



**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  
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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.

## 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.