

Dear Sirs,

Objection to Tree Preservation Order (TPO). Please accept this letter as an objection to TPO no 446, 15 Brincliffe Gardens, Sheffield, S11 9BG.

Your reference; LS/RC/96105.

My clients in this matter xx xx who own the above property. The trees protected by the Order are two Lime trees, at the front of the property growing in the highway verge.

Background. I was asked to look at this site in December 2019 as a planning application was proposed. Permission was subsequently granted for my clients to extend the house and erect a garage. (Planning application reference 19/04301/FUL) The permission implied that there was no objection to the removal of the two street trees that are now the subject of the TPO. In October 2020, I submitted a Section 211 Notice (S211) as the Highways people were not sure about the regulations surrounding trees in relation to highway crossings. Serving a S211 seemed the simplest way of showing there was no objection to the removal of the trees. One of your Officers, e-mailed to tell me that he couldn't accept the notice and referred me to his colleague, who informed that removal of the trees was up to the Highways Authority. He agreed that I could use his e-mail correspondence to show that I had complied with the Conservation Area regulations. I reported this back to my clients and their Architects. On November 2nd 2021 I was made aware of the TPO, which was served on October 26th 2021. I don't know what provoked this action at this time although the above correspondence did mention a S211, which I presume was the one served by me over a year ago. After speaking with legal services on November 11th (last week) and subsequently with xx xxx and his (new) Architect we decided that we should make an official objection.

The National Planning Policy Framework (neither the original or the recent revisions) has very little to say on the subject of trees. For that we have to turn to the Government's TPO guidance which can be found on line: <https://www.gov.uk/guidance/tree-preservationorders-and-trees-in-conservation-areas> The following comments will refer to this guidance, which has the same "weight" as the National Planning Policy Framework (NPPF).

Reasons for objection. My first reason for objection is that it is not expedient to protect trees in the ownership of a local authority. Trees that are in good management do not need to be protected by TPOs, the Government guidance says as much at paragraph 10. It is not at all appropriate for a Council to apply to itself for permission to remove a protected tree. Not only is it creating a lot of unnecessary paperwork, but it is fundamentally wrong for the Council to be its own judge and jury. In the past, it was routine for Councils seeking planning permission to make an application to the Secretary of State for planning permission for themselves. I cannot imagine the Right Honourable Michael Gove MP (at the time of writing the Secretary of State for Levelling Up, Housing and Communities) welcoming an application from Sheffield Council to prune 2 of their own trees! Incidentally, if the TPO was served in response to my S211, shouldn't I have received a copy of the TPO when it was served? The Government guidance sets great store by "amenity valuation." At every stage in the TPO system the guidance emphasises that the amenity value of trees should be appraised and decisions as to their treatment made after considering their amenity value. The amenity valuation should have been supplied along with the regulation 5 notice. The Government guidance states fairly categorically (at paragraph 8) that "Public visibility alone will not be sufficient to warrant an Order." Although the regulation 5 notice states the trees provide "significant amenity value in the local landscape" there is nothing to tell us that the trees are anymore than merely visible. My greatest concern with this TPO is that it has been served primarily to muddy the waters

around the planning permission. Effectively this is the Council giving planning permission with one hand, but taking it away with the other. Although I accept that many people have garages that are unlikely ever to be used for cars, having a garage that has no vehicular access at all seems somewhat obtuse.

Conclusions.

1. There is no need for these trees to be protected. The decision as to how they are pruned or whether they are removed is entirely the Highway department's. It is not expedient for the Planning Department to involve themselves and this TPO will make no difference to anything.
2. Although the trees are prominent in the highway, Brincliffe Gardens is not a major thoroughfare and very few people are likely to pass by. There are numerous other trees in the street and these two are extremely nondescript specimens. In other words, the trees have low amenity value.
3. This TPO could be looked upon as an attempt to withdraw a planning permission, which cannot possibly be a proper use of the TPO system.
4. The TPO seems most likely to make an already complicated situation even more complicated, which is also not a desirable state of affairs.
5. It should not be forgotten that misusing the TPO system can only serve to weaken the protection on trees that are justifiably the subject of a TPO.

I trust you will find this acceptable and look forward to hearing from you. I would be grateful for an acknowledgement of this letter.