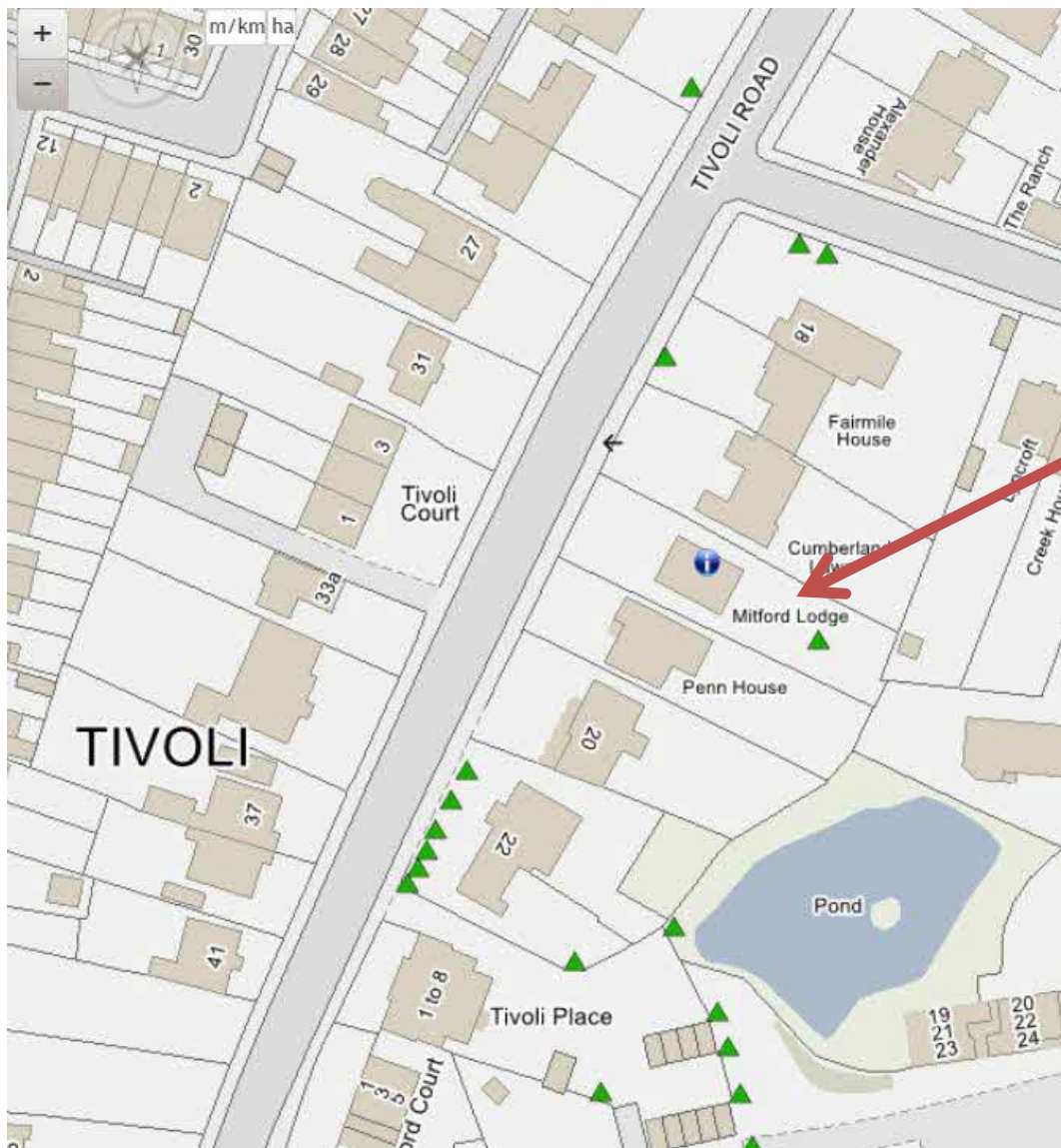


APPLICATION NO: 24/00828/TREEPO		OFFICER: Sam Reader
DATE REGISTERED: 17/7/24		DATE OF EXPIRY: 17/1/24
WARD: Park		PARISH: -
LOCATION:	Rear of Mitford Lodge, Tivoli Road	
PROPOSAL:	TPO to protect one oak tree	

RECOMMENDATION: Confirm without modification



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 Oak tree (*Quercus ilex*) is growing in rear garden of Mitford Lodge. The tree is probably centuries old and its impact on the original setting in the rear of Cumberland Lawn would have been less than in its newer setting (Mitford Lodge is around 20 years old).
- 1.2 The tree dominates the garden and casts shade over this and adjacent gardens at different times of the day. It has been pruned to reduce the overhang over boundaries and crown lifted to reduce the impact of its shade.
- 1.3 The tree bifurcates at around 1.5m to form a multi-stemmed tree. Following extensive pruning works applied for two years ago, the tree has responded with new growth (epicormic) for the first few metres of the stems.
- 1.4 The tree is visible from the road between the houses. Although views are obscured, it is a large and old tree whose size and significance are clear.
- 1.5 Following a Conservation Area tree works notice to remove all but one stem of the tree, considered to be an inappropriate management approach by TOs, a TPO was served to protect it.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Relevant Planning History

23/01673/CACN - T1-Holm Oak. Reduce lateral spread of the complete canopy leaving the height as it is. The point of reduction will be no more than 9m from the centre of the stem.

25/00924/CACN - T1 Large Holm Oak - remove 5 main lower branches, despite a significant reduction in the past, this tree still overpowers the garden casting shade on the house.

3. POLICIES AND GUIDANCE

Town and Country Planning Act 1990

Part 8, Chapter 1 – Trees

Cheltenham Plan

Policy GI2

POLICY GI2: PROTECTION AND REPLACEMENT OF TREES

The Borough Council will resist the unnecessary (Note 1) felling of trees on private land, and will make Tree Preservation Orders in appropriate cases.

For protected trees (Note 2), the Council will require:

- a) any tree which has to be felled to be replaced, where practicable (Note 3); and*
- b) pruning, where it is necessary, to be undertaken so as to minimise harm to the health or general appearance of a tree and to be in conformity with British Standard for Tree Work (BS3998, 2010).*

In cases where trees are not protected by a Tree Preservation Order or by being in a Conservation Area but contribute to the townscape and character of the town, the Council will consider including such trees in a Tree Preservation Order.

4. CONSULTATION RESPONSES

4.1. Two site notices were put up nearby on Tivoli Road. Copies of the provisional order were sent to the tree owner and immediate neighbours.

4.2 The owner objected to the TPO on the grounds that since the TPO was served, they had decided to withdraw their works proposal (25/00924/CACN) and had a new work spec prepared with an alternative contractor.

4.3 The neighbour at Cumberland Lawn echoed this reasoning.

4.3 The neighbour at Penn House replied to highlight:

- the size and dominating nature of the tree
- how the tree blocks light
- a safety concern around a limb overhanging their garden

Their reply went on to support the proposal 25/00924/CACN, saying this would not harm the tree and would make it safer and improve its amenity value.

5. OFFICER COMMENTS

- 5.1 The tree appears to be in good physiological condition, despite thin foliage in the apex of the crown. No defects have been identified or submitted as evidence to support tree works notices by any tree surgeon.
- 5.2 Following extensive pruning in 2023, the tree still dominates the garden but the amount of light reaching the ground has increased and the overhang to neighbours' gardens has decreased. The tree appears to have responded well to this pruning with adventitious growth at the sites of pruning but has also shown an increase in epicormic growth up the stems of the tree – this may indicate that the previous pruning works were slightly too heavy.
- 5.3 The tree has high amenity value. Although views of the tree are obscured by the houses, it is visible from the street. Its significant age and size should also be taken into account. It is one of the largest holm oaks in the borough and this is likely to correspond to an impressive age.
- 5.4 A threat to the tree has been established - 25/00924/CACN sought to undertake deleterious works not in keeping with BS3998 (2012) that would have drastically reduced the tree's amenity value and shortened its lifespan. Attempts by the Council's Tree Officer to negotiate a more moderate approach to the tree's management, and despite the applicant's tree surgeon recommending against the original work spec, the applicant persisted with their original proposal. Only when a TPO was served did the applicant change their approach to this tree.
- 5.5 Although the owner has now revised their approach to the tree, were the Council to not confirm the TPO, we would lose the right to refuse future applications for tree works – a new TPO would need to be served in order to protect the tree from inappropriate management.

6. CONCLUSION AND RECOMMENDATION

- 6.1 A threat to a high value tree has been established. Therefore, a TPO is expedient and appropriate for this tree. The TPO was the only legal recourse available to the Council to resist the inappropriate management of the tree. Despite attempts by the TO to negotiate

a more moderate approach to the tree, the applicant was unwilling to change their proposal until a TPO was served.

6.2 On this basis the recommendation is to confirm the TPO without modification.

Addenda:

Objections:

Hi Chris and Sam

We have engaged with an alternative local tree specialist company and following a meeting with them, we are formally withdrawing our application ref: 25/00924/CACN.

Their recommendations for the Holm Oak are along the following lines.

- Remove epicormic growth from the main stems to approximately 6.0m above ground level.
- Thin the epicormic growths from 6.0 m to 10.0m by approximately 30%.
- Remove any dead wood which has a diameter greater than 25mm.

We will be engaging with Tree Maintenance to approach you reference the above.

You will receive a separate communication in which we are appealing the TPO decision on the basis that the original reason for it being applied has now been removed.

[tree owner]

...

The appeal is against the TPO being issued not the original application for work (reference: 25/00925/CACN) as this has now been formally withdrawn.

[owner of tree]

Dear Mr Reader

I am writing to object to the Tree Preservation Order on the Oak Tree to the rear of Mitford Lodge.

I understand that the sole reason for this order being made, was, in response to an application made by a Tree Surgeon on behalf of the tree owners to prune this tree. The tree officer, I understand, felt that the proposed pruning would be inappropriate and consequently a Tree Preservation Order was served as the means to prevent this proposed pruning.

I believe that the trees owners have subsequently spoken to a different Tree Care Specialist who has explained the merits of a more arboricultural approach to maintaining this tree and have, as a result, withdrawn the previous application and are in the process of finalising new proposals which should be acceptable to the Tree Officer.

In the light of the above I hope that you will agree that the temporary order is no longer needed, having effectively served its purpose, and, that a permanent order is now, consequently, unnecessary.

I would appreciate it if you could please confirm your receipt of this objection.

Please also find attached copy of the completed information form.

Kind regards

[name withheld]
Cumberland Lawn
Tivoli Road
Cheltenham
GL50 2TF

PENN HOUSE
TIVOLI ROAD
CHELTENHAM GL50 2TF.

The tree in the rear garden of Mitford Lodge is far too large in both height and breadth for the size of the garden, and its spread to adjacent properties is excessive, and blocks out much natural light.

The large limb of the tree that overhangs Penn House is a potential danger, and should be removed. This will give the tree a better and more attractive shape and make it safer.

It will not compromise the retention of the tree in any way. The amenity value will be enhanced.

The views of the tree from Tivoli Road and Ashford Road are very limited to glimpses between the houses on these streets. Also, the views are never in isolation, as there is a backdrop of other trees as one walks along both Tivoli and Ashford Roads.

The requests by Mr. Watts, the owner, are sensible and realistic. The work proposed will retain the tree and enhance it, but also lead to a more attractive street scene. I fully support the request of [REDACTED]