



## SHEFFIELD CITY COUNCIL

### Planning & Highways Committee Report

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**Report of:** Director of City Growth Service

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**Date:** 30<sup>th</sup> April 2024

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**Subject:** Tree Preservation Order No. 474  
47 Moorbank Sheffield, S10 5TQ

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**Author of Report:** Vanessa Lyons, Community Tree Officer (Planning).

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**Summary:** To seek confirmation of Tree Preservation Order No. 474

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**Reasons for Recommendation**

To protect trees of visual amenity value to the locality

**Recommendation**

Tree Preservation Order No. 474 should be confirmed unmodified.

**Background Papers:**

- A) Tree Preservation Order No.474 and map attached.
  - B) Tree Evaluation Method for Preservation Orders (TEMPO) assessment attached.
  - C) Images of the trees
  - D) Objections
  - E) Support
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**Category of Report:** OPEN

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## CITY GROWTH SERVICE

### REPORT TO PLANNING & HIGHWAYS COMMITTEE

Tree Preservation Order No. 474

47 Moorbank Road, Sheffield, S10 5TQ

#### TREE PRESERVATION ORDER NO. 474

##### 1.0 PURPOSE

1.1 To seek confirmation of Tree Preservation Order No.474

##### 2.0 BACKGROUND

- 2.1 Tree Preservation Order No.474 ('the Order') was made on the 14<sup>th</sup> of November 2023 to protect two mature beech trees and one lime within the curtilage of 47 Moorbank Road, that stand adjacent to the boundary of the property with 1 Burnt Stones Drive. A copy of the Order, with its accompanying map, is attached as Appendix A.
- 2.2 On the 23<sup>rd</sup> of March 2023 the Council received communication from a member of the public requesting that trees at the property be protected by a Tree Preservation Order. The enquirer stated that the house had been unoccupied for several months, and that a change of ownership appeared likely. The property is not within a conservation area and the trees are not afforded any form of protection, such as that afforded by section 211 of the Town and Country Planning Act 1990 (which would require the serving of a notice prior to the carrying out of potential works in most circumstances, providing the Council with an opportunity to potentially make a TPO to prevent them).
- 2.3 The enquirer raised concerns about the trees' future safety under subsequent new owners, who may not view the trees in the same way as their current custodians. The enquirer noted the high amenity value of the trees, particularly the beech trees, from which the property takes its name of Beechview. This initial correspondence was followed by further emails over the course of three subsequent months detailing activity at the house which led the enquirer to believe that the house was being emptied for sale, prompting a repeat of the request that the tree be considered for protection.
- 2.4 The Council can make a Tree Preservation Order if it appears to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'. It may be considered expedient to make an Order if the Council believes there is a risk of trees being felled, pruned, or damaged in ways which would have a significant impact on the amenity of the area, but it is not always necessary for there to be immediate risk for there to be a need to protect trees. Paragraph 10 of the Government's guidance regarding Tree Preservation Orders and trees in conservation areas provides an example of other sources of risk such as changes in property ownership. It further states

that intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution. Given this, and that the Council had been informed of a possible change of ownership, an inspection of the trees was conducted to assess whether it would be expedient in the interest of amenity to make them subject to an Order.

2.5 The site was visited by Vanessa Lyons, Community Tree Officer on the 1<sup>st</sup> of November 2023. It was noted at this time that the house appeared unoccupied. The trees on site consist of numerous smaller trees to the rear (north) of the garden, which are not particularly visible from a public vantage point, and multiple mature trees which are visually very prominent. These consist of a mature lime, situated adjacent to the boundary wall with 1 Burnt Stones drive, and two mature beech trees, also adjacent to the boundary wall and close to the highway. These trees form a group with two sycamore trees (of lesser quality and therefore not included within the Order) and mature trees (mostly lime) which also sit adjacent to the boundary wall, but within the grounds of 1 Burnt Stones Drive, and which are also not subject to the Order.

2.6 The trees were assessed using the Tree Evaluation Method for Preservation Orders (TEMPO), a copy of which can be found at Appendix B. The two beech trees were awarded 18 points each, and the lime 17, indicating the trees definitely merit protection. It was therefore deemed expedient in the interest of amenity to make these three trees subject to an Order.

2.7 Objections.

Two duly made objections to the TPO were received on the 15<sup>th</sup> of December 2023, and one representation in support of the TPO, made on the 22<sup>nd</sup> of December. The objections (which are contained within Appendix D), state:

- The objectors are part owners of the property and they dispute that the property is undergoing a change of ownership, as stated within the formal notice accompanying the TPO.
- Given that the trees have previously been maintained under good arboricultural management, and that the house is not undergoing a change of ownership, the TPO is unnecessary, and will create an onerous layer of administration that may mean that the trees fall below the level of maintenance undertaken previously.

While not related to the merits of the TPO, the following additional points were also raised:

- That SCC has acted upon hearsay when serving the TPO, causing distress by initiating an unexpected process.
- That one of the objectors did not, as part owner of the property, receive notification of the TPO.

These points are not addressed within this report as they do not relate to the merits of the TPO. Responses have however been provided as part of a separate complaint investigation.

In response to the objections:

- Notification that the TPO was made was sent by first class recorded delivery to the landowner's addresses as identified via information held by HM Land Registry, fulfilling the requirements for service according to section 329(1)(c) of the Town and Country Planning Act 1990. That one of the landowners may have moved since registering their interest, and that the re-direct they have set up with Royal Mail appears to not have worked, is outside of the Council's control.
- A TPO does not prevent owners from maintaining their trees. In most cases, it only requires that work to protected trees be subject to consent from the Council. Consent should be granted where the work is shown to be justified, with regard to its potential impact upon the health and amenity of the trees. The Council may have regard to the reasons put forward in support of the work, and consent may be granted upon an application which is free of charge. This is not considered to be a substantially onerous process or a reason why a TPO should not be made or confirmed.
- In assessing whether it would be expedient in the interest of amenity to make the trees subject to the Order, the Council based its assessment on information received from members of the public and observations of the Officers who attended the house and determined that it was unoccupied. In this regard, the Council was acting in good faith with the information available to them at the time, though it is accepted that the wording of the Order could have been framed to indicate the impression that the house *may* be undergoing a change of ownership, as opposed to stating that it was.
- With regard to whether the Order is appropriate, given information that the house is not under imminent change of ownership, the Government guidance in respect of making TPOs ('Tree Preservation Orders and trees in conservation areas) states that it is not necessary for there to be *immediate* risk for there to be a need to protect trees, highlighting that changes in property ownership and intentions to fell trees are not always known in advance. This means it is permissible for the Council to make Orders proactively as a precaution, which is in fact the basis that this Order was made. The trees offer a very high level of amenity to the surrounding area and, while the house is not currently undergoing a change of ownership, it has been stated that the house may change ownership at some point in the future. If the Order is not confirmed, the trees may someday then be removed owing to there being no other form of protection in place that would prevent this. Due to the high value of the trees, this would result in a significant loss of amenity to the area and would represent a missed opportunity to safeguard trees of value.

One representation in favour of the TPO (contained within Appendix E) was made by a member of the public, who commented on the beauty of the trees, their contribution to biodiversity, and who referred to the trees as a community asset.

### 3.0 VISUAL AMENITY ASSESSMENT

Visibility: The 3 trees included for protection within the Order are situated directly adjacent to the boundary wall with a property on Burnt Stones Drive, and due to their tall stature and proximity to the highway, are clearly visible from several locations, including Burnt Stone Drive and Moorbank Road. The individual trees, and the group that they are contained in, form a visually striking part of the street scene, as demonstrated in images of the trees found at Appendix C.

Condition: Overall, their condition is very good. The beech trees have tight unions where the stem bifurcates to become the canopy, with some evidence of adaptive growth present. This normal for this species of tree, and as there are no signs of movement or change within the unions, this is not a cause for concern. The trees are of large stature, the beech being particularly prominent, and all the trees are of pleasing form.

Retention span: Situated in a garden where there is room for the trees to grow relatively unhindered (barring some suppression from neighbouring trees and proximity to the neighbouring house which can be addressed via routine pruning) the trees have relatively long potential retention spans. This is estimated at 40-100 years.

Relationship to the landscape/ other factors. The trees are principal members of a group of trees, the loss of which would negatively alter the symmetry and cohesion of the group. The boundary wall has been designed to fit around them, and the group is a distinctive feature of the local area. Situated close to the boundary of the Sandygate area and open countryside, the presence of mature trees is in keeping with the sylvan feel of the area.

Expediency: Precautionary.

### 4.0 EQUAL OPPORTUNITIES IMPLICATIONS

4.1 There are no equal opportunities implications.

### 5.0 ENVIRONMENTAL AND PROPERTY IMPLICATIONS

5.1 There are no environmental and property implications based on the information provided.

5.2 Protection of the trees detailed in Tree Preservation Order No.474 will benefit the visual amenity of the local environment.

### 6.0 FINANCIAL IMPLICATIONS

6.1 There are no financial implications.

### 7.0 LEGAL IMPLICATIONS

- 7.1 A local authority may make a Tree Preservation Order (TPO) where it appears that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area (Section 198, Town and Country Planning Act 1990). Further, the local authority is under a duty to make such TPOs as appear to be necessary in connection with the grant of planning permission, whether for giving effect to conditions for the preservation of trees attached to such permission or otherwise.
- 7.2 A TPO may prohibit the cutting, topping, lopping or uprooting of the trees which are the subject of the Order. It may also prohibit the wilful damage or destruction of those trees. Any person who contravenes a TPO shall be guilty of an offence and liable to receive a fine of up to £20,000.
- 7.3 The local authority may choose to confirm a TPO it has made. If an Order is confirmed, it will continue to have legal effect until such point as it is revoked. If an Order is not confirmed, it will expire and cease to have effect 6 months after it was originally made.
- 7.4 A local authority may only confirm an Order after considering any representations made in respect of that order. Two objections have been received in respect of the Order.

## 8.0 RECOMMENDATION

- 8.1 Recommend Provisional Tree Preservation Order No.474 be confirmed.

Michael Johnson, Head of Planning

30<sup>th</sup> April 2024

Appendix A. TPO 474 and accompanying map.

**Tree Preservation Order**

**Town and Country Planning Act 1990**

**The Tree Preservation Order No 474 (2023)**

**47 Moorbank Road, S10 5TQ.**

The Sheffield City Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order —

**Citation**

1. This Order may be cited as Tree Preservation Order No 474 (2023) – 47 Moorbank Road, S10 5TQ.

**Interpretation**

2. (1) In this Order “the authority” means the Sheffield City Council.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

**Effect**

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
  - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

**Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated 14<sup>TH</sup> NOVEMBER 2023

EXECUTED AS A DEED )  
By Sheffield City Council )  
whose common seal was )  
hereunto affixed in the presence of )



David Sellars  
Duly Authorised Signatory



23. 2013. 5676

**SCHEDULE**

**Specification of trees**

**Trees specified individually**

(encircled individually in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Beech – <i>Fagus sylvatica</i>	SK 30764 87040
T2	Beech – <i>Fagus sylvatica</i>	
T3	Lime – <i>Tilia</i> species	

**Trees specified by reference to an area**

(within a dotted red line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>

**Groups of trees**

(within a continuous black line on the map)


<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>

**Woodlands**

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>



Sheffield City Council Parks & Countryside Service	Sheffield City Council 
<b>TREE PRESERVATION ORDER</b>	
No. 474	
Drawing No. A4/808/474	
Site address	
47 Moorbank Road, Sheffield S10 5TQ	
Scale: 1:500 @ A4	
Drawn by MB	Date: 03/11/2023
<input type="radio"/> Trees specified individually (circled in black on the plan)	
T1: Beech ( <i>Fagus sylvatica</i> ) T2: Beech ( <i>Fagus sylvatica</i> ) T3: Lime ( <i>Tilia species</i> )	
(Trees marked with X refers to two sycamore trees not included within the order)	
Trees specified by reference to a group - None Trees specified by reference to an area - None Trees specified by reference to a woodland - None	
SK 30764 87040	
Measurements shown approximately	



23.2013.5676

## Appendix B Tempo Assessment

### TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

#### SURVEY DATA SHEET & DECISION GUIDE

Date: 01.11.23	Surveyor: Vanessa Lyons
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<b>Tree details</b> TPO 474	Tree T1 Beech, T2 Beech, T3 Lime
Owner (if known):	Location: 47 Moorbank Road, S10 5TQ

#### 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*

##### 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 :

**5. All in good condition. T1 and 2 both have tight unions at the bifurcation from the stem, with presence of some adaptive growth to T2. Very common growth pattern in beech. Upright growth issues from both, no cracks or areas of dysfunction visible in the unions.**

##### Score & Notes

**4. Beech likely at lower end of this, the lime has the potential to live for longer.**

**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**

**T1 + T2=4**

**T3=3**

**Forming part of a prominent group, visible along Burnt Stones Drive and Moorbank Road.**

**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**

**4. Principle members of tree group, particularly the beech, without which the group would lose its symmetry.**

**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**

**1. House changing hands.**

**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:**

**T1+2=18**

**Decision:**

**Definitely merits TPO**

## Appendix C. Images of the trees



A view of the trees seen as approaching 47 Moorbank Road from Burnt Stones Drive, looking northeast.



The trees as seen from the corner of Moorbank Road.



Two of the protected beech, in the foreground of the image.



The beech trees, image taken from within the grounds of the garden.



The lime, taken from within the garden, trees to the right are in the garden of 1 Burnt Stones Drive.



The integration of the trees into the boundary wall.





Google Street View image of the 2 protected beech.

. D. Objections

To: General Counsel for Legal Services  
David Hollis  
Town Hall

Ref: LS/RC/10517105

15<sup>th</sup> December 2023

Received by  
19 DEC 2023

Dear Sirs,

I refer to your formal notice of 14<sup>th</sup> November 2023 advising that Sheffield City Council had made a TPO No: 474 at 47 Moorbank Road, S10 5TQ and write to lodge my formal objection as follows:-

1. The TPO has been put in place as, per your letter, "the house is now undergoing a change of ownership". As one of the owners of the property, I am somewhat astounded by this statement as it has no basis in fact, and at no time prior to the making of the TPO was I or the other owners consulted about the current state of ownership. This statement therefore appears to be based on rumour or hearsay, not something I would expect Sheffield City Council to act upon without establishing the facts.
2. Your letter states that "The trees at 47 Moorbank Road have been previously maintained under good arboricultural management. The house is now undergoing a change of ownership and the Council may not be informed of an intention to fell the trees in advance. To safeguard the trees against any future potential risk of removal, or development pressure associated with the sale of the house..." Given that the house is not undergoing a change of ownership, I fail to see why the Council would feel that they would need to safeguard the trees against any potential future risk. In fact, a TPO in this case will actually increase the risk. My sister and I ( [REDACTED] and therefore co-owners of the property) currently care for our elderly mother who suffers from advanced dementia. As you can imagine, caring for her and maintaining the property is an onerous task alongside which we both have our own families to care for, houses to run and are both working. To have to consult the Council if we wish to maintain the trees, a process which I believe can take up to 6 weeks, will add yet another layer of administration upon us. Time is limited and we may not have such time to follow such a procedure. Accordingly, it is possible that the maintenance of the trees will actually fall well below that undertaken previously as a result. The property has been in our family since 1975 and the trees have always been maintained to a high standard. It would be devastating for us and them if we are unable to give them the care and attention they deserve.

This unexpected process has been very stressful and has caused a great deal of upset and anxiety to our family in already stressful and trying circumstances. I am quite frankly appalled that the Council has seen fit to take such action based upon rumour and hearsay.

I look forward to hearing from you with details of the hearing date and whereabouts of the meeting to consider the TPO which I shall be attending.

Yours faithfully, [REDACTED]

To: General Counsel for Legal Services  
David Hollis  
Town Hall

Ref: LS/RC/10517105

15<sup>th</sup> December 2023

Dear Sirs,

I refer to your formal notice of 14th November 2023 advising that SCC had made a TPO No: 474 at 47 Moorbank Road, S10 5TQ and write to lodge my formal objection as follows:-

1. I have not received any notification as required. My sister, [REDACTED] was advised by Harshada Deshpande, Technical Manager in the Designs Conservation & Trees Dept. that notification had been sent to me at the address shown at the Land Registry. I have moved from that address, however I have a redirect on the mail by Royal Mail which until 9th December 2023 and I have received all my other mail without any problem
2. The TPO has been put in place as, per your letter, "the house is now undergoing a change of ownership". As one of the owners of the property, I am somewhat astounded by this statement as it has no basis in fact, and at no time prior to the making of the TPO was I or the other owners consulted about the current state of ownership. This statement therefore appears to be based on rumour or hearsay, not something I would expect Sheffield City Council to act upon without establishing the facts.
3. Your letter states that "The trees at 47 Moorbank Road have been previously maintained under good arboricultural management. The house is now undergoing a change of ownership and the Council may not be informed of an intention to fell the trees in advance. To safeguard the trees against any future potential risk of removal, or development pressure associated with the sale of the house..." Given that the house is not undergoing a change of ownership, I fail to see why the Council would feel that they would need to safeguard the trees against any potential future risk. In fact, a TPO in this case will actually increase the risk. My sister and I ([REDACTED] and therefore co-owners of the property) currently care for our elderly mother who suffers from advanced dementia. As you can imagine, caring for her and maintaining the property is an onerous task alongside which we both have our own families to care for, houses to run and are both working. To have to consult the Council if we wish to maintain the trees, a process which I believe can take up to 6 weeks, will add yet another layer of administration upon us. Time is limited and we may not have such time to follow such a procedure. Accordingly, it is possible that the maintenance of the trees will actually fall well below that undertaken previously as a result. The property has been in our family since 1975 and the trees have always been maintained to a high standard. It would be devastating for us and them if we are unable to give them the care and attention they deserve.

This unexpected process has been very stressful and has caused a great deal of upset and anxiety to our family in already stressful and trying circumstances. I am quite frankly appalled that the Council has seen fit to take such action based upon rumour and hearsay.

I look forward to hearing from you with details of the hearing date and whereabouts of the meeting to consider the TPO which I shall be attending.

Yours faithfully,



## E. Support

-----Original Message-----

From: [REDACTED]  
Sent: Friday, December 22, 2023 9:07 AM  
To: [REDACTED]  
Subject: TPO No. 474

[REDACTED]

Dear [REDACTED]

I am writing to express my support for the recently applied TPO on the cluster of trees located at 47 Moorbank Road. As a resident [REDACTED] since 1998, I have witnessed the beauty of these trees, which not only add to the street scene, but they are equally important as they attract a wide variety of biodiversity, including owls and bats. As strikingly visible as these trees are owing to their prominent position during the light of day, their presence is equally felt at night with the sound of owls which often roost in their branches. I am therefore grateful to the Council for protecting this wonderful community asset.

Kind regards,

[REDACTED]

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