

TOWN AND COUNTRY PLANNING ACT 1990

The Tree Preservation Order DFTPO265 – Close Turf House, Bream Road, St Briavels

The Forest of Dean District Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

1. Citation

This Order may be cited as The Tree Preservation Order DFTPO265, Close Turf House, Bream Road, St Briavels.

Interpretation

- 1.1. In this Order “the authority” means the Forest of Dean District Council.
- 1.2. In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

2. Effect

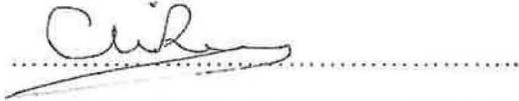
- 2.1. Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- 2.2. Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

3. Application to trees to be planted pursuant to a condition

In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 21st day of April 2023

Signed on behalf of the Forest of Dean District Council

A handwritten signature in black ink, appearing to read 'C. White', is written over a horizontal dotted line. The signature is cursive and extends slightly below the line.

Authorised by the Council to sign in that behalf

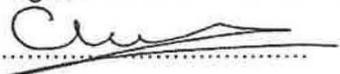
CONFIRMATION OF ORDER

This Order was confirmed by the FOREST OF DEAN DISTRICT COUNCIL without modification on the 18 day of September 2023

OR

This Order was confirmed by the FOREST OF DEAN DISTRICT COUNCIL, subject to the modifications indicated by broken black line on the map, on the day of

Signed on behalf of the FOREST OF DEAN DISTRICT COUNCIL



Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by the FOREST OF DEAN DISTRICT COUNCIL on the day

Signed on behalf of the FOREST OF DEAN DISTRICT COUNCIL

.....

Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by the FOREST OF DEAN DISTRICT COUNCIL on the day of by a variation order under reference number a copy of which is attached

Signed on behalf of the FOREST OF DEAN DISTRICT COUNCIL

.....

Authorised by the Council to sign in that behalf

REVOCAATION OF ORDER

This Order was revoked by the FOREST OF DEAN DISTRICT COUNCIL on the day of

Signed on behalf of the FOREST OF DEAN DISTRICT COUNCIL

.....

Authorised by the Council to sign in that behalf

SCHEDULE 1
SPECIFICATION OF TREES

Trees specified individually
(Encircled in black on the map)

Reference on Map	Description	Situation
T1	Sycamore	SO 585047 (358515, 204748)

Trees specified by reference to an area
(within a dotted black line on the map)

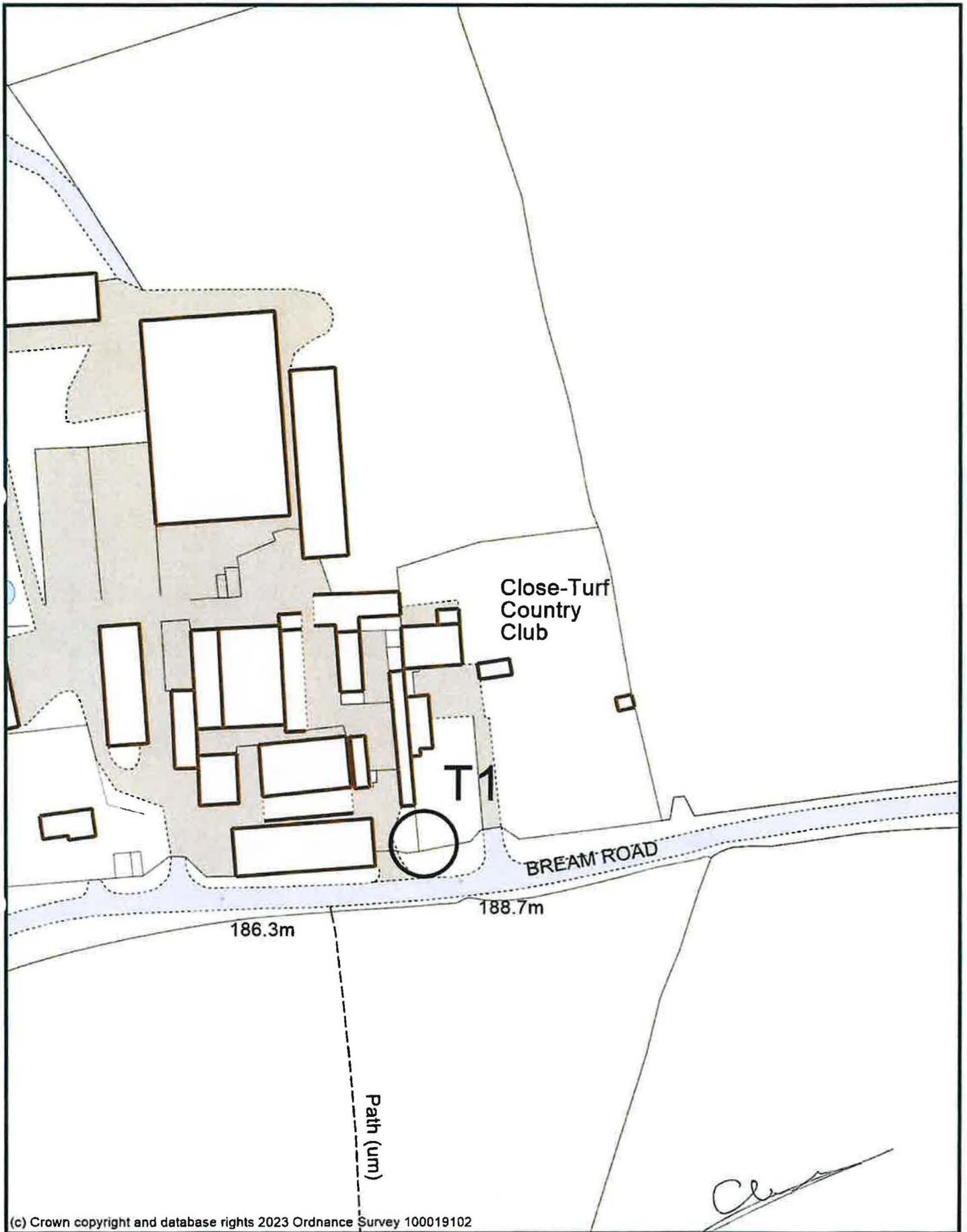
Reference on Map	Description	Situation
-	-	-

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

Reference on map	Description (including number of	Situation trees in the group)
-	-	-

Woodlands
(within a continuous black line on the map)

Reference on map	Description	Situation
-	-	-



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Tree Preservation Order DFTPO265 Close Turf House, Bream Road, St Briavels

Scale: 1:1250

21 April 2023



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IMPORTANT – THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

The Town and Country Planning Act 1990

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

DFTPO265 - Close Turf House, Bream Road, St Briavels

Notice Under Regulation 5

This is a formal Notice to let you know that on the 21st April 2023 the Forest of Dean District Council (hereafter called 'the Council') made the above Tree Preservation Order.

A copy of the Order is enclosed. In simple terms, it prohibits anyone from carrying out activities such as the cutting down, topping or lopping any of the trees described in Schedule 1 and shown on the map without the Council's consent.

Reasons for Making the Order

The Council has made the Tree Preservation Order for the following reasons:

In the interest of public amenity

Objections

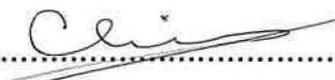
The Council will consider whether the Order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the Order have a right to make objections or other representations about any of the trees, groups of trees or woodlands covered by the Order.

If you have any objections or other representations which you wish to make with respect to any of the trees, groups of trees or woodlands specified in Schedule 1 of the accompanying Order, then such representations must be received by the Council no later than 28th February 2023 to the following address:

Forest of Dean District Council
Council Offices
High Street
Coleford
Gloucestershire
GL16 8HG.

Any objections or representations must comply with the requirements of Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which is set out overleaf.

The Council will write to you again further when the decision whether or not to confirm the Order has been made.

Signed.....

Development Manager

Report for a Tree Preservation Order

DFTPO 265 Close Turf House, Bream Road, St Briavels

Introduction

A provisional Tree Preservation Order is proposed for a mature, multi-stemmed Sycamore tree growing in the south west corner of the garden at Close Turf House (see Appendix A and B for TPO plan and photographs). The tree should be referred to as:

T1 – Sycamore

A request has been made for a Tree Preservation Order to be placed on this tree by the owner, as they consider it to be of high amenity value. The neighbouring landowner is proposing to remove a number of branches of the tree that overhang their property, which has the potential to diminish its amenity value.

Desk Based Assessment

The tree is situated within the south-west corner of the garden of Close Turf House, adjacent to the eastern boundary of Close Turf Farm. Bream Road, a Class C road linking St Briavels with Bream, is directly to the south of the tree. A public footpath emerges onto Bream Road approximately 25 metres to the south west of the tree.

Site Based Assessment

As above.

The tree lies within the south-west corner of the property, which is separated from Bream Road by a wide grass verge. The tree is fully visible from public viewpoints, due to its large, mature stature and location within an area of open countryside.

Consultation Responses

No consultations have been made concerning the making of the provisional TPO.

Discussion

Visibility: The tree is an open grown mature specimen, situated on the south-western boundary of the property. It can be seen in full from public viewpoints, due to being adjacent to Bream Road, and within 25 metres of a public footpath.

Individual Impact: The tree is a mature, multi-stemmed Sycamore, with a broad, well developed crown, that appears to be in relatively good condition for its age and size.

Wider Impact: The tree is situated in open countryside, with occasional mature trees being characteristic features of field boundary hedgerows. There is another mature

Sycamore situated on the property boundary, approximately 60 metres to the east. However, this tree does not possess the same stature and balanced form, due to having been trimmed heavily on its northern side, in order to provide adequate clearance for the adjacent overhead utility cables.

Expediency: The western half of the tree overhangs considerably into the neighbouring property of Close Turf Farm (see photographs in Appendix B). As a result of the tree encroaching upon the adjacent property, the neighbouring landowner is entitled to trim the tree up to their property boundary. It has been claimed by the requestor that the neighbouring landowner has expressed an intention to remove some of these branches, which has the potential to diminish the amenity value of the tree if not carried out sympathetically.

A TPO is considered to be expedient.

Conclusion of Discussion: It is considered that the tree is of high public amenity value, both individually, and in the wider context, due to its size and form in comparison to other mature trees in the immediate vicinity. The common law rights of the neighbouring landowner, in relation to overhanging branches, entitles them to trim said branches, in order to prevent or abate a nuisance, as defined in its legal sense. Under the current TPO regulations, an exemption for requiring permission from the LPA to remove these branches, would only apply where the nuisance is actionable. This means that if the overhanging branches are causing, or there is an immediate risk of their causing, actual or foreseeable damage, the work would be exempt from requiring permission. However, the LPA's consent would be required if the tree were to be covered by a TPO, prior to cutting back any branches which were not considered to be causing a nuisance. Excessive cutting back of overhanging branches could have the potential to negatively affect the amenity value of this tree, and may also have negative implications with regards to its long-term health and stability. Placing a TPO on this tree, will ensure an element of control on the extent of any proposed work to the tree that may potentially be carried out by the neighbouring landowner, should they choose to exercise their common law rights.

Alternatives to placing a Tree Preservation Order

Do nothing. The Council's permission would not be required prior to any work being undertaken to the tree, either by the owner, or the neighbouring landowner.

Recommendation

That provisional Tree Preservation Order DFTPO265 Close Turf House, Bream Road, St Briavels is made.

Signed: 

Printed: CLIVE REYNOLDS

Agreed Date: 21st APRIL 2023

Appendix A – TPO Plan



Tree Preservation Order DFTPO265 Close Turf House, Bream Road, St Briavels

Scale: 1:1250

21 April 2023



Appendix B – Photographs



Looking west from Bream Road



Looking north from Bream Road



Branches on western side of tree overhanging the neighbouring property of Close Turf Farm