

## **Confirmation of TPO No. 603**

### **Purpose**

- 1.1 The Planning Control Committee is asked to consider an objection to the making of TPO No.603

### **Recommendation(s)**

- 2.1 To authorise the Director of Planning and Transportation to confirm Tree Preservation Order (TPO) No. 603 without modification.

### **Reason(s)**

- 3.1 In the interest of public visual amenity.

### **Supporting information**

- 4.1 On 25th November 2021 we made Derby City Council (Northwest Corner of Littleover Lane Allotments, Derby) Tree Preservation Order 2021, Number 603  
A copy of the TPO schedule can be seen as Appendix 1.  
A copy of the TPO plan can be seen as Appendix 2.  
Photographs of the trees can be seen as Appendix 3.  
The amenity evaluation score can be seen as Appendix 4.
- 4.2 **Grounds for making the order** – The trees indicated in this Order are proposed for protection in the interests of public visual amenity. The trees can be appreciated from the public realm and contribute materially to the amenities area by playing an important part in providing a sense of scale and maturity and by having a general ‘greening’ effect on the immediate area.
- 4.3 **Background information** – The trees are located on a plot within the Littleover Lane Allotments Association site. Unusually the plot is laid out as a garden as opposed to crop production. One of the Cedar trees overhangs the gardens of 71 and 73 Littleover Lane. Complaints have been made from residents about the tree to the Littleover Lane Allotment Association. Some pruning works had been carried out to a nearby tree which was of a very poor standard and we have concerns that the visually significant Cedar tree (T3 on the TPO plan appendix 1) may also be subject to poor pruning operation. The amenity of the trees was assessed, and they were judged to have accrued sufficient amenity value to justify inclusion within a TPO. The amenity evaluation took into account the trees location and although they are located on private land and have partially obscured views from the public realm they have accrued sufficient amenity value to justify inclusion within a TPO.

## Public/stakeholder engagement

5.1 One objection to the making of the TPO was received on 17/12/2021.

The objection letter (redacted) can be seen as Appendix 5.

The grounds for the objection are summarised below:

- The trees are so tall that they block out light into gardens and makes the ends of the gardens permanently damp and unusable.
- The root structures of the trees are causing damage to land and boundary wall.
- The trees in question are on private land and are barely visible from the public realm.
- The trees should show a reasonable degree of public benefit before the TPO is confirmed. The trees should therefore be visible from a public place. In this instance this is not the case.
- There is no exceptional circumstance for the TPO to be justified.
- The criteria for the granting of the TPO has not been met.

## Other options

6.1 Not to confirm the TPO

## Financial and value for money issues

7.1 None.

## Legal implications

8.1 Before confirming the TPO the LPA must consider valid objections to the making of the TPO.

## Climate implications

9.1 None

## Other significant implications

10.1 None.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal Finance Service Director(s) Report sponsor Other(s)	Paul Clarke	29/03/2022

Background papers: List of appendices:	Appendix 1 (TPO schedule) Appendix 2 (TPO plan) Appendix 3 (Photos of trees) Appendix 4 (Amenity evaluation) Appendix 5 (Objection letter)
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## **Town and Country Planning Act 1990**

### **The [*Derby City Council (Northwest Corner of Littleover Lane Allotments, Derby)*] *Tree Preservation Order 2021, Number 603*]**

The [*Derby 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 [*Derby City Council (Northwest Corner of Littleover Lane Allotments, Derby)* Tree Preservation Order 2021, Number 602]

#### **Interpretation**

2. - (1) In this Order “the authority” means the [*Derby 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

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provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this [25<sup>th</sup>] day of [November 2021]

*[if the Council's Standing Orders require the sealing of such documents:]*

~~[The Common Seal of [Derby City Council]~~

~~was affixed to this Order in the presence of —~~

~~.....]~~

*[if the Council's Standing Orders do not require the sealing of such documents:]*

[Signed on behalf of the [Derby City Council]



.....

Verna Bayliss - Director of Planning, Transportation and Engineering

Authorised by the Council to sign in that behalf]

#### ~~[CONFIRMATION OF ORDER~~

~~[This Order was confirmed by [Derby City Council] without modification on the [ ] day of [ ]]~~

~~OR~~

~~[This Order was confirmed by the [Derby City Council], subject to the modifications indicated by [ ], on the [ ] day of [ ]]~~

~~[Signed on behalf of the [Derby City Council]~~

~~Authorised by the Council to sign in that behalf]~~

#### ~~[DECISION NOT TO CONFIRM ORDER~~

~~[A decision not to confirm this Order was taken by [Derby City Council] on the [ ] day of [ ]]~~

~~[Signed on behalf of the [Derby City Council]~~

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.....

Authorised by the Council to sign in that behalf}

~~[VARIATION OF ORDER~~

~~[This Order was varied by the [Derby City Council] on the [—] day of [—]  
] by a variation order under reference number [—] a copy of  
which is attached]~~

~~[Signed on behalf of the [Derby City Council]~~

.....

Authorised by the Council to sign in that behalf}

~~[REVOCATION OF ORDER~~

~~[This Order was revoked by the [Derby City Council] on the [—] day of [—]  
]~~

~~[Signed on behalf of the [Derby City Council]~~

.....

Authorised by the Council to sign in that behalf}

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## Article 3

**SCHEDULE****Specification of trees****Trees specified individually**

(encircled in black on the map)

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

**Trees specified by reference to an area**

(within a dotted black line on the map Appendix 1 – Map 1 and Map 2)

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

**Groups of trees**

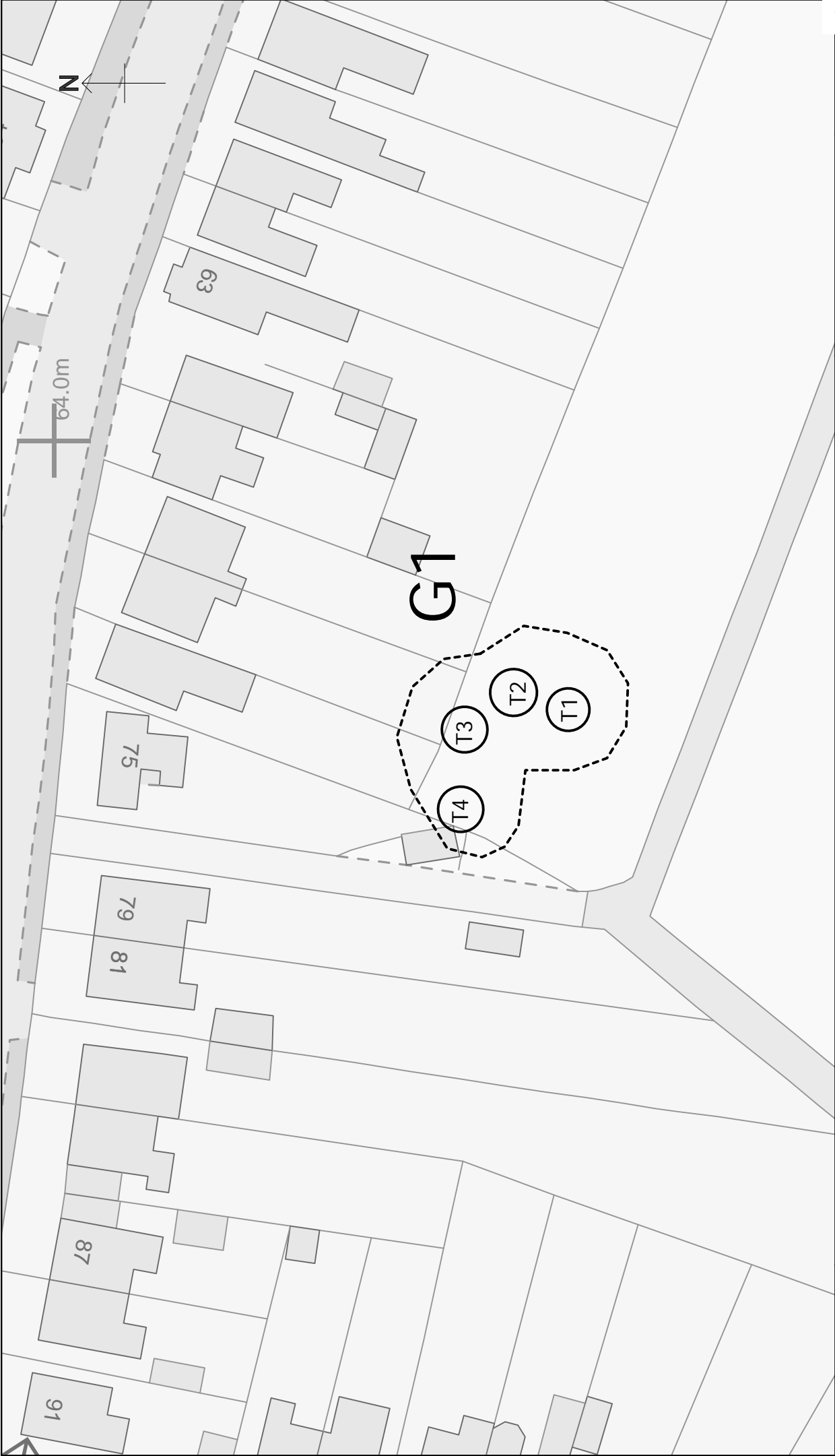
(within a broken black line on the map Appendix 1)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
[G1]	T1 - Maple T2 – Cedar T3 – Cedar T4 - Oak	Located in the northwest corner of the Littleover Lane Allotment Association site and to the south of 71, 73 and 75 Littleover Lane, Derby

**Woodlands**

(within a continuous black line on the map)

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



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Ordnance Survey  
2021.

Licence Number: 100024913

Drawing No: TPO No.603  
Date: 25/11/2021  
Map Scale: 1:500

Contact: Andy Shervill  
Department:  
Communities and Place  
Telephone Number: (01332) 640666

Derby City Council (Northwest Corner of Littleover Lane Allotments, Derby)  
Tree Preservation Order 2021, Number 603



Derby City Council



Appendix 3

TPO No.603: G1 – T1 Maple





TPO No.603: G1 – T3 Cedar



TPO No.603: G1 – T4 Oak





TPO No.603: G1 – T3 and T4 Oak (view from Littleover Lane)



TPO No.603: G1 (view from Littleover Lane Allotments)





## Amenity Evaluation Rating for TPOs

**SITE VISIT DATE:** 02/07/21

**TREE SPECIES:**

[A]: G1 (T1 Maple, T2 Cedar, T3 Cedar, T4 Oak)

[B]:

**ADDRESS:** Littleover Lane Allotments

**AMENITY VALUE RATING:**

[A]= 19

[B]=

**SURVEYED BY:** Andy Shervill

1	Size	SCORE		6	Suitability to area	SCORE	
		[A]	[B]			[A]	[B]
1	Very small 2-5m <sup>2</sup>			1	Just suitable		
2	Small 5-10 m <sup>2</sup>			2	Fairly suitable		
3	Small 10-25 m <sup>2</sup>			3	Very suitable		
4	Medium 25-50 m <sup>2</sup>			4	Particularly suitable	2	
5	Medium 50-100 m <sup>2</sup>						
6	Large 100-200 m <sup>2</sup>	7					
7	Very large 200 m <sup>2</sup> +						
2	Life expectancy			7	Future amenity value		
1	5-15 years			0	Potential already recognised		
2	15-40 years			1	Some potential	2	
3	40-100 years	4		2	Medium potential		
4	100 years +			3	High potential		
3	Form			8	Tree influence (current or future)		
-1	Trees which are of poor form			-1	Significant		
0	Trees of not very good form	1		0	Slight		
1	Trees of average form			1	Insignificant	0	
2	Trees of good form						
3	Trees of especially good form						
4	Visibility			9	Added factors		
1	Trees only seen with difficulty or by a very small number of people			If more than one factor relevant maximum score can still only be 1			
2	Back garden trees, or trees slightly blocked by other features	2		1	Screening unpleasant view		
3	Prominent trees in well frequented places			1	Relevant to the Local Plan		
				1	Historical Association		
				1	Considerably good for wildlife		
				1	Veteran tree status		
5	Other trees in the area			10	Rating	19	
0	Wooded surroundings (70%)						
1	Many (30%)	1					
2	Some (10%)						
3	Few (<10%)						
4	None						

**Typical useful life expectancy of common trees.**

300+ Yew

200-300 Oak, Sweet Chestnut, Plane, Sycamore, Lime

150-200 Scots Pine, Hornbeam, Beech, Tulip Tree, Norway Maple, Lebanon Cedar

100 -150 Ash, Spruce, Walnut, Red Oak, Horse Chestnut, Field Maple, Monkey Puzzle, Mulberry, Pear

70 - 100 Rowan, Whitebeam, Apple, Gean, Catalpa, Robinia, Ailanthus

50 - 70 Poplars, Willows, Cherries, Alders, Birches.

**ADD EACH FACTOR TOGETHER 1+2+3+4+5+6+7+8+9 = Rating**

**(The suitable benchmark rating for inclusion within a TPO is 15)**

# Methods for evaluating the amenity of trees placed under TPOs

## 1. Size of tree

Size of tree is measured as the area when viewed from one side. The height and diameter of the crown itself is estimated omitting the height of any clear stem. Multiply the two together to calculate the total area m<sup>2</sup>.

Where two or more trees grow close together or as a group, they form a single visual unit and are valued as one tree.

## 2. Life expectancy

All identifiable problems surrounding the trees should be considered in order to assess the potential life expectancy, such as localised conditions and the proximity of the tree to obvious factors that may have a bearing on its future health. The score rating in this category must be made on arboricultural grounds by a suitably qualified professional.

### Typical useful life expectancy of common trees:

300+ Yew  
200-300 Oak, Sweet Chestnut, Plane, Sycamore, Lime  
150-200 Scots Pine, Hornbeam, Beech, Tulip Tree, Norway Maple, Lebanon Cedar  
100 -150 Ash, Spruce, Walnut, Red Oak, Horse Chestnut, Field Maple, Monkey Puzzle, Mulberry, Pear  
70 - 100 Rowan, Whitebeam, Apple, Wild Cherry, Catalpa, Robinia, Ailanthus  
50 - 70 Poplars, Willows, Cherries, Alders, Birches.

There are of course exceptions to the list and each tree must be judged on its merits, but these figures do give guidance.

## 3. Form

The form of the tree is difficult to define precisely, but one should consider what is being offered in terms of its physical and structural attributes and how highly pleasing that may be in the aesthetic sense. Trees with good natural characteristics or trees that contrast well with their location can be examples of trees with good form. The judgements for these characteristics must be made by professionally qualified arboriculturalist.

## 4. Public amenity assessment

The public amenity assessment is based on how much of the tree or trees can be seen, and from which point. The appropriate criteria are identified within the rating form.

## 5. Other trees in the area

The percentage of tree cover within the visual area considers the overall contribution of trees in the nearby surrounding area. It is intended to represent a visual impression as seen from ground level from different public viewpoints. The lower the surrounding tree population, then the higher the amenity value and vice-versa.

**Woodland surrounding** More than 70% of the visual area covered by trees, & at least 100 in total

**Many** more than 30% of the visual area covered by trees and at least 4 trees in total

**Some** more than 10% of the visual area covered by trees, and at least 4 trees in total

**Few** Less than 10% of the visual area covered by trees, but at least one other tree present

**None** No other trees present in the area under consideration.

## 6. Suitability to the area

As a general rule, one should aim to have the most suitable tree, or group that the available space will conveniently contain or maybe one with a suitable growing habit. Sometimes a tree or group of trees is particularly suitable to a certain setting or area with a particular character i.e. Weeping Willows hanging down over water or a row of oak trees in a country lane.

## 7. Future amenity value or potential to contribute

An assessment must be made on the tree's future, i.e. does the tree or group have room to develop, will it develop into a potentially large tree or group and will it eventually be seen by many to offer a reasonable degree of amenity value. There are several things to consider here, and knowledge of the tree's potential growth under various conditions is necessary to reach a reasonably accurate rating.

**0 Potential already realised** - If the tree or trees are of considerable size their amenity value is likely to have been realised, therefore it is fair to assume no rating is necessary

**1 Some potential** - The tree or trees will develop to contribute some amenity in the future but are possibly blocked by lots of other features i.e. building or other trees

**2 Medium potential** - The tree or trees will develop to contribute significantly to amenity in the future but are possibly blocked by some other features i.e. buildings or other trees

**3 High potential** - The tree or trees are in an appropriate place where they will develop well and eventually contribute well to the local amenity and landscape.

## 8. Tree influence

Trees in urban situations are often found in close association with existing buildings and structures. This can lead to a perceived conflict between the differing features which can be difficult to quantify, but is, none the less real. For the purpose of this assessment what is being considered is the relationship between the tree and nearest inhabited building.

**-1 Significant** - The tree or trees are medium to large or have potential to become so and have a significant influence over a nearby inhabited building

**0 Slight** - The tree or trees are small to medium, or they only have potential to become so, and so have only a slight influence on inhabited buildings nearby

**1 Insignificant** - The tree or trees are either too small or far enough away from an inhabited building to be a significant influence.

## 9. Added factors

Where there is some special value to the tree which has not been considered by the previous factors additional value ratings can be used. The factors included on the rating form include important screening value, relevance in The Local Plan, wildlife potential and historical association. Other factors may be suggested by individual circumstances, but it is important to be clear that such factors really do add an extra value to the trees under consideration.

It is important that if more than one factor is relevant, then it should still score just one point. It is considered that the amenity value should have already been recognised in the other eight factors and that this extra score is only help maintain its importance and not to help it reach the benchmark.

14.12.21

Your Ref: TPO/603

Dear Mr., Shervill,

We are writing in response to your letter dated 25<sup>th</sup> November 21 in which you informed us of a Tree Preservation Order that you had made relating to four trees in the Northwest corner of Littleover Lane allotments.

We wish to formally object to the granting of this order.

The grounds of the objection are as follows:

We have recently been in discussion with the Allotment Association Committee regarding the trees as they are so tall that they block out the light into ours and our neighbour's gardens. This makes the end of the gardens permanently damp and unusable. We only last month had to replace our shed and an area of decking that had rotted due to being in permanent shadow.

The root structures of the trees are causing damage to our and our neighbours land and our boundary wall. The Allotment Committee have stated that they were about to instruct a tree surgeon to investigate the problems and attempt to find an amicable solution.

We also object on the grounds that, the order states 'the trees indicated in this order are proposed for protection in the interests of public visual amenity. The trees can be appreciated from the public realm and contribute materially to the amenities area by playing an important part in a sense of scale and maturity and by having a general greening effect on the immediate area.'

The trees in question are on private land and are barely visible from the public realm. You can get the barest of glimpses of the trees from between the houses.

My understanding is that the LPA should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees or at least some of them should therefore be visible from a public place. In this instance this is not the case.

If the trees cannot be seen or are barely visible from a public place, a TPO might only be justified in exceptional circumstances. In this case we cannot see that there are any exceptional circumstances.

As the criteria for the granting of a TPO has not been met we would argue that the grounds for making the order in the first place are null and void.

We ask that our objection be considered and the TPO be removed.

Yours Sincerely,



Royal Mail  
Nottingham  
Mail Centre  
15/12/2021  
16:33:46

Andy Shervill

Director of Planning

Transport and Engineering  
Communities and Place Directorate

Derby City Council

The Council House  
Corporation St.

Derby

DE1 2FS

Shop Early.  
Send Early this  
Christmas

send.royalmail.com



DMC

SCAN AND  
RETURN

Planning