



## SHEFFIELD CITY COUNCIL

### Planning & Highways Committee Report

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**Report of:** Director of Development Services

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**Date:** 18 November 2014

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**Subject:** Tree Preservation Order

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**Author of Report:** Jack Foxall, Urban and Environmental Design

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**Summary:** To report objections and to seek confirmation of Tree Preservation Order Nr. 395 at Totley Lane Bridleway, Totley Lane, off Longford Road, Sheffield.

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#### **Reasons for Recommendations**

To protect trees in the interests of the amenity of the local environment.

#### **Recommendations**

Tree Preservation Order Nr. 395 should be confirmed unmodified.

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**Background Papers:**

- A) Tree Preservation Order 395 (includes Order plan)
- B) General Location Plan
- C) TEMPO evaluation (T10)
- D) Objection received 9<sup>th</sup> August 2014
- E) Objection received 11<sup>th</sup> August 2014

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**Category of Report:** OPEN

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REPORT TO PLANNING AND HIGHWAYS COMMITTEE  
18<sup>TH</sup> NOVEMBER 2014

TREE PRESERVATION ORDER NR. 395  
TOTLEY LANE BRIDLEWAY, OFF LONGFORD ROAD, TOTLEY, SHEFFIELD

1.0 PURPOSE OF REPORT

- 1.1 To report objections and to seek confirmation of Tree Preservation Order Nr. 395.

2.0 BACKGROUND

- 2.1 Tree Preservation Order Nr. 395 was made on 16<sup>th</sup> July 2014 to protect 20 Nr. mature Oak and Ash trees on Totley Lane Bridleway, off Longford Road, Totley, Sheffield. Protected trees line the boundaries of Totley Lane, which is a public bridleway and historic route passing between the rear gardens of adjacent housing, leading to a Green Belt Countryside Area on the edge of Totley. A copy of the Order is attached as Appendix A, and a general location plan as Appendix B.

- 2.2 In early July 2014, a contractor enquired about the protection status of a tree to the rear of 33 Longford Road. He had been asked by the property owner to pollard the tree to the level of the existing rear boundary hedge, leaving the trunk severed at approximately 3m to 4m height.

- 2.3 The decision was taken to serve a Tree Preservation Order because these trees make a significant contribution to the amenity of the local environment and its enjoyment by the public. They are visible from surrounding streets as well as the Totley Lane public bridleway, and are an essential component of the character of this historic route entering the residential area from adjacent Green Belt countryside.

- 2.4 Although a threat to only one tree was identified, all mature trees with significant amenity value along the length of Totley Lane running between residential gardens were protected. This was because protection of a single tree would leave other trees in a similar situation vulnerable, and could prompt felling or other work to adjacent trees in an attempt to pre-empt additional Protection Orders.

- 2.5 A Tree Evaluation Method for Preservation Orders (TEMPO) assessment was carried out for the tree to the rear of 33 Longford Road (T10) prior to serving the Order, and is attached as Appendix C. All trees were also inspected by an Arboriculturalist from the Parks and Countryside Trees and Woodlands service for general condition and suitability for protection.

### 3.0 OBJECTIONS

- 3.1 An email objecting to the TPO was received from Mr Bill Anderson on 9<sup>th</sup> August 2014. Mr Anderson is an arboricultural consultant, and had been contracted to carry out works to some of the trees on Totley Lane by the Council's Public Rights of Way team. The full text of this objection is attached as Appendix D.
- 3.2 The grounds for objection are reproduced below:

*'I would be grateful if you would register this correspondence as an objection to this TPO on the grounds that the Council have no business protecting trees that are in their own management. This is because it is not expedient and it makes a complete mockery of the system for the Council to have to apply to themselves for permission to work on one of their own trees. In times past I believe similar matters (local authorities seeking planning permission from themselves) were referred to the Secretary of State for a decision...'*

Mr Anderson also stated that:

*'My main concern as a resident of the City is that this is a complete waste of time and money...'*

- 3.3 A further email from Mr Anderson was received on 11<sup>th</sup> August 2014. The full text of this objection is attached as Appendix E, with the relevant extract reproduced below:

*'...However I still consider that if resources are to be expended on preserving these trees then they would be better directed to works that might actually maintain them rather than making their routine management more onerous.'*

### 4.0 RESPONSE TO OBJECTIONS

- 4.1 In relation to Mr Anderson's point that the Council should not protect trees in their own management, these trees are not in Council ownership. They are privately owned by properties bordering Totley Lane.
- 4.2 Because a public bridleway passes along Totley Lane, the Council does have an obligation to ensure that trees do not present a danger to bridleway users. The Council can serve notice on tree owners obliging them to make their trees safe for the public under section 154 of the Highways Act 1980 ("the 1980 Act"). Alternatively, when there is an immediate danger to the public or when no landowner can be identified to serve notice under section 154, the Council can carry out work to make trees safe for the public under section 130 of the 1980 Act.
- 4.3 In relation to Mr Anderson's point that TPO protection will make routine management more onerous, the only work the Council would carry out directly

would be emergency work under section 130 of the 1980 Act. This can be carried out regardless of TPO protection status, so no additional work or administrative requirements would be created.

- 4.4 In response to Mr Anderson's concern that confirming the TPO would be a waste of time and money, the reason for making the order was an immediate threat to substantially remove one of the largest trees.

## 5.0 LEGAL IMPLICATIONS

- 5.1 Section 198 of the Town and Country Planning Act 1990 states that, if it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.

- 5.3 Tree Preservation Orders are made under section 198 of the 1990 Act and in accordance with the Tree Preservation (England) Regulations 2012. Regulation 7 of which states that, in the event that a TPO is made, the authority shall not confirm an order which they have made unless they have first considered objections and representations duly made in respect of it and not withdrawn.

- 5.4 As objections and representations were duly made in respect of Tree Preservation Order 395, the local authority is required to consider them. Government guidance issued by the Department for Communities and Local Government recommends that local authorities establish non-statutory procedures to demonstrate that their decisions at the confirmation stage are taken in an even-handed and open manner. The consideration of objections and representations about the TPO by the Planning and Highways Committee facilitates this.

## 6.0 RECOMMENDATIONS

- 6.1 Following consideration of all objections received it is considered that the reasons for confirming the order outweigh those outstanding objections and therefore it is recommended that Tree Preservation Order Nr.395 at Totley Lane Bridleway, off Longford Road, Totley, Sheffield, should be confirmed unmodified.

**Tree Preservation Order**  
**Town and Country Planning Act 1990**  
**The Tree Preservation Order No 395 (2014)**  
**Totley Lane Bridleway, Totley, Sheffield**

The Sheffield City Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

**Citation**

1. This Order may be cited as Tree Preservation Order No 395 (2014) – Totley Lane Bridleway, Totley, Sheffield

**Interpretation**

2. (1) In this Order “the authority” means the Sheffield City 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—  
(aa) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or  
(bb) 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 16<sup>th</sup> day of July, 2014

EXECUTED AS A DEED )  
By Sheffield City Council )  
whose common seal was )  
hereunto affixed in the presence of)

## SCHEDULE

### Specification of trees

#### Trees specified individually (encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Quercus species (Oak)	4321 3799
T2	Quercus species (Oak)	
T3	Quercus species (Oak)	
T4	Quercus species (Oak)	
T5	Quercus species (Oak)	
T6	Fraxinus excelsior (Ash)	
T7	Quercus species (Oak)	
T8	Quercus species (Oak)	
T9	Fraxinus excelsior (Ash)	
T10	Quercus species (Oak)	
T11	Quercus species (Oak)	
T12	Quercus species (Oak)	
T13	Quercus species (Oak)	
T14	Quercus species (Oak)	
T15	Quercus species (Oak)	
T16	Fraxinus excelsior (Ash)	
T17	Quercus species (Oak)	
T18	Quercus species (Oak)	
T19	Quercus species (Oak)	
T20	Quercus species (Oak)	

#### Trees specified by reference to an area (within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	None	

**Groups of trees**

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
	None	

**Woodlands**

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	None	

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 SHEFFIELD CITY COUNCIL DEVELOPMENT SERVICES  
 ACT 1988 HAVE BEEN GENERALLY ASSURED  
 THE LAND SERVICES DEVELOPMENT SERVICES ACTUAL WITH THE AGREEMENT OF SHEFFIELD  
 CITY COUNCIL AND THE LAND SERVICES DEVELOPMENT SERVICES  
 SHEFFIELD AS A RESULT OF THE CONTRACT OF THE LAND SERVICES DEVELOPMENT SERVICES  
 SHEFFIELD CITY COUNCIL DEVELOPMENT SERVICES ACT 1988  
 SHEFFIELD CITY COUNCIL DEVELOPMENT SERVICES ACT 1988

**TREE SCHEDULE**

**TREES SPECIFIED INDIVIDUALLY**  
 (Encircled in black on the map)

- T1 Quercus species (Oak)
- T2 Quercus species (Oak)
- T3 Quercus species (Oak)
- T4 Quercus species (Oak)
- T5 Quercus species (Oak)
- T6 Fraxinus excelsior (Ash)
- T7 Quercus species (Oak)
- T8 Quercus species (Oak)
- T9 Fraxinus excelsior (Ash)
- T10 Quercus species (Oak)
- T11 Quercus species (Oak)
- T12 Quercus species (Oak)
- T13 Quercus species (Oak)
- T14 Quercus species (Oak)
- T15 Quercus species (Oak)
- T16 Fraxinus excelsior (Ash)
- T17 Quercus species (Oak)
- T18 Quercus species (Oak)
- T19 Quercus species (Oak)
- T20 Quercus species (Oak)

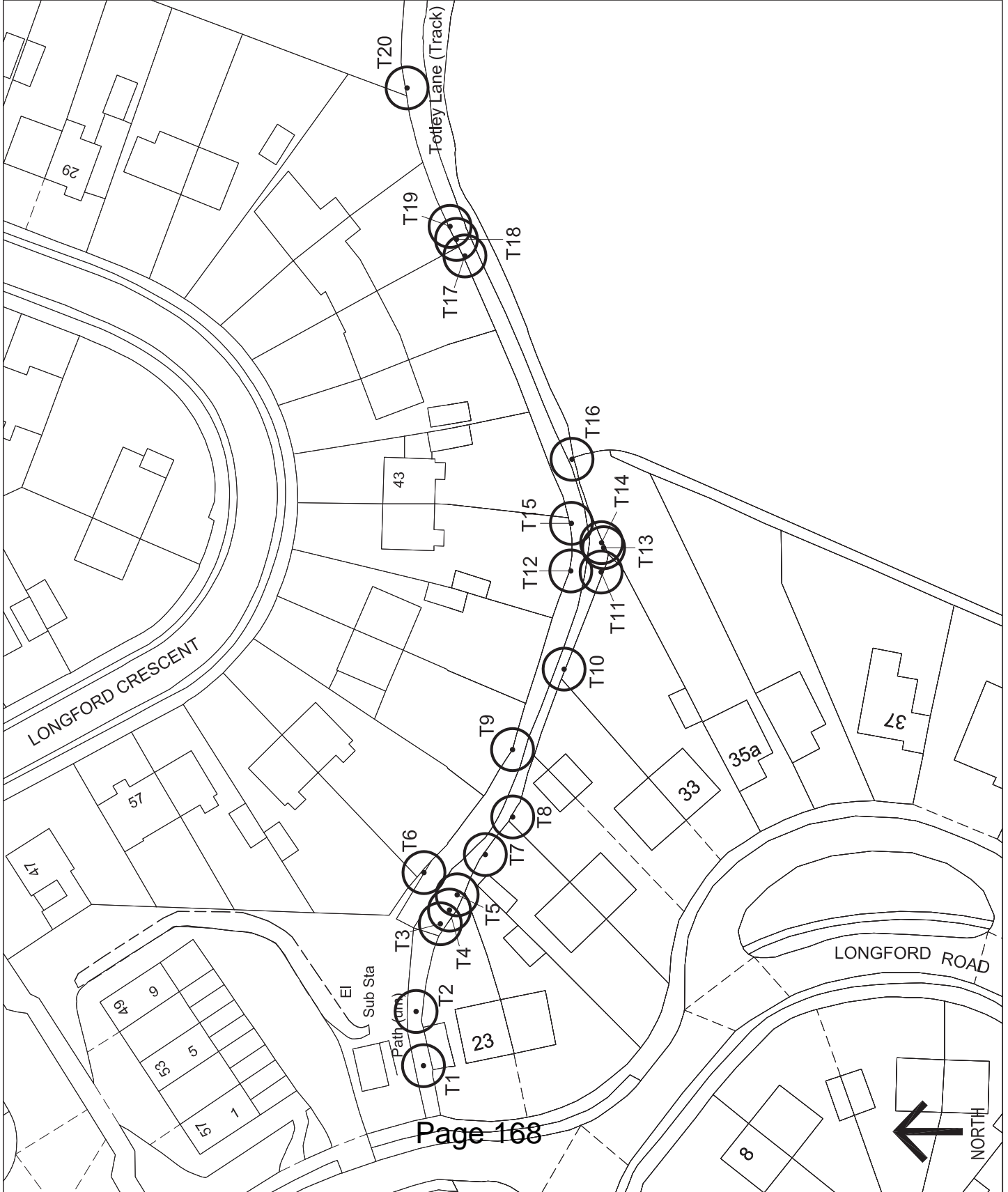
TREES SPECIFIED BY REFERENCE TO A GROUP: None

TREES SPECIFIED BY REFERENCE TO AN AREA: None

TREES SPECIFIED BY REFERENCE TO WOODLAND: None

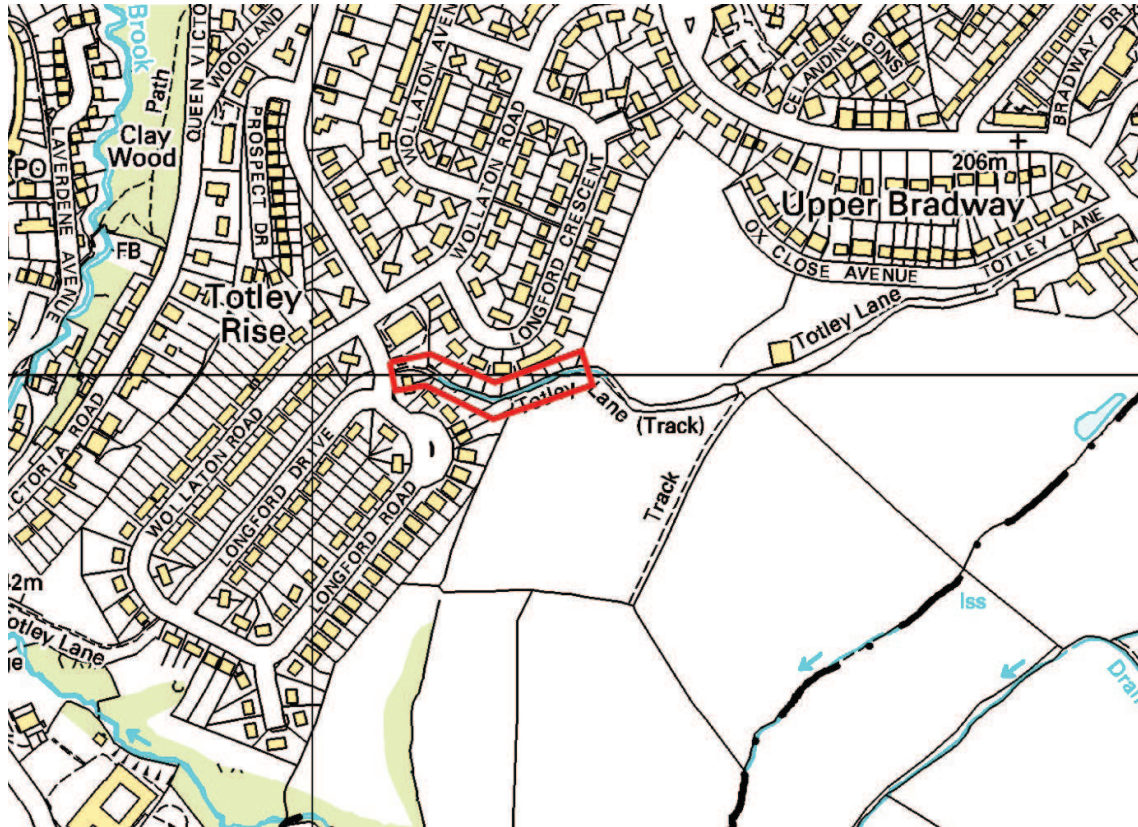
TREES EXCLUDED FROM ORDER (Shown with a cross on the map)  
 OS Grid Reference 4321 3799

SHEFFIELD CITY COUNCIL DEVELOPMENT SERVICES	
TREE PRESERVATION ORDER No. 808/395	
TITLES TOTLEY LANE BRIDLEWAY TOTLEY, SHEFFIELD	
PLACES	
SCALE: 1:500 @ A3	
DATE	DATE
JF	JULY 2014
NO	NO
DRAWING NO: A3/UED/808/395	
COPY FILE NAME	





**APPENDIX B**  
Tree Preservation Order 395  
General Location Plan



TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 1/3/14 Surveyor: JACK FOXALL

Tree details  
TPO Ref (if applicable): Tree/Group No: T10 Species: Quercus spp.  
Owner (if known): Location: on slope of bank of historic track

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

- 5) Good Highly suitable
- ③) Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous\* Unsuitable

\* Relates to existing context and is intended to apply to severe irremediable defects only

Score & Notes Significant dead wood, at least 4 No dead branches 100-200mm Ø and less significant branches. Possible Fusicladium hepaticum infection, but no evidence visible.

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- ④) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10\* Unsuitable

\*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

Score & Notes Long life span remaining if managed as veteran tree.

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees
- ④) Large trees, or medium trees clearly visible to the public
- 3) Medium trees, or large trees with limited view only
- 2) Young, small, or medium/large trees visible only with difficulty
- 1) Trees not visible to the public, regardless of size

- Highly suitable
- Suitable
- Suitable
- Barely suitable
- Probably unsuitable

Score & Notes on boulevard visible from surrounding roads

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- ⑤) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)

Score & Notes Vary large specimen in avenue lining historic route. Almost at veteran stage.

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- ⑤) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes Enquiry regarding extreme pollarding by householder.

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 Does not merit TPO
- 12-15 TPO defensible
- ①6+ Definitely merits TPO

Add Scores for Total:  
21

Decision:  
TPO

**APPENDIX D**  
Objection received from Mr Bill Anderson  
9<sup>th</sup> August 2014

**From:** Bill Anderson [<mailto:bill.anderson@andersontreecare.co.uk>]  
**Sent:** 09 August 2014 15:30  
**To:** Cannon Richard (CEX)  
**Subject:** TPO no 395.

Dear Mr Cannon,  
On Thursday I was contacted, in my role as sub contractor to Sheffield's Rights of Way section (PROW) to go and deal with a tree on a bridleway in Bradway that had shed a branch. This branch was only partially detached from the tree but was hanging in 2 adjoining gardens, somewhat to the consternation of the property owners. And I have to say justifiably so:



Photograph showing the garden of 23 Longford Road and the collapsed branch.

At the time of my visit I noted a sign affixed to one of the trees stating that it was protected by a recently served TPO. I have since returned to the site to deal with the broken branch and also visited the Town Hall website wherein I found no mention of the TPO, despite the sign stating that more information was to be found there. I have also discovered that a colleague had been due to prune a nearby tree on the day the TPO was served.

I would be grateful if you would register this correspondence as an objection to this TPO on the grounds that the Council have no business protecting trees that are in their own management. This is because it is not expedient and it makes a complete mockery of the system for the Council to have to apply to themselves for permission to work on one of their own trees. In times past I believe similar matters (local authorities seeking planning permission from themselves) were referred to the Secretary of State for a decision, and while I'm sure Mr Pickles would be delighted to pop up to Sheffield to have a look at these trees every time they needed some minor pruning, in reality he would be somewhat peeved.

I would be grateful if the TPO documentation could be made available on the website whereupon I might consider my objection more carefully, although my main concern as a resident of the City is that this is a complete waste of time and money, and simply loads more work upon an Officer who is already overburdened and behind with his current workload.

I would be grateful if you would acknowledge this e-mail.

Yours sincerely

**Bill Anderson**

**Anderson Tree Care Ltd.**

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**APPENDIX E**  
Objection received from Mr Bill Anderson  
11<sup>th</sup> August 2014

**From:** Bill Anderson [mailto:bill.anderson@andersontreecare.co.uk]  
**Sent:** 11 August 2014 10:57  
**To:** Cannon Richard (CEX)  
**Subject:** RE: TPO no 395.

Hello Mr Cannon, good morning.

Thanks for the copy of the TPO, this situation seems to be developing day-by-day; Tony Andrews (PROW) asked me to look at some other trees near the Oak so I went up and strolled the length of Tolley Lane this morning. Another tree has also shed a branch, which we are also going to deal with in the next couple of days. I have to say that this TPO is going to be a mess even before it's confirmed. I think it is obvious that it has not been well-considered at all.

That said having now walked the length of the Lane and looked at the group of trees from Google, it is fairly obvious that this is something of an ancient boundary and as such the trees (arguably) have some archaeological value. However I still consider that if resources are to be expended on preserving these trees then they would be better directed to works that might actually maintain them rather than making their routine management more onerous.

The Council need to consider what it is they're actually trying to achieve here; at the moment I can't see that serving a TPO is going to achieve anything.

Thanks again,

Bill Anderson.

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