

CITY OF LEEDS TREE PRESERVATION ORDER (No.4) 2022 (TPO2022_04) LAND NORTH OF BURRAS LANE, OTLEY LS21

1.0 BACKGROUND TO THE TREE PRESERVATION ORDER (TPO)

Various planning applications (21/05882/OT, 21/05884/OT & 21/10180/OT) have recently been received by the Council.

Proposed Housing Development layout plans and a Tree Survey relating to the central area of greenspace, north of Burras Lane, were provided as part of 2 simultaneous applications received 06/07/21. Each had a different access route into the site along existing residential roads/tracks to the west and east sides. The tree survey did not include existing trees bordering both proposed approach routes. A third application received 24/12/21, included a Tree Constraints plan that identified additional trees along the eastern approach track.

The central area of the proposed development was protected by an existing 'Area' TPO. However, the boundary did not include the east and west approach routes. The proposed access routes are expected to require road widening to comply with LCCs Transportation SPD guidance. Such work has potential to harm bordering trees and hedging.

In order to ensure that the trees were properly considered and protected in current and future planning applications and during any associated construction works, a decision was made to serve a new and enlarged Tree Preservation Order ('TPO') on the site. This was supported by Otley Town Council.

The TPO was, therefore made on 1 March 2022.

2.0 OBJECTIONS

Four letters of objection to the Order were subsequently received. The objections are summarised as follows:

Objection 1 – Bankhead Group

The following specific queries/comments are highlighted:

A. It is not considered expedient in the interests of public amenity to impose and confirm the TPO in its current form.

Response to Item A

The trees within the proposed boundary offer public benefit in terms of visibility when viewed from West Chevin Road, Burras Drive, Ash Grove and the adjacent allotment site. The site also includes a potential Veteran Pear tree that has been assessed by the Northern Fruit Group and deemed to be of high genetic and historical value and should be protected from damage.

An 'Area' Tree Preservation Order (TPO) will help protect trees that are at risk of removal, pruning and root protection area impacts that could affect their health/amenity as a result of site preparation for future development, associated construction operations and the change in land use.

The following raised and identified issues led to the decision to make the TPO:

- The Council has received local complaints regarding the frequent applications of herbicide across the site, including around the base of existing trees. Glyphosate is a

non-selective systemic herbicide that if sprayed onto the bark of young trees can cause a variety of symptoms: witches brooms, stunted growth, chlorosis, bark splitting etc. Herbicides can also harm trees with shallow roots (through systemic uptake) and low-hanging branches or thin/broken bark (impacted by herbicide drift). If spray comes into contact with suckers directly connected to the tree's vascular system, it is likely to cause harm and a decline in health if repeated over time. The repeated mechanical stripping and spraying of the site has and will continue to diminish the sites ecology, will harm established trees and eradicate naturally emerging tree cover.

- The value/measurements attributed to the existing site trees in the original Tree Survey commissioned by the applicant were questioned, and a separate Tree Survey commissioned, by a neighbouring resident to ascertain potential variations and conflicts.

Following the two (06/07/21) Planning submissions, the site was surveyed on 18th August 2021, by a Registered Arboricultural Consultant who is also a Chartered Biologist, Chartered Arboriculturalist, Expert Witness and Fellow of the Arboricultural Association, who sits on its Professional Committee.

This new report assessed the trees and data supplied and found the following discrepancies/inaccuracies, summarised in the 8 points below:

- **T1** - (Mature Silver Birch) was identified as retention category 'U'. BS5837: 2012 states that retention category 'U' trees are 'in such a condition that they cannot be realistically retained as living trees in the context of the current land'; however, the recommendation for the tree is 'no action at present'. Although the tree is showing some signs of dieback and sparseness in the canopy, the tree should, in our view, have been identified at Retention Category 'C2', as the tree is not in a condition of irreversible decline, or where it is not safe to be retained in its current context.
- **T5** - The report stated, '*hence our view that T5 was not present on the site at the time of the Tree Preservation Order*'. However, there is photographic evidence supplied by our client that the tree was present in 1995. Although the tree is multiple-stemmed, the tree provides a good amenity value for the local residents, being highly visible from surrounding areas, and offers some privacy for Burras House. T5 was recorded at just 11m in height within the data table. We measured the tree at 14m in height.

The report also stated that '*the incorporation of a cellular confinement system into an additional surface layer would act as a precautionary measure in safeguarding retained trees*'. We do not feel that a cellular confinement system is viable especially adjacent to **T5**, which is a protected tree. The buttress roots are exposed at surface level, adjacent to the entrance gate meaning they would need to be cut/severed to accommodate any access or laying of services. We are therefore of the opinion that T5 would have to be removed completely and the stump ground out to provide vehicular access into the site.

- **T6** - Age and heritage value has been miscalculated. We have aged the tree at between 140-160 years old, and would have classified it as over-mature, with the potential to reach 'VETERAN' status within the next 10-20 years. The Northern Fruit Group concluded (3 years ago) that this tree was not a common Pear, but a more unusual (and unidentified) species, and that it is "*important that it should not be damaged in any way*".
- **T13** - species states it as being a Common Pear (*Pyrus communis*), however it is actually a Hawthorn (*Crataegus monogyna*).

- Estimated stem diameters were measured and several had been underestimated, meaning smaller Root Protection Areas (RPAs) of some trees, examples below:

T3 - radius of 3.84m when it should be 4.80m.

T6 - radius of 4.20m when it should be 5.16m.

T11 - radius of 4.80m when it should be 7.22m.

T15 - radius of 3.00m when it should be 4.80m.

- The heights of two trees appeared to be inaccurate:

T5 - 11m in the data table we measured it at 14m

T9 - 6m in the data table measured it at 8m

- Towards the south-west of the site there were 3x trees not surveyed within the report. BS5837: 2012 states that any tree with a stem diameter of above 7.5cm should be surveyed. 3 trees (2x Birch and 1x Cherry) with stem diameters of 8cm and 12cm should have been surveyed as a group and shown on the Tree Constraints Plan.
- In addition, as the site is accessed from West Chevin Road, there are several trees along Burras Drive which were not surveyed within the report. All these trees are likely to be affected by the site access, due to their rooting zones being present beneath the existing surface, and due to the passage of construction vehicles. It would be important for the current access not to be dismantled in any way as this could lead to potential root severance/loss of protected trees (see Survey below).
- Following the later 24/12/21 submission, the site was surveyed on 10th January 2022 by the same Registered Arboricultural Consultant, concentrating on the new access area of the proposal and the areas immediately around the proposed properties.

The report concluded the 21/10180/OT application would jeopardise or destroy 5 trees and trees within 3 groups which are owned by several parties. This application was deemed detrimental to the local treescape and the natural greenspace, requiring the removal of at least one off-site tree for access and harming others.

B. For the purpose of this objection please refer a Tree Survey Schedule detailing those trees subject of the TPO, that have particular defects, limitations or locational issues and as such are not considered appropriate for inclusion within a confirmed TPO.

Response to Item B

The submitted 'Tree Survey Schedule' referred to, only identifies trees within the site and misses out 8 previously recorded trees along the southern/south eastern boundaries and many along the proposed access routes into the site. B.S 5837:2012 section 4.2.4 states surveys should, "record the position of trees that overhang the site or are located beyond the site boundaries within a distance of up to 12 times their estimated stem diameter".

The Tree Survey Schedule identified 5 trees, 2 tree groups and one hedge that are not deemed suitable for protection based on "*defects, limitations or locational issues*". These include mature trees T1 and T5 (40-45ft high) which the independent report gave upgraded retention categories. Out of the remaining 6 trees/tree groups/hedges deemed unsuitable for protection, the majority were of good stature (20-30ft high) and 5 were rated "good" in both physiological and structural condition. Only one was rated as 'fair' in terms of structural condition and no trees/groups within the remaining 6 were deemed to be poor.

The reasons for removal noted in the same Schedule included:

- Limited Stature - This applied to T8, (a 9m (30 ft) tree) and T9 (a 6m (20ft) tree), both in good structural and physiological health.
- Species and Proximity to Neighbouring Property - This applied to T10 (a 7m (23ft) Weeping Willow that was deemed too close to an existing property. Using the dimension table, located in the Leeds 'Guideline Distances from Development to Trees' document, the advice comment refers to, the tree appears to be located at or around the 10m recommended from the existing dwellings front corner. This tree canopy is highly visible from the adjacent allotments.
- Poor Health - This applied to T1 (a significant 12m (40 ft) tree). The JCA Tree Survey did not find this tree in a condition of irreversible decline, or unsafe to be retained in its current context.

It is considered that such reasons do not make these trees 'inappropriate' for inclusion within a TPO.

C. Concern is raised over the use of the AREA TPO approach.

Response to Item C

Given the preparation works within the site (repeated herbicide applications); local concerns about off-site tree/hedge loss at the western entrance and some damage to trees on site; survey detail describing historic fire damage to mature tree T5; existing trees missing from development plans and questions regarding the value/dimensions of surveyed trees, the need for an extended 'AREA' TPO was made to immediately protect all existing site trees including those bordering the entrances to the site.

Justification is also based on development proposals illustrating trees are located in proposed rear gardens, where their future stewardship is not guaranteed and new pressures to improve living space amenity could lead to pruning or removal. Proposals are also likely to require significant Highway related construction improvements along the proposed access routes, including widening to 5.5m, which has potential to harm the root protection areas and canopies of bordering trees. In addition, some basic but significant information requested to help inform the required 'Arboricultural Impact Assessment', has not been provided. This basic upfront information also helps demonstrate design viability at an early stage and reduce future impacts associated with planning budget/timescales etc.

The TPO will help prevent unwarranted lopping or felling as part of current and any future development proposals and will provide future protection for trees. It will not prevent any future management proposals that maintain trees for health and safety.

D. Survey work detailed at Appendix 1 (Tree Survey Schedule) highlights that several of the more mature trees can be expected to afford only short-term value and should not at this stage be considered suitable candidates for inclusion within a confirmed TPO.

Response to Item D

Based on the Tree Survey Schedule referred to, this comment relates to 2 mature trees (T1 and T5). The schedule specifies that T5 is in 'fair' structural, and 'good' physiological condition.

The JCA report found that, 'although T1 is multiple-stemmed, the tree provides a good amenity value for the local residents, being highly visible from surrounding areas'. In relation to T1, the JCA survey found that, *'although the tree is showing some signs of dieback and sparseness in the canopy, the tree should, in our view, have been identified at Retention Category 'C2', as the*

tree is not in a condition of irreversible decline, or where it is not safe to be retained in its current context.'

Given the trees (T1 and T5) are the largest on site, they currently offer significant amenity value.

E. We formally request that, should the Council progress to confirming the TPO it should be guided by the detailed information provided in this document and available best practice. A modified TPO would avoid the use of Area coverage, and the situation where numerous small saplings are afforded protection without justification.

Response to Item E

The concern that an 'Area' coverage would afford protection to numerous small saplings without justification, suggests that any increased canopy cover will not be deemed beneficial in terms of visual amenity locally.

The government's Tree Preservation Orders webpage advises that, 'legislation does not require authorities to describe the trees in the Order with full scientific names or plot them on the map'. An 'Area' category is one way of protecting individual trees dispersed over an area, which is relevant in this situation.

NOTE: Given the large area in the centre of the site is allocated 'Greenspace – G1777' which has a typology of 'Natural', the retention of establishing trees will be beneficial in this regard. By protecting existing trees, the greenspace quality will naturally benefit from the associated improvements in bio-diversity, habitat connections, carbon capture etc.

Objection 2 - HELEN SMITH (no address provided)

The following specific queries/objections are highlighted:

I see no reason for including my front garden regarding public amenity. I have shrubs, privet and a holly bush which have required annual pruning and I believe these to be shrubs but due to the lack of clarity of what is included under the TPO in my garden then I can't be certain. If I understand this TPO proposal correctly then I may have to request to prune items going forward.

Objection 2 response

A TPO is only used to protect trees and does not apply to bushes, shrubs, or 'maintained' hedges. The shrubs, privet and pruned holly bush and any maintained hedge within your front garden will not, therefore, fall under the TPO protection, and you may continue with your regular maintenance, without applying for permission. (In relation to hedges, Section 2.3 of Tree Preservation Orders: A Guide to The Law and Good Practice - 2006", states that a TPO would only apply "*to protect trees in hedges or an old hedge which has become a line of trees of a reasonable height and is not subject to hedgerow management*"). Please also refer to the amended TPO boundary for the inclusion of this front garden.

Objection 3 - INVERMAY, Ash Grove

The following specific queries/objections are highlighted:

We understand the TPO was awarded due to development pressures. We believe that the pressures from this development do not extend to our property. Our trees/hedges are fast growing and very quickly cause substantial shadowing to ours and our neighbours gardens. There are also safety concerns as the trees/hedges form part of the boundary and grow over the small lane and the Junction with Ash Grove causing potential viewing obstructions. The hedges grow quickly and if not maintained regularly block our front gate access. We have been advised by our tree surgeon that due to a TPO and the administration required, the cost of maintaining our trees/hedges will increase.

Objection 3 response

Given the garden size and absence of established trees along the north boundary of Ash Grove, the updated and revised boundary now removes the front garden area associated with this property.

Objection 4 - BURRAS COURT, West Chevin Road

The following specific queries/objections are highlighted:

We have lived at the address for a short time only, since purchasing the property in September 2021. We are nature lovers and keen gardeners and are very keen to maintain and enhance our natural surroundings, not only for our own enjoyment but also for the benefit of others. A complaint was made to Leeds City Council regarding our hedge which was allegedly obstructing the view of drivers exiting Burras Lane (21/066300/H_OVEG). As a result of this we were required to have the hedge cut back to the boundary line, which we did. This will need to be monitored and managed so that the hedge does not cause any further problems. There are numerous individual conifer type trees in our back garden which have been left to grow extremely tall. We would only ever carry out work on trees within our boundary if it were strictly necessary. We are reasonable people and will always apply due diligence in the management and upkeep of our surroundings and we submit that there is no reasonable justification for extending the TPO area to include Burras Court and its land.

Objection 4 response

Given the stated desire to maintain and enhance the natural surroundings, the threat to existing conifer trees in terms of removal is likely to be low. The updated and revised boundary now removes the rear garden but retains a section of land to the front of the property, to protect an existing established tree which offers greater visual amenity locally and could be harmed by any new site access proposals.

3.0 CONCLUSION

Having carefully considered the issue raised by the individual objectors, on balance it is considered that the Tree Preservation Order is warranted on the grounds of amenity and expediency; subject to modification of Order Map, to reduce the footprint of the Area of trees covered by the Order to exclude garden land which is considered on balance to be not essential be include within it.

The remaining grounds of objection have been considered by the Landscape Officer, and for the reasons given in their comments, it is considered that the retained protection of the remainder remaining Area of trees within a confirmed Order, is warranted on the grounds of amenity value of the trees and expediency.

4.0 RECOMMENDATION

That the Order be confirmed, subject to modification of the Order Map below.

The proposed modified TPO boundary in black, with the original alignment in red:

