

## **OBJECTION TO TPO AT KIRKDALE COURT BURRADON**

### **1.0 INTRODUCTION**

Kirkdale Court is a complex of retirement flats located in Burradon fronting on to Burradon Road (B1505). A number of trees are located on grass mounds immediately to the front of the development which forms part of the communal grounds surrounding the development.

A request has been received from the management company for the development to remove all the trees due to light issues and concerns relating to roots lifting paving.

The trees are semi mature and provide a high level of amenity to the surrounding areas, being visible from public footpaths and highways on Burradon Road, Front Street and Kirklands. The trees are semi mature/mature in age, and collectively have a strong visual presence and high amenity value. The trees do not appear to be dangerous (dead dying or diseased) and appear healthy. The trees are not located within a conservation area or on council owned land which would otherwise afford protection from removal and it is considered that their removal will have a detrimental impact on the amenity of the local area. On this basis it was decided to protect the trees with a TPO.

The law requires that in order for a TPO to be served the amenity must be assessed. The TEMPO (Tree Evaluation Method for Preservation Orders) methodology was undertaken to determine if the trees were worthy of protection by a Tree Preservation Order (TPO). This assessment is a recognised system commonly used by local planning authorities (LPAs) across the country as an adopted methodology for assessing tree's suitability for protection using TPOs. The result was sufficient to prove that a TPO would be defensible and a TPO was served on 1<sup>st</sup> November 2019.

The order protects 1no Maple (*Acer sp.*); 1no Birch (*Betula sp.*), 3no Willow (*Salix sp.*) and 1no cherry (*Prunus sp.*) on land at Kirkdale Court, Burradon Road, Burradon. The inclusion of the trees as a 'group' designation in the TPO, reflects their collective nature as a landscape feature and their cumulative benefits to public amenity.

As a group the trees are a prominent feature in the local landscape and are visible from the surrounding public footpaths on Burradon Road, Front Street and Kirklands and provides a green backdrop to local views. It is important to retain large trees in urban areas for the benefits they provide to the wider community. The imposition of a TPO does not prevent the owner from carrying out reasonable works and any works considered in terms of maintaining safety. The principal effect of a TPO is to prohibit the cutting down, uprooting, topping, lopping, uprooting, wilful damage to or wilful destruction of protected trees or woodlands unless permission has been given by the LPA.

This involves completing an application form identifying the trees, detailing the works proposed and explaining the reasons for the works. An officer from the council will inspect the trees prior to making a decision and may recommend alternative works or refuse consent. If authorisation is given to fell a protected tree, a new tree will usually be required to be planted as a replacement. However, this will in turn require a new TPO to be served.

### **2.0 OBJECTION TO THE ORDER**

One objection has been received from the management company for the development. The issues relating to the objection are as follows:

- Roots lifting footpaths within the garden areas
- Blocking views and light from windows
- Wasp nests in trees and falling leaves
- Some trees are causing issues more than others
- General risk associated with the trees.

### **3.0 COMMENTS ON THE GROUNDS FOR OBJECTION**

#### **3.1 Lifting pavements**

It is likely that the presence of tree roots will result in minor damage to surfaces of minimal construction, such as asphalt driveways and paving. Compacted soils can often lead to insufficient space underground for tree roots to grow and often forces roots to colonize immediately underneath the hard

surface finish. This is something to be expected and resurfacing may be the only solution. Cutting off the problem roots often causes stress and instability (depending on the amount and size of the roots involved) and not always advisable as trees without sufficient root support can be blown over more easily in a storm.

Remedies for lifted pavements around mature trees often involve either moving the pavement away from the tree or raising the soil surface by adding no more than two inches of half compost/ half-topsoil mix (No dig construction). However, such assessments are best made by qualified experts and approval would be required for works to any trees subject to a TPO.

### **3.2 Light**

The TPO would prevent the removal of the tree for light purposes unless it is demonstrated that a severe restriction has resulted. Remedial tree works such as crown thinning can relieve the situation but shade is not sufficient reason to allow the removal of the tree or the withdrawing of the TPO. Where requests are made to prune trees to increase light levels, each instance will be assessed on its merits.

### **3.3 Damp and falling leaves**

Leaf fall is a natural and seasonal inconvenience and whilst troublesome it is not legally a nuisance and not sufficient to allow the removal of the tree or withdraw the TPO. Crown raising or crown thinning should help reduce the issue of damp and moss growth by allowing increased light and air through the canopy and carried out with regular clearance of the gutters will help prevent blockages to the guttering.

### **3.4 Wasp nest**

Wasp nests are a natural occurrence and whilst they can be seen a nuisance to humans it does not require the removal of the tree, but rather the removal of the nest itself. If it is necessary to destroy the nest, it can be destroyed by applying a residual insecticide.

### **3.5 Issues and risk associated with trees**

There are risks associated with trees, for example risk of damage from subsidence, unexplained falling branches, dead wood within the trees canopy. As trees grow, it is natural for them to drop branches. This can be addressed through simple management and regular inspections as part of a sensible risk management approach and which can reduce the likelihood of problems in the future. Responsibility for the tree lies with the owner of the land on which the tree is growing. There is a duty for the landowner to take reasonable care to ensure that their trees do not pose a threat to people or property even if the tree is protected by a tree preservation order. As it is difficult to predict the safety of a tree, it is the owner's responsibility to have their trees checked regularly by a competent person and professional arboricultural advice should be sought to ensure trees are maintained in a safe condition. A tree surgeon to undertake an assessment of the trees who will be able to determine if there is any risk and how the risk, if present, can be mitigated.

## **4.0 CONCLUSION**

A TPO is not meant to prevent all work from being done to a tree. Trees are living things that occasionally require maintenance. Dead wood can be removed at any time, and any intended pruning of live wood just needs an application asking for consent to carry out works. Tree applications are free, and are a process where any necessary or appropriate work would get consent. This would enable the Council to be able to control the work in the interests of general amenity of the surrounding area based on appropriate information submitted.

The trees are prominent features within the street scene, contributing to the character and amenity of the area. The confirmation of this order will ensure that works to the trees will be considered first before any pruning or removal works are carried out. It would grant additional powers to the Local Authority, and if necessary, require replacement planting if a tree (or trees) were removed.