

**Tree Team**

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Mr R Jeans  
181 Wilton Road  
Southampton  
SO15 5HY

Date: 12<sup>th</sup> September 2011

Dear Mr Jeans,

**RE: The Southampton (179 Wilton Road) Tree Preservation Order 2011**

As the officer responsible for the issuing of the above tree preservation order (TPO) your letter of objection, dated the 30<sup>th</sup> August 2011, has been forwarded to be by Legal Services for reply.

In your letter you have detailed a number of issues that you consider count against the making of the TPO, and I have summarised these under the following headings.

**Both trees have outgrown their position**

There are no rules or guidelines to determine whether or not a tree has outgrown its position. The trees are positioned to the south west of your property and do allow a reasonable amount of light to your rear garden.

**Limited visibility & amenity**

Whilst the trees, which are in a rear garden, have limited views from Wilton Road they are more visible from Eastbourne Avenue. The fact that the trees have limited views does not preclude them from being protected. An objective assessment of their amenity was made and this is further discussed below.

**The trees are well managed and not under threat**

The threat to a tree does not have to be imminent. In this case Mrs Cude, the trees owner, has requested the TPO in order to preserve the trees for the long term. Mrs Cude has lived at the property for 60 years, invested a lot of time and effort in managing the trees, and would like to see them protected in the long term, after she has left the property. A change of ownership can be perceived as a threat.

### Unevenly balanced

The trees have a reasonable crown shape and are not considered to be unbalanced whereby they are structurally compromised.

### Damage to property

Trees can cause damage to property either directly or indirectly. As the trees are well managed they are unlikely to cause direct damage through failure. The closest tree is approximately 10 metres from your house and unlikely to cause direct damage to the drains. In almost all cases involving drains being blocked by tree roots the initial failure of the drain is more to do with age, with older clay pipe drains failing at the clay seals allowing the fibrous feeding roots to grow into the drain.

The “destabilisation” of your rear garden wall may be due to any number of reasons, such as slope instability or inadequate foundations, and I recommend that you seek advice from a suitably competent person on the matter. Should it be proven that the tree(s) have caused the damage then the situation can be re-assessed.

Indirect damage, such as tree related subsidence, is unlikely and I am not aware of any such issues in this area. Should you suspect such damage then you should report the matter to your building insurance company who will investigate the matter.

### Significant health and safety risk.

No tree can be considered 100% safe, but as you state in your letter the trees are currently well managed, this together with the fact that they are both in good health and with no apparent significant structural defects means that the trees are reasonably safe. Should circumstances change then the safety of the trees may need to be re-evaluated.

Mrs Cude has a duty of care to ensure nothing on her property causes harm and her proactive management of the trees indicates she takes this duty seriously.

### Encroachment

Whilst the trees do encroach over your and adjacent properties the owner has behaved in a responsible manner and has regularly arranged for the trees to be pruned. Further management to control such encroachment would be considered favourably.

### Amenity Evaluation

In order to introduce objectivity into a process that used to be subjective, the Tree Team uses the “Tree Evaluation Method for Preservation Orders “(TEMPO). TEMPO uses a number of criteria to first determine amenity value and, if the trees have achieved a minimum score, an assessment is made of the expediency for their protection. In this case both trees were assessed as meriting a TPO. I have enclosed copies of the TEMPO assessments.

## Notification

Thank you for letting me know that 21a Eastbourne Avenue have not been served with a copy of the TPO, I have asked Legal Services to send a copy to this address.

In conclusion the TPO has been made to protect the trees in the long term and does not mean that they cannot be pruned. The only difference the TPO actually makes to you and your neighbours is that you will now have to submit an application to the local authority should you wish to carry out any works to the trees and, if the work is reasonable and not detrimental to the tree's health, permission will normally be granted. However, you will still require, as you do today, the land owner's permission should you wish to enter on to their land to carry out such works.

What happens next? In the first instance I am willing to visit and discuss the matter. Should you wish to do so could you please call Actionline on 023 8083 3005 and ask to be put through to the Tree Team either to speak to me or to make an appointment for me to visit.

If, following any discussion/correspondence, you continue to object to the confirmation of the TPO then I will refer the confirmation of the TPO to the Planning & Rights of Way Panel to comply with the appeal process. I will update you on this subject should the need arise.

If you require this letter or future correspondence from us in a different format (e.g. tape, Braille, or disc) please do not hesitate to let us know.

Yours sincerely

Mike Harris  
**Senior Tree Officer**

Enc. TEMPO forms