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Tuesday, 28 June 2022

To All Councillors:

As a Member or Substitute of the **Licensing & Appeals Sub-Committee**, please treat this as your summons to attend a meeting on **Wednesday, 6 July 2022 at 2.00 pm** in the **Council Chamber, Town Hall, Matlock, DE4 3NN**

Yours sincerely,

James McLaughlin  
Director of Corporate and Customer Services

This information is available free of charge in electronic, audio, Braille and large print versions, on request.

For assistance in understanding or reading this document or specific information about this Agenda or on the "Public Participation" initiative please call the Committee Team on 01629 761133 or email [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk)

## **AGENDA**

### **1. APOLOGIES FOR ABSENCE**

Please advise the Democratic Services Team on 01629 761133 or email [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk) of any apologies for absence.

### **2. ELECTION OF A CHAIRMAN**

Proposal that a Member of the Sub-Committee be elected Chairman.

### **3. INTERESTS**

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct.

Those interests are matters that relate to money or that which can be valued in money, affecting the Member, her/his partner, extended family and close friends. Interests that become apparent at a later stage in the proceedings may be declared at the time.

#### **4. EXCLUSION OF PUBLIC AND PRESS**

At this point the Committee will consider excluding the public and press in order to At this point the Committee will consider excluding the public and press in order to consider its decision in private in accordance with the Hearing procedure.

#### **5. DERBYSHIRE DALES DISTRICT COUNCIL TREE PRESERVATION ORDER 193 - TREES ON LAND NORTH OF ASHLEIGH HOUSE, CROMFORD ROAD, WIRKSWORTH (Pages 3 - 34)**

To consider objections to Derbyshire Dales District Council Tree Preservation Order 193 for Trees on Land North of Ashleigh House, Cromford Road, Wirksworth.

Members of the Committee - Councillors Mark Wakeman, Stuart Lees and Neil Buttle

Nominated Substitute: - Councillor Andrew Statham

#### **NOTE**

For further information about this Agenda or on "Public Participation" call 01629 761133 or email [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk)

## TREE PRESERVATION ORDER APPEAL

### DERBYSHIRE DALES DISTRICT COUNCIL TREE PRESERVATION ORDER 193 - TREES ON LAND NORTH OF ASHLEIGH HOUSE, CROMFORD ROAD, WIRKSWORTH

#### 1. PURPOSE OF REPORT

To consider objections to Derbyshire Dales District Council Tree Preservation Order 193 for Trees on Land North of Ashleigh House, Cromford Road, Wirksworth.

#### 2. RELEVANT INFORMATION

##### 2.1 INTRODUCTION

Derbyshire Dales District Council Tree Preservation Order 193 at Land North of Ashleigh House, Cromford Road, Wirksworth protects a group of trees of mixed species.

A copy of the Order and associated plan is attached as Appendix 1 to this report.

##### 2.2 NATIONAL GUIDANCE

###### **National Planning Practice Guidance**

This guidance sets out how the legislation relating to Tree Preservation Orders should be implemented. The making of a Tree Preservation Order can be instigated where it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands. It advises that Orders should be used to protect trees where their removal would have significant negative impact on the local environment and its enjoyment by the public.

The law relating to Tree Preservation Orders is in Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into force on 6 April 2012.

##### 2.3 SITE DESCRIPTION

The land North of Ashleigh House, Cromford Road, Wirksworth which is subject to TPO 193 is not within a Conservation Area. It is in a 'within-settlement' location. The site is roughly rectangular in shape and measures approx. 75 x 40m. It consists of a group of mixed species including ash, norway maple, whitebeam, beech, larch, lime,

oak, birch, willow, elm, hawthorn, damson and elder. Approximately 70 trees in total with a range of ages.

To the north of the site is Ravenstor Road with a large area of woodland beyond that extends alongside Cromford Road. To the south of the site lies Ashleigh House and the business premises and yard of Thompsons Tree Services. To the east of the site is Cromford Road and residential properties beyond. To the west of the site is Ravenstor Business Park and further areas of woodland.

Parts of the woodlands to the N and W of the site are subject to Derbyshire County Council TPO.

## **2.4 GROUNDS FOR MAKING THE ORDER**

TPO 193 was made 14 April 2022 to ensure the trees forming the group are retained in the long term because they are considered by the Council to provide significant amenity to the local area; specifically:

1. The group as a whole appears to currently be in fair structural and physiological condition.
2. The TPO group is prominent to the public realm within largely built up surroundings. The trees forming the group are clearly seen, up close, by many people every day.
3. The TPO group forms a welcome green break in the streetscape for users of the road and footway between the built up areas of the town of Wirksworth and Bolehill.
4. The TPO group is visually attractive to users of adjacent road and footways, bringing the well documented and diverse benefits provided by nature into the built up area.
5. The TPO group forms part of larger group of trees that extend alongside the road further along Cromford Road in the direction of Cromford.
6. The TPO group contains particularly prominent trees alongside the boundary with the highway. These include several large mature ash which unfortunately are likely to die within the next 2-5 of years from ash dieback. The new TPO will allow the Council to require replacements to be planted, and could enforce this if necessary. This would ensure the long term continuation of tree cover at the location.

7. The TPO tree group contains a good variety of tree species, many of which are native or naturalized to England. This implies :
  - good ecological value,
  - seasonal changes which have been shown to be beneficial to mental health of people who experience the trees,
  - softening of built up areas by trees has been demonstrated to have many benefits, including promotion of biodiversity, flood reduction, improved use of local businesses, improved human long term physical and mental health, reduction of air pollution, provision of shading, stronger feelings of community, etc..
  - good resistance to changing climate and good resistance to potential future pest/disease threats.
8. The TPO tree group is considered likely to provide significant ecological value for local wildlife biodiversity, particularly birds and mammals, in terms of shelter, food and reproduction. This view was supported by a Derbyshire Wildlife Trust (dated 9 May 2022) in their consultation response in respect of application 22/00180/FUL.

The TPO, if confirmed, will allow DDDC to exert some control over future management of the trees, both individually and as a group. The TPO is not intended to restrict appropriate management of the trees in the group.

It is reasonably foreseeable that most, or maybe all, of the ash trees within the group are likely to die from ash dieback disease in the coming years. Confirmation of the TPO would ensure provision of suitable replacement trees should the ash trees in the group die and need to be removed.

The TPO would ensure that the benefits provided by the tree group, outlined above, will continue into the long term future to the benefit of the public, wildlife and landscape.

As well as providing significant public amenity, the TPO group was assessed as being under current foreseeable threats / risk, specifically:

1. A significant proportion of the trees in the group would require to be removed to facilitate development proposals detailed in the relevant planning application 22/00180/FUL for a commercial woodyard and the

erection of welfare and storage buildings with associated landscaping and car parking areas. This planning application was submitted 17 February 2022. In preparing comments for the Council's Development Management team DDDC's Trees and Landscape Officer felt that the development would necessitate significant harm to the tree group and significant harm to the amenity it provides to the public.

2. Use of the site in the locality of the proposed TPO group was perceived to be more intensive and more widespread than was observed on previous visits by Council officers. This raised concerns that the observed storage of materials and vehicles which appeared to be associated with the tenants business at the adjacent Ashleigh House has potential to cause harm to the trees forming the TPO group. This has foreseeable potential to lead to their death and subsequent removal. Without a TPO there would be no requirement for killed / removed trees to be replaced because the trees are not subject to any other statutory protection.
3. The TPO tree group is currently unprotected and could be removed without the need to obtain consent from the Council or Forestry Commission (assuming that the need for grant of a felling licence from the Forestry Commission was avoided, which it could easily be).

These points relating to amenity and threat were carefully considered and balanced against the impact of a new TPO on the land owner / tenant when the decision whether or not to make the new TPO was made. On balance it was felt that the reasons in support the making of a new TPO were sufficient to justify the making of the new TPO.

## **2.5 RELEVANT HISTORY**

Concerns for the trees subject to TPO 193 were initially raised when DDDC's Trees and Landscape Officer was asked to comment on a pre-application advice request in 2020 and raised concern over impact on the trees. Accordingly, at the time a new TPO was made (TPO 185), but this was not confirmed because no planning application was received so the threat to the trees was removed.

In February 2022 a planning application was submitted to DDDC with proposals to develop the site to the North of Ashleigh House for use by Thompsons Tree Services (application 22/00180/FUL for a commercial woodyard and the erection of welfare and storage buildings with associated landscaping and car parking areas). This application was refused planning permission for the following reasons in a decision notice dated 19<sup>th</sup> May 2022:

1. The proposed expansion of the existing business into protected woodland (TPO 193 (unconfirmed)) would result in the removal of attractive mature trees and likely pressure for future removal of further trees. This removal of trees in combination with the visibility of the new development would diminish the important contribution of the woodland in providing an attractive visual break to the west of Cromford Road to the detriment of local amenity, local landscape character and the setting of Wirksworth, contrary to Policies S4, PD1, PD5, PD6 and EC1 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained within the National Planning Policy Framework (2021).
2. Insufficient information has been submitted to demonstrate that the development achieves no net loss of biodiversity on the site. As such, without any overriding benefit, the development would fail to safeguard the intrinsic nature conservation value of the site and would be contrary to the aims of Policy PD3 of the Adopted Derbyshire Dales Local Plan (2017) and guidance contained within the National Planning Policy Framework (2021).

A site visit by DDDC's Trees and Landscape Officer was undertaken in early April 2022 to observe the trees and their surroundings, visually assess the condition of the trees and informally judge the contribution of the group to the character and appearance of the local landscape.

The Officer concluded that the amenity provided by the tree group was significant and sufficient to justify statutory protection through making a new TPO. The foreseeable threat to the tree group was also sufficient to justify making a new TPO.

An assessment of the groups amenity was also undertaken using the TEMPO system. The results of this assessment supported the Officers view that the making of a new TPO to protect the trees was justified.

DDDC uses a well-respected and widely used, published system called Tree Evaluation Method for Preservation Orders (TEMPO) developed by Forbes-Laird Arboricultural Consultancy. This is a system specifically designed to be used for assessing trees suitability for being made subject to new Tree Preservation Order.

TEMPO produces a figure for trees which relates directly to a scale with bands which define how suitable the assessed trees are to be made subject to a new Tree Preservation Order.

The tree group subject to Tree Preservation Order 193 was awarded a score above the TEMPO threshold score at which a new TPO is considered to be defensible. The

threshold score is 12. The possible range of scores is 0 to 25. The score awarded was 13.

The completed TEMPO form is appended to this report as Appendix 2.

Tree Preservation Order 193 must be confirmed before 14 October 2022 if it is to take permanent effect.

## **2.6 OBJECTIONS TO THE MAKING OF TREE PRESERVATION ORDER 193**

Two letters of objection were received within the consultation period:

1. **From Glyn Thomas of Cheshire Woodlands, acting as agent for Thompson Tree Services, dated 28 April 2022.** Thompson Tree Services are tenants of the land subject to TPO 193. His objection document is appended to this report as Appendix 3.
2. **From Carter Jonas acting as agent for Will Bridges of Tarmac, dated May 2022. Tarmac own the land subject to TPO 193.** The objection document is appended to this report as Appendix 4.

Their grounds for objection are summarised below with a response from DDDC's Trees and Landscape Officer for each.

### **2.6.1 Summary of points raised by the objection made on behalf of the tenant (Thompsons Tree Services) in the document prepared by their agent Cheshire Woodlands, and DDDC's responses.**

**Summarised objection comment 1.** TPO does not define number of trees of each species or their individual positions.

**Officer response.** In making a TPO for a group of trees within which all trees are to be subject to protection it is not necessary to plot the locations of every tree within the group so long as the boundary of the group is accurately mapped. In this case an accurate plan showing the boundary of the group to be protected was produced that enclosed the locations of all trees to be protected. All trees present within the plotted boundary at the time the TPO was made are to be protected whatever their species or location within the boundary.

**Summarised objection comment 2.** Reason for making the TPO 'to protect the amenity provided by the trees'. No mention of planning application 22/00180/FUL.

**Officer response.** It is the opinion of the Council that the tree group is under foreseeable threat considering previous planning applications for development at the site, including much of the tree group, and its current use for storing materials and vehicles associated with the business of the tenant.

**Summarised objection comment 3.** The suggestion that there is a foreseeable or perceived threat to the trees cannot be substantiated.

**Officer response.** That a foreseeable threat to the trees exists is evident from the planning application for development on the site including much of the tree group which necessitate removal of many of the trees in the group.

Perceived intensified use of land within the tree group for storage of materials and vehicles by the tenant Thompson Tree Services is also considered to represent a current threat to the trees.

**Summarised objection comment 4.** The trees are under good arboricultural management and are likely to remain so for the foreseeable future.

**Officer response.** This is debatable considering the perceived intensified storage of materials and vehicles on the site including within parts of the tree group.

**Summarised objection comment 5.** The client has no intention of removing any trees without the prior agreement of the Council.

**Officer response.** The tenant may indeed have no current intention of removing live healthy trees from the site other than as would be necessary to facilitate the proposed development. However, the fact that a planning application is was recently considered that would develop much of the area of the TPO tree group indicates the tenants and landowners willingness to remove trees to enable expansion of the tenants business premises and operations into the site containing the group. The proposals would, if granted consent, certainly result in removal of numerous trees from the TPO group. In the Councils view this would cause significant harm to the amenity the group currently provides. Furthermore, in the Councils view, the trees forming the group are currently at risk of harm resulting from the existing use of the site, including the area occupied by the tree group, for storage of materials and vehicles that could lead to tree deaths and hence their justified removal. There would be no requirement for them to be replaced unless a TPO is made because the trees are not currently subject to any other statutory protection.

**Summarised objection comment 6.** TEMPO score should be reduced to 11 because expediency assessment score should be 1 (precautionary only) not 3 (foreseeable threat).

**Officer response.** As described above the Councils view is that the tree group is currently under foreseeable threat as a result of the recent planning application and the land use within parts of the tree group.

**Summarised objection comment 7.** The TPO is not in accordance with current government guidance.

**Officer response.** It is the Councils view that the TPO is fully in accordance with current government guidance in all respects.

### **2.6.2 Summary of points raised by the objection made on behalf of the landowner (Tarmac) in the document prepared by their agent Carter Jonas, and DDDC's responses.**

**Summarised objection comment 1.** The trees identified in G1 do not meet the (TEMPO) score required for a defensible TPO.

**Officer response.** The TEMPO score sheet clearly allocated sufficient score to justify the making of a new TPO.

**Summarised objection comment 2.** Derbyshire Dales TPO No.185, 2020 was not confirmed and the site has not changed or altered since. Tarmac fails to see the justification of why another TPO No. 193, 2022 notice should be confirmed.

**Officer response.** TPO 185 was made in response to a pre-planning advice request in relation to potential development within the site containing the TPO group, causing a foreseeable threat to the trees forming the group at that time. A planning application was not forthcoming within the 6 months period that the TPO could have been confirmed and so the threat to the trees was reduced. Accordingly, the TPO was not considered necessary and so was not confirmed. The current TPO (number 193) was made in response to 2 currently foreseeable threats to the TPO group – the planning application which would have resulted in losses of many of the trees within the TPO group; and a perceived intensification of use of parts of the area occupied by the TPO group for storage of materials and vehicles associated with the tenants business activities overspilling from their adjacent business premises at Ashleigh House.

Without the new TPO there would be no requirement to protect the trees against harm. The perceived intensification of use of parts of the area occupied by the TPO group has potential to be harmful to the trees. This has created a foreseeable risk to the trees potentially resulting in their death and likely subsequent removal with no requirement to plant replacements.

**Summarised objection comment 3.** The mature ash trees have ash dieback and are highly unlikely to have a retention life span of more than 10 years. This would result in a TEMPO score of 0 for section B and if there is a 0 score the trees cannot qualify for section D other factors.

**Officer response.** The ash trees form part of the group. It is the group as a whole that is protected by the TPO, not individual trees. There is no disagreement that the ash are likely to die prematurely. However, when the ash do die then a TPO will give the Council the power to require that replacement trees are planted in their place which will ensure the continuation of the presence of trees on the site. This would not be enforceable if a TPO was not in force.

**Summarised objection comment 8.** The TEMPO visibility score should be lower as the mature ash that screen the site and clearly visible to the public adjacent Cromford Road and Ravenstor Road are unlikely to be there in 10 years. They all have ash dieback that will require remedial work to manage the risk that they pose to road users. Tarmac has a duty of care to ensure, as far as reasonably practicable, that trees within its ownership are unlikely to cause harm. As part of good arboricultural management remedial works will be required which is likely to consist of removal and replanting with another species, or as a minimum crown reduction with ongoing inspections.

**Officer response.** A TPO would not change or remove the duty of the landowner to ensure the safety of the trees growing on their land and would not burden the Council with this requirement. The landowners potential removal of diseased, dead or dangerous trees will be unchanged. What a TPO changes is the requirement for removed trees to be replaced. This duty would not exist if no TPO were to be in force at the site and so replacement of any removed trees would depend solely on the landowners opinion and desire, rather than statutory continuation of public amenity that is provided by a group of trees in the location.

### **3. LEGAL CONSIDERATIONS**

Tree Preservation Orders are made under sections 198, 201 and 203 of the Town and Country Planning Act 1990.

Section 198(1) of the Act states:

*'if it appears to a Local 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 woodland as may be specified in the Order.'*

Once the Tree Preservation Order is made, objections or representations may be made within a specified time period. The Local Planning Authority has 6 months from the date on which the Order was served to consider any objections or representations and to decide whether or not to confirm the Tree Preservation Order. The Order may be confirmed either with or without modification.

### **4. FINANCIAL CONSIDERATIONS**

None

### **5. OFFICER RECOMMENDATION**

Notwithstanding the comments of the objector, the analysis above has demonstrated that:

- the apparent overall fair structural and physiological condition of the group,
- appropriate native species mix of the group,
- the groups visibility to the public,
- the groups contribution to the character and appearance of the local landscape,
- the groups benefits to wildlife and biodiversity, and
- a current foreseeable threat to the continuing presence of the trees forming the group

together justify formal protection and accordingly that Derbyshire Dales District Council Tree Preservation Order 193 should be confirmed without modification.

Confirmation will ensure the appropriate future management of the trees at land North of Ashleigh House which have significant public amenity value as well as contributing to the character and appearance of the local landscape.

## **APPENDICES**

1. Tree Preservation Order Notice and associated plan for TPO 193.
2. Completed TEMPO form.
3. Objection from Glyn Thomas of Cheshire Woodlands, acting as agent for Thompson Tree Services, dated 28 April 2022.
4. Objection from Carter Jonas, acting as agent for Will Bridges of Tarmac, dated May 2022.

## **IMPORTANT - THIS COMMUNICATION MAY AFFECT YOUR PROPERTY**

### **TOWN AND COUNTRY PLANNING ACT 1990 THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012**

**Derbyshire Dales District Council  
Tree Preservation Order: Trees on land North of Ashleigh House, Cromford Road,  
Wirksworth. (TPO 193)**

**THIS IS A FORMAL NOTICE** to let you know that on 14<sup>th</sup> April 2022 the Council made the above Tree Preservation Order.

A copy of the Order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the First Schedule and shown on the map without the Council's consent.

Some explanatory guidance on Tree Preservation Orders is given in the enclosed leaflet, *Protected Trees: A Guide to Tree Preservation Orders*, produced by the Department of the Environment, Transport and the Regions.

The Council have made the Order to protect the amenity provided by the trees.

The Order took effect, on a provisional basis, on 14<sup>th</sup> April 2022. It will continue in force on this basis for a further 6 months or until the Order is confirmed by the Council, whichever first occurs.

The Council will consider whether the Order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the Order have a right to make objections or other representations about any of the trees, groups of trees or woodlands covered by the Order.

If you would like to make any objections or other comments, please make sure we receive them in writing by 30<sup>th</sup> May 2022. Your comments must comply with regulation 6 of the The Town and Country Planning (Tree Preservation) (England) Regulations 2012, a copy of which is set out below. Send your comments to:

Mr Chris Whitmore  
Development Manager  
Derbyshire Dales District Council  
Town Hall  
Matlock  
DE4 3NN

Please:

- state the name of the Tree Preservation Order at the beginning of your letter and
- state the following reference: TPO193

All valid objections or representations are carefully considered before a decision on whether to confirm the Order is made.

The Council will write to you again when that decision has been made. In the meantime, if you would like any further information or have any questions about this letter, please contact:

Chris Payne  
Trees and Landscape Officer  
Derbyshire Dales District Council  
Town Hall  
Matlock  
DE4 3NN

Telephone: 01629 761244

Dated: 14<sup>th</sup> April 2022

Signed:



Chris Whitmore

**Development Manager**

on behalf of Derbyshire Dales District Council

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**COPY OF REGULATION 6**  
**OF THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND)**  
**REGULATIONS 2012**

**“Objections and representations**

6(1) Subject to paragraph (2), objections and representations -

- (a) shall be made in writing and -
  - (i) delivered to the authority not later than the date specified by them under regulation 3(2)(c); or
  - (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;
- (b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and
- (c) in the case of an objection, shall state the reasons for the objection.

4(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.”



# TREE PRESERVATION ORDER TPO193

## Land North of Ashleigh House, Wirksworth



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# TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

## SURVEY DATA SHEET & DECISION GUIDE

Date: 13 APRIL 2022 Surveyor: CSP

Tree details  
 TPO Ref (if applicable):  
 Owner (if known):  
 Tree/Group No:  
 Location: LAND ADJACENT ASHLEIGH, CROMFORD Rd, WIRKSWORTH  
 Species: MIXED

**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 - MIXED SPECIES GROUP  
 - SOME ASH LIKELY TO DIE SOON FROM A.D.B. TPO WILL ENSURE REPLANTING WHEN THESE ARE REMOVED.

**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 SOME ASH LIKELY TO DIE SOON BUT MANY OTHER TREES LIKELY TO LIVE SEVERAL DECADES YET.

**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
- 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

Score & Notes  
 4 SEMI-MATURE & MATURE TREES ADJACENT MAIN ROAD INTO TOWN

**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 INDIVIDUAL TREES IN MANY CASES NOT GREAT BUT AS A GROUP THEY HAVE GOOD AMENITY VALUE

**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  
 3 FULL PLANNING APPLICATION RECEIVED FOR SITE, INCL. REMOVING MANU' TREES.

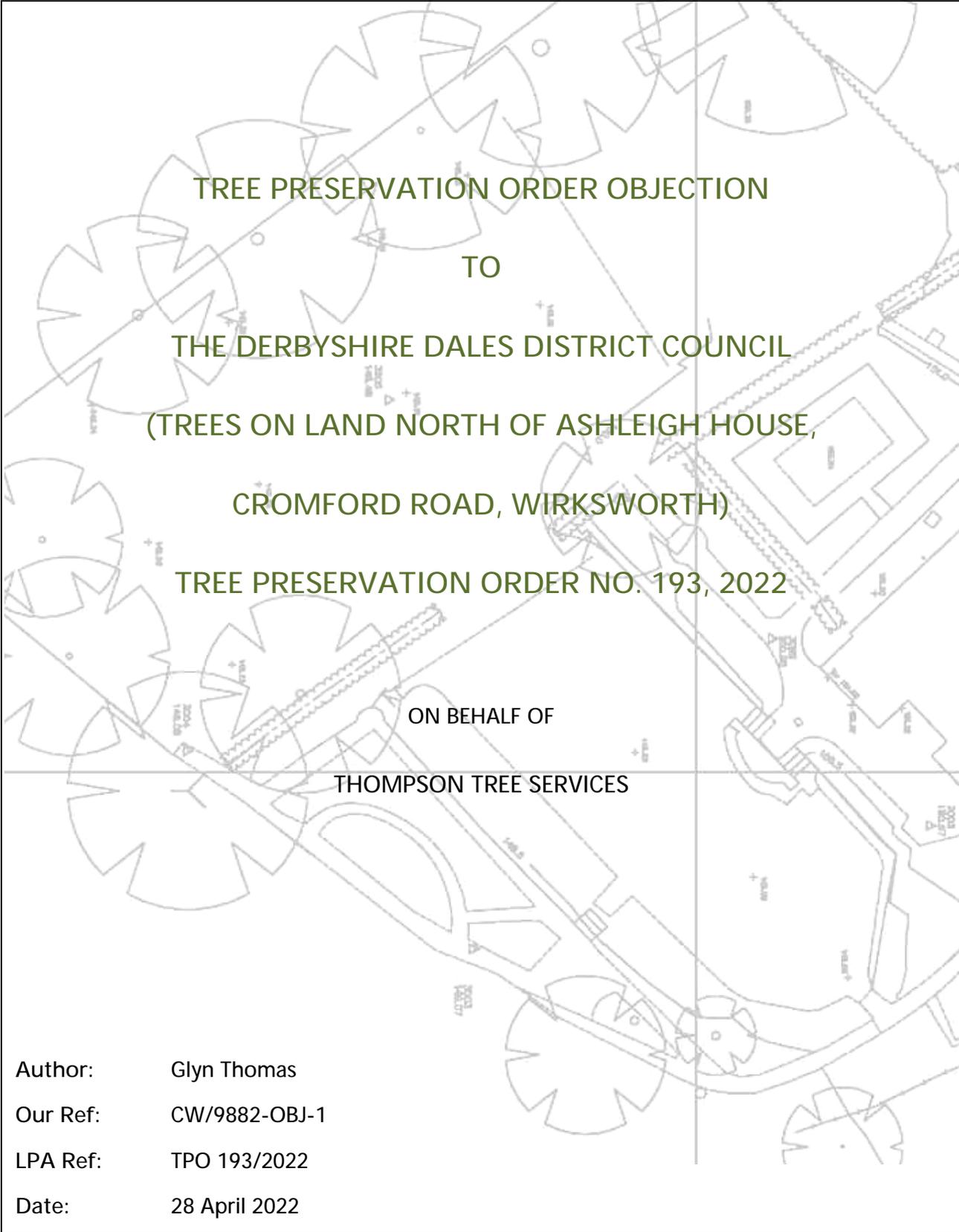
**Part 3: Decision guide**

- 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:  
 13

Decision:  
 MAKE TPO

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**TREE PRESERVATION ORDER OBJECTION**  
**TO**  
**THE DERBYSHIRE DALES DISTRICT COUNCIL**  
**(TREES ON LAND NORTH OF ASHLEIGH HOUSE,**  
**CROMFORD ROAD, WIRKSWORTH)**

**TREE PRESERVATION ORDER NO. 193, 2022**

**ON BEHALF OF**  
**THOMPSON TREE SERVICES**

**Author:** Glyn Thomas  
**Our Ref:** CW/9882-OBJ-1  
**LPA Ref:** TPO 193/2022  
**Date:** 28 April 2022

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## 1. TERMS OF REFERENCE

- 1.1. Cheshire Woodlands is instructed by Thompson Tree Services (the Client) to review the Derbyshire Dales District Council Tree Preservation Order (Trees on land North of Ashleigh House, Cromford Road, Wirksworth) Tree Preservation Order (TPO) No. 193, 2022 (TPO 193), and produce a written objection.

## 2. INTRODUCTION

- 2.1. This written representation has been prepared by Glyn Thomas, Senior Consultant with Cheshire Woodlands Limited, on behalf of Thompson Tree Services.
- 2.2. The representation is submitted under Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.
- 2.3. I rely on and refer to current Government guidance<sup>1</sup>, which explains the legislation governing TPOs.

## 3. CHRONOLOGY OF EVENTS

- 3.1. The Client submitted a request for pre-application planning advice to Derbyshire Dales District Council (the Council), which was registered on 14 January 2020 under planning reference 19/01367/PREAPP/2. The enquiry related to a proposal to extend commercial storage facilities on an area of land to the north of Ashleigh House, which is currently owned by Tarmac – a building material company.
- 3.2. In response to the pre-application request, the Council made the Derbyshire Dales District Council (Trees on Land North of Ashleigh House, Cromford Road, Wirksworth) TPO No. 185, 2020 (TPO 185).

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<sup>1</sup> [Tree Preservation Orders and trees in conservation areas](#)

- 3.3. The Client objected to TPO 185, which was not confirmed and has since lapsed.
- 3.4. Planning application 22/00180/FUL, seeking consent for change of use of land to a commercial wood yard and the erection of welfare and storage buildings with associated landscaping, was submitted on 17 February 2022. The application is still to be decided.
- 3.5. TPO 193 was made and served on 14 April 2022. For the purpose of this objection, I have assumed it has been properly served.

#### 4. TPO 193

- 4.1. The First Schedule of TPO 193 identifies a mixed species group of *'approx. 70 trees in total'*, referenced G1 and within a broken black line on the TPO map, comprising *'All trees within the area outlined on the accompanying plan'*.
- 4.2. The First Schedule description does not include the number of trees of each species in the group.
- 4.3. The 1:1,000 scale TPO map includes a 'broken black line' around the area of land affected by the TPO. The map does not include the positions of the individual trees within G1.
- 4.4. The Regulation 5 Notice states *'The Council have made the Order to protect the amenity provided by the trees'*. The Council's reasons for making the TPO make no mention of planning application 22/00180/FUL or any foreseeable threat to the trees.

## 5. GOVERNMENT GUIDANCE

5.1. Current advice on the legislation governing TPOs is set out in Department for Levelling Up, Housing and Communities, and Ministry of Housing, Communities and Local Government guidance 'Tree Preservation Orders and tree protection in conservation areas'.

5.2. The following guidance is relevant to this objection:

- *'Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'. (Paragraph 005)*
- *'When deciding whether an Order is appropriate, authorities are advised to take into consideration what 'amenity' means in practice, what to take into account when assessing amenity value, what 'expedient' means in practice, what trees can be protected and how they can be identified'. (Paragraph 005)*
- *'Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management'. (Paragraph 010)*
- *'Where a Tree Preservation Order may be justified, the officer should gather sufficient information to enable an accurate Order to be drawn up'. (Paragraph 022)*
- *'...authorities should bear in mind that successful prosecutions for contravening Orders will be difficult where Orders do not show clearly which trees are meant to be protected'. (Paragraph 025)*
- *'A Regulation 5 notice must state the reasons for making the Order'. (Paragraph 033)*

## 6. THE COUNCIL'S ASSESSMENT OF THE TREES

- 6.1. The Council's assessment of amenity and expediency, and by inference their justification for making TPO 193, is included in a document completed by the Council's Trees and Landscape Officer on 13 April 2022 using the TEMPO Tree Evaluation Method for Preservation Orders<sup>2</sup>.
- 6.2. For the Part 1 'amenity assessment', there is no dispute that at least some of the trees in group G1 collectively contribute to the amenity of the site and the surrounding area.
- 6.3. The Part 2 'expediency assessment' and the suggestion of a 'foreseeable threat' to the trees by virtue of the current planning application is problematic.
- 6.4. Neither the Client, nor the current landowner (Tarmac) have or had any intention of pre-emptively removing trees without the Council's agreement. Had they wished to, they could easily have done so, over a period of time, and without contravening the Felling Licence Regulations<sup>3</sup>.
- 6.5. Since TPO 185 lapsed, there have been no tree removal or pruning works carried out on the site without the prior knowledge or agreement of the County or District Council Tree Officers.
- 6.6. The absence of any pre-emptive tree removals clearly demonstrates the Client's intention to engage with the Council in a positive, open and constructive manner, and only develop the land sustainably and in a way that is acceptable in planning terms.
- 6.7. It can reasonably be stated that the trees are under good arboricultural or silvicultural management. The suggestion that there is a foreseeable or perceived threat to the trees cannot be substantiated.

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<sup>2</sup> [TEMPO Guidance Note for Users](#)

<sup>3</sup> *The Forestry Act 1967* (as amended)

6.8. The unconfirmed TPO 185 was justified on the basis of a TEMPO evaluation score of 18. The current score of 13 for TPO 193 *'applies to trees that have qualified under all sections, but have failed to do so convincingly'*.

6.9. If the TEMPO 'expediency assessment' score of 3 points (foreseeable threat to the trees) is corrected to 1 point (precautionary only), the adjusted total score of 11 would not merit a TPO.

## 7. CONCLUSIONS AND REASONS FOR OBJECTION

7.1. The Council have justified TPO 193 on the grounds of an incorrect assumption that there is a foreseeable threat to the trees.

7.2. The trees are currently under good arboricultural management and are likely to remain so for the foreseeable future.

7.3. The Client has no intention of removing any trees without the prior agreement of the Council.

7.4. With the TEMPO expediency score amended to 'precautionary only', the trees would not merit a TPO.

7.5. The Council's reasons for making the TPO make no mention of the current planning application or any foreseeable threat to the trees.

7.6. The First Schedule and Map are not sufficiently accurate to clearly show which trees are meant to be protected and which are not.

7.7. The TPO is not in accordance with current Government guidance.

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## 8. RECOMMENDATIONS

### 8.1. Thompson Tree Services request as follows:

- That TPO 193 is not confirmed.
- If, for whatever reason, the Council decides to confirm the TPO, the Map and First Schedule should be re-drafted with sufficient accuracy to clearly show which trees are meant to be protected. This should include the number of trees of each species in the group, and the positions of the protected trees within the group.

### 8.2. Thompson Tree Services request that the Council takes into account the objections contained herein when deciding whether or not, or how to confirm the TPO and when giving weight to the TPO in relation to any future planning applications, appeals or negotiations.

### 8.3. The representations, objections and opinions, actual or implied, contained herein are given without prejudice to any future interest, of any party, in the land affected by the TPO.

# TARMAC

**TREES ON LAND NORTH OF ASHLEIGH  
HOUSE, CROMFORD ROAD, WIRKSWORTH  
DE4 4FR**

**OBJECTION TO - DERBYSHIRE DALES  
DISTRICT COUNCIL TREE PRESERVATION  
ORDER (TPO) NO. 193, 2022**

**TREE PRESERVATION ORDER  
OBJECTION - TPO193 2022**

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## 1.0 LOCATION

- 1.01 The Carter Jonas Natural Capital Department were instructed by Will Bridges of Tarmac to review and provide a written objection for the Tree Preservation Order (TPO) No. 193, 2022. The TPO notice was given by Derbyshire Dales District Council for trees on land north of Ashleigh House, Cromford Road, Wirksworth DE4 4FR.
- 1.02 The site is located north of the town of Wirksworth adjacent the B5036 Cromford Road in the White Peak. The area is a glaciated valley with active quarrying and a surrounding rural landscape of predominately livestock grazing.
- 1.03 The site elevation is 170m at the highest point. The site comprises of rough ground with several mature trees and scrub vegetation. Cromford Road is the east boundary, Ravenstor Road is the north boundary, an industrial estate and woodland join to create the west boundary and Ashleigh House to the south. Figure 1 illustrates the site boundary with a red line.



Fig 1 – Google location map site is within red boundary line

## 2.0 HISTORY

- 2.01 Tarmac’s tenant, Thompson Tree Services submitted a request for pre-application planning advice to Derbyshire Dales District Council, which was registered on 14 January 2020 under planning reference 19/01367/PREAPP/2.

- 2.02 Derbyshire Dales District Council had previously covered the area with a TPO in 2020 (Trees on Land North of Ashleigh House, Cromford Road, Wirksworth) TPO No.185, 2020. This was not confirmed within the 6-month time period and lapsed.
- 2.03 Tarmac’s tenant, Thompson Tree Services submitted a planning application 22/00180/FUL, seeking consent for change of use of land to a commercial wood yard and the erection of welfare and storage buildings with associated landscaping.
- 2.04 TPO 193 notice was made and served on 14 April 2022 to protect the amenity value provided by the trees.

### 3.0 TREE PRESERVATION ORDER (TPO) NO. 193, 2022

- 3.01 Figure 2 is the information copied from the schedule and the outlined area on the accompanying plan covers the whole site outlined with the red line in figure 1.
- 3.02 The schedule does not include the number of trees of each species within the group and there is no reference to a foreseeable threat to the trees.

Reference on map	Description (including number of trees in the group)	Situation
G1	Mixed species group including ash, Norway maple, whitebeam, beech, larch, lime, oak, birch, willow, elm, hawthorn, damson, elder. Approx. 70 trees in total.	All trees within the area outlined on the accompanying plan.

Fig 2 – Schedule specification of trees

### 4.0 ASSESSMENT OF THE TREES

- 4.01 Tree evaluation method for preservation orders (TEMPO) is a subjective field guide used by local authorities to assess trees with a scoring system for preservation order suitability. It stands as a record that a systematic assessment has been undertaken.
- 4.02 TEMPO part 1 amenity assessments
  - *A – Condition & suitability for TPO; where trees in good or fair condition have poor form deduct 1 point.*

Due to the G1 covering the site the group varies in condition between poor and fair.

- *B – Retention span (in years) & suitability for TPO*

All the ash on site is affected by ash dieback (*Hymenoscyphus fraxineus*) and as ash is the dominant species most of the group would be <10 years with the remaining trees between 20-40 years, see photos in figures 3 and 4.

- *C – Relative public visibility & suitability for TPO*

The large trees that are most visible to the public are all ash that have confirmed symptoms of ash dieback (*Hymenoscyphus fraxineus*)

- *D – Other factors – Trees must have accrued 7 or more points (with no zero score) to qualify.*

The trees within G1 have none of the required listed redeeming features.

4.03 TEMPO part 2 Expediency assessment – Trees must have accrued 9 or more points score to qualify to be counted in part 2. As TPO No.185, 2020 was not confirmed Derbyshire Dales District Council would have come to one of the 2 conclusions listed below.

- There is no identified threat to the trees concerned within G1.
- The (TEMPO) score for the trees in G1 does not merit a TPO.



Figure 3 – Photo taken from Cromford road



Figure 4 – Photos of ash dieback (*Hymenoscyphus fraxineus*) on different mature trees adjacent Cromford road.

## 5.0 CONCLUSION AND REASONS FOR OBJECTION

- 5.01 Tarmac is objecting to TPO 193 on the grounds of the trees identified in G1 do not meet the (TEMPO) score required for a defensible TPO.
- 5.02 As Derbyshire Dales TPO No.185, 2020 was not confirmed and the site has not changed or altered since. Tarmac fails to see the justification of why another TPO No. 193, 2022 notice should be confirmed.
- 5.03 As mentioned in the above 4.02 the mature ash trees have ash dieback (*Hymenoscyphus fraxineus*) and are highly unlikely to have a retention life span of more than 10 years. This would result in a TEMPO score of 0 for section B and if there is a 0 score the trees cannot qualify for section D other factors.
- 5.04 The TEMPO visibility score should be lower as the mature ash that screen the site and clearly visible to the public adjacent Cromford Road and Ravenstor Road are unlikely to be there in 10 years. They all have ash dieback (*Hymenoscyphus fraxineus*) that will require remedial work to manage the risk that they pose to road users. Tarmac has a duty of care to ensure, as far as reasonably practicable, that trees within its ownership are unlikely to cause harm. As part of good arboricultural management remedial works will be required which is likely to consist of removal and replanting with another species, or as a minimum crown reduction with ongoing inspections.