



Land front of 44 to 70 Molesworth Road
Stoke Plymouth
PL1 5PD

Prepared for: Mr D Preece
Prepared by: Kevin Johnson MBE
21 May 2021
Proposal number: v2

INTRODUCTION:

Where cost is the over-riding factor, customers are often tempted to engage the local farmer, a 'bloke down the pub' or neighbour who owns a chainsaw to carry out tree work. In some circumstances this may be valid consideration but, where buildings, utility cables, highways and rights of way are within the hazard area there is no substitute for training and certification to the industry standard.

It is imperative to understand and abide by statutory requirements before undertaking tree works. The Town and Country Planning Act details the primary legislation for trees subject to Tree Preservation Order (TPO) and works within a Conservation Area (CA) and the Forestry Act includes certain restriction on volume which may be felled.

In recognition of consistent and meticulous administrative accuracy and compliance with statutory requirement (getting it right first time, every time) Empire Tree & Garden Services has been accredited as a Cornwall council "fast-track agent" and a Planning Portal "Planning Champion" for planning applications; all applications received will be fast-tracked through validation and registration.


Waste management - Any tradesperson removing waste from a commercial operation must be registered with the Environment Agency as a waste carrier. Removal of untreated green waste from arboricultural arisings requires registration as a lower tier waste carrier.

Biomass Suppliers List – If your heating or hot water systems are eligible technologies for Renewable Heat Initiative payments, Empire Tree & Garden Services is a registered producer / supplier of firewood (Registered number BSL0195016-0001 dated 25 Aug 15) and pellets (Registered number BSL0195016-0002 dated 27 Aug 15.)

Biosecurity measures - These are practical steps designed to minimise the risk of introducing or spreading tree pests and diseases. Empire Tree & Garden Services applies the measures recommended by the Forestry Commission.

If you have any questions please don't hesitate to call on the number below.

Kevin Johnson MBE

 0772 0892133

 <https://www.empiretrees.co.uk>

REFERENCES:

- A. National Tree Safety Group - Common sense risk management of trees, Landowner summary of guidance on trees and public safety in the UK for estates and smallholdings p15/16.
- B. Tree Preservation Orders: A Guide to the Law and Good Practice paragraph 3.18.
- C. Occupiers' Liability Act 1957 section 2 (2)
- D. Occupiers' Liability Act 1984 section 1 (3)
- E. Principles of Tree Hazard Assessment and Management Chapter 5.
- F. British Standard 3998:2010 Tree work - Recommendations paragraph 7.10 & Annex C.4.1.
- G. The Town and Country Planning Act 1990 section 211.
- H. The Highways Act 1980 section 154.

EXECUTIVE SUMMARY:

- Tree Preservation Order 00/00050/TPO applies - online data appears contradictory.
- **The original source document for 00050/TPO has been examined and it was found to be an "Area" Tree Preservation Order dated July 1972. The Area TPO should only be used in emergencies, and then only as a temporary measure. This Area TPO has been in effect for 49 years.**
- Management intervention is recommended as follows:
 - late pollard to suitable stem unions not exceeding 200mm as defined in Reference E (plus removal of basal epicormic) for the Lime,
 - crown raise to achieve minimum 5.4m height clearance (East) (plus 5m clearance from street lamps (West)) for the Oak.
- Submission of a planning application (s202D Town & Country Planning Act) would be required.
- If recommendations are accepted, submission of s202D planning application could be held in abeyance until original TPO documents are received - but this is not essential.
- Planning application has 8 week turn-around from date of submission and, if approved, remains valid for 2 years.
- Autumn / Winter are the preferred seasons for implementing late pollard.

TERMS & CONDITIONS:

Empire Tree & Garden Services was invited to examine the subject tree(s) and provide a report which may be used to accompany a s202D planning application for consent to work on protected tree(s) and to present considerations for the mid to longer term management of the tree(s.)

Given the instruction, the status of this report will fall between the definitions of *Informal Observation*¹ and *Formal Inspection*² as defined by Reference A. Whilst no clear and present signs of immediate instability (uprooting or other structural failure) were observed, detailed root plate analysis and examination of the basal stem was impeded by excessive epicormic growth which requires s202D planning application consent prior to removal.

This report should be retained as documentary evidence of due diligence as defined by References C and D.

Terms & Conditions of contract are at the [link](#), instructions to proceed are taken as confirmation that T&Cs are understood and accepted.

OBSERVATION(S):

Desk top survey was conducted utilising PCC TPO mapping system (plate 1) but information available was limited and appeared contradictory (plate 1a.)

The original TPO and all associated annexes, maps, schedules or addendum to that order have been examined and it was found that this is an “Area” TPO. An area TPO has particular use, utility and constraint as described in Reference B:

“...In the Secretary of State's view the area classification should only be used in emergencies, and then only as a temporary measure until the trees in the area can be assessed properly and reclassified. LPAs are encouraged to resurvey their existing TPOs which include the area classification with a view to replacing them with individual or group classifications where appropriate...”

Since this (temporary) TPO has not been updated in a considerable passage of time (49 years) it might be assumed that either the Planning Authority has taken less interest in the preservation of these trees than might be worthy of the statutory protection, or, that the

¹ (a)...informal observations contribute to wider management and tree safety....

(b)...informal observation may be considered reasonable and appropriate when owners and staff are able to assess the trees' health and any structural weaknesses that may pose an imminent threat to public safety....

² ...formal inspection of a tree is when a specific visit to the tree is made with the sole purpose of performing an inspection that is not incidental to other activities. the spectrum of formal inspection ranges from survey work for tree inventories, to health and condition assessments...

trees are perhaps not actually worthy of statutory protection. Either way, and especially since there is observable similar tree management intervention to nearby tree(s) within the authority's direct control, approval of an application for works specified in the recommendation should be anticipated since refusal, or restrictive conditional approval, would likely be over-ruled at appeal given the circumstances.

The site visit was conducted AM Thursday 20 May 2021 with a Yellow weather warning in effect for wind and rain. The prevailing weather presented the trees with considerable stress conditions which were useful to observe.

Table 1 - Weather Conditions	
Low cloud - Cumulonimbus	cloud base below 2000m
Maximum rain per minute	0.2mm at 11:58
Average temperature	11.9°C
Average humidity	89%
max wind speed	25.3 mph
max wind gust	40.3 mph from 232° (SW)

The subject tree(s) (Oak and Lime) form a distinctive line within a managed mixed hedgerow running North to South adjacent to Molesworth Road. The 8 subject tree(s) have been numbered with ID tags 02128 - 02121 North to South.

The tree inspection was conducted from ground level using the Visual Tree Assessment methodology described in Reference E, by a LANTRA certified Professional Tree Inspector with previous certification for Quantified Tree Risk Assessment.

The tree(s) are immediately adjacent to a ground level change of +/- 1500mm (down) to the West which is formed with a stone and cement wall making the boundary with the metalled surface of the pedestrian footway alongside Molesworth Road (plate 2.) There is a margin of utility grass which extends to +/- 3000mm East and then gives way to compacted granular surface dressing used for car parking (plate 3.)

This is not an optimum rooting environment for trees to grow into full maturity and beyond. Ground level changes and metalled surface treatment (West) combined with limited rooting environment (East) which is then compromised by compaction and car parking present significant challenge to the tree(s) ability to exchange moisture, nutrient and oxygen via the root system.

Where accessible, the lower stem and root plate of each tree was examined. Excessive epicormic growth (plate 3) precluded thorough examination of the majority of Lime tree(s.) There were no observable structural defects which would give rise to reasonable concern for whole tree or significant stem failure.

The (3) Oak were of a similar semi-mature age class and presented single stem examples. The (5) Lime were a mix of single, dual and multi stem examples many with excessive basal epicormic growth.

As a general observation, the Oak(s) were presenting uniform but potentially sparse early leaf formation (plate 4) and the Lime(s) were showing notable crown dieback (visible in plate 2) - likely attributable to the sub-optimal rooting environment.

In relation to the Lime tree(s) and whereas Reference F paragraph 7.10 would ordinarily be interpreted as precluding the introduction of 'pollarding' to a tree with a stem diameter at the pollard point more than 50mm but less than 200mm, Annex C.4.1 does acknowledge the occasional justifiable requirement for such management intervention.

Given the species (Lime - known propensity for strong epicormic regrowth), the age class (semi-mature) and that **exactly** this course of action was observed to have been recently implemented to immediately adjacent (and more widely in the surrounding streets) local authority (LA) street tree(s), and private garden tree(s) (with a lesser propensity for regrowth (Sycamore)), within the CA (plate 5) - it must be assumed that this was 'approved' LA tree management intervention subject to Reference G. It naturally follows therefore, that the initiation of a late pollard to the subject Lime tree(s) should similarly receive LA approval since it is a model that has been adopted **by** the LA. This approach would also satisfy - in the long term - the requirements of Reference H which is explored in more detail below.

Initiation of a late pollard is an appropriate intervention but it should be noted that the process, if adopted, should be maintained by a 3-5 year cycle of repeated removal of regrowth. This is a relatively simple and cost effective process with the added benefits of (a) retaining street trees in a size and form which suits the built environment and (b) reduces the risk of uncontrolled failure of large mature tree(s) which could cause damage or harm.

This rationale supports the recommendation for late pollard to the Lime tree(s) but not the Oak which are unsuitable for late pollard initiation due to the distinctly different physiological effect this would have on the tree(s.)

A different approach should be adopted in relation to the Oak tree(s.) Reference H defines the duty of a LA to require the management of privately owned tree(s) so as not to endanger or obstruct the passage of vehicles or interfere with the light from a public lamp. Whereas no actual detail of the height above a carriageway, nor the distance from a lamp, that must remain clear of obstruction is specified in the Act, it is widely acknowledged that 5.4m height clearance above the carriageway and 5m clearance from a lamp are accepted minimum clearances.

The Oak tree(s) (most notably 02121 & 02122) have extensive low level pendulous peripheral growth (East) which creates a height restriction above Batten Road and the associated off-street parking area (plate 4.) Discussion with the client suggests that a

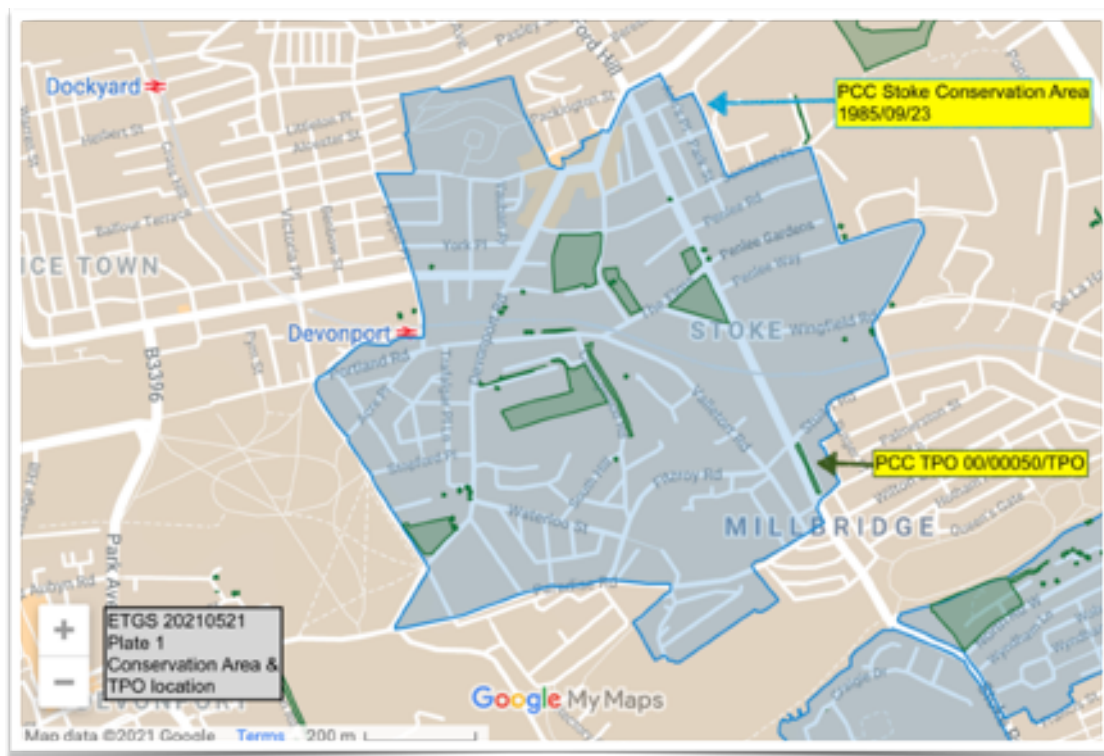
previous s154 Highways Act notice has been served by the LA in relation to limbs overhanging Molesworth Road (West) and that this remedial action has been implemented. The visual consequence of this is an asymmetric crown with retained low level lateral limbs (East.) The s154 rationale similarly applies to those low level lateral limbs (East) which restrict access to high sided vehicles such as house removals etc and this supports the recommendation that the Oak tree(s) be subject to a crown raise to allow minimum 5.4m clearance above Batten Road.

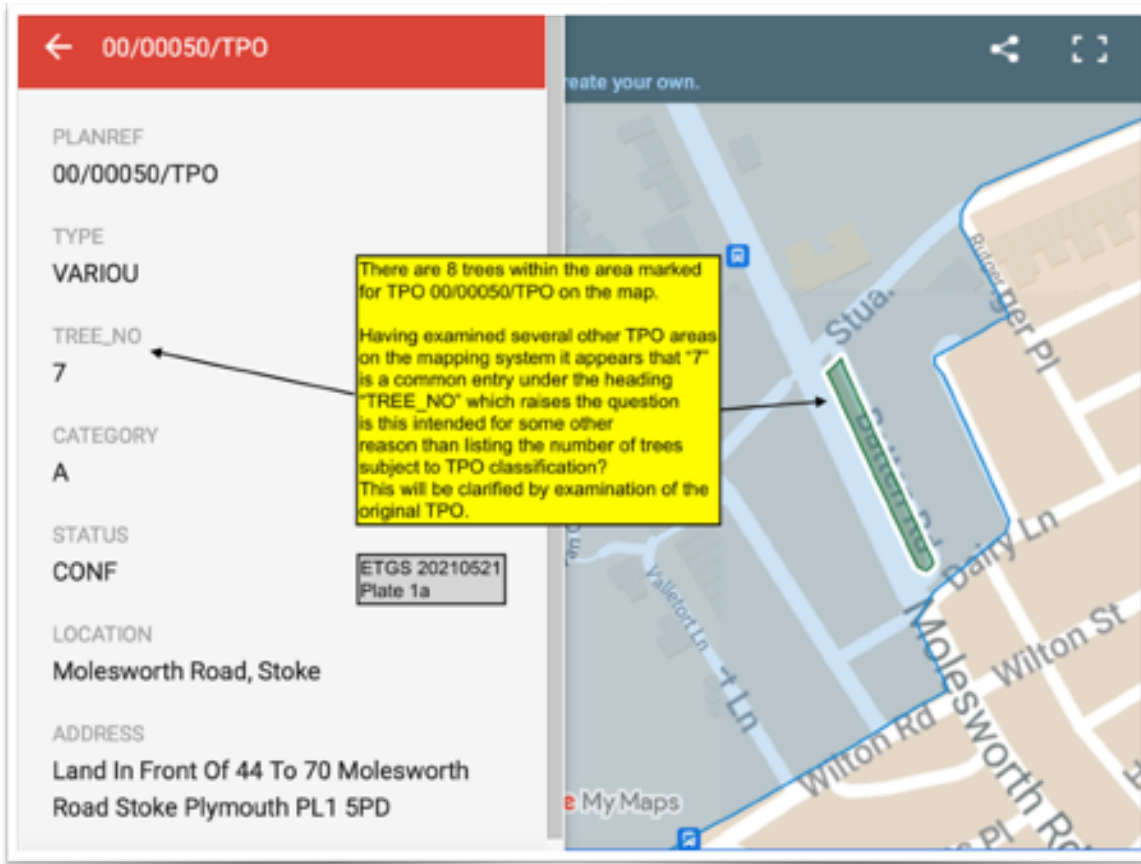
RECOMMENDATION(S):

In order to achieve uniformity and visual amenity to this identifiable group of tree(s) all Lime and all Oak should be subjected to the specified proposed management interventions relevant to those tree(s):

- late pollard to suitable stem unions not exceeding 200mm as defined in Reference E (plus removal of basal epicormic) for the Lime,
- crown raise to achieve minimum 5.4m height clearance (plus 5m clearance from street lamps) for the Oak.

PLATES:









BIBLIOGRAPHY:

Tree Preservation Orders: A Guide to the Law and Good Practice, Department for Communities and Local Government, May 2006 - superseded by:

Tree Preservation Orders and trees in conservation areas Paragraph: 029
Reference ID: 36-029-20140306

[accessed 6 Jun 21]

Town and Country Planning Act 1990 s202D (2)(c)

[accessed 22 May 2021]

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[accessed 22 May 21]

Occupiers' Liability Act 1957 s2 (2)

[accessed 22 May 2021]

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[accessed 22 May 2021]

Lonsdale, D. (2009) Research for Amenity Trees No.7 - Principles of Tree Hazard Assessment and Management. London:TSO

The Town and Country Planning Act 1990 s211

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Highways Act 1980 s154

[accessed 22 May 2021]