1.0 PURPOSE OF REPORT

(The debate and voting on this application will be in accordance with the procedure and guidance set out in the guidance notes attached at Appendix E)

1.1 To consider representations received in response to the making of a provisional Tree Preservation Order ("TPO") in respect of x10 Cypress Cupressus Spp. G1 of TPO 2024/2014 59 Rest A Wyle Avenue Hayling Island Hampshire.

2.0 RECOMMENDATION

2.1 That Tree Preservation Order 2024/2014 be confirmed without modification.

3.0 SUMMARY

3.1 The trees are a group of ten mature Cypress conifers offering high public amenity to the local area and contributing positively to the street scene. There is no evidence of actionable nuisance and the trees meet with TEMPO guidelines for the TPO to be defensible. The objections refer to Group G1 in its entirety.

3.2 The Tree Preservation Order was provisionally made to protect the amenity value of the trees following receipt of a pre-application enquiry regarding potential development in the grounds of 59 Rest A Wyle Avenue.

3.3 In light of the pre application enquiry for development on this site it is important to ensure that the Cypress trees receive adequate protection during any such process, and that the value of trees in the street scene is properly acknowledged in the formulation of any development proposals for the site. A TPO will ensure that this protection can be enforced whilst development proposals emerge.

4.0 FURTHER INFORMATION

Representations

4.1 On the 14th of September two objections to the TPO were received from Mr C Warne, who has submitted the pre application enquiry for the site at 59 Rest A Wyle Avenue, and Mr and Mrs Brewer, residents at 59 Rest A Wyle Avenue. These are included within this report at Appendix C. There are a number of areas raised by the appellants; those matters which are relevant to the consideration of whether the
trees warrant protection in the public interest are set out below in italics and are responded to individually.

4.2 *We object in the strongest possible terms to the imposition of the TPO and would like to know the reason for “Why now?”*

**Response:** A pre application enquiry relating to potential development at 59 Rest A Wyle Avenue was received which alerted the Planning Case Officer to the potential for the loss of the trees. As such, and in accordance with normal working practices, an assessment of the trees and their potential relationship with the proposed development was made which resulted in a TPO being served under officers’ delegated powers so as to protect the trees and ensure that the contribution that trees make to the character of the street scene is properly acknowledged in any development proposals coming forward.

4.3 *What reason has been given?*

**Response:** To protect the amenity value offered by the trees. A pre application enquiry for development on site has been received and may compromise the trees.

4.4 *Some time ago the Council told us to keep our hedge (trees in question) under control but you now wish us to let it grow uncontrolled.*

**Response:** Trees subject to a TPO can be managed under application, their size and shape can be maintained to a reasonable size in relation to their setting without detriment to either their health or the public amenity value that they offer.

4.5 *Left to develop the trees will constitute a danger to pedestrians and motorists, obscuring the view in and out of Rest-A-Wyle Avenue.*

**Response:** The trees have been allowed to ‘develop’ for many years now, and the newly served TPO will not prohibit their reasonable management.

4.6 *The variety of tree in question is shallow rooted and with the increasing number of violent storms which are occurring there must be a danger of damage to vehicles or even death or injury. We are unsure from the information provided who will be liable for compensation. If it is us then our objection becomes even stronger.*

**Response:** The trees remain the full responsibility of the owner, a TPO does not abdicate this duty of care or confer a responsibility for the condition of the trees over to the Council. If the owner wishes to manage the trees they have the right to do this under application; where the tree is deemed a proven risk then exempted works can be done through notification.

4.7 *We are unable to maintain the trees, however the rules appear to impose this requirement on us.*

**Response:** The trees will require management whether they are subject to a TPO or not and this duty of care is firmly placed with the owner of the trees.
The TPO Officer has identified the trees as Cypress. They are in fact Leylandi – Cypress, more commonly know as Leyandi and are infamous for being the cause of more neighbourhood disputes than any other single subject.

Response: The trees are correctly identified as Cypress. Leyland Cypress the scientific nomenclature is ×Cupressocyparis leylandii, Callitropsis × leylandii, ×Cuprocyparis leylandii or ×Hesperotropsis leylandii or Cupressus Spp.)

I find it incomprehensible that at a time when cheap, affordable housing units are in huge demand and that the council is under pressure from central government to provide an extra 6,000 homes by 2026, that the prospect of providing two such units in a more than suitable residential area has been stalled by the imposition of a spurious TPO.

Response: A letter from the Planning Officer dealing with the pre application enquiry states the following; “ I am of the view that even without the trees in place, the proposal for two dwellings would have been unacceptable due to the second dwelling protruding past the existing front building lines of the dwellings in Kings Road and the adverse visual impact this would have on the street scene.”

The trees are ugly and an eyesore, and to say that they improve the visual amenity of the street scene must be someone’s idea of a joke.

Response: The trees are a very prominent feature of the street offering unrestricted view to the full canopy area.

Invitations

The objectors have been invited to attend the meeting

5 IMPLICATIONS

Financial

There would be costs involved if an appeal is made to the High Court under 288 of the Town and Country Planning Act 1990 (see legal implications)

Legal

Under Section 288 of the Town and Country Planning Act 1990 any person aggrieved by the Order who wishes to question the validity of the Order on the grounds:

(a) that the Order is not within the powers of the Act

or

(b) That any of the relevant requirements have not been complied with in relation to the Order
may apply to the High Court within six weeks from the date on which the Order was confirmed.

*Strategy (Community and Corporate)*

5.1 Havant Borough Local Plan (Core Strategy) 2011 – In particular policy DM8 Conservation, Protection and Enhancement of Existing Natural Features

*Equalities/Customers*

5.4 None

*Risk*

5.5 None

*Communications/Public Relations*

5.6 None

**Appendices:**

(A) Site Plan  
(B) Photos  
(C) Appellant’s letters of objection  
(D) Tempo score sheet  
(E) Guidance notes

**Background papers:**

**TPO 2024/2014**  
**File 11/85/2024**

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