### COMMITTEE REPORT

<table>
<thead>
<tr>
<th>Application Ref.</th>
<th>TPO ref SDC 690 (TPO/040/004)</th>
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</thead>
<tbody>
<tr>
<td>Site address</td>
<td>Bridge House, Roman Way, Halford</td>
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<tr>
<td>Description of Proposals</td>
<td>Confirmation of Tree Preservation Order covering: T1 blue cedar, T2 silver birch, T3 pine, G1- 2No.pines, G2- 2No.willows, G3- 2No.pines</td>
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<tr>
<td>Case Officer</td>
<td>Alison Frost</td>
</tr>
<tr>
<td>Presenting Officer</td>
<td>Jamie Whitehouse/Alison Frost</td>
</tr>
<tr>
<td>Owner</td>
<td>Mr &amp; Mrs Hopkins</td>
</tr>
<tr>
<td>Ward Member</td>
<td>Cllr Mrs I. Seccombe</td>
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<td>Parish Council</td>
<td>Halford Parish Council</td>
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<td>Reason for referral to Committee</td>
<td>Objection to the Tree Preservation Order by the owners</td>
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<td>Recommendation</td>
<td>Confirmation of the Order as made</td>
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1. Background

Bridge House, Roman Way, Halford was advertised for sale in 2013. Whilst the property was up for sale local concerns that a new owner may wish to fell some trees on site resulted in request for a Tree Preservation Order (TPO) to be served. As the ownership had not changed it was considered that it was not necessary to serve a TPO at that time.

In November 2014 the Council was informed that some tree felling had taken place at the site. The trees that had already been felled were found to be cypress trees and therefore not high quality amenity trees. However, this initial tree felling at the property; the lack of certainty about future intentions of the owner (no planning applications had been received at this time) and the change in ownership, were considered to amount to a potential threat and require an assessment whether the trees around Bridge House were sufficient quality amenity trees to warrant a TPO.

For the reasons given, Officers were satisfied that an appropriate response was to issue a TPO covering the higher quality trees at this site, in order to safeguard them. After the Order had been issued, the new owner Mr Hopkins contacted the Council to ask why it had been served.

The owners have submitted a lengthy written objection to the serving of this Tree Preservation Order and consideration of these objections and a decision on whether the Order should be confirmed or not, is for Members to resolve.

2. Description of Site and Surroundings

Bridge House is a relatively modern brick dwelling located to the south of Roman Way, which is a cul-de-sac on the south western edge of Halford. The property and its associated land, backs onto open countryside on its southern side. The dwelling is set back from the road behind a curved driveway and the trees that have been protected by the Tree Preservation Order are located approximately to the south-west, west and east side of it. There was no form of fencing or enclosure to either the garden or the adjacent land around this property. However, to the south east of the dwelling is a large open field. The owner has recently been granted consent for post and rail fencing around this field to enable grazing of the owner’s horse and pony as well as the erection of a new stable on the north western side of the house.

3. Development Plan

Stratford-on-Avon District Local Plan Review 1996-2011 (saved policies)
EF.10 – Trees, Woodland and Hedgerows

Other Material Considerations

Central Government Guidance
Town and Country Planning Act 1990
Town and Country Planning (Tree Preservation) (England) Regulations 2012
Planning Practice Guidance (March 2014)

Proposed Submission Core Strategy (2014)
This document sets out the strategic planning policies and strategy for development across the District until 2031. Paragraph 216 of the NPPF allows
weight to be given to relevant policies in emerging plans, subject to the stage of
preparation of the plan, the extent of unresolved objections and the degree of
consistency of the relevant emerging policies to the NPPF policies. The Proposed
Submission Core Strategy 2014 was submitted to the Inspectorate on 29.09.2014
and the Examination in Public took place in January 2015. Officers’ opinion is
that the Core Strategy carries limited weight for decision making purposes.

Other Legislation
Human Rights Act 1998
Localism Act

4. Recent Site History

<table>
<thead>
<tr>
<th>Reference Number</th>
<th>Proposal</th>
<th>Decision and date</th>
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<tbody>
<tr>
<td>14/03308/FUL</td>
<td>Erection of traditional timber clad small stable building and associated traditional timber post and rail fencing (private use)</td>
<td>Approved 03.02.15</td>
</tr>
<tr>
<td>14/03261/TPO</td>
<td>T1 Blue cedar: remove small secondary stems growing from base of main stem; T2 Birch: crown lift to 3.5m; T3 Pine: crown lift to 3.5m. (These trees are all covered by this TPO.)</td>
<td>Approved 14.01.15</td>
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5. Owner’s Objections to the Serving of the Tree Preservation Order

The owner provided the following subheadings to his main points of objection
within his objection letter:

- No reasons from the instigator of TPO 690 have been communicated as to why the trees should be protected
- Very low amenity benefit to the local area
- Paper trail of evidence that the trees were never under threat
- Lawfully felling 8No. leylandii has contributed to this notice
- Some of the trees are not worthy of retention
- Bridge House is susceptible to subsidence owing to tree root damage

6. Assessment of the key issues

Members should note that the purpose of serving a TPO is not to prevent works
to trees. It is to bring works to the trees under the control of the Local Planning Authority.

The submitted objections are now considered in turn:

- No reasons have been communicated as to why the trees should be protected
Reasons for serving this Tree Preservation Order (TPO) were contained in the formal TPO notice sent to the owner. The reasons state that ‘the Council have made the order because it considered that the trees are of public amenity value and worthy of retention’. The notice also explained that ‘The property has changed ownership and local concern has been raised about possible development proposals or changes to the land within the curtilage of Bridge House, which might potentially threaten existing trees.’ Members should be aware that there is no requirement in the legislation for the reasons to be more detailed than this. Similar length and type of reasons are used by other authorities; such reasons have never been identified for criticism previously at this Council for example by the Planning Inspectorate or by arboricultural consultants advising landowners when TPO’s have been served. It is therefore my opinion that reasons were sufficiently communicated as to why the trees were protected.

- **Very low amenity benefit to the local area**

Amenity value is a subjective matter, however any person using or visiting Roman Way, which is a public road, would be able to see and therefore benefit from the amenity provided by the mature trees currently growing around Bridge House. Government advice is that the trees or part of them should normally be visible from a public place such as a road or footpath and that Councils should be able to show that protection would bring a reasonable degree of public benefit in the present or future. I consider that this is the case here. The trees are in public view from towards the end of Mill Lane or from most of Roman Way. To a lesser extent these trees also add to the general tree cover on the southern edge of Halford, as seen from the Fosse Way to the south particularly in winter months.

- **Paper trail of evidence that the trees were never under threat**

The paper trail that the owner is referring to is various private communications between the new owner and their surrounding neighbours. The owner did not submit any such ‘paper trail’ nor did he speak with Forestry & Landscape Officers nor did he submit the planning application prior to the serving of the Order. The owner has subsequently applied for some minor work to some of the trees and although the work proposed was considered to be acceptable, bringing it under the control of the Council has ensured that the amenity value of the trees is retained and preserved for the future, hence the serving of the Order is considered reasonable.

- **Lawfully felling 8No. Leyland cypress has contributed to this notice**

As mentioned above there had been local concern about future threat to the trees at this site in the months prior to the order being served, but once ownership had changed and some felling had started at the property, the local concern was raised again with the request that the District Council should now serve a Tree Preservation Order. It is the duty of the District Council to respond to such concerns and after assessment and discussion Officers felt an appropriate course of action was to now serve the Order. The intentions and extent of the proposed tree felling at the property was not known. The fact that some tree felling had commenced although on various cypress trees near the front of the property meant it was reasonable for the Council to consider that other tree felling might potentially continue, in the following weeks, and that this could include the better amenity trees. National guidance says that it is expedient to serve an Order if the authority believes there is a risk of trees being felled, pruned or damaged which would
have a significant impact on the amenity of the area. I considered that there was such a risk at this site.

- **Some of the trees are not worthy of retention**

In the owner’s opinion some of the trees are not worthy of retention. All the trees at Bridge House were assessed on site by an officer with a suitable formal qualification in arboriculture, as well as 20 years of experience in serving TPO’s for local planning authorities. It should be noted that several mature and publicly visible amenity trees at this site were considered to be unworthy of formal protection and were therefore specifically excluded from the Order. However other trees were found to be suitable, healthy, amenity trees worthy of legal protection. A brief second opinion via photographs was also sought from another appropriately qualified, experienced officer before the Order was served.

The owner considers that T3 is not a ‘full tree’ and questions whether it is worthy of retention or a fine example of a pine. It is acknowledged that tree T3 has reduced lateral growth on one side of its crown when compared to the other due the presence of a horse chestnut tree close by. The horse chestnut alongside it was not included in the TPO for health reasons. In addition the horse chestnut will require felling many years before the pine, which will enable the pine’s growth to become less suppressed on this side. This pine tree is the nearest protected tree to the public road viewpoint and is considered to be worthy of including within the order.

The owners also state that the silver birch, T2 leans ‘severely’, is therefore susceptible to falling and if allowed to grow bigger it could become a nuisance to the property. The birch tree is already at a mature height and it is growing 7-8m from the property. It has grown up with a slight lean but it is not severe and this lean is not considered to be potentially dangerous. This species is categorised as a ‘low’ water demand tree in NHBC Chapter 4.2 Building near Trees document (2014) which is the nationally recognised standard for building control requirements near trees. As a result birch is one of the most commonly planted trees in new housing developments because of suitability in terms of root water uptake, as well as light foliage, to be planted near dwellings. As the birch is approximately 8m away from the side of the dwelling this is therefore considered to be an acceptable distance for this tree species not to be a significant nuisance to the property. In the legal sense tree nuisance means it is ‘affecting someone else’s property’ either now, or in the foreseeable future.

The owners also feel that G1, consisting of two pine trees, can only be seen from the front of the property in the winter as otherwise the sycamore trees shield them from view. They also feel that these two pines and the 2 pine trees in G3 are competing with each other and are ‘mis-shaped’ and ‘imperfect’. My opinion is that both groups are pairs of pines where two similar age pines have grown up as a pair and not as individual specimen trees. As a result they would have more suppressed growth on the sides of the crowns that are growing nearest to each other. This is not considered to reduce their value, they are both maturing together as pairs of healthy, amenity trees and both were therefore protected as groups (G1 and G3). The pines in G1 are publicly visible at the side of the property above the lower single storey garage roof when entering Roman Way but it is acknowledged that several poorly formed sycamore trees are currently growing closer to the road than these two pines and as result they are currently less visible and more obscured when the sycamores are in leaf. However the roadside sycamores were not worthy of inclusion in the Order due to their poor stem form and so it is anticipated that these sycamores are likely to
require felling before the pine trees. In addition the pines are publicly visible between the months of October/November and March/April from the end of Mill Lane for half the year. They are not yet at a fully mature height so their height, visibility and public amenity value will continue to increase above the single storey garage as they mature, even if the foreground sycamore trees remain. The owner considers the willows (G2) and blue cedar (T1) are beautiful and agrees that they are worthy of retention however.

- Bridge House is susceptible to subsidence owing to tree root damage

The final objection that the owner has made is that their house is susceptible to subsidence owing to tree root damage. They explained that the house suffered subsidence in the 1990’s, before they owned it, and after monitoring, trees were felled and the cracks repaired. They say that they would like to be able to fell a tree quickly if it was causing damage and that a TPO could delay the process and incur additional costs.

The trees that were responsible for this previous subsidence were felled at the time, prior to the cracks being repaired. Bridge House may have suffered tree related subsidence in the past but it is not currently an issue. The matter of subsidence is serious and where there is sufficient evidence to demonstrate that protected trees are contributing to the subsidence of a building felling is allowed. Insurance companies usually require monitoring and investigation over a year or at least a number of months before they decide on necessary remedial works where trees may be implicated as contributing to damage. These timescales are usually necessary in order to be able to monitor what happens to the subsidence problems during the growing season (April–October) when there is seasonal uptake of soil water by roots. In the unlikely event that there was ever another subsidence issue at this property which showed that any of the protected trees were responsible, such monitoring timescales should be compatible with the timescale for an application for works without increasing costs to the owners.

7. Conclusion

Members are reminded that the purpose of serving a TPO is not to prevent works to trees. It is to bring works to the trees under the control of the Local Planning Authority.

The owner is aggrieved at the TPO being served and says that the trees are not under threat and that the quality and amenity of the trees is in their opinion questionable. They believe that the concern is ‘an emotional reaction to change from a local resident’

Officers consider that perceived or actual threats to trees are often unknown. These amenity trees were brought to the attention of the Council, assessed by a qualified officer and a number of them were found to be healthy, public amenity trees and worthy of formal, legal protection. The owner has included an objection that some of the trees are ‘not worthy of retention’ which may imply that some of the trees could be under threat if the Tree Preservation Order is not confirmed.

The objections to the Order have been considered above and I have found nothing of sufficient weight to alter my recommendation. The trees around Bridge House are considered to be contributing to the amenity and character of the area around Roman Way.
8. Recommendation

The making of the Tree Preservation under section 201 of the Town and Country planning Act is delegated to the Head of Environment and Planning and the Head of Legal Services.

Confirmation of opposed Tree Preservation Orders is a matter for the Planning Committee. Councillors may decide to:

(i) Confirm the order as made
(ii) Confirm the order with modifications (e.g. amend location of trees, remove trees)
(iii) Refuse to confirm the Order (thereby potentially allowing trees to be felled)

It is therefore recommended that Members decide to choose option (i) and CONFIRM the Tree Preservation Order as made, thus retaining control over future felling or tree surgery to these amenity trees.

ROBERT WEEKS
HEAD OF ENVIRONMENT AND PLANNING