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Newton Abbot  
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11 January 2019

## REGULATORY & APPEALS COMMITTEE

Dear Councillor

You are invited to a meeting of the above Committee which will take place on **Monday, 21st January, 2019** in the Council Chamber - Forde House at **10.00 am**

Yours sincerely

PHIL SHEARS  
Managing Director

Distribution:

- (1) The Members of the Regulatory & Appeals Committee

Councillor Charlie Dennis (Chairman)  
Councillor Ted Hockin (Vice-Chairman)  
Councillor Beryl Austen  
Councillor Sheila Cook  
Councillor Lorraine Evans  
Councillor Rosalind Prowse

A link to the agenda on the Council's website is emailed FOR INFORMATION (less reports (if any) containing Exempt Information referred to in Part II of the agenda), to:

- (1) All other Members of the Council  
(2) Representatives of the Press  
(3) Requesting Town and Parish Councils

**If Councillors have any questions relating to predetermination or interests in items on this Agenda, please contact the Monitoring Officer in advance of the meeting**

## Public Access Statement

- There is an opportunity for members of the public to ask questions at this meeting. Please submit your questions to [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk) by **12 Noon** two working days before the meeting.
- If you would like this information in another format, please telephone 01626 361101 or e-mail [info@teignbridge.gov.uk](mailto:info@teignbridge.gov.uk)
- Agendas and reports are normally published on the Council's website <http://www.teignbridge.gov.uk/agendas> 5 working days prior to the meeting. If you would like to receive an e-mail which contains a link to the website for all forthcoming meetings, please email [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk)
- Reports in Parts I and III of this agenda are for public information. Any reports in Part II are exempt from publication due to the information included, under the provisions of the Local Government Act 1972.

## **A G E N D A**

### **Part I**

1. Apologies for absence
2. Minutes (Pages 1 - 2)
3. Agreement of the Agenda between Parts I and II.
4. Matters of urgency/matters of report especially brought forward with the permission of the Chairman.
5. Declarations of Interest.
6. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION OF PRESS AND PUBLIC

It is considered unlikely that the Committee would wish to exclude the press and public during consideration of the items on this agenda. If, however, the Committee were to exclude the press and public, a resolution in the following form should be passed:

**"RECOMMENDED** that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the particular item(s) on the grounds that it (they) involve the likely disclosure of exempt information as defined in paragraph(s) of Part I of Schedule 12A of the Act."

7. Tree Preservation Order 2018 - E2/50/20 (Pages 3 - 22)

### **Part II (Private)**

**Items which may be taken in the absence of the Public and Press on the grounds that Exempt information may be disclosed.**

Nil.



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## **REGULATORY & APPEALS COMMITTEE**

**26 NOVEMBER 2018**

Present:

Councillors Dennis (Chairman), Austen and Evans and Winsor (Reserve).

Apologies:

Councillors Hockin and Prowse

Officers in Attendance:

Marie Downey, Solicitor

Hayley Carpenter, Licensing Officer

Howard Bassett, Democratic Services Officer (Exeter City Council)

### **271. MINUTES**

The Minutes of the meeting held on 29 October 2018 were approved as a correct record and signed by the Chairman.

### **272. DECLARATIONS OF INTEREST.**

There were no declarations of interest.

### **273. APPLICATION FOR A HACKNEY CARRIAGE VEHICLE EXTENSION**

Consideration was given to an application to renew and extend a Hackney Carriage Vehicle Licence, as set out in the report.

Section 43 of the Town Police Clauses Act 1847, provides that a Private Hire/ Hackney Carriage Vehicle Licence may only be in force for a maximum period of one year. The Hackney Carriage and Private Hire Policy provides that vehicles being presented for subsequent licensing are required to be under ten years old.

However, the Council has discretion to continue to licence vehicles which are older than ten years, provided that, the Council is satisfied that such a vehicle is in a good condition and good state of repair, and that it passes the appropriate testing standard. The Council's Policy and statutory provisions reflect the Council's responsibility to ensure that all hackney carriage and private hire vehicles are safe and fit for use by members of the public.

The Licensing Officer presented the report stating that the vehicle was a Skoda Octavia, WF08 ZSR which had been first registered on 26 May 2008 and would be 10 years and 6 months old, if granted. The current Hackney Carriage licence expired on 3 January 2019. The vehicle had a current MOT that expired on 14 August 2019 and had no advisories. The vehicle was booked in for a taxi test on 20 December 2018.

The Committee Members inspection the vehicle.

The Applicant was in attendance.

Resolved

Subject to the vehicle passing a taxi test on 20 December 2018, Vehicle registration WF08 ZSR be approved for a 12 month Hackney Carriage Vehicle Licence renewal with a condition requiring that the vehicle have six monthly vehicle inspections.

Reason for Decision

Having inspected the vehicle, read all written material, and listened to the representation by the Applicant and the Licensing Officer, the Regulatory and Appeals Committee were satisfied with the general standard of the vehicle, the state of repair and the condition of the vehicle. Therefore it was considered that, subject to passing a taxi test on 20 December 2018, the vehicle was fit for use for the general public and paying customers.

**274. TREE PRESERVATION ORDER 2018 - E2/28/57**

The Chairman reported that the report on a request to confirm the provisional Tree Preservation Order (TPO) - The District of Teignbridge (Broadmeadow 2) Tree Preservation Order 2018 had been withdrawn for consideration to be given to further information submitted by an objector after the agenda had been published.

Resolved that the position be noted.

Chairman

TEIGNBRIDGE DISTRICT COUNCIL

**REGULATORY & APPEALS COMMITTEE**

**CHAIRMAN:** Cllr Charlie Dennis

**DATE:** 21 January 2019

**REPORT OF:** Business Manager – Strategic Place

**SUBJECT:** The District of Teignbridge (St Boniface) Tree  
Preservation Order 2018  
E2/50/20

**PART I**

**RECOMMENDATION**

**The Regulatory & Appeals Committee is recommended to resolve that:**

The District of Teignbridge (St Boniface) Tree Preservation Order 2018 is confirmed modified, to reflect the area of the land that has been cleared, and to include the trees that provide the majority of the visual amenity.

**1. PURPOSE**

The District of Teignbridge (St Boniface) Tree Preservation Order 2018 protects an area of trees located within the area of Land north Of St Boniface and as shown on the plan that forms part of the tree preservation order.

The Tree Preservation Order (TPO) was served on 22 August 2018. The provisional protection will cease on 22 February 2019, if it is not confirmed.

**2. BACKGROUND**

The Tree Preservation Order was made as a number of trees had and were being felled

Local Planning Authorities (LPAs) have a duty under Part VIII Section 197 of the Town and Country Planning Act 1990 (TCPA) to ensure the protection of trees by making TPOs where it is considered necessary. Section 198 of the TCPA states LPAs 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 woodlands in their area”.

Further guidance may be found in National Planning Policy Guidance “Tree Preservation Orders and trees in conservation areas”

## TEIGNBRIDGE DISTRICT COUNCIL

### 3. REASON

The trees are highly visible and contributes to the visual amenity of the area, and are typical of those found within this part of Shaldon. The loss of the trees would have a detrimental impact upon the visual amenity of the area.

Collectively the trees have an amenity rating of 18. The suitable benchmark rating for inclusion within a tree preservation order is 15.

Owing to the importance of the trees within the local landscape, The District of Teignbridge (St Boniface) Tree Preservation Order was made and served on 22 August 2018.

Letters of objection dated 28 September and 7 November have been received from an agent representing the owner of the land affected by the tree preservation order.

#### **The objections can be summarized as follows:**

- The TPO has been made with an Area (A1) designation and government advice states that this should only be used in an emergency.
- The TPO, in its current form, is unfair and unreasonable due to its indiscriminate coverage. The TPO should be modified to include trees those trees with a public amenity value that are of reasonable quality, in accordance with Government advice and best practice.
- The site contains a mixture of dense shrubs with some trees. Much of the vegetation present is either not protected (shrubs) or of poor quality and not worthy of a TPO.
- The site contains vegetation with a little or no visual amenity value and only several trees justify a TPO on the basis of protecting visual amenities. Modifying the TPO prior to confirmation will allow those trees with limited amenity value to be excluded from the order. The applicant's objection letter dated 7 November details the trees on site and reason why they are considered individually not suitable for inclusion within a tree preservation order.
- The inclusion of poor-quality vegetation is preventing the owner from undertaking suitable drainage works.

\* See below to view full documents



## TEIGNBRIDGE DISTRICT COUNCIL

### Officer Comment:

- The tree preservation order protect all trees growing on site within the area shown on the plan that forms part of the tree preservation order. While individually the trees may be of moderate quality, collectively they form an important landscape feature that is highly visible. The plotting of all the trees within the area ranging from the smallest to the largest is not considered practicable. Owing to the above the tree preservation order could be remade using a woodland designation that would protect all trees growing at the time the tree preservation order is made and all trees that subsequently grow.
- Contrary to the objectors observations the area of trees is regarded as highly visible contributing to the visual amenity of the area.
- The applicant is encouraged to discuss the management of the trees if and when drainage work is required. The Council's Arboricultural Officer has offered to meet the objector's agent on site to discuss the making of the tree preservation order.

Letters of support have been received from local residents, the following is an extract from one letter that summarizes the letters of support:

*"Within this area, especially to the west of the brook, there are a number of mature trees, mainly Small Leaf Lime, Poplar, Hazel and Oak, which have been part of this landscape for decades.*

*These trees provide a natural beauty and backdrop to this part of the valley and are essential in providing privacy and sound absorption to numerous properties, as well as acting as a natural and very efficient wind brake.*

*They also provide an important habitat for all wildlife both birds and mammals".*

- Following a meeting with the agent representing the owner of the site on Tuesday 8 January 2019, correspondence has been received suggesting the order should be modified to protect 1 ash tree referred to as tree (T1), two ash trees referred to as group (G1) and 3 lime trees and one ash tree referred to as (TG1 or G2). The agent considers other trees within the site should not be included as they are not worthy of protection.
- The Council's Arboricultural Officer disagrees with the objector's assessment of the trees, while individually the trees may be of indifferent quality, collectively the trees contribute to the visual amenity of the immediate and wider area, and should be protected.
- The site meeting on Tuesday 8 January allowed for a more detailed inspection of the site, and identified the trees adjacent to the water course and trees on

## TEIGNBRIDGE DISTRICT COUNCIL

or close to the northern boundary of the site as providing the majority of the visual amenity.

- Owing to the above the plan that forms part of the tree preservation order has been revised to reflect the area of the land that has been cleared, and to include the trees that provide the majority of the visual amenity.
- An area designation is used as a topographical survey plan of the site accurately plotting the trees included within the order is not available to the Council at the time of the writing of this report.

### 4. SUSTAINABILITY IMPLICATIONS

Trees in urban areas are a vital component of a sustainable future, serving to absorb CO<sup>2</sup>, create oxygen and filter pollutants that exacerbate conditions such as eczema and asthma, as well as providing shade and screening and a softening of the built environment. Trees provide a sense of place, habitat for fauna and flora, as well as uplifting the spirits of many people.

### 5. FINANCIAL IMPLICATIONS

None

### 6. OPTIONS

The Regulatory and Appeals Committee can decide to:

- Confirm the Tree Preservation Order unmodified
- Confirm the Tree Preservation Order modified
- Not to confirm the Tree Preservation Order

**Office Name: Mark Waddams**

**Officer Designation: Arboricultural Officer**

**The box below to be completed by the report author.**

<b>Wards affected</b>	<b>^ND,PARISH_PN.TPAPPL;</b>
<b>Contact for any more information</b>	Mark Waddams (01626) 215708
<b>Appendices attached:</b>	I: Amenity Evaluation Sheet

\*All relevant documents may be viewed on our website here:

<https://www.teignbridge.gov.uk/planning/forms/protected-tree-checker/>

- Click on the map within the highlighted area of the TPO that you want to see – a 'Results' table will appear
- Scroll down to see the information
- Click on 'Associated Documents' to see the documents.

# TEIGNBRIDGE DISTRICT COUNCIL

## APPENDIX I

### AMENITY EVALUATION RATING FOR TPOs

TPO No:	E2/50/20	Site Visit date:	17 December 2018
TPO Name:	The District of Teignbridge (St Boniface) Tree Preservation Order 2018	Effective Date:	22 August 2018
Address	Land At NGR 292588 71909, North Of St Boniface, Brook Lane, Shaldon, Devon	TPO Designation	Area
Rating	18	Surveyed by:	Mark Waddams
Reason for TPO	The Tree Preservation Order was made as a number of trees had and were being felled		

<b>1. <u>Size – height x spread</u></b> <b>1</b> very small 2-5m <sup>2</sup> <b>2</b> small 5-10m <sup>2</sup> <b>3</b> small 10-25 <sup>2</sup> <b>4</b> medium 25-50m <sup>2</sup> <b>5</b> medium 50-100m <sup>2</sup> <b>6</b> large 100-200m <sup>2</sup> <b>7</b> very large 200m <sup>2</sup> +	<b>score</b>  <b>7</b>	<b>6. <u>Suitability to area</u></b> <b>1</b> Just suitable <b>2</b> Fairly suitable <b>3</b> Very suitable <b>4</b> Particularly suitable	<b>score</b>  <b>2</b>
<b>2. <u>Life expectancy</u></b> <b>1</b> 5-15 yrs <b>2</b> 15-40 yrs <b>3</b> 40-100yrs <b>4</b> 100yrs +	<b>3</b>	<b>7. <u>Future amenity value</u></b> <b>0</b> Potential already recognised <b>1</b> Some potential <b>2</b> Medium potential <b>3</b> High potential	<b>0</b>
<b>3. <u>Form</u></b> <b>-1</b> Trees which are of poor form <b>0</b> Trees of not very good form <b>1</b> Trees of average form <b>2</b> Trees of good form <b>3</b> Trees of especially good form	<b>0</b>	<b>8. <u>Tree influence</u></b> <b>-1</b> Significant <b>0</b> Slight <b>1</b> Insignificant	<b>1</b>
<b>4. <u>Visibility</u></b> <b>1</b> Trees only seen with difficulty or by a very small number of people <b>2</b> Back garden trees, or trees slightly blocked by other features <b>3</b> Prominent trees in well frequented places	<b>3</b>	<b>9. <u>Added factors</u></b> <i>If more than one factor relevant maximum score can still only be 2</i> <b>1</b> Screening unpleasant view <b>1</b> Relevant to the Local Plan <b>1</b> Historical association <b>1</b> Considerably good for wildlife <b>1</b> Veteran tree status	<b>1</b>
<b>5. <u>Other trees in the area</u></b> <b>0.5</b> Wooded surrounding <b>1</b> Many <b>2</b> Some <b>3</b> Few <b>4</b> None	<b>1</b>	<b>10. <u>Notes and total score</u></b> <b>Reasonable for inclusion within the TPO</b>	<b>18</b>

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**TREE PRESERVATION ORDER****Town and Country Planning Act 1990****The District of Teignbridge (St Boniface) Tree Preservation Order 2018**

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

**Citation**

1. This Order may be cited as **The District of Teignbridge (St Boniface) Tree Preservation Order 2018**

**Interpretation**

2. (1) In this Order "the authority" means the Teignbridge District Council
- (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.

**Effect**

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (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, uprooting, 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

**Application to trees to be planted pursuant to a condition**

4. 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**

Signed on behalf of the Teignbridge District Council

.....  
 Authorised by the Council to sign in that behalf

**CONFIRMATION OF ORDER**

This Order was confirmed by the Teignbridge District Council without modification on the

Date: .....

OR

This Order was confirmed by the Teignbridge District Council, subject to the modifications indicated by:

- the substitution of the original Schedule 1 (which is shown deleted by a black line) with the new substituted Schedule 1, which is marked "Substituted Schedule 1"
- the substitution of the original Plan (which is shown deleted by a black line) with the new substituted Plan, which is marked "Substituted Plan"

Date: .....

Signed on behalf of the Teignbridge 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 Teignbridge District Council on:

Date: .....

Signed on behalf of the Teignbridge District Council

.....

Authorised by the Council to sign in that behalf

**VARIATION OF ORDER**

This Order was varied by the Teignbridge District Council on the [INSERT DATE] by a variation order under reference number [INSERT REFERENCE NUMBER TO THE VARIATION ORDER] a copy of which is attached:

Signed on behalf of the Teignbridge District Council

.....

Authorised by the Council to sign in that behalf

# REVOCATION OF ORDER

This Order was revoked by the Teignbridge District Council on the:

Date: .....

Signed on behalf of the Teignbridge District Council

.....

Authorised by the Council to sign in that behalf

# **FIRST SCHEDULE**

## **SPECIFICATION OF TREES**

### **TREES SPECIFIED INDIVIDUALLY**

*(NONE)*

### **TREES SPECIFIED BY REFERENCE TO AN AREA**

*(Within a dotted black line on the map)*

#### **REFERENCE ON MAP**

A1

#### **DESCRIPTION**

Trees of whatever  
species

#### **SITUATION**

An area of trees to the west of Brook Lane and north  
of St Boniface

### **GROUP OF TREES**

*(NONE)*

### **WOODLAND**

*(NONE)*







Mr M Waddams  
Senior Arboricultural Officer  
Teignbridge District Council  
Forde House  
Brunel Road  
Newton Abbot  
TQ12 4XX

*via email*

8<sup>th</sup> January 2019

Dear Mark,

**Site: St Boniface, Brook Lane Shaldon.**

**TDC TPO: The District of Teignbridge (St Boniface) Tree Preservation Order, 2018 E2/50/20**

Following my letter of 28<sup>th</sup> September 2018 raising an initial objection to the above TPO I have now assessed the trees on site and have included a list of trees present on site and reasons why they are / are not suitable for inclusion in a TPO. I would therefore, request that the TPO is modified prior to confirmation.

I have been instructed by Mr B Sullivan to object to A1 of the above preliminary tree preservation order (TPO).

**Tree quality assessment land at St Boniface, Brook Lane, Shaldon – see table on page 2.**

**Notes:**

The appraisal was based on a visual assessment of the trees.

Consideration was given to the visual amenity of each tree and its condition / life expectancy.

Visual amenity: Trees 1 to 10 are only visible from within short distances along part of Brook Lane i.e. directly adjacent to the site. They are not readily visible in the wider landscape. Their amenity value is low to moderate and highly localised.

Trees in TG1 are visible from longer distances to the north but as part of the general vegetation in the valley.

The ash trees are of limited value with an uncertain life expectancy due to the local prevalence of early Ash Dieback Disease. The pattern of disease in the south east of the country indicates extensive tree loss within 3-5 years of first symptoms appearing. So, any benefit provided by these trees is temporary.

Tree No.	Species	Condition / Comments	Suitable for inclusion in TPO Y/ N
H1	<b>Leyland Cypress</b> <i>x Cupressocyparis leylandii</i>	Topped hedge with minimal management in recent years. Unsuitable for retention over long-term due to size potential and conflict with High Hedges legislation. Not a line of trees – outside scope of TPO.	N
1	<b>Common Ash</b> <i>Fraxinus excelsior</i>	Bare twigs located throughout crown may indicate early signs of Ash Die Back Disease (ADB). Life expectancy uncertain. Ivy on stem. Dominant tree in southern area but limited viability if adjacent trees removed and / or due to ADB	Y but borderline – viability doubtful.
2	<b>Common Ash</b>	Included union at base, limiting life expectancy. Thin crown at 50% off optimal. Green leaf drop on ground around tree. Sporadic twig death indicating ADB.	N
3	<b>Common Ash</b>	Included union at base, limiting life expectancy. Thin crown at 50% off optimal. Green leaf drop on ground around tree. Sporadic twig death indicating ADB.	N
4	<b>Common Ash</b>	Partially wind blown in past resulting in lean to N. Root plate exposed with lump of raised soil to S. No vertical supporting structural root present to N.	N
5	<b>Common Ash</b>	Lowest branch N dead. Dieback present throughout crown, suspected ADB.	N
6	<b>Common Ash</b>	Minor tree with no external amenity value	N
7	<b>Common Ash</b>	Very thin and chlorotic crown with foliage density less than 50% off optimal. Previously topped at 4m. Included union between primary stems at 2.5m.	N
8	<b>Common Ash</b>	Thin crown- viability may be limited by potential for ADB	Y
9	<b>Common Ash</b>	Thin crown - viability may be limited by potential for ADB	Y
10	<b>Common Ash</b>	No visual amenity value. Growing out of stream bank with no vertical structural root supporting tree – stream gradually undermining stability over long-term.	N
11	<b>Common Ash</b>	No visual amenity value. Growing out of stream bank with no vertical structural root supporting tree – stream gradually undermining stability over long-term.	N
12	<b>Lime</b> <i>Tilia cordata</i>	Collapsed tree filling western area – no longer viable and exempt from TPO due to structural condition.	N
TG1	<b>Lime x 3, Ash x 1</b>	Western tree has structurally weak main union but can be rectified by pruning. Prominent visual feature.	Y



TG1.1	Lime x 1	TG1.1 – poor quality lime tree with structurally weak unions at base.	N – exclude from TPO
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### Photographs:

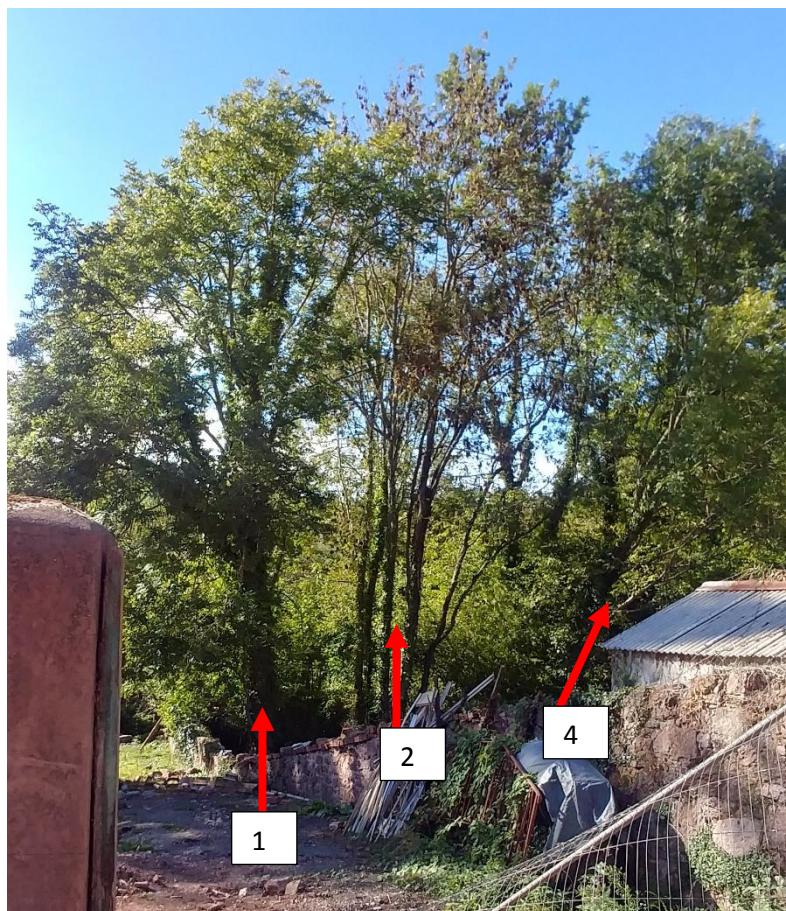


Figure 1

### Fig 1:

Tree 2 has a very thin crown and with a declining condition (note the comparison of the foliage density compared to tree 1).

Tree 4 has been partially wind-blown and is leaning.

Tree 1 will be exposed once the adjacent trees are removed. It will be at risk of branch loss from northerly winds.





Figure 2 - Tree 4 - the root plate is unstable



Figure 3 Tree 7 previously topped with limited viability.





Figure 4 - H1 Leylandii - not a tree and does not fall within the scope of the TPO.

I would request that this evidence is presented to the deciding committee.

Yours sincerely,

Dominic Scanlon

*MICFor, FArborA, CEnv.*

Chartered Arboriculturist & Company Director

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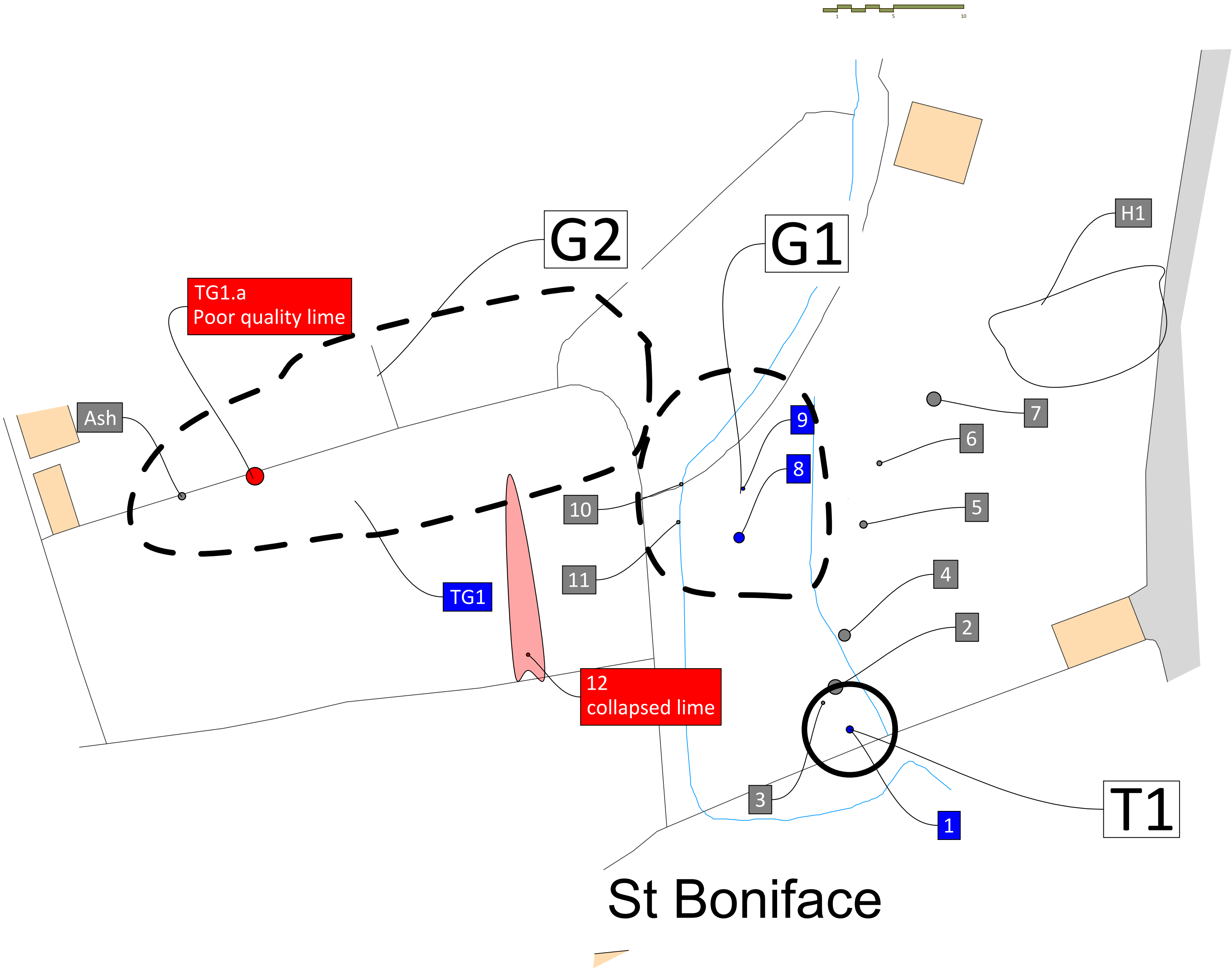
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Photographs:



Ordnance Survey, (c) Crown Copyright 2018. All rights reserved. Licence number 100022432



KEY

TREE CONSTRAINTS INFORMATION

**TAG** Tree / Group Reference

Tree suitable for inclusion in TPO

Tree group for inclusion in TPO

Tree unsuitable for inclusion in TPO

Documents/plans supplied by client for use in this drawing:  
Topo Survey OS Base Plan

Notes

- All dimensions are in metres, unless otherwise stated.
- The original of this drawing was produced in colour, a monochrome version should therefore not be relied upon.

Client:	Mr B Sullivan		
Project:	St Boniface		
Title:	Suggested TPO Plan		
Date:	8/1/19	Drawn:	DS
Scale:	1/200 @ A1	Checked:	DS

Dwg Ref: 05166 TLP 8.1.19



Aspect Tree Consultancy Ltd.  
Level 5 Hamlyn House  
Mardle Way, Buckfastleigh  
Devon TQ11 0NR

Tel: 01364 644822  
www.fresh-aspect.com

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