Brief description of report content and the decision being asked for:
This report seeks to request the provisional Tree Preservation Order No. 3 of 2019 not to be confirmed following the closure of the objection deadline. One objection has been received from Mr Eric Bendall, of 9 Bowthorpe Close, objecting to the Order, and one letter of support has been received from Mr and Mrs Barritt, of 6 Bowthorpe Close supporting the Order. The points raised will be addressed in the report. Following consideration of the Tree Preservation Order in light of the representations, and following a site visit by the Council’s Arboricultural Officer and Development Management Team Leader, it is considered that the Order is not confirmed.

List of Appendices included in this report:
 a) Appendix 1 – Copy of provisional Tree Preservation Order 3 of 2019
 b) Appendix 2 – Copy of representations received from 9 and 6 Bowthorpe Close

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This report was prepared after consultation with:
Internal consultees:-
Dean Welham, Arboricultural Officer, Arboriculture & Countryside

External consultees:-
Mark Wedgwood, Head of Environmental Management, Suffolk Highways

The following policies form a context to this report:
(all relevant policies must also be referred to in the body of the report)
- Building a Better Ipswich: The Council’s Corporate Plan
**LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW**

(papers relied on to write the report but which are not published and do not contain exempt information –

| 1. Tree Preservation Order 3 of 2019 |

**OTHER HELPFUL PAPERS**

(papers which the report author considers might be helpful – this might include published material)

1. Introduction

1.1 In November 2018 the Council learned of the intention of the owner to remove a single Cypress tree within the front curtilage of 9 Bowthorpe Close (211 notification Ref 18/01059/CALF). The reasons given for the felling of the tree was that the tree roots were damaging the public footpath, and lifting the concrete driveway at number 9 to such an extent that the cars were scraping the ground when entering the property.

1.2 Under delegated powers, Tree Preservation Order No. 3 of 2019 was made in respect of the Cypress tree on the grounds that the mature Cupressus conifer tree is situated at the front of property 9 Bowthorpe Close, and is clearly visible to the public by virtue of its prominent position and moderate size. Although just outside the conservation area, the tree contributes significantly to the collective amenity & treescape of the road and surrounding Conservation area. The location of the tree is shown on drawing no.1 attached at Appendix 1. Subsequently, letters have been received from Mr Eric Bendall, of 9 Bowthorpe Close, objecting to the Order, and one letter of support has been received from Mr and Mrs Barritt, of 6 Bowthorpe Close supporting the Order (letters attached).

1.3 The grounds for the objection are as stated in the letter referred to at 1.2 above, and summarised below:

Mr Eric Bendall, 9 Bowthorpe Close:-

- Council has invested time and cost to seek legal advice in protecting a very common and ordinary conifer.
- Applicant could have removed tree as not protected by a TPO.
- Tree causing damage to highway and vehicles as a result of lifting of concrete driveway and footpath.
- Applicant unable to repair driveway and footpath without undermining the root system of the tree.
- Applicant offered to pay the Council to repair the highway damage.
- Applicant would be happy to plant another tree in a more suitable location.
- Tree causing damage to the highway incurring costs to the highway authority.

1.4 The grounds for the support are as stated in the letter referred to at 1.2 above, and summarised below:
Mr and Mrs Barritt, 6 Bowthorpe Close:-

- Tree is a beautiful specimen and occupies a prominent location in the street.
- Tree is a haven for wildlife.

2. Policy Context, Background & Assessment

2.1 The Local Planning Authority is obliged to consider the amenity value of trees. Special attention must be paid to the desirability of preserving the character and appearance of an area.

2.2 The methodology used to assess trees for inclusion within the Tree Preservation Order is based on meeting the requirements set out within new on line Planning Practice Guidance as set out in the Town and Country Planning (Tree Preservation) Regulations 2012. This includes the new guidance replacing Tree preservation Orders: A Guide to the Law and Good practice (the Blue Book).

2.3 Policy DM10 of the Ipswich Core Strategy and Policies DPD (2017), states that the Council will protect and retain trees in the interests of amenity by making Tree Preservation Orders. The proposed TPO would be in accordance with policy DM10. Consent would then only be given to cut down, top, lop or uproot any tree protected by a preservation order if the works are necessary having regard to the proper maintenance of the tree for good arboricultural reasons or to ensure the survival or growth prospects of other protected trees (Policy DM10).

2.4 Policy CS4 of Ipswich Core Strategy and Policies DPD (2017), commits the Council to protecting and enhancing the Borough’s natural assets in accordance with national legislation through requiring new development to incorporate provision for conserving and enhancing local biodiversity interests.

2.5 Following receipt of an objection to the provisional Tree Provisional Order, the site was visited by the Council’s Development Management Team Leader and Arboricultural Officer on 30th April 2019 to view the tree within the context of the comments received, especially the damage to the highway and concrete drive. The following comments have been received from the Arboricultural Officer:-

The applicant was being very reasonable to suggest he was willing to plant another tree in the position indicated. Although we currently cannot legally enforce new tree planting, would planting a tree beforehand be sufficient for us not to confirm the TPO & allow tree to be removed. Would it be reasonable to confirm the TPO in light of the damage and continued expense of repairing the footpath. It would also be very difficult and expensive to reinstate the drive and repair the pavement without damage to the trees root system.
My feeling would be, not to confirm the TPO and allow tree to be removed for reasons above, but also bearing in mind the goodwill and co-operation shown by Mr Bendall to plant another tree in a more suitable location on his property.

2.6 The tree identified by this provisional TPO contributes significantly to the collective amenity & treescape of the road and surrounding conservation area. However, following the granting of the provisional TPO, comments have been submitted by Suffolk Highways objecting to the confirmation of the Order. They confirm that site inspections have identified that the tree roots have encroached onto the highway and have caused damage and have the further potential of doing so in the future. The last time a repair was carried out to the footway outside No.9 was in March 2017. There has been two other occasions where repairs had to be carried out; Sept 2015 and April 2014. Any cost caused by this damage is recoverable from the tree owner, however public funds will need to be utilised to do so. Indeed the branches of the tree are also encroaching into the highway, in contravention of section 154 of the Highways Act 1980, and will continue to do so. This has the potential to impact of the safe pass and re-pass of all highway users.

2.7 Having visited the site, the Council’s Arboricultural Officer is of the view that the damage to the footpath and driveway is most likely to be caused by the tree in question, given the lack of any other mature trees within the vicinity of the highway. Whilst the loss of the mature tree is regrettable in this case the evidence suggests that there is no alternative solution. The removal of the tree will be a loss in terms of visual amenity; however the works are necessary because the tree is damaging the public footpath, resulting in a safety issue for users of the highway, and incurring on-going costs to the public purse. The owner has provided officers a letter of comfort confirming that a more suitable tree - Acer ginnala (Amur Maple) as recommended by the Council’s Arboricultural Officer will be planted within the front curtilage of the site in a more appropriate location, set back from the existing location following the removal of the Cypress tree.

2.8 Our overall recommendation and conclusion, having regard to all of the representations received along with the consultation with the Borough’s Arboricultural Officer, is that the Order not be confirmed.

3. Relevant Policies

3.1 Aim 6 of Theme 5: A Greener Ipswich of the Corporate Plan seeks to use the planning system to protect green areas in Ipswich.

3.2 Policy DM10 of the Core Strategy and Policies DPD (2017), seeks to protect and retain trees in the interests of amenity.

3.3 Policy CS4 of the Core Strategy and Policies DPD (2017) seeks to conserve and enhance the town’s natural assets in accordance with the National Planning Policy Framework. One way in which the policy aims to do this is by identifying, protecting and enhancing the ecological network across Ipswich.
4. **Options Under Consideration**

4.1 The options available at this stage are to confirm the Order, amend and confirm the Order or to not confirm the Order.

4.2 Option 1 – Confirm the Order as served.

   This option is not recommended.

4.3 Option 2 – Amend and confirm the Order.

   This option is not recommended.

4.4 Option 3 – Do not confirm the Order.

4.5 Following consideration of the objections, and a closer inspection of the tree protected by the provisional TPO, it is considered the provisional TPO is not confirmed. The reason being that whilst the tree contributes significantly to the collective amenity & treescape of the road and surrounding conservation area, it is clear that the tree is damaging the public footpath, resulting in a safety issue for users of the highway, and incurring on-going costs to the public purse. Given that the owner of the tree has provided officers with a letter of comfort confirming that a more suitable tree will be planted within the front curtilage of the site in a more appropriate location, following the removal of the Cypress tree, it is considered that on balance having regard to all of the representations received along with the consultation with the Borough’s Arboricultural Officer, is that the Order is not confirmed.

5. **Consultations**

5.1 The Tree Preservation Order was made at the request of the Council’s Arboricultural Officer following a 211 notification of an intention to remove a single Cypress tree (notification Ref 18/01059/CALF). Following receipt of the representations they recommend not confirming the Order Option 3 above.

6. **Recommendations**

6.1 That Tree Preservation Order No. 3 of 2019 (9 Bowthorpe Close) not be confirmed.