

Tree Preservation Order: TPO/0011/25

Site:	LAND REAR OF 37, 39 AND 41 TENNYSON ROAD, TOTTON
Proposal:	To confirm the Tree Preservation Order
Case Officer:	David Cashman
Officer Recommendation:	Confirm TPO
Reason for Referral to Committee:	Objections received

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

1. The public amenity value of the trees and their value to the wider community.
2. The expediency to protect these trees

2 TREE PRESERVATION ORDER HISTORY

The subject trees are situated to the rear of several properties within an Area Order but consist of a distinct wider linear group of large oak.

The Order was made in response to concerns raised over the potential removal of the trees concerned. The properties were previously owned by the local authority (NFDC) and the trees managed/maintained by the Corporate Tree Team. The properties were subsequently sold and therefore are now in private ownership.

A Tree Preservation Order (TPO) was made on 2 May 2025. (Appendix 1.)

The owners of the trees have put in writing their objections to the Order. Third party representations have also been received in support of the Order.

3 THE TREES

The TPO covers an area including all trees of whatever species, but mainly for the purpose of providing initial provisional protection for a linear group of large oak. The trees are visible from the public highway and the rear access within the residential development.

4 POLICIES

Relevant Legislation

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

Local Plan Part One:

- Policy ENV4 – Landscape Character and Quality

5 PLANNING HISTORY

None relevant

6 PARISH / TOWN COUNCIL COMMENTS

No comments received

7 COUNCILLOR COMMENTS

None

8 CONSULTEE COMMENTS

None

9 REPRESENTATIONS RECEIVED

There are three letters of objection received to the Order from 37, 39 and 41 Tennyson Road (the tree owners) and one letter expressing concerns over the trees from 103 Ewell Way. There are eight letters of support for the TPO from 84, 87, 88, 98, 90, 97, 103 & 105 Ewell Way. The representations are summarised below:

Representations received to support the Order:

The trees are located within the rear gardens of 37, 39 and 41 Tennyson Road, Totton and were in immediate threat of removal. This is despite the trees forming part of a prominent linear boundary feature that pre-dates the surrounding houses and road infrastructure. The trees are unusual insofar as they are remnants of historic field margins therefore have historic importance to the local area. Established mature trees of this linear number within domestic curtilages are uncommon within the local area.

This linear group of trees are principal landscape features (individually and collectively) within the local and wider landscape and are enjoyed in their setting. They make a significant contribution to the character and appearance as well as the public enjoyment of the area, enclosing Ewell Way and are also highly visible from adjoining roads such as Tennyson Road, Shelly Road, Shakespeare Drive, Blackwater Drive, Galmore Drive, and Stanley Road. In addition to the public amenity value, the trees also provide seasonal interest and help soften the built environment.

In 2021, New Forest District Council made a Climate Change and Nature Emergency declaration which reinforces the need to protect our natural features. Without protection the loss of these trees is inevitable fragmenting the group by creating a gap in the linear row. This would also result in the loss of eco services (rainwater infiltration, filtering of airborne particulates, summer shade in rising temperatures etc) for residents. The trees also provide significant screening and privacy for residents of Tennyson Road and Ewell Way.

Ecologically, the trees are a source of food/pollen and offer shelter and roosting/nesting sites for wildlife, including statutory protected species. The trees also provide a commuting wildlife corridor to other significant neighbouring groups of oak trees (aligning Galmore Drive, Blackwater Drive, Testwood Crescent) for bats (and other transient wildlife) which are commonly seen foraging at dusk/night.

A professional assessment of the trees by a qualified Arboriculturist (Instructed by a resident) concludes that these Oak trees have a future life expectancy of over 40 years and have the potential to become trees of veteran status through good arboricultural management. The Tree Preservation Order would still allow good management to occur and in turn could offer benefits to the reasonable use of the

affected gardens, increasing daylight and remove natural deadwood (which is not untypical of mature oak trees) which can be a concern. Such works to the trees can still be achieved maintaining their visual amenity, health, and long-term viability.

Considering the historic, visual amenity and wildlife value of the trees and the fact a Tree Preservation Order still enables good arboricultural management of the trees in their current context, it is respectfully requested in the public interest that the Tree Preservation Order be confirmed.

Representations received in objection to the Order:

1. Safety and Structural Risk

These trees are exceptionally large, proximity to buildings, and living areas, pose a real risk to property and personal safety, particularly during storms or high winds. Increasing concern about more frequent falling limbs and storm related damage.

Unsuitable for Suburban Context

The trees are disproportionate to the size of the gardens.

2. Ongoing Maintenance Burden

Caring for these trees carries high costs in terms of regular pruning and risk monitoring. These are not one-off expenses – they are ongoing and significant. Regular maintenance, pruning, and debris management are simply not sustainable without support.

3. Loss of Sunlight and Amenity

Due to the size and dense canopy of these trees, they block natural light to the surrounding homes and gardens. This directly impacts the amenity, comfort, and liveability – particularly for residents who rely on natural light for wellbeing.

4. Declining Tree Health

Several of these trees show signs of internal decay and damage. If the intention of the TPO is to preserve healthy, thriving specimens, these trees do not meet that standard and may already pose risks that outweigh their remaining ecological value.

5. Respect for Property Rights and Liveability

The TPO breaches Article 8 of the Human Rights Act 1988 and Article 1 of the First Protocol, these rights also protect our ability to enjoy our private home and garden without disproportionate interference. The concerned neighbour's enjoyment should not come at the expense of the safety, comfort, or property rights of those who live with the daily consequences of their presence. Anxiety, worry, and sleepless nights have a direct impact on our wellbeing and mental health. The constant worry of falling trees, injury, and risk to life conflicts with our human rights.

10 CONSIDERATION OF THE GROUNDS FOR OBJECTION

- A request was received from local residents following notification from a tree surgery company employed to fell the tree/s. The reasons provided from the tree surgeon to neighbouring properties affected by the trees was that they were being removed due to health and safety concerns, regarding their condition and position to neighbouring properties. It was stated that the trees have started to lean, and concerns were raised by homeowners on Ewell Road which their client is trying to mitigate.
- The TPO was made as a direct response to this request. Following an onsite assessment of the trees it was considered that the trees were under sufficient threat of removal. The trees provide a significant landscape feature providing a good degree of wider public amenity and it was considered that a TPO was justified in order to safeguard their premature removal.
- Following the making of the order, no applications or notifications have been made or provided to the authority from the contractor or residents indicating that any of the trees concerned are in such condition that the work is justifiable on the grounds of any specific safety concern or identifiable feature that would render the tree/s at significant increased risk of failure and therefore requiring removal. On that basis the reasons given for their removal could be considered as speculative and in relation to an unsubstantiated, perceived threat.
- It is understandable that large trees within a domestic curtilage close to dwellings can cause apprehension and do pose some risk; however, this can be managed by routine inspection and reasonable routine maintenance. The imposition of a TPO on a tree does not prevent an owner, or neighbour carrying out reasonable routine management of a protected tree. There is no financial charge made by New Forest District Council in the processing of tree work applications.
- It is evident that the trees pre-date the residential development and were part of the previous land use, forming a distinct linear arboreal feature in the locality. The presence of large trees within urban areas is recognised as a key factor in mitigating the negatives effects of a changing climate providing important canopy cover and the provision of ecosystem service benefits.
- Although it is recognised that large trees can cause a burden to occupants in terms of shade and debris fall it would not be considered justifiable to remove significant trees for this reason. It would be evident when purchasing a property with large trees present that there would be a degree of general maintenance associated with this relationship.
- The objections to the TPO from the tree owners draw upon the Human Rights Act and protection of human rights and fundamental freedoms. The Act translates into UK law via the European Convention on Human Rights (ECHR). It sets out the rights of every person and the limitations placed on these rights in order to protect the rights of other and the wider community. The planning process including the preservation of trees, respects the rights of the individual whilst acting in the wider public interest. In general, the making of a TPO involves the assessment of the effect the TPO will have on individuals and balances that against the wider public interest. Any interference with the rights of individuals affected by the confirmation of this Order is considered to be in accordance with the relevant legislation and proportionate.

- The Planning Authority is satisfied that the process of making the TPO complies with the ECHR. Inherent in the consideration of the TPO was the consideration of the rights of individuals balanced against the interests of the wider community and public interest. The trees were present prior to the properties being built and have co-existed for many decades, they have not been imposed on the dwellings. The trees provide a high level of visual amenity to the wider locality and any relationship between the trees and tree owners property could be managed with general routine maintenance to provide appropriate separation and crown management in line with current best practice.
- The properties concerned are Ex-council properties. As indicated on the Council website and would have been evident to the owners - Properties that were once council housing are covered by a covenant, which states the owner of the property must not undertake any tree works without the prior consent of the council. This covenant is a civil matter to be addressed between the tree owner and the Council and is not a matter for the Committee to consider, however it forms a binding part of the sale agreement dating back to the time the property was sold. It binds not only the person who purchased the land, but any subsequent owners. The covenant is a form of tree protection which is intended to protect and promote trees on ex-council land. In situations where there is a risk the covenant could be breached the tree may also have an additional Tree Preservation Order in place if the tree is of notable stature, interest or believed to be under threat of removal.
- The loss of the trees would erode the current cohesive linear group feature and likely lead to future pressure and precedent for further removals with the adverse impact on the many public amenity benefits provided by the trees to the area.
- The Order should be modified to apply only to a specific group of six oak within the subject properties from the current form consisting of a defined area applying to all trees of whatever species.

11 CONCLUSION / PLANNING BALANCE

A local planning authority may only make a tree preservation order where it appears to the authority that it is expedient to protect a tree or woodland in the interests of amenity.

These oak trees provide a positive contribution to the amenity of the area. The trees are under threat of removal which would be of detriment to the amenity they provide to the area. Therefore, in the interest of public amenity it is expedient to confirm this Tree Preservation Order.

12 RECOMMENDATION

MODIFY THE TREE PRESERVATION ORDER FROM AN AREA ORDER TO BE SPECIFIC TO THE SIX OAK TREES ONLY AND THEN CONFIRM THE TREE PRESERVATION ORDER AS A GROUP.

**For further information contact:
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New Forest

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PLANNING COMMITTEE

October 2025

Land of 37, 39 & 41 Tennyson Road
Totton

TPO/0011/25

Scale 1:500

N.B. If printing this plan from
the internet, it will not be to
scale.