

**North East Derbyshire District Council**

**Planning Committee**

**20th February 2024**

**PROPOSED CONFIRMATION OF TREE PRESERVATION ORDER (TPO  
295/2023) Trees situate west of Netherdene Road, Dronfield.**

**Report of the Planning Policy & Environment Manager**

**Classification:** This report is public

**Report By:** Principal Arboricultural Officer (Planning)

**Contact Officer:** **David Cunningham**

---

*PURPOSE / SUMMARY*

- Tree Preservation Order 295 was made in its provisional form on 26<sup>th</sup> October 2023. The effect is that the Order applies for six months or until confirmed or modified.
  - Before deciding to confirm an Order, the local authority must take into account all 'duly made' objections and representations that have not been withdrawn.
  - One duly made objection has been received.
  - No representations of support have been received.
  - The Council's Principal Arboricultural Officer (Tree Officer) believes that there is a foreseeable threat to trees situate west of Netherdene Road. This would likely result in the loss of trees should TPO 295 not be confirmed in the interests of amenity.
- 

**RECOMMENDATIONS**

1. To confirm TPO 295/2023, Trees situate west of Netherdene Road, Dronfield with modifications.

Approved by the Portfolio Holder – Cllr Pickering, Cabinet Member for Planning & Environment

---

*IMPLICATIONS*

---

**Finance and Risk:** Yes  No

**Details:** There is no financial or other risk from the confirmation of the Order as the option remains for the tree owners to make an application to seek to undertake works to, or remove trees.

On Behalf of the Section 151 Officer

---

**Legal (including Data Protection):** Yes  No

**Details:** All proper legal processes have been followed, the landowners have been advised of the making of the provisional Orders and given the opportunity to make comments. Provisional TPOs must be confirmed within 6 months of their making, to retain effect. Failure to confirm the orders within that time would mean they no longer have effect and any protection is lost.

On Behalf of the Solicitor to the Council

---

**Staffing:** Yes  No

**Details:** There are no significant implications on staffing resources arising from the action recommended in this report

On behalf of the Head of Paid Service

---

## DECISION INFORMATION

Decision Information	
<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <b>NEDDC:</b> <b>Revenue - £100,000</b> <input type="checkbox"/> <b>Capital - £250,000</b> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Significantly Affected</b>	None
<b>Consultation:</b> <b>Leader / Deputy Leader</b> <input type="checkbox"/> <b>Cabinet</b> <input type="checkbox"/> <b>SMT</b> <input type="checkbox"/> <b>Relevant Service Manager</b> <input checked="" type="checkbox"/> <b>Members</b> <input type="checkbox"/> <b>Public</b> <input checked="" type="checkbox"/> <b>Other</b> <input type="checkbox"/>	Yes  Details: Affected land owners have been consulted in line with legislation.

**Links to Council Plan (NED) priorities, including Climate Change, Equalities, and Economics and Health implications.**

- (A) A Great Place that Cares for the Environment
- (C) A Great Place to Live Well

## **REPORT DETAILS**

### **1 Background**

- 1.1 The Council's Tree Officer undertook an initial inspection of trees at Netherdene Road, Dronfield on 10<sup>th</sup> October 2023. This was in response to receiving a request for pre-application advice for a proposed dwelling on a parcel of land at the corner of Gomersal Lane and Gosforth Lane, and adjacent to No.3 Netherdene Road. The inspection was undertaken from the public domain along Gomersal Lane, Gasforth Lane and Netherdene Road.
- 1.2 Section 198 of The Town and Country Planning Act 1990 affords the power for a local authority to make a TPO where it appears to the authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in its area.
- 1.3 A Tree Preservation Order (TPO 295), specified by an individual tree and a single group of trees was made and served on 25<sup>th</sup> October 2023. The effect is that the Order applies for six months or until confirmed or modified.

### **2. Details of Proposal or Information**

- 2.1 The land situate west of Netherdene Road is an open parcel of land west of 3 Netherdene Road, Dronfield. The land, currently laid to lawn, is enclosed to the north, south and west by the junction of Gomersal Lane and Gosforth Lane. The surrounding area is principally residential in character. A small Rowan tree is located in the north of the plot and a line of beech and conifer hedging forms the boundary between the open parcel and the gardens of 3 Netherdene Road. The line of conifer hedging returns at the southern end of the plot and provides a physical barrier around the drive at 3 Netherdene Road. A group of mature and early-mature roadside trees are growing at the southern end of the parcel, and a small footpath links Netherdene Road to Gosforth Lane at this point. Prominent among the group of trees is a mature Sycamore tree of medium size which is immediately roadside to Gosforth Lane. The remainder of the roadside group is comprised of early-mature Sycamore and a single Birch tree. Directly south of the parcel is a second open parcel which includes a group of four early-mature Birch trees, although this is thought to be in different ownership.
- 2.2 The previous occupants of 3 Netherdene Road purchased the land from Derbyshire County Council and gained permission to change its use to domestic curtilage (10/00854/FL). Whilst it is thought some trees were removed from the site at the time, the permission appears not to have been implemented.

The current occupants gained permission for the construction of a new dwelling house on land adjacent to 3 Netherdene Road, although this permission was not implemented and expired in 2017.

- 2.3 The Council's Tree Officer undertook a detailed assessment of trees on 24<sup>th</sup> January 2024 and identified five trees as merit worthy of protection by TPO 295. These trees are T1 Sycamore and G1 which is a group of trees comprising of three Sycamore and one Birch. The inclusion of G1 is contested and a duly made objection has been received over the inclusion of G1 within TPO 295.
- 2.4 Modifications are required to the Schedule of the Order to accurately describe G1 under the 'Group' heading of the Schedule instead of the 'Area' heading of the Schedule, as stated in the provisional order.

### 3 Location Plan and Photos

#### 3.1 Location Plan

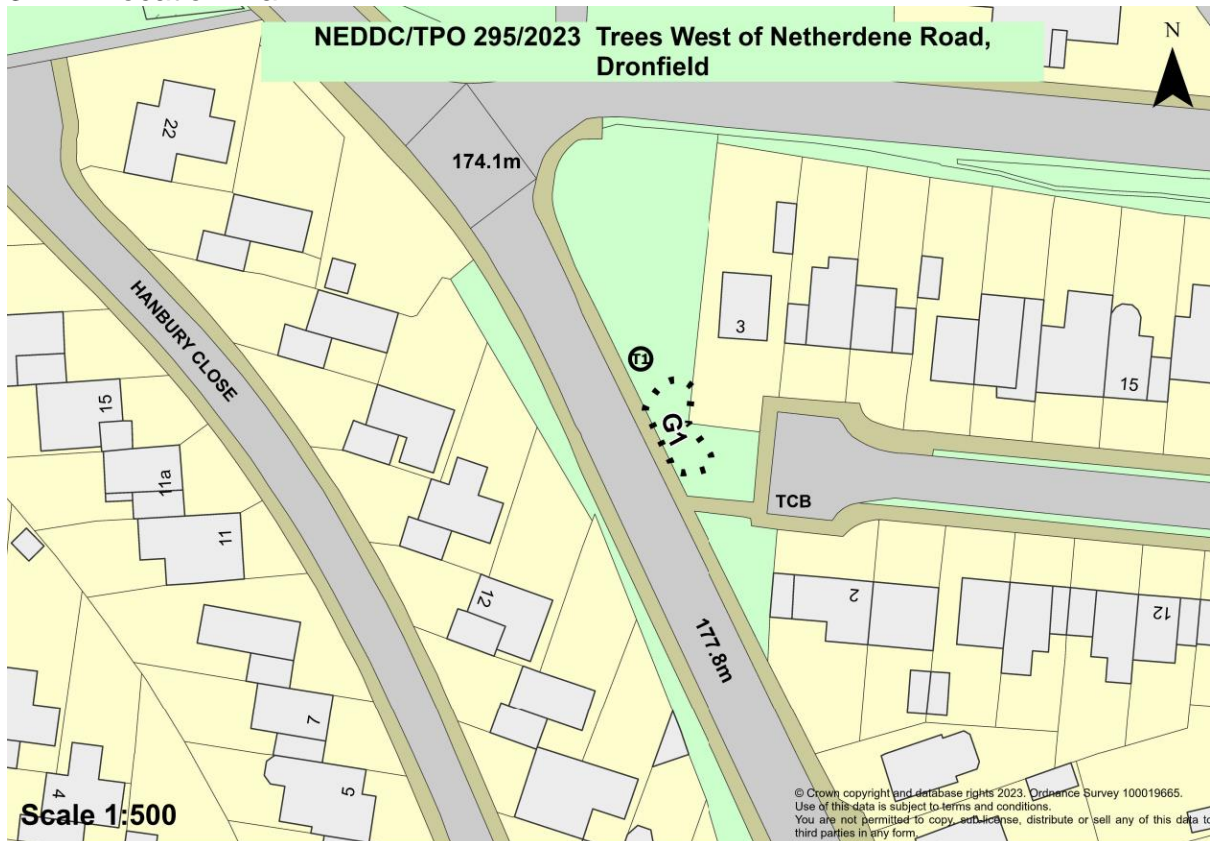


Figure 1: TPO 295 in its currently provisional form and describing the positions of T1 and G1 which are described within the First Schedule of the Order.

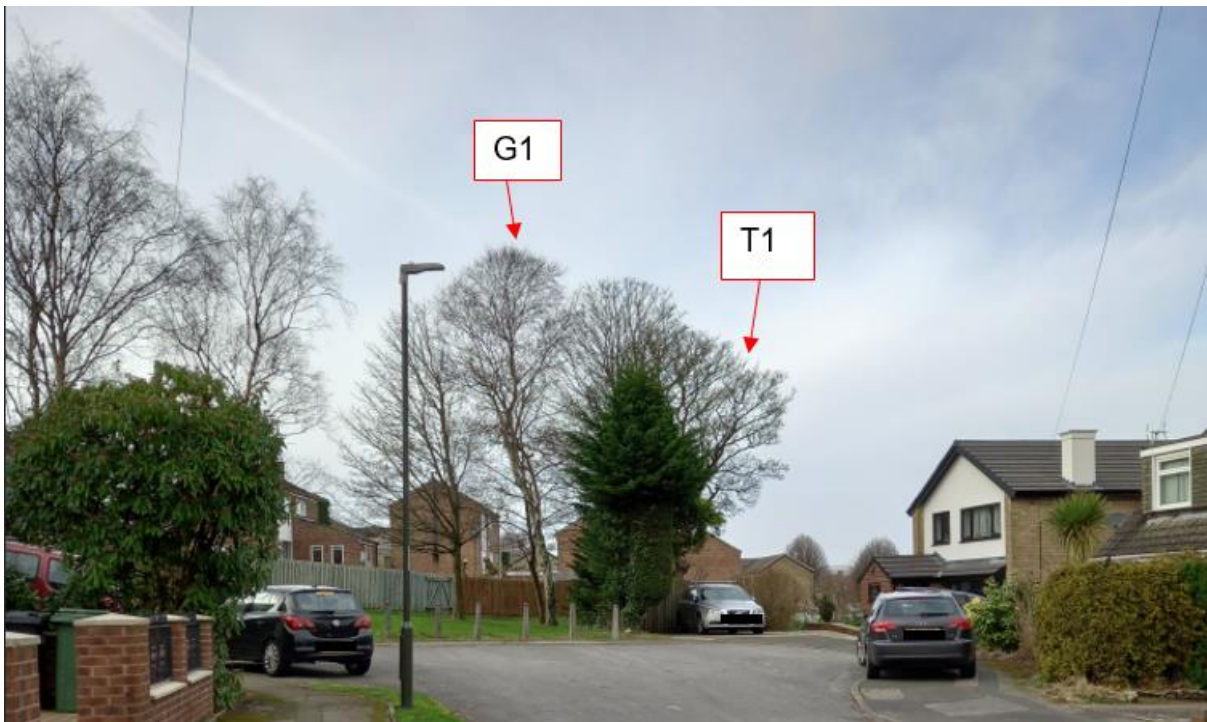
### 3.2 Photos



T1 and G1 viewed from the junction of Gomersal Lane and Gosforth Lane (*T1 to front and G1 to rear*).



T1 and G1 when viewed from Gosforth Lane.



T1 and G1 when viewed from Netherdene Road.

## **4**     **Representations**

4.1     One **Objection** has been received which raised the following for consideration:

1. Previous planning permission was granted in 2014 (14/00690/FL), and this permission allowed for the removal of trees (G1 of TPO 295).
2. The four trees now protected as G1 within the TPO were not highlighted as candidates for inclusion within a TPO in 2014. What has led to the inclusion of these trees now, or what has changed within the Town and Country Planning (Tree Preservation)(England) Regulations 2012, to allow for the inclusion of these trees?
3. The inclusion of G1 within the TPO will lead to material costs to provide new drawings for future applications.
4. Why is the council protecting these trees when other trees very close by are left unprotected, and these other trees could be considered to have the same important contribution to the amenity of the area?

4.2     No comments of **Support** have been received.

## **5**     **Officer Response**

5.1     The previous Planning Permission has expired, and any new application would be considered on its merits and in the context of policies in the current Local Plan.

5.2     Nothing material has changed within the legislation (in relation to TPOs) since 2014. No TPO was served in 2014, although the planning report for 14/00690/FL refers to a highly attractive Sycamore Tree within the southwest corner of the plot and recommended that consideration should be given to protect this tree with TPO. However, no comments were submitted by an arboricultural specialist in relation to that application and there is no evidence that the matter was considered further. This does not prevent the Council from reconsidering the matter or coming to a different conclusion given that ten years have as passed since it was last considered.

5.3     The current Tree Officer has undertaken a thorough TEMPO assessment of the trees on the site and considers that T1 and G1 make a significant contribution to the amenity of the area and has concluded that there is a foreseeable risk of trees being removed from this site due to development pressures. The Tree Officer considers it expedient in the interest of amenity to protect both T1 and G1.

- 5.4 The concern over the cost of preparing new plans for a future planning application is not relevant to the decision-making process for TPOs. Trees are a material consideration in the planning process and NEDDC Policy SDC2: Trees, Woodland and Hedgerows, requires that proposals for development should provide for the protection and integration of existing trees, woodland and hedgerows for their wildlife, landscape and/or amenity value. As such, the Council would require any future planning applications to be supported with up-to-date surveys assessing the quality and constraints of trees in relation to the proposal. The constraints imposed by trees, both above and below ground should inform the site layout of the proposed design. As trees are living and dynamic organisms that change and grow year on year, so do their constraints both above and below ground. The drawings prepared and submitted in support of application 14/00690/FL are contemporaneous to the size and condition of trees in 2014, and as such, ten years on, are now out of date.
- 5.5 Section 198 of The Town and Country Planning Act 1990 affords the power for a local authority to make a TPO where it appears to the authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in its area. Although other trees close to the site may contribute an equal, or similar amount to the amenity of the location, there is presently no protection imperative, as there is no perceived or foreseeable threat to these trees. TPO 295 was made in direct response to receiving a request for pre-application advice for a proposed dwelling on a parcel of land where the trees included within TPO 295 are located. The trees proposed for protection by TPO 295 are limited to those trees which provide a significant contribution to the amenity of the location and would foreseeably be at risk from development.

## **6 Reasons for Recommendation**

- 6.1 A tree preservation order is normally made to protect trees in the interests of amenity, and this involves an assessment of the trees visibility, impact (including the contribution to the wider landscape) and the trees size and form. Before confirming an Order, the Council should satisfy itself that the tree(s) would bring a reasonable degree of public benefit in the present or future. In this case officers consider that the trees offer a significant level of amenity to the area and are readily visible from public viewpoints along the highway. The trees have been assessed by the Council's Tree Officer and have been found to be healthy and maturing trees merit worthy of the special protection afforded by TPO in the interests of amenity.
- 6.2 A local authority may make a TPO where it appears to the authority that it is expedient in the interests of amenity. Intentions to fell trees are not always known in advance and Government Guidance advises it may sometimes be appropriate to proactively make Orders as a precaution. The Tree Officer believes there is a foreseeable risk of losing significant trees from this location due to development pressures which increases the protection imperative above precaution alone.



6.3 The proposed confirmation of the TPO 295 with modifications would allow for the necessary correction to the Schedule of the Order.

**7 Alternative Options and Reasons for Rejection**

7.1 To decide to not make the TPO. This option was rejected because it would leave trees unprotected and could lead to trees being removed which would be detrimental to local amenity.

**DOCUMENT INFORMATION**

Appendix No	Title
1	TPO 295 with proposed modifications
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet you must provide copies of the background papers)	