

# North Tyneside Council

## Report to Planning Committee

### 11 June 2019

<b>ITEM 6</b> Title: Parkside House, Station Road, Backworth, Newcastle upon Tyne Tree Preservation Order 2019
---

**Report from Directorate:** Environment, Housing and Leisure

**Report Author:** Phil Scott Head of Environment, Housing and Leisure (Tel: 643 7295 )

**Wards affected:** Valley

---

#### 1.1 Purpose:

To consider the above Tree Preservation Order for 13 trees taking into account any representations received in respect of the Order.

#### 1.2 Recommendation(s)

The Committee is recommended to confirm the Parkside House, Station Road, Backworth, Newcastle upon Tyne, Tree Preservation Order 2019 with no modifications.

#### 1.3 Information

- 1.3.1 Trees in a conservation area that are not protected by an Order are protected by the provisions in section 211 of the Town and Country Planning Act 1990. These provisions require people to notify the local Council, using a 'section 211 notice', 6 weeks before carrying out certain work on such trees, unless an exception applies. The work may go ahead before the end of the 6 week period if the local planning authority gives consent. This notice period gives the Council an opportunity to consider whether to make an Order on the tree.
- 1.3.2 Notice was served on North Tyneside Council to fell three ash trees and replace them with 4 ash tree saplings (submitted under reference 18/01775/TREECA) in Backworth Conservation Area. This was assessed and the Council decided to make a Tree Preservation Order (TPO) for the trees. The Order was served in February 2019.
- 1.3.3 One letter of objection has been received following the Council's decision to serve a TPO on the trees from the owners of the land covered by the TPO. A copy of the representation is included as Appendix 4 to this report. A further email was received from the owner on 21.02.2019 (Appendix 5) with additional photographs submitted of fungal brackets on the trees (Appendix 6 and 7).
- 1.3.4 Objections from the owner, Parkside House, Backworth can be summarised as follows:
- The trees marked in G1 should be felled because of a safety risk to pupils and staff.
  - Recent shedding of limbs lead to an investigation of a tree surgeon who concluded the trees were showing signs of 'black fungus bracket'.
  - The trees in G1 have minimal impact on visual amenity as the other trees listed in the TPO T1 and G2 are far more visible from the main road.

- 1.3.5 Follow up email from the owner, Parkside House, Backworth can be summarised as follows:
- Surprised there was no evidence of fungus in the planning officers report.
  - No photographs were supplied of the fungus in the original application and two photographs of the fungus were attached to the email.
  - One photograph is of a lower fungal bracket from November last year (Appendix 6).
  - The other photograph was taken 20.02.2019 of a higher bracket on a separate tree (Appendix 7).
- 1.3.6 A summary of the objections are listed below. The Council has responded, in consultation with the landscape architect (who has provided a full response in Appendix 8), to each of the objections:
- a) Concern of the health of the trees and therefore the safety risk they pose to people in the vicinity of the school.
  - b) The trees within group G1 do not provide a high level of amenity and therefore should not be considered worthy of protection by a TPO
- a) Concern of the health of the trees and therefore the safety risk they pose to people in the vicinity of the school**
- 1.3.7 Prior to the application being determined, a site visit was made, and a ground-based inspection was undertaken by the Council. No evidence of the fungus was visible to any of the individual trees in group G1.
- 1.3.8 The inspection took place in the winter (dormant period), with no active leaf growth yet the trees appeared in good health and vitality, with reasonably well developed canopies for their age. Small amounts of deadwood were present within the canopy areas and there is evidence of smaller branches shedding on the ground beneath the trees. However, this is limited to branch leaders of no significant size and consistent with what would be expected for larger forest type trees of this age. No supporting photographic evidence and limited information was provided in the application to clearly identify and verify the presence of the fungus on the trees.
- 1.3.9 After the TPO was served, the school submitted photographic evidence which was examined. From the photographs, two trees evidenced a number of small to medium sized wounds with one tree presenting a post-fruiting fungi in a state of decay on the lower main trunk area. However, this was not seen at the first site visit. Furthermore, no detail as provided as to which tree the fruiting body was present on and no broader photographic detail was made available. It was deemed that the photographic evidence was inconclusive, and a further site inspection would be required.
- 1.3.10 A second inspection was undertaken by the Council in relation to the 3no trees in group G1. All three trees were inspected where it was claimed to have, or have had, fungal infestations.
- 1.3.11 A summary of the findings were:
- 1.3.12 **Tree 1 (west):** there is a small brown coloured area on the trunk of the most western tree in the group of 3no trees, which is located just below a fissure/defect in the tree trunk possibly as the result of a shed branch in the past. The dark brown discolouration/residue seems to contain some remains of bracket ribbing, although hardened onto the tree, the resultant area resembling a residue. If there was a bracket present it has since become detached.

- 1.3.13 **Tree 2 (central):** The central tree has a dark brown/black bracket on a scaffold limb higher up the tree structure at about half its height from ground level but at the site visit it was difficult to get a good a clear visual identification owing to the tree being in shadow. It is possible that this bracket may have hardened-off intact and continued to stick to the tree over the winter period, or possibly for longer.
- 1.3.14 **Tree 3 (east):** In terms of the third tree, nearest the house, there is no visual evidence of disease evident from the ground-based inspection. A darkened area in a branch fork was highlighted but it was not conclusive from ground-level, resembling a build up of lichen in a branch fork.
- 1.3.15 The tree surgeon has identified *Inonotus Hispidus* (*shaggy bracket*) as the likely identification of the fungus. However, if present, it may be only evident in the two of the three trees. Further investigative works need to be undertaken as the fungus can persist on main stems/branches for many years without failure. However, this depends partly on the vitality of the tree and what sort of forces (e.g from overextended branches/sudden increased exposure from nearby tree loss) the infected sections are loaded with. As the target area (if branches /stem were to fail) is a school, the school should look to undertaking further investigative work, and at the very least, a further inspection once the canopy is in full leaf. Consideration could be given to an alternative course of action by pruning the tree to reduce the target area by a crown reduction but only after a more detailed investigation has been carried out.
- 1.3.16 Decay in trees needs to be taken seriously and can eventually weaken stems, branches or roots enough to increase the chance of mechanical failure. However, decay is a natural process and commonly occurs in trees without causing structural weakness. It is therefore inappropriate to regard a tree as hazardous merely because decay has been identified and it important to be able to evaluate the tree further to determine the extent of the decay so that informed management decisions can be made. This will ensure that relatively safe trees are not removed or unsuitably pruned. A technique using a Picus Sonic Tomograph is a virtually non-invasive detection system that gives information, by sound wave, about the presence of decay, cavities, faults or cracks in the tree. Features such as remaining wall thickness, opening angle of cavities and percentage of solid, decayed or altered wood can be measured by the computer. This equipment is becoming more readily available with arboriculturalists.

**b) The trees within group G1 do not provide a high level of amenity and therefore should not be considered worthy of protection by a TPO**

- 1.3.17 The tree group occupies a prominent position, immediately to the western elevation of Parkside House. The trees are mature in scale and due to their collective nature, the grouping is very prominent and visible within the Station Road and adjacent road corridor(s) running through the conservation area. The trees are also visible in the wider local setting in and around the immediate and wider built form of the village and the open countryside beyond.
- 1.3.18 It was considered that the removal of this tree group would likely have a significant negative adverse effect on the essential amenity value of the immediate and wider area of the Conservation Area.
- 1.3.19 The trees are important components, forming part of the wider historical and architecture context of Backworth and contribute to the integral character of the Conservation Area.

- 1.3.20 On this basis a TPO was served in response to the application. The decision to determine whether the tree is worthy of protection by a Tree Preservation Order has been made which assess the amenity value of the tree(s) concerned. In serving a TPO, the tree must be able to show that protection would bring a reasonable degree of public benefit in the present or future. The TEMPO assessment (Tree Evaluation Method for Evaluating Preservation Orders) is a widely recognised and respected method of assessing the suitability of a tree for a TPO. The TEMPO evaluation method takes into account factors such as a tree's visibility to the public, its condition, age and remaining life-expectancy, its function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Following this assessment, the trees were considered to be worthy of protection.
- 1.3.21 By virtue of the trees within the property affording public amenity in the landscape, and that the objections are not considered to outweigh the amenity value that the trees provide, it is considered expedient in the interests of amenity to it is considered that the trees including the three trees identified for removal, should be protected by means of a Tree Preservation Order indefinitely.

### **Additional Guidance**

- 1.3.22 Confirming the TPO will not prevent any necessary tree work from being carried out but will ensure the regulation of any tree work to prevent unnecessary or damaging work from taking place that would have a detrimental impact on the amenity value, health and long term retention of the trees. If the owners/occupiers were concerned about the condition of the trees and require pruning works to be carried out, an application to the Council can be submitted as required by the TPO.
- 1.3.23 In order to maintain the setting of the conservation area, which is considered a designated heritage asset in the NPPF (2019), and recognised in Policy S6.5 and DM6.6 of the Local Plan (2017) it is important that the trees are protected.

#### *S6.5 Heritage Assets*

*North Tyneside Council aims to pro-actively preserve, promote and enhance its heritage assets, and will do so by:*

- a. Respecting the significance of assets.*
- b. Maximising opportunities to sustain and enhance the significance of heritage assets and their settings.*
- c. Targeting for improvements those heritage assets identified as at risk or vulnerable to risk.*
- d. Seeking and encouraging opportunities for heritage-led regeneration, including public realm schemes.*
- e. Supporting appropriate interpretation and promotion of the heritage assets.*
- f. Adding to and keeping up-to-date the Borough's heritage asset evidence base and guidance. Examples include conservation area character appraisals, conservation area boundary reviews, conservation area management strategies, conservation statements/plans, registers of listed and locally registered buildings, the historic environment record and buildings at risk registers.*
- g. Using the evidence it has gathered, implement the available tools to conserve heritage assets, such as Article 4 Directions and Building Preservation Notices.*

#### *'DM6.6 Protection, Preservation and Enhancement of Heritage Assets*

*Proposals that affect heritage assets or their settings, will be permitted where they sustain, conserve and, where appropriate, enhance the significance, appearance, character and setting of heritage assets in an appropriate manner.*

*Any development proposal that would detrimentally impact upon a heritage asset will be refused permission, unless it is necessary for it to achieve wider public benefits that outweigh the harm or loss to the historic environment, and cannot be met in any other way.'*

1.3.24 Protecting the trees with a TPO would be in accordance with the Councils adopted Local Plan policy DM5.9 Trees, Woodland and hedgerows, which states;

*'DM5.9 Trees, Woodland and Hedgerows: Where it would not degrade other important habitats the Council will support strategies and proposals that protect and enhance the overall condition and extent of trees, woodland and hedgerows in the borough and:  
a) Protect and manage existing woodlands, trees, hedgerows and landscape features'*

1.3.25 In accordance with the Town and Country Planning Act 1990 (as amended) the Authority considers it necessary to issue a Tree Preservation Order to maintain and safeguard the contribution made by these trees to the landscape and visual amenity of the area. The Tree Preservation Order was served on the owners and other relevant parties on 1<sup>st</sup> February 2019. A copy of this original Order is attached as Appendix 1, a copy of the TPO schedule (Appendix 3) and a map of the TPO (Appendix 4) is included in the Appendices.

1.3.26 The Order must be confirmed by 31 July 2019 otherwise the Order will lapse and there will be nothing to prevent the removal of this tree which is currently protected.

#### **1.4 Decision options:**

1. To confirm the Tree Preservation Order with no modifications.
2. To confirm the Tree Preservation Order with modifications.
3. To not confirm the Tree Preservation Order.

#### **1.5 Reasons for recommended option:**

Option 1 is recommended. A Tree Preservation Order does not prevent the felling of trees, but it gives the Council control in order to protect trees which contribute to the general amenity of the surrounding area.

#### **1.6 Appendices:**

- Appendix 1 – Initial letter served of the TPO for Parkside House, Station Road, Backworth, Newcastle upon Tyne, Tree Preservation Order 2019
- Appendix 2 – Schedule of TPO for Parkside House, Station Road, Backworth, Newcastle upon Tyne, Tree Preservation Order 2019
- Appendix 3 – Map of TPO for Parkside House, Station Road, Backworth, Newcastle upon Tyne, Tree Preservation Order 2019
- Appendix 4 – Letter of objection.
- Appendix 5 – Additional Information submitted by the applicant
- Appendix 6 – Picture 1 of fungal bracket – to be displayed at the meeting
- Appendix 7 – Picture 2 of fungal bracket – to be displayed at the meeting
- Appendix 8 – Response from the Council landscape architect to the objection of the TPO

#### **1.7 Contact officers:**

Peter Slegg (Tel: 643 6308)

#### **1.8 Background information:**

The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author:

1. Town and Country Planning Act 1990.
2. Planning Practice Guidance (As amended)
3. The Town and Country Planning (Tree Preservation) (England) Regulations 2012

**Report author** Peter Slegg

# TREE PRESERVATION ORDER 2019

## PARKSIDE HOUSE, STATION ROAD, BACKWORTH, TYNE AND WEAR

### SCHEDULE

The map referred to is at a scale of 1:500 and is based on an enlargement of the O.S. edition of sheet numbered NZ 3071. The area covered by the Order is on land at Parkside House, Station Road, Backworth.

The area is wholly within the Metropolitan Borough of North Tyneside in the County of Tyne and Wear.

#### Specification of trees

##### **TREES SPECIFIED INDIVIDUALLY**

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Sycamore ( <i>Acer</i> sp)	Located approximately 11.0m in a south easterly direction from the south west corner of Parkside House School and approximately 20.0m in a south westerly direction from the southeast corner of Parkside House School.

##### **TREES SPECIFIED BY REFERENCE TO AN AREA**

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		

##### **GROUPS OF TREES**

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
G1	Group comprising of: 3no. <i>Fraxinus</i> sp.	Located in garden space on land located to the south west of Parkside House School
G2	Group comprising of: 7no. <i>Acer</i> sp. 2no. <i>Fraxinus</i> sp.	Located in garden space on land located to the east of Parkside House School and to the west of Station Road.

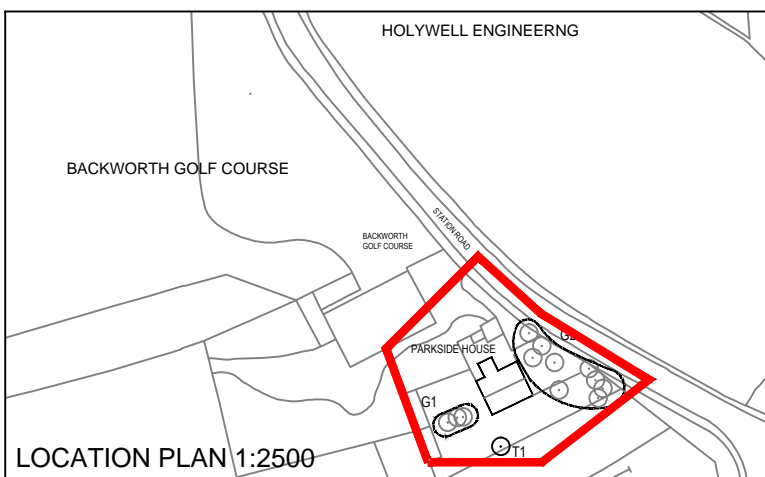
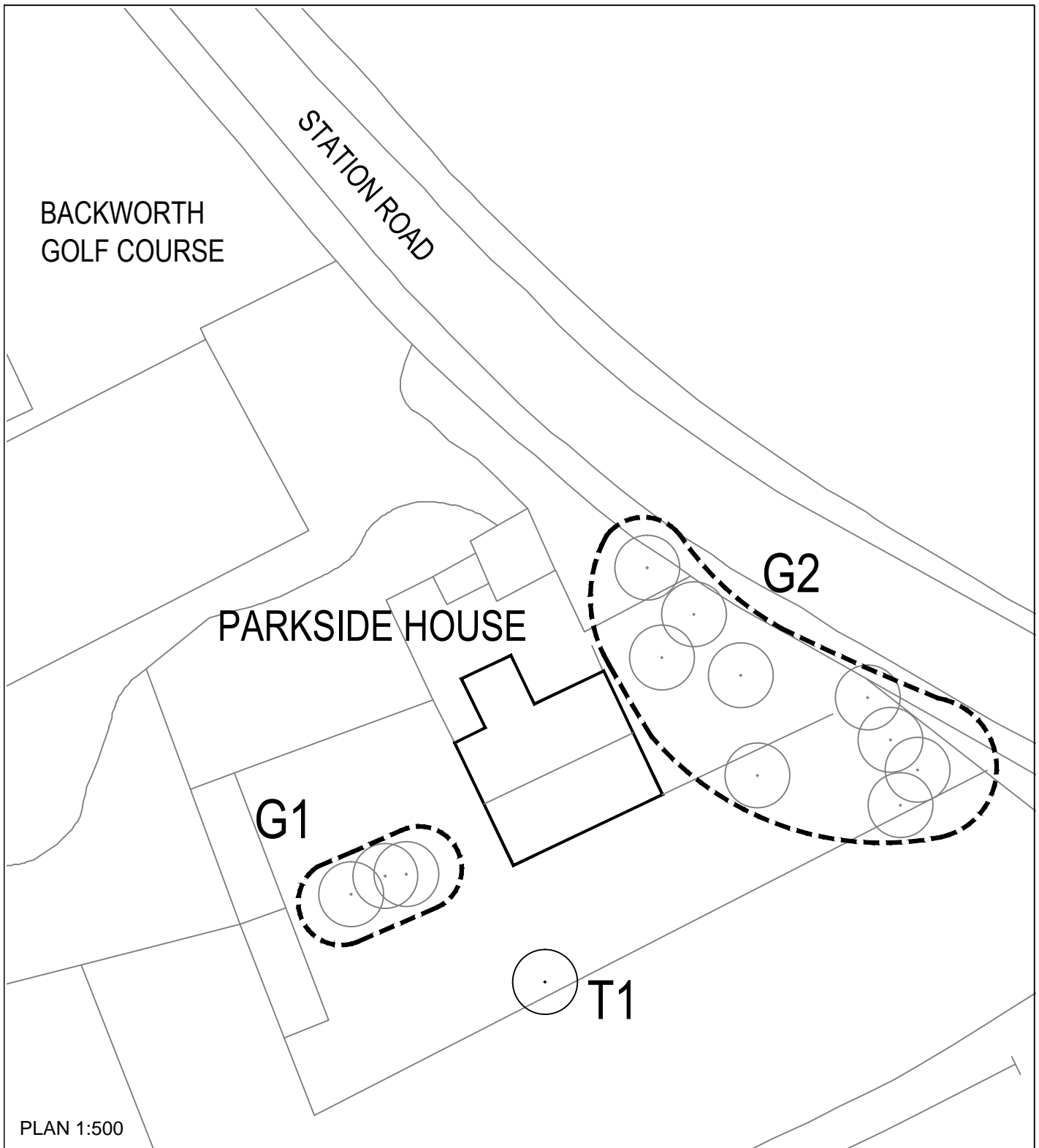
**WOODLANDS**

(within a continuous black line on the map)

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

None		
------	--	--





**NORTH TYNESIDE COUNCIL**

**PARKSIDE HOUSE**  
**TREE PRESERVATION ORDER 2019**

Phil Scott  
Head of Environment, Housing and Leisure  
Quadrant East  
The Silverlink  
Cobalt Business Park  
North Tyneside  
NE27 0BY  
Scale 1:500

© Crown Copyright and database right 2019.  
Ordnance Survey Licence Number 0100016801



# PARKSIDE HOUSE SCHOOL

Station Road, Backworth Tyne & Wear, NE27 0AB

Tel: 0191 2161051 Fax: 0191 216 1051

email: [admin@parksidehouseschool.co.uk](mailto:admin@parksidehouseschool.co.uk)

Democratic Support  
North Tyneside Council  
Quadrant  
The Silverlink North  
Cobalt Business Park  
North Tyneside  
NE27 0BY

13<sup>th</sup> February, 2019

Ref: Tree Preservation Order 2019

Dear Sir or Madam,

Further to your letter dated 1<sup>st</sup> February, 2019, regarding the trees at Parkside House School, I would like to make the following comments:

The trees to the south west of the main building, identified as group G1, are roughly parallel in line to the footpath that connects the main school building with another building used as a classroom. We have noted that branches from these trees have at times detached themselves and fallen to the ground on and around the footpath. We therefore felt it prudent to seek an informed opinion as to why this should occur and engaged the services of a qualified Tree Surgeon as part of a risk analysis.

The report from the Tree Surgeon informed us that there were outward signs on the trees of "black fungus bracket". The conclusion was that this infection is progressive and likely to lead to an increasing instability of the trees. Removal of the trees was therefore recommended for safety purposes and permission to do so was applied for. However it has been refused on the grounds of maintaining visual amenity.

Our insurance company have been informed of this situation and I must stress my concern that this order puts pupils and staff at risk. I therefore request that you acknowledge and accept the liability of your decision.

The TPO 2019 covers two further areas of trees at the premises, they are identified as G2 and T1 and refer to nine other trees. These trees are not only more numerous than those in G1, but far more visible from the main road. I would therefore strongly ask that the trees in G1 are removed from the TPO as they have minimal impact on the "visual amenity" and pose a real risk to safety.

Yours faithfully,

K Thompson  
Chairman of School Governors

cc: Ms EA Kerr



**From:** Kenneth Thompson  
**Sent:** 21 February 2019 15:26  
**To:** Elizabeth Kerr  
**Subject:** RE: Tree Preservation Order 2019 for Parkside House School [Scanned]

\*EXTRNL\*

Dear Ms Kerr,

Many thanks for your reply of the 19<sup>th</sup> February. Having read the report you attached I was surprised to see that no evidence of fungus was found on the trees. Something that I'm at a loss to understand. I also noted that comment was made that no photographs were supplied as evidence. I've therefore attached two photographs; one taken of a lower bracket in November last year and one taken yesterday of a higher bracket on a separate tree. As fungus can clearly be seen it would be appreciated if you could add these photographs to my request that the three Ash trees, identified as G1, be removed from the Tree Preservation Order 2019.

If you require any further information, or you require anything in a different format please let me know.

Yours sincerely,

Ken Thompson  
Chairman of the Governors  
Parkside House School

## **OBJECTION TO TPO AT PARKSIDE SCHOOL HOUSE BACKWORTH**

The trees subject to this TPO are located on land at Parkside School House, Backworth. An objection has been received from the school to this order that has been served at the above address. The order was served as three trees had been identified for removal due to the presence of a fungal growth on the trees.

The trees are located within Backworth Conservation Area. As required by the Town & Country Planning (Tree Preservation) (England) Regulations 2012, when a notice is received for works to trees in a conservation area, the council has 6 weeks in which to determine the application unless an exemption applies. This notice period gives the Local Authority an opportunity to consider whether the trees to make a TPO on the trees. The trees in the conservation area were assessed and based on the evidence and findings of the assessment, a TPO was served to include these three trees and other trees located on school land.

The objection relates to the three trees identified in the application as being dangerous due to the presence of a fungal growth (potentially *Inonotus Hispidus*) and should be removed.

The tree group occupies a prominent position, immediately to the western elevation of Parkside House. The trees are mature in scale and due to their collective nature, the grouping is very prominent and visible within the Station Road and adjacent road corridor(s) running through the conservation area. The trees are also visible in the wider local setting in and around the immediate and wider built form of the village and the open countryside beyond. Prior to the application being determined, a site visit was made, and a ground-based inspection was undertaken. No evidence of the fungus was visible to any of the individual trees in the group. The inspection took place in the winter (dormant period), with no active leaf growth yet the trees appeared in good health and vitality, with reasonably well developed canopies for their age. Small amounts of deadwood were present within the canopy areas and there is evidence of smaller branches shedding on the ground beneath the trees. However, this is limited to branch leaders of no significant size and consistent with what would be expected for larger forest type trees of this age. No supporting photographic evidence and limited information was provided in the application to clearly identify and verify the presence of the fungus on the trees.

It was considered that the removal of this tree group would likely have a significant negative adverse effect on the essential amenity value of the immediate and wider area of the Conservation Area. The trees are important components, forming part of the wider historical and architecture context of Backworth and contribute to the integral character of the Conservation Area. On this basis a TPO was served in response to the application. The decision to determine whether the tree is worthy of protection by a Tree Preservation Order has been made which assess the amenity value of the tree(s) concerned. In serving a TPO, the tree must be able to show that protection would bring a reasonable degree of public benefit in the present or future. The TEMPO assessment (Tree Evaluation Method for Evaluating Preservation Orders) is a widely recognised and respected method of assessing the suitability of a tree for a TPO. The TEMPO evaluation method takes into account factors such as a tree's visibility to the public, its condition, age and remaining life-expectancy, its function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Following this assessment, the trees were considered to be worthy of protection.

After the TPO was served, the school submitted photographic evidence which was examined. From the photographs, two trees evidenced a number of small to medium sized wounds with one tree presenting a post-fruiting fungi in a state of decay on the lower main trunk area. However, this was not seen at the first site visit. Furthermore, no detail was provided as to which tree the fruiting body was present on and no broader photographic detail was made available. It was deemed that the photographic evidence was inconclusive, and a further site inspection would be required.

A second inspection was undertaken in relation to the 3no trees. All three trees were inspected where it is being claimed to have, or have had, fungal infestations.

A summary of the findings is below:

**Tree 1 (west):** there is a small brown coloured area on the trunk of the most western tree in the group of 3no trees, which is located just below a fissure/defect in the tree trunk possibly as the result of a shed branch in the past. The dark brown discolouration/residue seems to contain some remains of bracket ribbing, although hardened onto the tree, the resultant area resembling a residue. If there was a bracket present it has since become detached.

**Tree 2 (central):** The central tree has a dark brown/black bracket on a scaffold limb higher up the tree structure at about half its height from ground level but at the site visit it was difficult to get a good a clear visual identification owing to the tree being in shadow. It is possible that this bracket may have hardened-off intact and continued to stick to the tree over the winter period, or possibly for longer.

**Tree 3 (east):** In terms of the third tree, nearest the house, there is no visual evidence of disease evident from the ground-based inspection. A darkened area in a branch fork was highlighted but it was not conclusive from ground-level, resembling a build up of lichen in a branch fork.

The tree surgeon has identified *Inonotus Hispidus* (*shaggy bracket*) as the likely identification of the fungus. However, if present, it may be only evident in the two of the three trees. Further investigative works need to be undertaken as the fungus can persist on main stems/branches for many years without failure. However, this depends partly on the vitality of the tree and what sort of forces (e.g. from overextended branches/sudden increased exposure from nearby tree loss) the infected sections are loaded with. As the target area (if branches /stem were to fail) is a school, the school should look to undertaking further investigative work, and at the very least, a further inspection once the canopy is in full leaf. Consideration could be given to an alternative course of action by pruning the tree to reduce the target area by a crown reduction but only after a more detailed investigation has been carried out.

Decay in trees needs to be taken seriously and can eventually weaken stems, branches or roots enough to increase the chance of mechanical failure. However, decay is a natural process and commonly occurs in trees without causing structural weakness. It is therefore inappropriate to regard a tree as hazardous merely because decay has been identified and it important to be able to evaluate the tree further to determine the extent of the decay so that informed management decisions can be made. This will ensure that relatively safe trees are not removed or unsuitably pruned. A technique using a Picus Sonic Tomograph is a virtually non-invasive detection system that gives information, by sound wave, about the presence of decay, cavities, faults or cracks in the tree. Features such as remaining wall thickness, opening angle of cavities and percentage of solid, decayed or altered wood can be measured by the computer. This equipment is becoming more readily available with arboriculturalists.

By virtue of the trees within the property affording public amenity in the landscape, and that the objections are not considered to outweigh the amenity value that the trees provide, it is considered expedient in the interests of amenity to it is considered that the trees including the three trees identified for removal, should be protected by means of a Tree Preservation Order indefinitely.