


Trees Team
Southampton City Council
Civic Centre
Southampton
Hampshire

SO14 7LY

Your Ref: T2-800
Our Ref: TPOobj-KC/27HIGHFIELD/001


Contact: 
Telephone: 01489 896655

Date 2nd August 2024

Without prejudice

Dear 

Formal Objection to the serving of statutory tree protection cited as - The Southampton (27 Highfield Crescent) Tree Preservation Order 2024

I have been instructed by my clients, , to visit their land and assess the trees included in the above Tree Preservation Order (TPO); comment on the status, condition and suitability of the trees contained therein and submit this letter as formal objection to the TPO.

I request that the Council does not confirm the TPO for the reasons stated within this correspondence.

Site visit

I attended the site on the afternoon of 30th July 2024 and made observations of a preliminary nature from ground level within the property and from the surrounding area. At the time of my visit the weather was clear and dry with good visibility.

Relevant documentation

In making this objection I have referred to and/or cite the following documents, guidance, standards and other relevant documentation:

- The TPO – *The Southampton (27 Highfield Crescent) Tree Preservation Order 2024* [hereafter referred to as “the TPO”];
- *Tree Preservation Orders: a guide to the law and good practice* (coupled with associated addendum May 2009) now cited as Planning Practice Guidance (document is now circulated online via the Planning Portal).
- *Tree Evaluation Method for Preservation Orders (TEMPO)* [hereafter referred to as TEMPO];
- *The Law of trees, forests and hedges* (Mynors, 2011);
- *British Standard 5837:2012 Trees in relation to design, demolition and construction*;
- *Trees in Hard Landscapes: A guide for delivery* (trees and design Action Group, 2014).

These documents provide guidance on statute or form nationally recognised industry protocols; thus I consider them relevant best practice in this instance.

Regulation 6

This letter sets out the reasons for the formal objection in accordance with Regulation 6 of the *Town and Country (Tree Preservation) (England) Regulations 2012*. The closing date stated by the local planning authority, by which time objections should be made, is the 6th August 2024.



Regulation 7

I draw the authority's attention to Regulation 7 paragraph 1 of the *Town and Country (Tree Preservation) (England) Regulations 2012* which states that:

"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".

In addition, I note the comment in the attached information which states that;

"All valid objections or representations are carefully considered before a decision on whether to confirm the order is made". I would expect the matter to be heard at the appropriate committee with an opportunity for representations to be made by my client or appointed agent(s). I would be grateful for confirmation of the process at your earliest convenience.

Discussion with local planning authority

Planning Practice Guidance states that:

"Discussion between the LPA and any person who makes an objection is encouraged. Discussion can lead to a greater mutual understanding of each side's point of view. This in turn can help clarify the main issues which will have to be considered by the LPA before they decide whether to confirm the TPO. Alternatively, discussions can lead to the withdrawal of objections".

I have been engaged to make representations at short notice and have not had sufficient time, as yet, to liaise with the local planning authority arboricultural officer. My client would welcome an opportunity to discuss the TPO on site with the arboricultural officer at the earliest time and before the matter is put before the relevant committee.

Summary of reasons for objection

1. Amenity assessment – T1 is at best fair, T2 has limited public visibility.
2. Expediency – no immediate or foreseeable threat to the trees exists.

1. Amenity assessment

Government guidance states that:

"Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future"

adding that:

"Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- *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".*

Furthermore Planning Practice Guidance states that:

"When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way".

Guidance on assessing trees is also provided in the document *Tree Evaluation Method for Preservation Orders* (TEMPO) which is widely used by local authorities to assess suitability for inclusion of trees within a tree preservation order.

The TEMPO system considers the relevant factors in the TPO decision making chain. Importantly trees must attain a minimum point score to warrant protection. The system, in line with government guidance, places emphasis, and points weighting, upon trees of better value and prominence.

The TPO is specified as two individual trees T1 and T2 as shown on TPO plan reference T2-800. Both are mature oak.

T1 Oak

During my site visit I noted that T1 is situated on the frontage of land at 27 Highfield Crescent, growing from a narrow steep bank that falls away from the pavement edge down to the existing access path that connects a single car parking bay to the house. I estimate the land between the two paths (public pavement and private access) to be circa 3m wide.

T1 has a misshapen stem, consistent with the historic loss of its main leader stem, resulting in a twisted and poorly formed specimen. The tree has been subject to frequent pruning to maintain it at a smaller size and resulting in a densely packed crown. Overall the crown of the tree is biased over the road currently with aspects failing to meet criteria for road and pavement clearance under the Highways Act, notably lower minor regrowth a potential obstruction to the pedestrian walkway and the primary lower crown obstructing the highway.

Condition assessment

In respect of condition TEMPO provides the following:

- "GOOD *Trees that are generally free of defects, showing good health and likely to reach normal longevity and size for species, or they may have already done so.*
- FAIR *Trees which have defects that are likely to adversely affect their prospects; their health is satisfactory, though intervention is likely to be required. It is not expected that such trees will reach their full age and size potential or, if they have already done so, their condition is likely to decline shortly, or may already have done so. However, they can be retained for the time being without disproportionate expenditure of resources or foreseeable risk of collapse.*
- POOR *Trees in obvious decline, or with significant structural defects requiring major intervention to allow their retention, though with the outcome of this uncertain. Health and/or structural integrity are significantly impaired, and are likely to deteriorate. Life expectancy is curtailed and retention is difficult".*

I do not consider T1 may reasonably be called GOOD. It is apparent that intervention to the crown has occurred for reasons unknown and equally apparent that intervention will be required to conform to the Highways Act. It is not unreasonable to consider that the tree may cause damage to either path, the steep bank it is retained in or a combination. The presence of mishappen limbs may also lead to loss of structural integrity. I therefore think it reasonable to describe the tree as FAIR/POOR but for this purpose I will use FAIR as a higher ranking is most reasonable.

Retention span

As a result of the above I think it also reasonable to reduce retention span. Note that, rather than lifespan, "TEMPO considers 'retention span', which is a more practical assessment based on the tree's current age, health and context as found on inspection".

I think it reasonable to suggest a retention span of 20-40 years under TEMPO. I suggest this is reasonable not least because of location as stated but also the likelihood of ongoing crown management to retain the tree without conflict to highway or pedestrian walkway.

Relative public visibility

In terms of relative public visibility, I consider the tree to be a large/medium tree visible to the public.

Other factors

At this point TEMPO looks at "other factors". This revisits the extract cited from government guidance (see page two above) that "Public visibility alone will not be sufficient to warrant an Order..."

TEMPO attributes additional points scoring to those trees that are either:

- *"Principle components of arboricultural features, or veteran trees;*
- *Members of groups of trees that are important for their cohesion;*
- *Trees with significant historical or commemorative importance or;*
- *Trees of particularly good form, especially if rare or unusual.*

I consider that none of the above may reasonably be attributed to T1. In fact TEMPO offers that "trees with poor form or which are generally unsuitable for their location" should have a point deducted from the assessment scoring and this seems to more reasonably fit T1.

T2 Oak

T2 lies further into the site, further downslope of Highfield Crescent approximately 32 metres from pavement edge. The tree lies approximately 9 metres from the rear elevation of the dwelling with the edge of the crown circa 2 metres from the dwelling.

Condition assessment

Whilst the tree has had some past crown pruning, it is reasonable to expect the tree to fall into the FAIR condition category, although I caveat that the slope and understorey vegetation made full assessment not possible.

Retention span

I would expect retention span to be longer than T1 but note proximity to the dwelling will result in the need for periodic pruning and decrease the likelihood of the tree attaining veteran or ancient status. It is not unreasonable to expect renovations, additions or replacement of dwelling at some point in time and this too has an impact albeit with any precautions laid down by *British Standard 5837: Trees in relation to design, demolition and construction*. I think therefore 40-100 years is reasonable.

Relative public visibility

As stated the tree is set back from the road, circa 32m down a reasonably steep slope and partly behind the dwelling. It is therefore reasonable to say that public visibility is limited.

As previously noted guidance states that "Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future".

With this in mind I have reviewed the public visibility of the tree at the primary cardinal points and included the results of this assessment at table 1 below. The cardinal point locations are indicated on the location plan provided at appendix one. Where the tree is visible (or views from immediate vicinity) views are included at appendix two as photos or extracts from Google street view.

Table one. Assessment of T2 visibility from public locations based on eight cardinal points.

Cardinal point	Location	Extent of tree visible	Comments
North	Highfield Crescent	<1/3	Tree obscured by dwellings (see photograph one at appendix two).
North East	Highfield Crescent	nil	Tree obscured by T1 (see extract one at appendix two).
East	Highfield Crescent	1/2	Lower half of tree obscured by built form (see extract two at appendix two).
South East	Shaftesbury Avenue	nil	Tree obscured by built form.
South	Highfield Lane	nil	Tree obscured by built form
South west	Highfield Lane	nil	Tree obscured by built form
West	Church Lane	nil	Tree obscured by built form and other trees
North West	Church Lane	nil	Tree obscured by built form and other trees

As can be seen above, there is limited relative public visibility restricted to views from the North and East. Because of the slope, there are no public views of the whole tree, at best the top half of the crown is visible. The tree is at its closest circa 32 metres from the public domain. All other public locations are increasingly remote (135-250 metres) from the tree and thus the tree is obscured.

Given the above there is a strong argument that removal of the tree would have limited impact rather than *"significant negative impact"* required by the guidance and that a *"reasonable degree of public benefit"* is not borne out of the test conducted above.

Other factors

The tree has no additional merits as per guidance previously explained for T1.

2. Expediency.

Planning Practice Guidance states that *"Although a tree may merit protection on amenity grounds it may not be expedient to make it the subject of a TPO"*.

Furthermore, Planning Practice Guidance also states that *"it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management"*.

It is apparent that the trees have been allowed to grow and have been maintained in situ unharmed for the duration of their tenure which amounts to a period of over 40 years. During the same time period the grounds of the dwelling have seen other shrubs and plants also thrive.

During my site visit I could see no evidence of tree removal or adverse pruning that would warrant *"an immediate threat to the trees"* (term taken from TEMPO). No planning application or otherwise has been submitted in respect of the house or grounds thus a *"foreseeable threat to the tree(s)"*(TEMPO) is also absent.

Therefore the threat may be viewed as *"precautionary only"*.

TEMPO points scoring

Given my analysis above I conclude that the trees score as follows:

TEMPO section	T1 oak		T2 Oak	
1. amenity assessment				
a. Condition	Fair	3	Fair	3
b. Retention span	20-40 years	2	40-100 years	4
c. Relative public visibility	Clearly visible	4	Limited view	3
d. Other factors	Poor form	-1	None	1
2. Expediency assessment	Precautionary only	1		1
3. Points total		9		12
4. Decision guide	7-11 Does not merit TPO		12-15 Possibly merits TPO	

T1 fails to merit TPO when tested using TEMPO. T2 scores enough to possibly merit TPO. However TEMPO guidance states that the possibly merits score “*applies to trees that have qualified under all sections but have failed to do so convincingly*”.

As can be seen, the trees are unremarkable in that they have no rarity or historical value and are not part of any arboricultural features. T2 is set back with very limited public benefit accruing. Mynors (2023) in *The Law of Trees, Forests and Hedges – 3rd edition* adds that Government guidance “*emphasises, in particular, that orders should in general only be made to protect trees which are publicly visible and rarely those in rear gardens*”.

The serving of a TPO appears to stem from a perceived threat of the trees demise, presumably from local residents fearing redevelopment of the site. It is worth therefore stating that guidance is clear that a TPO should not be used as a mechanism to prevent development. It is not unreasonable, more likely foreseeable, that at some point the dwelling or grounds may be subject to change given, for example, that the current house is served by neither an access drive nor a garage at present – noting, for example, a more recent garage to the south east and more recent dwellings to the north west of number 27.

Trees in Hard Landscapes states that;

“One essential dimension of the context that is often overlooked when making choices involving trees is the local tree population. It is the population as a whole that delivers benefits, rather than individual trees considered in isolation. All new planting, tree retention or tree loss contribute to the local tree population and affect its long-term resilience. Effective tree design therefore requires a good understanding of the greater whole to which any scheme contributes”.

It adds that there should be “*a willingness to give and take, accepting that this may mean the loss, at times, of some trees - in which case adequate provision for replacements should be made in the local area affected by the loss, preferably using canopy cover or diameter at breast height as the point of reference*”.

Should any future development be proposed then these factors will need to be considered.

Conclusion

The Tree Preservation Order (TPO) seeks to protect two mature oak trees. Both trees have been subject of retention and management by the current owners for some time with regular pruning and maintenance. No adverse tree works have given rise to any immediate or foreseeable threat to the trees.

[Redacted text block]

Yours sincerely

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Appendix one

Cardinal point locations for amenity assessment of T2 (circled)





Appendix two

Views of T2 from cardinal point locations

Photograph one – view from N
on Highfield Crescent.



Extract one - view from NE on Highfield Crescent.



Extract two - view from E on Highfield Crescent.



No views of the tree are possible from any other cardinal points as all public viewpoints are remote (135 -250 metres distant) and views blocked by built form.