



SHEFFIELD CITY COUNCIL

Planning & Highways Committee Report

Report of: Director of City Growth Service

Date: 19th March 2024

Subject: Tree Preservation Order No. 473

Author of Report: Vanessa Lyons, Community Tree Officer (Planning).

Summary: To seek confirmation of Tree Preservation Order No. 473

Reasons for Recommendation

To protect trees of visual amenity value to the locality

Recommendation

Tree Preservation Order No. 473 should be confirmed unmodified.

Background Papers:

- A) Tree Preservation Order No.473 Variation Order and map attached.
- B) Tree Preservation Order No.473 and map attached
- C) Tree Evaluation Method for Preservation Orders (TEMPO) assessment attached.
- D) Images of the trees
- E) Objection

Category of Report: OPEN

CITY GROWTH SERVICE

REPORT TO PLANNING & HIGHWAYS COMMITTEE

Tree Preservation Order No. 473

1 Stratford Road, Sheffield, S10 3LR

TREE PRESERVATION ORDER NO. 473

1.0 PURPOSE

- 1.1 To seek confirmation of Tree Preservation Order No.473, which protects six individual trees at 1 Stratford Road, Sheffield, S10 3LR.

2.0 BACKGROUND

- 2.1 On the 20th October the Council received information that tree surgeons were on site at 1 Stratford Road and were in the process of removing mature trees which lined the boundary of the property with Tom Lane and Carsick Hill Crescent. The property is adjacent to, but not included within, the Ranmoor Conservation Area, the border of which starts at 5 Stratford Road. Therefore, the trees were not subject to any pre-existing form of protection, such as that afforded by section 211 of the Town and Country Planning Act 1990.
- 2.2 A site visit was made by Vanessa Lyons, Community Tree Officer, on 20th October to assess whether it would be expedient in the interest of amenity to make the trees subject to a Tree Preservation Order, and thus prevent their removal. Information gathered from the tree surgeons at the site visit indicated that all the trees and shrubs along the boundary of Tom Lane and Carsick Hill Crescent were intended for removal, numbering sixteen trees in total. At the time of the visit, several trees along the boundary with Tom Lane had already been felled or had had their major limbs removed to leave a standing stem. It was the recommendation of the assessing officer that, pending further assessment, removal of all of the trees would have a detrimental impact upon the amenity of the area and that a Tree Preservation Order should be served. The order would have the effect of protecting all of the trees on site (by reference to an area) until such a time as the trees could be individually inspected and further assessed for their suitability for protection.
- 2.3 Paragraph 29 of Government guidance which accompanies the Town and Country Planning Act (<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>) states that area orders are intended for short term protection only, and to be used as a temporary measure until the trees on site can be fully assessed. It was the opinion of the assessing officer during the initial site visit that several of the trees on site may not have the requisite amenity to warrant being protected by an order, but that the conditions under which the visit was conducted (an emergency situation and during storm Babet) precluded the sort of full inspection that would be needed to fully ascertain which trees to protect.

- 2.4 A Tree Preservation Order does not come into effect until the moment that it is made. The general advice given to tree surgeons who may be working on the trees prior to an order being made is to cease work. This is to prevent work being conducted on the trees at the moment that the order is made and comes into effect, as damaging or carrying out works to a tree protected by an order without written consent from the Council would represent a contravention of the order, this being an offence under the Town and Country Planning Act 1990. This information was relayed to the tree surgeons by the assessing officer while on site. However, the tree surgeons chose to continue working on the trees, and de-limbed a further number of the trees fronting Tom Lane, before eventually finishing work prior to the time that the order was made and came into effect later that day. Tree Preservation Order No.473 (“the Original Order”) was therefore made on the 20th October 2023 to protect all of the trees within the curtilage of 1 Stratford Road.
- 2.5 A subsequent site visit was conducted on the 3rd of November, to carry out a more thorough inspection of the trees. The site visit, which was carried out in the presence of an arboricultural consultant acting on behalf of the homeowner, revealed that five of the ten trees fronting Carsick Hill Crescent were of insufficient quality to meet the high standard necessary to be included in a defensible TPO. Four of the trees fronting Tom Lane were also of insufficient quality to be included, due to being left as standing stems by the tree surgeons. A recommendation was made to vary the Original Order so as to remove these trees from its schedule and therefore the protection of the Order. A further order was made (a variation order made on 21st December 2023) so as to achieve this.
- 2.6 This variation order came into effect immediately, does not need to be confirmed and changed the Original Order so as to remove nine trees from its protection. The Original Order has therefore been varied. The “Varied Order” now protects 6 individual trees, as described in its schedule. It is the Varied Order which is recommended for confirmation by the Committee. A copy of the Varied Order, with its accompanying map, is attached as Appendix A.
- 2.7 Images of both the protected trees and those not included in the Varied Order are shown in Appendix D.
- 2.8 Since the order was varied, those trees lining Carsick Hill Crescent and Tom Lane which were no longer protected by the order have been removed. This was not a contravention of a TPO as the trees were no longer subject to any protection. It is not possible to further vary the Varied Order so as to protect trees which have been removed or compel their replanting.
- 2.9 Objections.

One duly made objection to the area TPO was received on the 30th October 2023 by an arboricultural consultant acting on behalf of the owners of 1 Stratford Road. Upon the variation of the order, an amended objection was submitted by the same consultant on the 18th January 2024, consisting of the

original objection with a cover letter appended. A copy can be found at Appendix D.

The main points of the objection are:

- The TPO was served in a storm for no apparent reason, though the use of the area designation, given the conditions was considered reasonable.
- Were the trees appraised using a structured system of amenity valuation they would be shown to not be worthy of a TPO.
- Serving an ill-considered TPO does not encourage people to manage their trees and is likely to discourage tree ownership.

In response:

- The TPO was served in response to information given to the Council regarding the impending removal of all of the trees on site, which was corroborated by information given to the assessing officer by the tree surgeons who were present when the initial visit was conducted. It was the Council's assessment that this would lead to an unacceptable loss of amenity to the area, such that it was expedient in the interest of amenity to make the trees subject to an Order.
- The trees were assessed using a structured system of amenity assessment. TEMPO is a tool for determining TPO suitability, used by a wide number of Councils, which assesses both amenity and expediency. The amenity assessment is contained within part 1 of the form, and this covers all the elements that the government guidance accompanying the Town and Country Planning Act 1990 states should be considered when assessing amenity. Where trees fulfil part 1 and are therefore shown to have sufficient amenity to be considered as suitable for protection, they then move to part 2 of the assessment, where it is assessed if it is expedient to make the trees subject to an Order.
- The TPO was not ill considered and therefore it is not accepted that it could, on that basis, have the effect described. The trees were assessed during two site visits by a suitably qualified and experienced officer who made a recommendation that the Order should be made to protect the trees. The legal test for the making of the TPO was satisfied and it is recommended that the Committee confirm the order on the same basis so as to ensure their continued protection.

Regarding TPOs and tree maintenance: a TPO does not prevent owners from maintaining their trees. It only requires that work to protected trees be subject to consent from the Council, and that such consent should be granted where the work is shown to be justified with regard to its potential impact upon the health and amenity of the trees. The Council may have regard to the reasons put forward in support of the work. Consent may be granted upon an application which is free of charge. This is not considered to be a substantially onerous process or a reason why a TPO should not be made or confirmed.

An objection to the Varied Order was received by the Council on February 2nd 2024, following from the removal of those trees from 1 Stratford Road which were not protected under the Varied Order. The objection stated concern at the loss of biodiversity that would occur following from removal of unprotected trees, asked for a justification of the variation of the order, and asked that the ecological value of the trees be assessed in order to more thoroughly inform any planning application for development on the site.

In response:

- The trees have been removed. It is not possible to further vary the order so as to reinstate protection for trees which have been removed. It is therefore difficult to see what remedy could be provided in light of the objection.
- At the time of the variation of the order there was no planning application for development at the site that could have factored into or informed an assessment of the trees; they were assessed entirely on the basis of whether it would be expedient in the interests of amenity to protect them.
- As mentioned, the purpose of a TPO is to protect trees in the interests of *amenity*. Government guidance states that in assessing amenity we should have regard to the visibility, size and form of the tree, its future potential as an amenity, any rarity, cultural or historic value, and its relationship to the conservation area or landscape. It states that while we might consider other factors, such as importance to nature conservation or climate change, these things alone are not sufficient to warrant making an order. Therefore, although it was accepted that loss of the trees would represent loss of habitat (as each tree by default provides a wealth of habitat for numerous insects and animals) the poor structure, form and potential future retention span precluded those select trees from being subject to a tree preservation order.
- The preservation of habitat and the protection of wildlife/biodiversity are the subject of their own separate statutory regimes which are not concerned with amenity value, in contrast to a TPO. A TPO should not therefore be seen as a route towards achieving a measure of protection for a habitat which the Council would otherwise not have powers to safeguard because it would not qualify under that separate legislation.

3.0 VISUAL AMENITY ASSESSMENT

Visibility: The 6 trees which were included for protection within the Varied Order are situated in an elevated position adjacent to Tom Lane and Carsick Hill Crescent. As such they are very visible from a number of locations and are prominent within the street scene. See images of the trees at Appendix D.

Condition: The condition of the 6 trees protected is generally good. There are some minor defects present amongst some of the trees, as listed on the individual TEMPO assessments (see Appendix C) however none of these overtly impact upon the structural integrity or health of the trees in question.

Retention span: The trees are growing within a large garden with ample space to reach maturity without coming into conflict with adjacent structures in a manner that would curtail their potential retention. Removal of competing and suppressing trees has improved prospects for those that remain, with regards

access to resources such as light, water and nutrients. All the trees have subsequently been assessed as having a 20–40-year retention span, with the exception of T3, a lime and T6, a beech, which are placed in the 40-100 year category in recognition of the longevity of their species (T3) and their young age (T6).

Relationship to the landscape. The trees are not within, but stand adjacent to, the Ranmoor conservation area, characterised by large gardens continuing mature trees. Retention of those of suitable form, condition and visibility was therefore deemed as desirable, particularly given the prominence of said trees with regards their size and elevated position above the highway. Only the poor condition of several of the trees prevented the order from being more extensive in regard to the number of trees protected.

Expediency: The trees were in the process of being removed when the Original Order was made.

4.0 EQUAL OPPORTUNITIES IMPLICATIONS

4.1 There are no equal opportunities implications.

5.0 ENVIRONMENTAL AND PROPERTY IMPLICATIONS

5.1 There are no environmental and property implications based on the information provided.

5.2 Protection of the trees detailed in Tree Preservation Order No.473 (the Varied Order) will benefit the amenity of the local environment.

6.0 FINANCIAL IMPLICATIONS

6.1 There are no financial implications.

7.0 LEGAL IMPLICATIONS

7.1 The Council may make a Tree Preservation Order (TPO) where it appears that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area (section 198, Town and Country Planning Act 1990). Further, the Council is under a duty to make such TPOs as appear to be necessary in connection with the grant of planning permission, whether for giving effect to conditions for the preservation of trees attached to such permission or otherwise.

7.2 A TPO may prohibit the cutting, topping, lopping or uprooting of the trees which are the subject of the Order. It may also prohibit the wilful damage or destruction of those trees. Any person who contravenes a TPO shall be guilty of an offence and liable to receive a fine of up to £20,000.

7.3 The Council may vary a TPO by making a variation order (regulation 10, the Town and Country Planning (Tree Preservation)(England) Regulations 2012).

Where the Council does not add additional trees to the schedule to the order – such as where it removes trees from the schedule to the order - various aspects of the usual order making process are dispensed with and a truncated procedure is followed. A variation order of this type comes into effect immediately and does not need to be confirmed (regulation 10(3)). Trees removed from the schedule of an order in this way are therefore immediately removed from its protection.

- 7.4 The Council may choose to confirm a TPO it has made. Once a variation order has been made, it is the varied order which is considered for confirmation. If the varied order is confirmed, it will continue to have legal effect until such point as it is revoked. If the varied order is not confirmed, it will expire and cease to have effect 6 months after it was originally made.
- 7.5 A local authority may only confirm an order after considering any representations made in respect of that order. Two objections have been received in respect of the Varied Order.
- 8.0 RECOMMENDATION
- 8.1 Recommend Provisional Tree Preservation Order No.473 be confirmed.

Michael Johnson, Head of Planning,

19th March 2024

TREE PRESERVATION ORDER
TOWN AND COUNTRY PLANNING ACT 1990
THE TREE PRESERVATION ORDER NO 473 (2023)
1 Stratford Road, Fulwood, Sheffield S10 3LR

VARIATION ORDER NO.1("the Order")

Sheffield City Council makes the Order pursuant to regulation 10 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

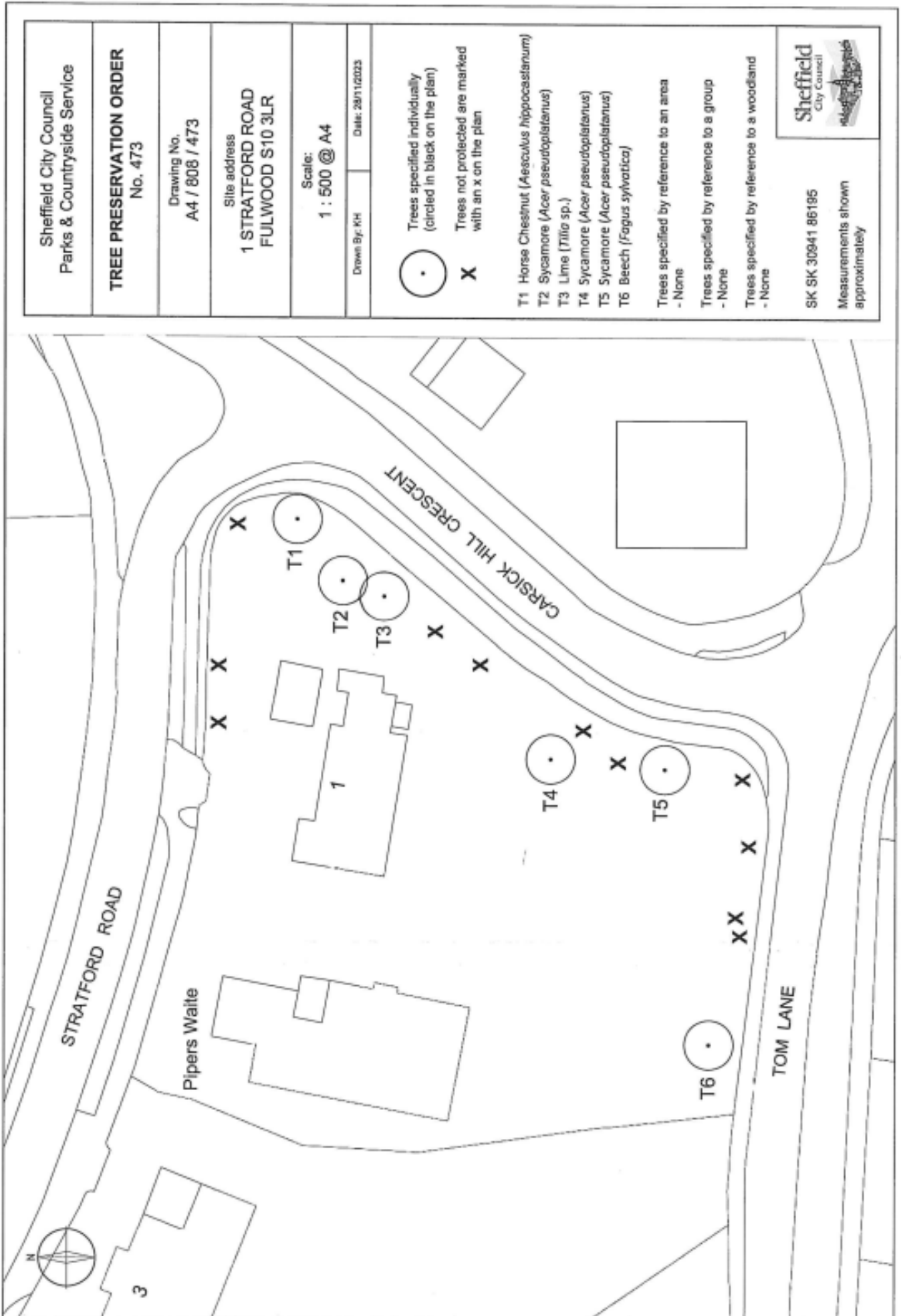
Tree Preservation Order No 473 (2023) – 1 Stratford Road, Fulwood, Sheffield S10 3LR is varied so as to specify which trees are protected individually – namely: T1 (Horse Chestnut – *Aesculus hippocastanum*), T2 (Sycamore – *Acer pseudoplatanus*), T3 (Lime – *Tilia sp.*), T4 (Sycamore – *Acer pseudoplatanus*), T5 (Sycamore – *Acer pseudoplatanus*), T6 (Beech – *Fagus sylvatica*) indicated on the Order Map. The Order is further varied so as to remove reference to area A1, the effect of which is to remove eleven trees from its protection.

The Order shall take effect on 21st December 2023

The Common Seal of
The Sheffield City
Council was hereunto
affixed in the presence of :-



David Selkous
23/2023/15794
Duly Authorised Signatory



Appendix B. Original TPO 473 and accompanying map

Tree Preservation Order
Town and Country Planning Act 1990
The Tree Preservation Order No 473 (2023)
1 Stratford Rd, Sheffield S10 3LR

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 473 (2023) – 1 Stratford Rd, Sheffield S10 3LR.

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—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) 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 20th October 2023

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


DUTY AUTHORISED SIGNATORY



SCHEDULE

Specification of trees
Trees specified individually
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>

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

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
A1	Mixed deciduous species.	SK 30985 86166

Groups of trees
(within a solid red 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>

Woodlands
(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>


This Order was varied by the Sheffield City Council on the 21st day of December 2023 by a variation order under reference 'Variation Order No.1', a copy of which is attached.

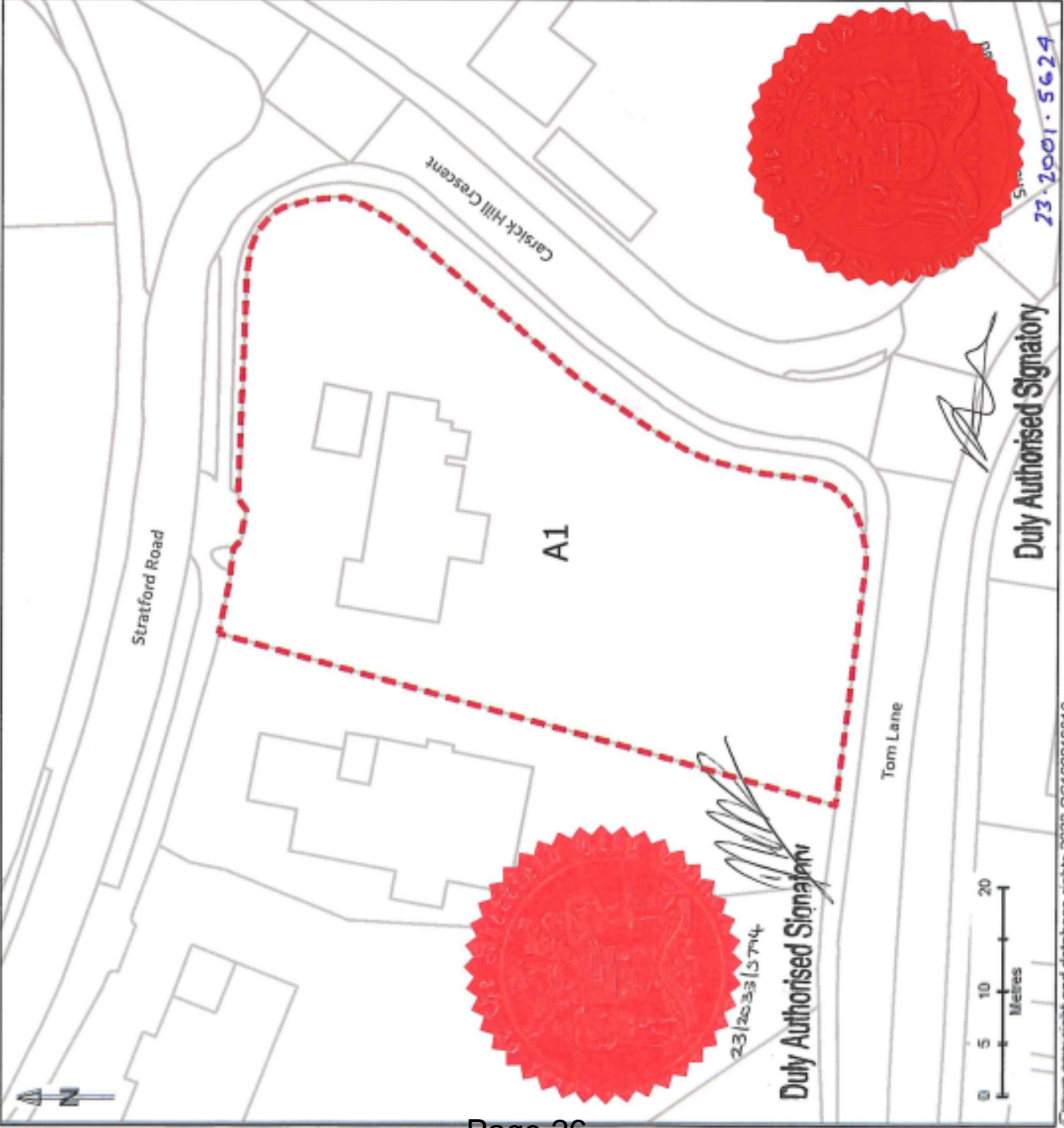
The Common Seal of)
The Sheffield City)
Council was hereunto)
affixed in the presence of)

David Sellers



23/203315794
Duly Authorised Signatory

 <p>Sheffield City Council Parks & Countryside Service</p>	<p>TREE PRESERVATION ORDER No. 473</p>
<p>Drawing No. A4/808/473</p>	<p>Site address 1 Stratford Rd, Sheffield S10 3LR</p>
<p>Scale: 1:500 @ A4</p>	<p>Drawn by MB Date: 20/10/2023</p>
<p>Trees specified individually . None</p>	<p>Trees specified by reference to an area (within dotted red line) A1 Mixed deciduous species.</p>
<p>Trees specified by reference to a woodland – None</p>	<p>SK 30985 86166 Measurements shown approximately</p>



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Appendix C. Tree Evaluation Method for Preservation Orders (TEMPO) assessment

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 20.11.23	Surveyor: Vanessa Lyons
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Tree details TPO Ref Road 1 Stratford Road, S10 3LR Owner (if known):	Tree/Group Area T1 Horse chestnut	Location:
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REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | 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 : 3. Cavity at 3m. Potential habitat feature.
--

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 2. Not in conflict with adjacent structures, shares canopy with neighbouring tree but is adapted to growing in such a way. Has cavity but tree appears structurally stable with good wound wood at site of cavity.

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 | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |

Score & Notes 4. Visible from Stratford Road, and Carsick Hill Crescent. Elevated above highway level, and prominent. Will be more visible if other trees earmarked for removal are felled.
--

- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

d) Other factors

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

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal 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)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes

1. Indifferent form, but the trees contribute to the leafy nature of the local landscape. Not within the CA but half of Stratford Road is, and mature trees in large grounds are a defining feature, so these trees are in keeping with the locale.

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes

5 all trees along boundary marked for removal. Felling was in process when an area order was served.

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:

15

Decision:

defensible

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 20.11.23	Surveyor: Vanessa Lyons
----------------	----------------------------

Tree details		
TPO Ref Road 1 Stratford Road, S10 3LR	Tree/Group Area	T2 Sycamore
Owner (if known):	Location:	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | 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 :

3 Some basal wounding, internal wood probed and found to be hard. No ffb. Foreign body (fence) attached to base. Shares canopy with T1.

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

2. Defects as listed above may shorten the time that the tree can be retained. However, the tree appears structurally acclimated to its surroundings, is not in conflict with any adjacent structures, so it is estimated it can be retained for a minimum of 20 years.

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 | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |

Score & Notes

4. The canopy of T2 (alongside T1 and T3) are seen from Stratford Road over the roof of the garage and the trees are visible from Carsick Hill Crescent where they are elevated to the highway.

- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Other factors

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

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal 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)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes

1. See notes from T1 re contribution to landscape.

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes

5 all trees along boundary marked for removal. Felling was in process when an area order was served.

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:

15

Decision:

defensible

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 20.11.23	Surveyor: Vanessa Lyons
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Tree details		
TPO Ref Road 1 Stratford Road, S10 3LR	Tree/Group Area	T3 Lime
Owner (if known):	Location:	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | 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 : 3 Girdling root. Otherwise in good condition.
--

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 4. Long lived species. Growing in suitable ground. No conflicts with adj. structures

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 | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |

Score & Notes 3 Canopy somewhat obscured but tree is elevated to highway, visible from Stratford Road and Carsick Hill Crescent.

- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Other factors

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

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal 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)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes

1 See notes listed in T1 re contribution to landscape.

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes

5 all trees along boundary marked for removal. Felling was in process when an area order was served.

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible

Add Scores for Total:

16

Decision:

Merits TPO

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 20.11.23	Surveyor: Vanessa Lyons
----------------	----------------------------

Tree details		
TPO Ref Road 1 Stratford Road, S10 3LR	Tree/Group Area	T4 Sycamore
Owner (if known):	Location:	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | 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

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

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 | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |

Score & Notes :

5. No notable outward defects

Score & Notes

2. Conservative estimate

Score & Notes

3 Canopy somewhat obscured but tree is elevated to highway, visible from Stratford Road and Carsick Hill Crescent. Tree will become more prominent pending removal of non-protected trees (notably the HC)

- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Other factors

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

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal 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)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes

1 See notes (T1) re contribution to landscape.

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes

5 all trees along boundary marked for removal. Felling was in process when an area order was served.

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:

16

Decision:

Merits TPO

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 20.11.23	Surveyor: Vanessa Lyons
----------------	----------------------------

Tree details	
TPO Ref Road 1 Stratford Road, S10 3LR	Tree/Group Area T5 Sycamore
Owner (if known):	Location:

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair/satisfactory 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 :

3. No close inspection possible due to vegetation. Some dead wood in lower canopy.

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

2

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 Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Suitable

Score & Notes

4. Medium sized tree, but very visible from the corner of Carsick Hill Crescent and Tom Lane. One of the few trees fronting Tom Lane to be retained, following from the removal of multiple mature sycamore.

- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Other factors

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

Score & Notes

1 see notes in T1 re relation to landscape

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal 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)
- 1) Trees with poor form or which are generally unsuitable for their location

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

Score & Notes

5 all trees along boundary marked for removal. Felling was in process when an area order was served.

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

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:

15

Decision:

defensible

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 20.11.23	Surveyor: Vanessa Lyons
----------------	----------------------------

Tree details		
TPO Ref Road 1 Stratford Road, S10 3LR	Tree/Group Area	T6 Beech
Owner (if known):	Location:	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | 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 :

3. Slight lean, as was suppressed by other trees. No notable outward defects. Tree will adjust/ compensate for the lean as it grows.

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

4. Young tree with potential now that other competing trees have/ will be removed. Has adequate space to reach mature age without conflict from adjacent structures.

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 | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |

Score & Notes

3 One of few trees fronting Tom Lane to be retained following removal of multiple mature sycamore

- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Other factors

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

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal 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)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes

1 see notes in T1 re relation to landscape.

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes

5 all trees along boundary marked for removal. Felling was in process when an area order was served.

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:

16

Decision:

Merits TPO

Appendix D. Images of the trees



Image 1. T1 horse chestnut, T2 sycamore and T3 lime, included within the varied Order and retained. Image taken during site visit on 3rd November 2023 looking from Stratford Road..



Image 2. T1 horse chestnut, T2 Sycamore and T3 lime, retained on site following removal of non-protected trees. Image taken on the 15th February 2024, following from the removal of unprotected trees. Photograph taken from Tom Lane.

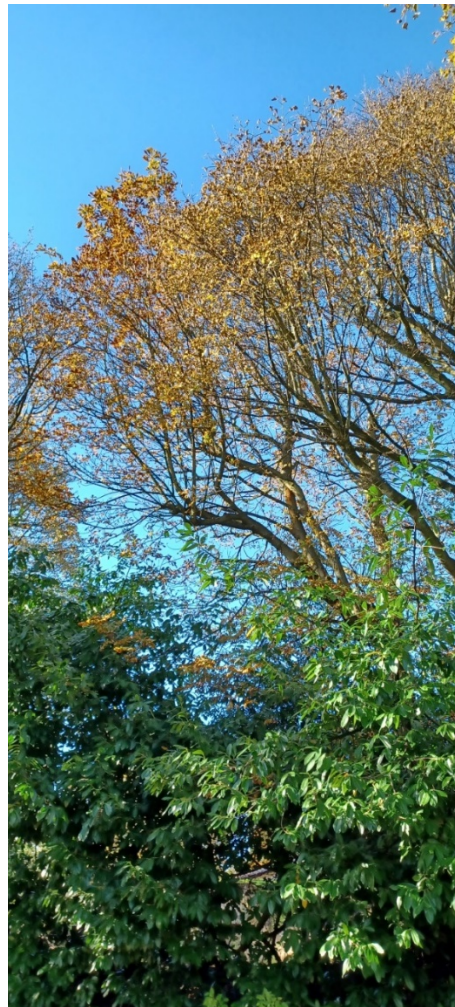


Image 3 (left). Sycamore on junction of Stratford Road and Carsick Hill Crescent. Extensive basal decay. The tree was previously inexpertly pruned. Not included in the varied Order and since

removed. Image 4 (right). Sycamore and horse chestnut (adjacent to Carsick Hill Crescent). The trees were previously inexpertly pruned (topped) permanently impairing their form. Images taken on the 3rd November 2023. Trees since removed.



Image 5 (left) Horse chestnut with symptoms indicative of bleeding canker, including stem bleeding. The tree was suppressing a nearby, good quality sycamore (T4 on the varied Order) which has been retained, and which can be seen in the foreground of the right-hand image. Images taken on the 3rd November 2023 from within the grounds of 1 Stratford Road..



Image 6. T5 Sycamore, shown standing in the forefront of the image. T4 shown to the right, and a red oak, not protected within the varied Order but retained by the homeowner shown to the far left.



Image 7. T6 Beech. Included in the varied Order and retained. Image taken on the 3rd November 2023 from within the grounds of 1 Stratford Road.



Image 8. Trees facing Tom Lane which were de-limbed before the variation Order was made and therefore not suitable for inclusion. Photograph taken from Tom Lane.

Anderson Tree Care Ltd



info@andersontreecare.co.uk
www.andersontreecare.co.uk



Sheffield City Council,
Town Hall,
Sheffield, S1 2HH.

Attention; Richard Cannon, Legal Services Officer.

January 18th 2024.

Dear Sir,

Objection to Tree Preservation Order 473 (2023)
1 Stratford Road, Sheffield S10 3LR.

Further to my objection to this Order the Tree Officer revisited the site and re-examined the situation. The Order has now been varied and protects 6 trees of the 17 or so on the site. Although we are grateful for the acknowledgement of our original representations, we remain of the opinion that the specified trees are not TPO-worthy.

It's hard to see when the trees are surrounded by shrubs and growing in close proximity to other trees but we do not believe that any single tree represents a good individual specimen and not a single one is likely to develop into a decent individual specimen that might be said to be "a good example of the species." Because of this we remain of the opinion that none have sufficient amenity value to justify protection.

My original objection discussed the lack of proactive management for the group of trees and how this has led to them growing with thoroughly merged crowns. While this is of little consequence as long as the group comprises of relatively small trees, when they become overgrown it makes management very awkward. Serving an ill-considered TPO simply compounds the situation and does not serve to encourage people to manage their trees. In fact it's more likely to discourage tree ownership if they see undeserving trees being protected in this way.

I'd be grateful if you would accept this letter as an addition to the previous objection, which is appended.

Yours sincerely,



Enclosure: Original objection from October 2023.



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Registered in England and Wales



Sheffield City Council,
Town Hall,
Sheffield, S1 2HH.

Attention; Richard Cannon, Legal Services Officer.

October 30th 2023.

Dear Sir,

Objection to Tree Preservation Order 473 (2023)
1 Stratford Road, Sheffield S10 3LR.

Please accept this letter as an objection to the above Order that was served on October 20th 2023. This was in the midst of an extreme weather event, Storm Babet. My client is [REDACTED], who has lived there for some 40 years.

The Tree Preservation Order (TPO) is an Area Order and protects "mixed deciduous species." Presumably this means all the trees bar the Hollies, which are evergreen (not deciduous) and the very large Cherry Laurel shrubs, which are also evergreen and not usually regarded as trees. I note here that Cherry Laurel is an invasive species that many conservation-minded people consider to be an invasive pest.

The first reason for our objection is that the Area designation should only be used in an emergency and is not suitable for long-term protection. Although we accept that the weather on October 20th might have made it appropriate to use the Area-designation, it would now be appropriate to determine which trees the City considers to be worthy of protection. To that end you should arrange for the Tree Officer to re-visit and re-serve the Order making it clear which trees are TPO-worthy.

The second reason for objection is that the trees here do not have sufficient amenity value for any of them to justify protection. The Council have not followed the Government Guidance,¹ which requires Councils to develop systems of "amenity valuation" that can be used to ascertain when trees deserve protection. The Council use an appraisal system but in reality all this tells us is that the trees are alive and that they can be seen. To be TPO-worthy trees don't necessarily need to be visible to the public, but there does need to be some special factor that makes them something beyond "merely visible." Paragraph 008 of the Government's Guidance categorically states that "*Public visibility alone will not be sufficient to warrant an Order.*"

The TEMPO system that the Council seem to have adopted in lieu of a "structured system of amenity valuation" is not a system of amenity valuation, it is a procedure devised for the review of TPOs. It was developed to reappraise trees that were already deemed to have amenity value as defined in the Guidance. In this case the TEMPO data sheet only achieves the TPO threshold score by giving the trees an extra score of 50% because they're apparently "under threat." This is TEMPO's expediency assessment.

I do not accept this part of the TEMPO system at all. Expediency is a binary question; it is expedient or it isn't. TEMPO includes this section because the Planning Act states "*If it*

¹ <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

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." This is from section 198 of the 1990 Town and Country Planning Act. The word "expedient" has caused much consternation within the planning world, but increasing a tree's "amenity value" because it's expedient to serve a TPO makes no sense.

In this case my client and I accept that a Council Officer might have deemed it expedient to serve a TPO, but we do not accept that expediency means the trees' amenity value has increased in any way.



Photograph 1 is a screen grab from Google. I'm not sure when this image was taken but I've included it to show how the trees are casting significant shade over the garden, from the east and the south. I think it would be reasonable to describe this group of trees as a sort of shelter-belt.

Photograph 1.

Although shelterbelts are more a feature of agricultural areas than urban landscapes, their routine management present similar problems. In agricultural areas the main one is how to preserve the shelter when the trees mature. As the trees get taller and lose lower branches, the wind starts to come through the trees rather than being blocked by the merged crowns. To make sure trees provide a screen it is necessary to manage the trees to ensure that there is still dense growth at ground level. In such areas this is probably best done by ensuring that the taller trees do not shade-out the smaller understory trees and shrubs. In urban

areas the problem is to prevent the trees becoming too tall and thus creating situations where the shade cast covers the whole garden. Agricultural landscapes usually have more space so the problem of shade doesn't arise.

In the case of 1 Stratford Road, it seems the approach might have been to prune all the trees to make them less tall. This would have maintained the screen but prevented the shade from becoming too extensive. That said, pruning all these trees every few years would have been something of a mammoth undertaking and it's debatable whether such a course of tree management could be regarded as sustainable. It certainly would have been expensive. With hindsight it might have been better to grow some sort of informal hedgerow as a screen here. That is small trees densely planted, and then managed by intermittent coppice-cutting. Unfortunately it's fairly common to find these problems not being considered until the trees have become thoroughly overgrown.

The trees on the site are described (on the TEMPO data sheet) as having suffered poor pruning in the past, and being "suppressed or hard up against the boundary wall." I would agree with the description of the pruning as poor, although it might better be described as misguided or inadequate. In this case, this lack of past management might be said to have reduced the trees' amenity value. This is not to say that trees will only develop amenity value if they are managed or nurtured, but it is to accept that a lack of proactive management or consideration might reduce their longevity and their development.

In this case suppression means competition from neighbouring trees, which has led to nearly all of the trees in the site developing one-sided crowns. This is not a problem unless the intention was to grow a good individual tree. By this I mean one with a full crown that might be regarded as a "good" example of a species. At this property suppression has not come only from neighbouring trees within the site, it's also come from the overgrown Cherry Laurel shrubs (that have reached tree proportions), and from trees outside the site growing in the highway verges.

The TEMPO data sheet further states that the trees have a 20-40 year retention span, and then states that this is a "conservative estimate" and that "younger trees on site will have longer potential retention span." This is something of an all-encompassing appraisal, and does not bear close scrutiny. As discussed above, all the trees in the roadside group have been undermanaged in the past and are only suitable for long-term retention if some remedial action is taken. This is a matter that I and my client considered some time ago. We decided that most of the trees had become too large for satisfactory remedial pruning. She accepted that routine management was something that she had neglected over the previous decades, and my colleague and I concluded that the most sensible course of action would probably be to remove the trees and replant.

It is something of a misunderstanding of the TPO rules that when serving TPOs the Order somehow gives an LPA the authority to require maintenance work. This is not the case and the Guidance acknowledges this in paragraph 002. TEMPO also acknowledges this and states that trees that are likely to become a nuisance within 10 years should not be protected. TEMPO presumes that all trees will be maintained in accordance with the owner's duty of care and current best practice.

Summary.

1. This TPO was served in a storm for no obvious reason. As such the use of the Area Designation and the lack of a more detailed tree appraisal is forgive-able.
2. A proper appraisal of the trees in this garden, with the aid of a "structured system of amenity valuation" (that complies with the Government Guidance) will reveal that none of the trees are of a quality that merits their protection with a Tree Preservation Order.
3. The TPO should be revoked.
4. My client is more than happy for the Council's Tree Officers to visit the site and inspect the trees properly, which will reveal that none of them justify statutory protection, We would be grateful if this could be done promptly.

Yours sincerely,

A large black rectangular redaction box covering the signature area.

E. Objections – objection 2

Formal Objection to Variation of Tree Preservation Order – Significance of Habitat Loss

Dear [REDACTED],

I trust this email finds you well. I am writing to formally object to the proposed variation to the tree preservation order 473, specifically highlighting concerns regarding significant habitat loss.

Upon consideration of the proposed variation, and given the extent of the habitat loss that has occurred in the past few weeks it is clear that there is further significant risk to the trees and wildlife at the site.

It is a real shame that the initial variation has already led to such an extensive loss of habitat, and I believe the site will benefit from both a reversal of this decision, but also whatever further protection you can afford. I object to the variation being made permanent (however I fear it is too late, as many of the trees and hedges have been removed to make way for development of the site), and can you please pass this objection on to the Legal Services Department

it is evident that the changes have already resulted in the removal or alteration of trees that serve as crucial habitats for various species. This alteration poses a significant threat to the existing ecosystem, potentially leading to irreversible environmental consequences.

It is essential to emphasize the ecological importance of the affected area, which currently supports diverse flora and fauna. The potential habitat loss due to the proposed variation could disrupt the delicate balance of the local ecosystem, leading to a decline in biodiversity and a detrimental impact on the overall health of the environment.

Moreover, it is well-documented that trees play a pivotal role in mitigating climate change by sequestering carbon dioxide and providing essential ecosystem services. The removal of these trees, especially in light of the current global environmental challenges, raises concerns about the long-term sustainability and resilience of the area.

I kindly request that a comprehensive ecological impact assessment be conducted to evaluate the potential consequences of the proposed variation. This assessment should consider the specific habitats that may be affected, the species dependent on these habitats, and the broader environmental implications. It would also be good for the assessment to also cover the impact of the extensive removal which has already taken place on the site.

I would also welcome some information on the justification for the change in the first place.

I appreciate your attention to this matter and urge you to carefully consider the potential ramifications of the proposed variation on the local ecosystem (not to mention the loss of some beautiful trees!). I believe that a thorough and transparent assessment will contribute to a more informed decision that balances the need for development with the imperative to preserve our natural environment. Thank you for your time and consideration.

Officer response: Dear [REDACTED],

Thank you for the email below in which you outline your concerns and object to the varying of the Tree preservation Order no 473.

As the Manager of Design Conservation and Trees Team, I am reaching out to respond to these concerns, and hopefully provide you with information regarding the processes we follow to assure you regarding consistency and quality of decision making and also update you regarding other, relevant Planning considerations that have just come in.

1. Justification to the change of the Order:

On the 20th October an area Order was served to protect trees at 1 Stratford Road following from information received by the Council, from the public, that trees on site, which were not protected by way of being within a Conservation Area or protected by TPO, were being removed.

Paragraph 29 of the Government guidance which accompanies the Town and Country Planning Act (<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>) states that area orders are intended for short term protection only, and to be used as a temporary measure until the trees on site can be fully assessed. It was the opinion of the assessing officer during the initial site visit that several of the trees on site may not have the requisite amenity to warrant being protected by an Order, but that the conditions under which the visit was conducted (an emergency situation and during storm Babet) precluded the sort of full inspection that would be needed to fully ascertain which trees to protect. Therefore, an area Order was made, with a view to a later inspection being conducted to ascertain which trees to retain.

A further inspection of the trees was conducted on the 3rd November 2023, which led to a variation of the area Order. The varied Order protected a total of 6 trees and it came into effect on the 21st December 2023.

A TPO is intended to protect trees of quality which bring a high degree of amenity to the area. Government guidance which accompanies the Town and Country Planning Act states that the amenity value of trees should be assessed taking into account factors such as:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

While authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

With the above criteria in mind, four trees fronting Tom Lane had been de-limbed by tree surgeons, and were little more than standing stems, and therefore were not included in the varied Order (see included images). Five trees fronting Carsick Hill Crescent were of impaired form due to poor past pruning, and impaired physiological condition resulting from a combination of poor past

management, suppression, and pathogens. Their visual amenity, and potential for long term retention were sufficiently diminished so as to be found unsuitable for inclusion in the varied Order (see included images).

While it is regrettable that these trees have subsequently been felled, only trees of high-quality ought to be included in a TPO. To include trees of poor quality would be to disregard government guidance to the contrary, and to potentially over-step the power afforded to the Council by parliament with regards the making of TPO's. As objections can be raised against TPO's, which must be addressed and resolved at Planning Committee before the Order can be made permanent, it is therefore important to only include trees that can be robustly defended.

2. Habitat loss/ ecological impact: BNG Net Gain

You raise important and pertinent points as regards the habitat loss and ecological impact, and whilst I do not disagree with any of your comments, unfortunately, under the TPO remit, as outlined in the Government guidance above, we are guided to only consider the amenity value of the tree/s in question in terms of being able to robustly defend the TPO.

Having said this, 10% mandatory BNG (Biodiversity Net Gain) has only come in for major development sites at the moment (10+ dwellings or sites of 1 hectare or more), with the 10% BNG on smaller sites is due in April. That said between now and then, national policy would require no net loss which would still necessitate a small gain.

The details on Govt Guidance are set out here. [Understanding biodiversity net gain - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/understanding-biodiversity-net-gain) Extract from the Govt Guidance- *BNG is an approach to development. It makes sure that habitats for wildlife are left in a measurably better state than they were before the development. In England, BNG is mandatory under [Schedule 7A of the Town and Country Planning Act 1990 \(as inserted by Schedule 14 of the Environment Act 2021\)](#). Developers must deliver a BNG of 10%. This means a development will result in more or better quality natural habitat than there was before development.*

With this in mind, if the site was subject to a planning application, it is highly likely that the habitat value of the trees, previous to the trees being felled, will form part of consideration, necessitating further assessments etc and we would be required to take a view on this, as to a developer trashing a site.

Having read the response above, if you consider your concerns to have been resolved in light of this information, then I would further ask you to please consider withdrawing your objection. In any case, it would be very useful for us, if you let us know of your views, in the next couple of days, as we prepare to take the TPO for confirmation (as is the process), to an upcoming Planning Committee.

Many thanks,

Objector response: Dear [REDACTED],

Many thanks for your comprehensive reply. I have a few follow-on questions if I may?

1. My understanding is that the variation order was to vary the initial order (which encompassed all of the trees to the rear of the site) to just specific trees on the site. I am a little confused as to why the contractor was allowed to act on the variation until it has been confirmed? Why didn't the contractor have to wait until the Variation Order was made permanent to allow for members of the public to be able to have their opinions.
2. Perhaps I am am mis-understanding the situation but can you please explain what effect my objecting to, or approving of the variation order will have?
3. I have been unable to see the variation order on your website - it appears to not be listed: <https://www.sheffield.gov.uk/your-city-council/legal-orders>. I can see other TPO's or orders (eg. number 470) Can you please explain why this is missing?
4. Can you please let me know the date of the planning committee?

Many thanks for your help in this matter.

Officer response: Hello [REDACTED],

Please see clarifications on your queries, as set out below;

1. My understanding is that the variation order was to vary the initial order (which encompassed all of the trees to the rear of the site) to just specific trees on the site. I am a little confused as to why the contractor was allowed to act on the variation until it has been confirmed? Why didn't the contractor have to wait until the Variation Order was made permanent to allow for members of the public to be able to have their opinions.

The variation order has the effect of varying the original order. The variation does not need to be confirmed and has an immediate effect i.e. it immediately varies the original order. As soon as the variation order was made, the trees which were removed from the protection of the original order through the variation were capable of being removed without consent being needed from the Council. The original order which has now been varied has been in effect since it was made, that effect now having been varied. That original order will expire six months after it was originally made unless it is confirmed. If it is confirmed, it will last in perpetuity.

2. Perhaps I am mis-understanding the situation but can you please explain what effect my objecting to, or approving of the variation order will have?

Objecting to the variation order has the effect of lodging an objection which the Council must consider before a decision can be made as to whether the now varied order should be confirmed. The objection is made against the order which has now been varied – ordinarily objections are made on the basis that the order should not exist and seek to prevent the order from being confirmed.

An objection on the basis that the now varied order does not go far enough in its protection would presumably be seeking that the varied order should not be confirmed and that another, different order should be made instead. However, it is difficult to see what a new, different order could achieve. It is not possible to protect trees which were lawfully removed and no longer exist – the Council cannot compel their replanting. It is entirely a matter for someone who has entered an

objection to decide whether they wish to withdraw it but I would suggest that some consideration be given to doing that with this in mind

3. I have been unable to see the variation order on your website - it appears to not be listed: <https://www.sheffield.gov.uk/your-city-council/legal-orders>. I can see other TPO's or orders (eg. number 470) Can you please explain why this is missing?

We will arrange for the upload of the variation order.

4. Can you please let me know the date of the planning committee?

We do not have a set date for the consideration of this TPO at committee at this point. It will however be timetabled for a decision by April 2024