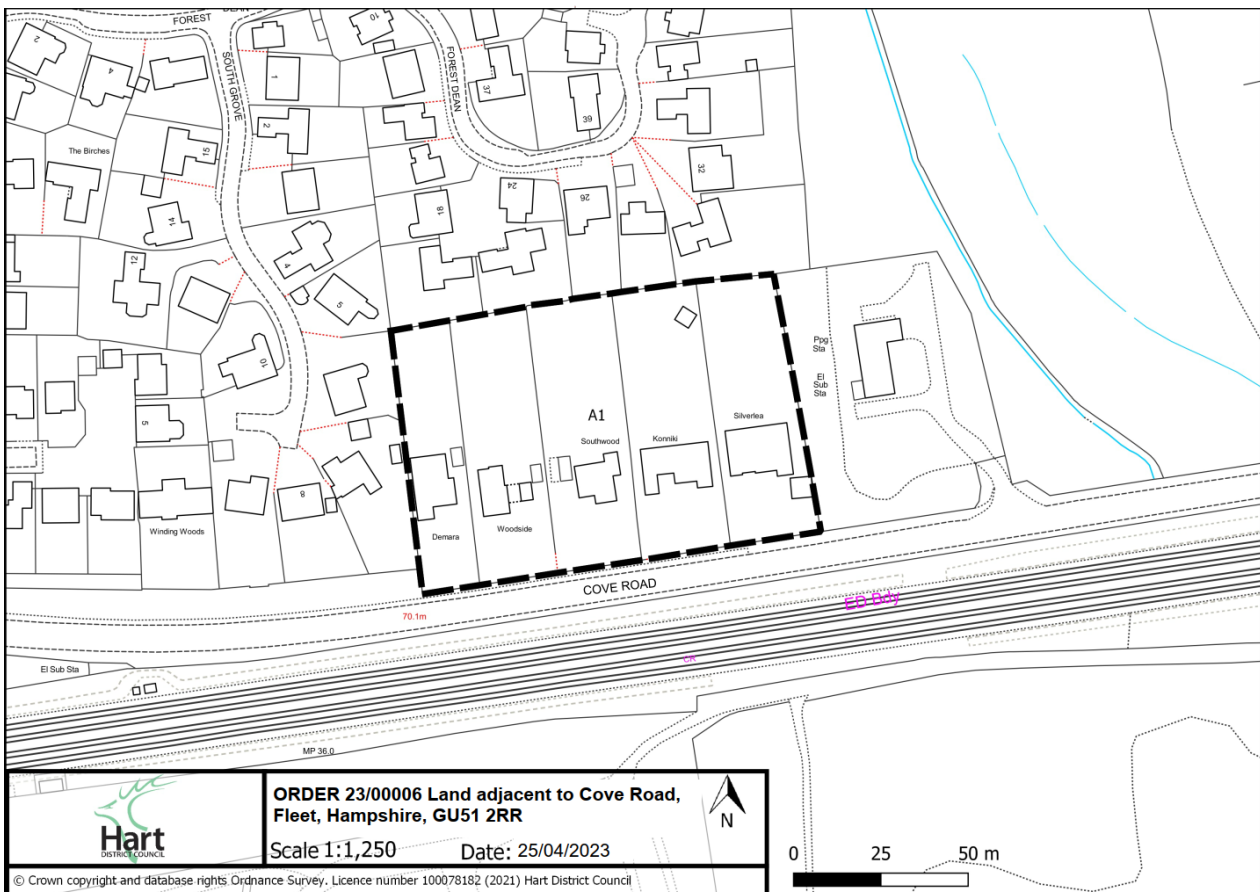


## COMMITTEE REPORT

TREE PRESERVATION ORDER LOCATION	ORD/23/00006 <b>Land adjacent to Cove Road, Cove Road, Fleet - The Demara, Woodside, Dapplewood, Konniki and Silverlea</b>
PROPOSAL	Area Tree Preservation Order
DATE MADE	25 April 2023
CONSULTATIONS EXPIRY	25 May 2023
PROVISIONAL EXPIRY	25 October 2023
WARD	Fleet
RECOMMENDATION	That having taken into consideration the representation received, that Tree Preservation Order ORD/23/00006 be <b>CONFIRMED WITH MODIFICATIONS.</b>



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## **BACKGROUND**

This application has been reported to the Planning Committee because it meets one of the triggers in Appendix A (Powers granted by the Council to the Head of Place to deal with Planning Matters) of the Council's Constitution, in that in accordance with section 172, a Tree Preservation Order must be brought to Committee for confirmation where objections have been received.

## **DESCRIPTION OF THE SITE**

The Area Tree Preservation Order extends across five properties covering approximately 0.82ha and includes several prominent highways trees managed by Hampshire County Council. The site lies to the north-eastern extremity of the Fleet Settlement Policy Boundary which extends contiguous to the eastern boundary of Silverlea.

## **SITE HISTORY**

The Council received an appeal (APP/N1730/W/23/3319799) against the refusal of planning permission (22/02520/FUL) for the erection of a 70 Bed care home (use class C2) including access, parking, landscaping, and other associated works, following demolition of the existing dwellings, Dapplewood, Konniki and Silverlea, Cove Road, Fleet. Planning permission was refused on the 8 February 2023.

The trees within the curtilage of these properties did not benefit from any legal protection and the Local authority deemed it expedient to serve an Area Tree Preservation Order (TPO) on the 25 April 2023 to deter inappropriate works within the root protection areas of the trees and removal of trees from the site prior to the appeal being determined.

## **PROPOSAL**

There is a two-stage process to serving a Tree Preservation Order. First the Local Planning Authority make a provisional Order which is then subject to notice upon people with an interest in the land, inviting representations about any of the trees covered by the Order before it is made permanent. A copy of the Order will also be made available for public inspection. Following consideration of any objections and comments, a decision is to be made as to whether to confirm the Order.

It is proposed to modify the provisional Order to comprise:

- 17 individual trees, comprising 13no Oak trees, 1no Scots Pine, 2no Western red cedar and 1no Sweet Chestnut.
- 5 groups of trees containing the following mix:
  - G1 – 5 Cupressus, 4 Scots pine, 1 Silver birch and 7 Holly.
  - G2 – 3 Silver birch, 1 Cherry and 1 Horse chestnut
  - G3 – 2 Silver birch, 1 Horse chestnut, 2 Scots pine and 5 Cupressus
  - G4 – 3 Cupressus
  - G5 – 16 Cupressus.

## **LEGISLATIVE POSITION**

The law on Tree Preservation Orders (TPO) is contained in Part VIII of the Town and Country Planning Act 1990 (as amended) and in the Town and Country Planning (Tree Preservation (Tree Preservation) (England) Regulations 2012.

Under the Town and Country Planning Act (1990) local authorities may make a TPO if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area. The Act does not define amenity, nor prescribes the circumstances in which it is in the interests of amenity to make a TPO.

In the Secretary of State's view, a TPO should be used to protect selected trees and woodlands if their removal would have a significant impact upon the local environment and its enjoyment by the public. Local planning authorities should be able to show that a reasonable degree of public benefit would accrue before the TPO is made or confirmed.

The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath. Trees may be worthy of preservation, amongst other reasons, 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 the 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 may be taken into account which alone would not be sufficient to warrant a TPO.

## **PLANNING POLICY**

Policies of the development plan and other guidance seek to protect the natural environment, affording consideration to trees as contained within the following.

### Hart Local Plan (Strategy and Sites) 2032

Policy NBE2 - Landscape

### Hart Local Plan (Replacement) 1996 – 2006 Saved Policies (HLP06)

Policy CON8 - Trees, Woodland and Hedgerows: Amenity Value

### Fleet Neighbourhood Plan 2018-2032

Policy NBE2 – Landscape

Policy NBE4 – Biodiversity

Policy INF2 – Green Infrastructure

### National Planning Policy Framework (September 2023)

Section 15 (Conserving and enhancing the natural environment)

### Other material documents

Government on-line planning practice guidance: Tree Preservation Orders and trees in conservation areas.

Hart Corporate Plan 2023/2027

## **PUBLIC REPRESENTATIONS**

Following the serving of the TPO ORD/23/00006, three objections have been received which are summarised below:

- Whilst a number of the trees within the area order are visible from a public space, it is considered that the majority are not and therefore their amenity value is doubtful in at least the context of satisfying the justification required before serving a TPO.
- The use of an area designation is considered arboriculturally to be a blunt instrument which should only be used in accordance with the published government advice in the case of an emergency.
- Such an emergency might be where trees are at imminent risk of being lost or damaged by poor pruning. This is not the case for these trees as there is no imminent risk of their loss or indeed inappropriate pruning.
- The imposition of this TPO hinders the reasonable management of the site by owners because it adds a significant layer of unnecessary bureaucracy and cost to the process of tree management.
- Whilst the application process is straightforward, it requires technical input as the work will need to be carried out in accordance with BS 3998 2010. This assumes that the LPA would impose conditions requiring the work to be carried out in accordance with BS 3998 2010.
- Assuming that proposed work was acceptable, a contractor who is considered acceptable by the LPA as capable of carrying out the work to the required standard would be required at a potential additional cost to the tree owners.
- Whilst it is agreed that a number of important trees on the site are to be protected, there are a number of poor specimens that have reached their natural life expectancy and or groups that have not been managed correctly resulting in weak growth and in some cases hazardous condition.
- Should The Council seek to apply this order it is requested that a full arboricultural survey is undertaken by the Council to identify individual species that need protection rather than a 'blanket Area TPO'.

### Response to public representations

The trees subject to the Tree Preservation Order (TPO) can be viewed from the following public vantage points: Cove Road, South Grove, and Forest Dean.

The LPA served the TPO in accordance with the Government's planning policy guidance 'Tree Preservation Orders and trees in conservation areas'. The trees within The Demara, Woodside, Dapplewood, Konniki and Silverlea, did not benefit from any legal protection and the Local authority deems it expedient to serve a Tree Preservation Order (TPO) to deter inappropriate works within the root protection areas of the trees and removal of trees from the site prior to a planning appeal being determined. It is the intention of the LPA to refine the area Order to groups and individual trees to exclude trees of poor physiological and structural condition.

Public representations to the provisional TPO have raised concern regarding the processes required pursuant to the management of the trees subject of the TPO. A TPO is not designed to hinder the appropriate management of a tree. The option of pruning or maintaining the trees would need to be approved via the necessary tree work application process. Any application to undertake work would be judged against

good arboricultural practice and the Council would not withhold consent for appropriate works. The application process for protected trees is free.

It is advised that anyone can submit a tree works application and the LPA offers a pre-application service prior to the submission of an application. In the event that the TPO is confirmed, the owner of the trees (or any other party) would still have a right of appeal to the Planning Inspectorate against any refused applications to prune or remove trees.

Furthermore, the LPA does not have an approved contractors list and does not require a homeowner to seek consent/approval of the LPA to engage a particular contractor(s). It is the responsibility of the homeowner/landowner to appoint the tree contractor. All professional tree surgeons will be suitably qualified, hold public liability and professional indemnity insurance and will work in accord with BS3998:2010. To work to BS3998:2010 does not incur any additional cost to the contractor or homeowner.

## **JUSTIFICATION FOR THE ORDER**

The trees included within this Order are visible from Cove Road, Hanover Drive and Forest Dean. They provide significant amenity for local residents, providing seasonal interest, softening the built environment, and contribute positively to the street scene and character and appearance of the area. These trees furthermore provide an important corridor for transient wildlife. The trees are of reasonable and sufficient amenity value to be deserving of continued protected status.

Notwithstanding the outcome of the planning appeal for this site, the Order will help ensure that any future development activity is sympathetic to the character and appearance of the area and accord with the provisions of the National Planning Policy Framework and adopted Local Plan. The trees within the curtilage of Woodside and Demara were included within the provisional Order due to development pressure within the local area.

In response to concerns regarding the trees included within the Order, the recommendation is for modification of the Order to only include individual and groups of trees and will exclude those that are in poor physiological and structural condition.

The protection of these trees will contribute towards the Council's objective to reduce the effects of global warming and carbon emissions set out within the Hart Corporate Plan 2023/2027. The protection will also support the aims and objectives set out within the Hart Local Plan (Strategy and Sites) 2032, the Hart Local Plan (Replacement) 1996 – 2006 Saved Policies, the Fleet Neighbourhood Plan 2018-2032 and the National Planning Policy Framework (September 2023) to protect the natural environment.

## **SUSTAINABLE DEVELOPMENT IMPLICATIONS**

Trees represent an important environmental, economic and amenity resource within the built and natural environment. They are recognised within the England Forestry Strategy (1998), SW Regional Forestry Framework (2005) and national and regional Biodiversity Action Plans.

Mature trees and woodland groups, such as the group proposed for TPO confirmation

within this report, play a key role in helping to tackle the climate emergency and create a greener district. Trees remove carbon dioxide directly from the atmosphere and convert this to stored carbon. Additionally, trees are important for biodiversity both in their own right and as habitat for other species.

The climate crisis remains a significant, long-term challenge in the coming decades, and there is a growing ecological crisis too. The declaration of a climate emergency for Hart at the full Council meeting on 29 April 2021 recognised climate change as the most serious environmental challenge facing us in the 21st century. Hart District Council has committed to carbon neutrality via achieving net zero by 2040.

Trees are also a key element of the green infrastructure network, contributing to urban cooling and providing microclimate effects which help reduce energy demands on buildings. They therefore represent a key resource that can significantly contribute to climate change adaptation. The protection of these trees supports the Council's climate change and planet aims but additionally enhances the street view and open spaces through their high amenity and aesthetic value, thereby supporting good mental and physical health for residents of all ages.

## **RECOMMENDATION**

The confirmation of the Tree Preservation Order will ensure these trees are adequately protected through the Town and Country Planning Act 1990 (as amended). By confirming the order the trees would continue to be subject to The Town and Country Planning (Tree Preservation) (England) Regulations 2012 requiring that no person shall cut down, top, lop, uproot, wilfully damage or wilfully destroy any tree to which an order relates, or shall cause or permit the carrying out of any of the activities, except with the written consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

If the order is not confirmed, there is a risk these trees may be removed or pruned without due consideration. Notwithstanding the representations that have been received, it is recommended the Tree Preservation Order **ORD/23/00006 is confirmed with modifications to exclude trees of little merit, poor health or low amenity.**

**SCHEDULE - SPECIFICATION OF TREES  
(to be read in conjunction with the map)**

**Trees specified individually (encircled in black on the map)**

Reference on Map	Description
T1	Oak
T2	Oak
T3	Scots pine
T4	Oak
T5	Oak
T6	Oak
T7	Oak
T8	Oak
T9	Oak
T10	Western red cedar
T11	Western red cedar
T12	Oak
T13	Oak
T14	Oak
T15	Sweet chestnut
T16	Oak
T17	Oak

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

Reference on Map	Description
G1	5 x Cupressus, 4 x Scots pine 1 x Silver birch 7 x Holly
G2	3 x Silver birch, 1 x Cherry, 1 x Horse chestnut
G3	2 x Silver birch, 1 x Horse chestnut, 2 x Scots pine, 5 x Cupressus
G4	3 x Cupressus
G5	16 x Cupressus