



<b>Classification</b>	<b>Item No.</b>
<b>Open / Closed</b>	<b>7</b>

<b>Meeting:</b>	<b>Planning Control Committee</b>
<b>Meeting date:</b>	<b>02 September 2025</b>
<b>Title of report:</b>	<b>Tree Preservation Order Confirmation</b>
<b>Report by:</b>	<b>Head of Development Management</b>
<b>Decision Type:</b>	<b>Council</b>
<b>Ward(s) to which report relates</b>	<b>Tottington</b>

## **Introduction**

This report sets out the issues relating to the current temporary tree preservation order Tree Preservation Order (No. 365) 2025 at 48 Hilda Avenue, Tottington.

## **Background**

Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

On 7<sup>th</sup> May 2025, the Council imposed a temporary Tree Preservation Order to protect an oak tree at 48 Hilda Avenue, Tottington. The tree is an imposing oak tree which has significant presence in the area and can be seen from a distance and the immediate vicinity from the public realm.

The tree was under threat of being damaged by ad hoc works and thus in terms of visual amenity causing harm. If works continue to be carried out on the tree it could become damaged and cause the tree to become unstable, which could result in the

whole tree structure failing. Apart from the loss in terms of visual amenity, this could also cause damage to surrounding gardens and/or properties.

The Order prohibits the felling, lopping, topping, uprooting or otherwise wilful damaging of trees without the prior permission of the Council.

The Council has six months in which to confirm the temporary Order. If the TPO is not confirmed within six months, the Order will lapse, the tree would no longer be protected and could be removed. If the Order is confirmed, it will take effect on a permanent basis and the tree will continue to be protected.

The Council cannot confirm an Order unless it has first considered any duly made objections or other representations.

### **Consultation**

The owner of the site on which the tree is situated was notified of the making of the order and a site notice was erected on Hilda Avenue and Moorside Road on 22/05/2025.

Two objections were received giving the following reasons;

#### Objection no.1

- The tree in question, situated at 48 Hilda Avenue, extends well beyond the boundary of the said property. Its branches have caused repeated and ongoing damage to gardens, garden sheds, slab paving, and garden furniture.
- The tree frequently sheds branches through natural self-pruning, and several have fallen onto our shed and garden, necessitating ongoing repairs and preventative maintenance. These falling has created hazards that limit the safe use of gardens.
- We would cite the precedent set in *Lemmon v Webb* (1894) as our authority for the removal of overhanging tree branches in adjoining land. This case set out that other landowners, have the right to cut off branches that overhang their property without giving notice, without the need to enter other's land. This reinforces the principle to enjoy rights up to the boundary, including the airspace above it.
- The risk posed by falling branches represents a serious safety concern. Branches continue to fall unexpectedly, posing a danger. The enforcement of the Order would require permission before carrying out pruning, even when safety is at stake, potentially increasing the risk of serious injury or harm.
- Furthermore, if the tree were to fall due to adverse weather (i.e. strong winds), it could threaten multiple properties. We note that a risk was acknowledged in Planning Application 66203, submitted by the owner of 48 Hilda Avenue, where it was stated, the tree is within falling distance of the now built structure on the site of 48 Hilda Avenue. Without being freely available to prune and lob branches of the tree, the risk to the surrounding properties is greatly enhanced.
- Given the expansive root systems typical of mature oak trees, there's concern that the roots may be undermining the ground stability and adjacent properties. This poses long-term risks to building foundations and other

structures, and the inability to manage the growth of the tree freely could increase the likelihood of structural damage.

- The tree significantly restricts access to natural light and fresh air. Its dense canopy obstructs sunlight, affects enjoyment and use of the outdoor space. The imposition of the Order would prevent taking reasonable steps to manage this obstruction, further impacting our right to light and reducing the amenity value of our property.
- In addition, the overhanging branches attract birds that frequently perch on them and defecate neighbouring garden furniture and paving. This creates an ongoing hygiene and maintenance issue
- We challenge whether the TPO is truly expedient in the interests of amenity. The tree is situated on private land, with limited or no access or benefit to the wider public. We understand that visibility alone is not sufficient grounds for a TPO. The tree is not located in a conservation area, nor does it hold any known rarity, cultural, or historic value. To our knowledge, no other nearby trees are subject to TPOs, making this Order appear arbitrary and inconsistent with the local environment.
- We strongly suspect that the application for the TPO may have been influenced by an ongoing dispute between the owners and several neighbouring households. There have been prior instances where residents, including ourselves, have attempted to prune overhanging branches but were prevented from doing so by the owners. This situation has led to increased tensions within the community, and we are concerned that the TPO is being used to further private interests rather than genuine environmental or public concerns.
- The previous owner of 48 Hilda Avenue maintained the trees of the property and employed tree specialists to maintain all the trees affecting neighbouring properties. He was sympathetic to overhanging branches and large limbs that would affect people's enjoyment of their own gardens.

## Objection no.2

- The tree in question, situated at 48 Hilda Avenue, extends well beyond the boundary of the said property into other's airspace.
- Its branches have caused repeated and ongoing damage garden fence, children's toys and requiring the need to move and replace items due to this.
- The risk posed by falling branches represents a serious safety concern.
- Approx. 10 years ago we were advised that the tree was in fact unsafe by a tree specialist. He also advised that the tree was leaning heavily and that he wouldn't be surprised if it actually fell in years to come. This has been a constant worry over the years, the tree is slowly moving and leaning further to one side.
- Our children are unable to use their trampoline, and we have had to move items such as their easel and large outdoor Connect 4 etc due to falling branches especially on windier days.
- If the tree were to fall due to adverse weather (i.e. strong winds), it could threaten multiple properties in its immediate vicinity.

- We are also concerned about the affect the tree's roots will be having on our property. Tree roots are known to expand, and we wonder whether the roots would be impacting the foundations of neighbouring property.
- The tree significantly restricts access to natural light and fresh air in our garden and property. Its dense canopy obstructs sunlight, affecting our enjoyment and use of the outdoor space.
- The tree is not located in a conservation area, nor does it hold any known rarity, cultural, or historic value.
- We do not believe TPO is in the interests of the local community. The tree is situated in a private garden, no access or benefit to the wider public.
- We are concerned that the TPO is being used to further private interests rather than genuine environmental or public concerns.
- We believe that the TPO has been influenced by the owners of 48 Hilda Avenue. This has arose from the growing tensions between surrounding neighbours and the pruning of the tree.
- The owners of 48 Hilda Avenue do not maintain the bushes surrounding their property, let alone the tree. Their bushes and the said tree, which take over nearby gardens and are pruned by the owners of neighbouring properties and disposed of at an expense to ourselves.
- Previously 48 Hilda Avenue had a big tree at its entrance. The owners had the said tree removed from the entrance to their own property to enable them to have the driveway which they have created for multiple vehicles. In that case no consideration was given to 'the prominence of the area, the quality of the tree and the contribution of the character of the surrounding area'.
- We would request that a qualified person is appointed to come and make a report on this tree. Not only this but we would also highly recommend that it is looked at from a safety aspect to the neighbouring properties. As highlighted previously, we were advised by a tree surgeon it was likely to fall over coming years so it is a worry.
- We respectfully request that the Council revoke the proposed tree preservation order. Alternatively, if the TPO is granted, we respectfully request that a condition be included requiring the owners of 48 Hilda Avenue to ensure, at their own expense, that any branches of the tree which encroach upon the airspace of our property, or any adjoining properties are regularly pruned.

## **Consideration of the Objections**

Quality, Character and amenity value - Following a site visit and assessment by the Council's Planning and Trees and Woodland's Officer, the Council does not agree with the assessment presented by the objectors. The following assessment has been made in relation to the tree:

The tree in question is an Oak which is located in the front garden of 48 Hilda Avenue. The tree appears to be in reasonable health and condition with no signs of die back, cavities or fungal growth.

The assessment of the Council's Tree's and Woodland's Officer concluded that it be recommended the tree for protection by a TPO and as such this was progressed.

The tree is very prominent within the street scene as it is located at the head of the cul-de-sac on Hilda Avenue and as such it contributes to the visual amenity of the area. The tree is visible from Hilda Avenue and Moorside Road.

Government guidance states that Orders should be used to protect selected trees if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Removal of the tree would have a negative impact on the local environment by removal of an element of soft landscaping.

It is evident from the site photos and objections that some works have been carried out which are unsympathetic to the tree which is prominent in the streetscape along Hilda Avenue and also from properties on Moorside Road tree and there is indication that this type of work would be required in the future. The TPO would mean they would now have to do so in a controlled manner.

The TPO is not being used as a means to control development but to retain the tree and area's amenity value of which it significantly contributes. The objectors, and landowner can still carry out works to the trees, including felling if deemed necessary, with the submission of an application to the LPA, along with a tree report and any other relevant information is provided. As such it is not considered that the TPO would necessarily restrict appropriate tree maintenance but in fact would promote appropriate maintenance.

The tree owner's liabilities and responsibilities would remain the same regardless of any TPO that is imposed and as such damage to property etc would remain private matters.

### **Recommendation**

That the current temporary preservation order issued on the tree within the curtilage of the site as identified in Appendix 1 is confirmed so that the Order takes effect on a permanent basis.

### **List of Background Papers: -**

Temporary Tree Preservation Order dated 7<sup>th</sup> May 2025.

The Town and Country Planning (Tree Preservation) (England) Regulations 2012

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### **Community impact/links with Community Strategy**

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## Equality Impact and considerations:

*Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

*A public authority must, in the exercise of its functions, have due regard to the need to -*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

<b>Equality Analysis</b>	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
No impact.	

*\*Please note: Approval of a cabinet report is paused when the 'Equality/Diversity implications' section is left blank and approval will only be considered when this section is completed.*

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## Assessment of Risk:

The following risks apply to the decision:

<b>Risk / opportunity</b>	<b>Mitigation</b>
N/A	. N/A

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**Consultation:** Council’s arboriculturist. Their comments are included within the report.

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**Legal Implications:**

*Tree Preservation Orders (TPOs) can be made where it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands. TPOs initially take effect on a provisional basis for a period of six months. Authorities can confirm Orders, either without modification or with modification, so that they take effect on a permanent basis. They may also decide not to confirm the Order, which will stop its effect. Authorities cannot confirm an Order unless they have first considered any duly made objections or other representations.*

There is no right of appeal against a TPO. Orders may be challenged in the High Court on a point of law within six weeks of being confirmed.

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**Financial Implications:**

*To be completed by the Council’s Section 151 Officer*

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**Report Author and Contact Details:**

Amanda Uhunmwagho  
[a.uhunmwagho@bury.gov.uk](mailto:a.uhunmwagho@bury.gov.uk)

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**Please include a glossary of terms, abbreviations and acronyms used in this report.**

Term	Meaning
TPO	Tree Preservation Order

**TREE PRESERVATION ORDER**  
**Town and Country Planning Act 1990**

**The Metropolitan Borough of Bury**  
**(48 Hilda Avenue, Tottington BL8 3JE)**  
**Tree Preservation Order (No. 365) 2025**

The Metropolitan Borough of Bury (Bury 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 the Metropolitan Borough of Bury (48 Hilda Avenue, Tottington BL8 3JE) Tree Preservation Order (No.365) 2025.

**Interpretation**

**2.—(1)** In this Order “the authority” means Bury 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, 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 this 7th day of May 2025

The Common Seal of the Metropolitan Borough of Bury  
was affixed to this Order in the presence of—

*S Doherty*

Sarah Doherty 07 May 2025 09:16:54 BST (UTC +1)

Authorised by the Council to sign in that behalf

347/25



Seal ID: 31584



**CONFIRMATION OF ORDER**

This Order was confirmed by the Metropolitan Borough of Bury without modification on the  
day of 20

OR

This Order was confirmed by the Metropolitan Borough of Bury, subject to the modifications  
indicated by , on the day of 20

Signed on behalf of the Metropolitan Borough of Bury

.....  
Authorised by the Council to sign in that behalf

**DECISION NOT TO CONFIRM ORDER**

A decision not to confirm this Order was taken by the Metropolitan Borough of Bury on the  
day of 20

Signed on behalf of the Metropolitan Borough of Bury

.....  
Authorised by the Council to sign in that behalf

**VARIATION OF ORDER**

This Order was varied by the Metropolitan Borough of Bury on the day of  
20 by a variation order under reference number a copy of which is  
attached

Signed on behalf of the Metropolitan Borough of Bury

.....  
Authorised by the Council to sign in that behalf

**REVOCATION OF ORDER**

This Order was revoked by the Metropolitan Borough of Bury on the day of  
20

Signed on behalf of the Metropolitan Borough of Bury

.....  
Authorised by the Council to sign in that behalf

**SCHEDULE****SPECIFICATION OF TREES****Trees specified individually**  
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	At the rear of 48 Hilda Avenue, Tottington

**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.		

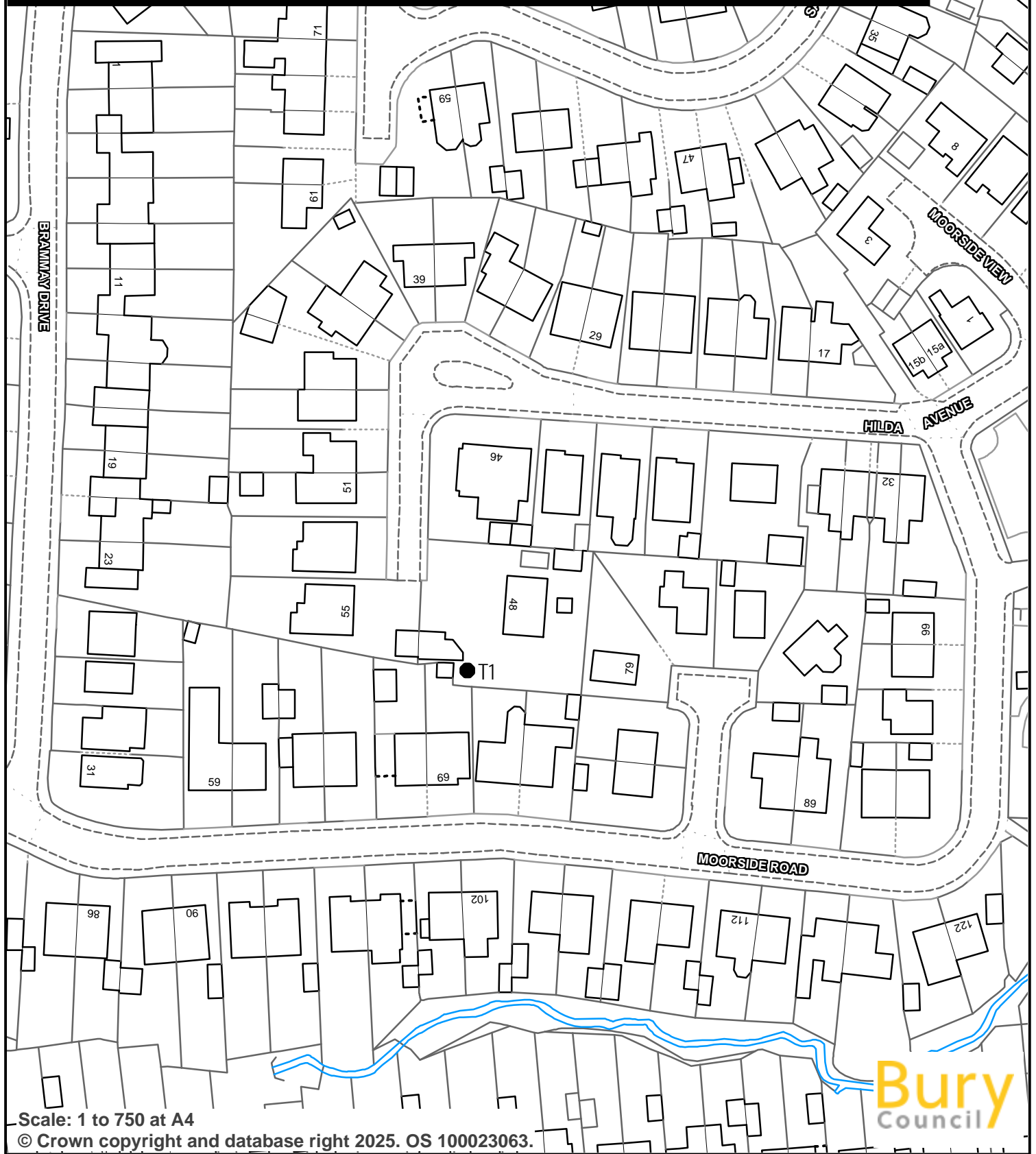
**Groups of Trees**  
(within a broken black line on the map)

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

**Woodlands**  
(within a continuous black line on the map)

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

Map referred to in the Metropolitan Borough of Bury (48 Hilda Avenue, Tottington, BL8 3JE) Tree Preservation Order (No. 365) 2025



Scale: 1 to 750 at A4

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THE COMMON SEAL of THE  
METROPOLITAN BOROUGH OF BURY  
was hereunto affixed on the  
7th day of May 2025  
in the presence of:-  
*S Doherty*  
Sarah Doherty 07 May 2025 09:16:54 BST (UTC +1)  
Authorised Signatory

348/25



Seal ID: 31585

# TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

## SURVEY DATA SHEET & DECISION GUIDE

Date: 2062/25 Surveyor: LESLIE BEARDWOOD

Tree details  
 TPO Ref (if applicable):  
 Owner (if known): PRIVATE Tree/Group No: 48 Species: OAK  
 Location: HILDA AVE DOTTINGTON

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

Score & Notes 3

#### 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 4

#### 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 5

#### 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

### 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 3

### 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:

19

Decision:

YES























Mr J & Mrs C Duffy  
69 Moorside Road  
Tottington  
Bury  
BL8 3HR

Bury MBC  
Legal Services  
Town Hall  
Knowsley Street  
Bury  
BL9 0SW

Your Reference: RA/057984

Email: Legal.Services@bury.gov.uk

31 May 2025

## **WITHOUT PREJUDICE**

Dear Rizwana Ali

### **Tree Preservation Order (No. 365) 2025**

Further to your letter of formal notice dated 8th April 2025 regarding the above Tree Preservation Order (TPO), we write to formally object to the confirmation of the Order. We respectfully submit the following grounds for our objection:

#### **1. Physical Damage and Encroachment**

The tree in question, situated at 48 Hilda Avenue, extends well beyond the boundary of the said property into the airspace of our property at 69 Moorside Road and those of neighbouring properties. Its branches have caused repeated and ongoing damage to our rear garden, garden shed, slab paving, and garden furniture. We enclose photographs as evidence of this encroachment.

The tree frequently sheds branches through natural self-pruning, and several have fallen onto our shed and garden, necessitating ongoing repairs and preventative maintenance. These falling branches have also damaged our garden furniture, requiring us to move it to sheltered areas, and have created hazards that limit the safe use of our garden.

We would cite the precedent set in *Lemmon v Webb* (1894) as our authority for the removal of overhanging tree branches in the adjoining land. This case set out that we, as landowners, have the right to cut off branches that overhang their property without giving notice, as long as we do not enter onto the neighbour's land. This reinforces the principle that we enjoy rights up to the boundary of our property, including the airspace above it.

#### **2. Health and Safety Risk**

The risk posed by falling branches represents a serious safety concern. Despite our efforts to prune the branches that overhang our property, branches continue to fall unexpectedly, posing a danger to our family, particularly our children and grandchildren. The enforcement of the Order

Mr J & Mrs C Duffy  
69 Moorside Road  
Tottington  
Bury  
BL8 3HR

would require us to seek permission before carrying out pruning, even when safety is at stake, potentially increasing the risk of serious injury or harm.

Furthermore, if the tree were to fall due to adverse weather (i.e. strong winds), it could threaten multiple properties, including 69, 65, 67, and 71 Moorside Road as well as 48 Hilda Avenue. We note that a risk was acknowledged in Planning Application 66203, submitted by the owner of 48 Hilda Avenue, where it was stated, the tree is within falling distance of the now built structure on the site of 48 Hilda Avenue. Without being freely available to prune and lob branches of the tree, the risk to the surrounding properties is greatly enhanced.

### **3. Root Encroachment and Structural Impact**

Given the expansive root systems typical of mature oak trees, we are concerned that the roots may be undermining the ground stability of our property and adjacent properties. This poses long-term risks to building foundations and other structures, and the inability to manage the growth of the tree freely could increase the likelihood of structural damage.

### **4. Impact on Light and Amenity**

The tree significantly restricts access to natural light and fresh air in our garden and property. Its dense canopy obstructs sunlight, affecting our enjoyment and use of the outdoor space. The imposition of the Order would prevent us from taking reasonable steps to manage this obstruction, further impacting our right to light and reducing the amenity value of our property.

In addition, the overhanging branches attract birds that frequently perch on them and defecate onto our garden furniture and paving. This creates an ongoing hygiene and maintenance issue.

### **5. Lack of Public Amenity Value**

We challenge whether the TPO is truly expedient in the interests of amenity. The tree is situated on private land, with limited or no access or benefit to the wider public. We understand that visibility alone is not sufficient grounds for a TPO. The tree is not located in a conservation area, nor does it hold any known rarity, cultural, or historic value. To our knowledge, no other nearby trees are subject to TPOs, making this Order appear arbitrary and inconsistent with the local environment.

### **6. Concerns Over Motivations for the Order**

We strongly suspect that the application for the TPO may have been influenced by an ongoing dispute between the owners of 48 Hilda Avenue and several neighbouring households, including ourselves. There have been prior instances where residents, including ourselves, have attempted to prune overhanging branches but were prevented from doing so by the owners. This situation has led to increased tensions within the community, and we are concerned that the TPO is being used to further private interests rather than genuine environmental or public concerns.

The previous owner of 48, Hilda Avenue maintained the trees of the property and employed tree specialists to maintain all the trees affecting neighbouring properties. He was sympathetic to overhanging branches and large limbs that would affect people's enjoyment of their own gardens.

Mr J & Mrs C Duffy  
69 Moorside Road  
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In addition, the present owners of 48, Hilda Avenue, upon moving into the property removed a very large tree that was very close to their property as the owner thought the tree was going to be a danger to his family if the tree were to fall. This was told to myself by the owner.  
Upon the removal of the tree this enabled the owner to park his camper van and 2 cars.

In this case no consideration was given to 'the prominence of the area, the quality of the tree and the contribution to the character of the surrounding area'.

### **Conclusion and Request**

Could we request that a member of the council with some knowledge and experience in these matters please come and survey the site and tree from our perspective? We would really appreciate this, and it would clearly be seen that the tree is only 7 metres from the structure of our property and could pose significant risk and safety if the tree was to fall if hit by lightning or strong winds.

Considering the above, we respectfully request that the Council either revoke the proposed Tree Preservation Order or vary it to allow unrestricted pruning and removal of branches that overhang and encroach upon our property and those of neighbouring residents. This would allow us to mitigate damage, ensure safety, and protect the enjoyment of our property.

Alternatively, if the TPO is granted, we respectfully request that a condition be included requiring the owners of 48 Hilda Avenue to ensure, at their own expense, that any branches of the tree which encroach upon the airspace of our property, or any adjoining properties are regularly pruned.

We understand that the TPO cannot be confirmed until objections, such as ours, have been fully considered, and we welcome the opportunity for further dialogue. Should the Council proceed to confirm the Order, we reserve our right to appeal the decision and request a public consultation on the matter.

Please can you acknowledge receipt of this correspondence. We await to hear from you.

Yours sincerely

**John Paul Duffy & Claire Margaret Duffy**













Mr M Dundon & Miss K Fox  
71 Moorside Road  
Tottington  
Bury  
BL8 3HR

Bury MBC  
Legal Services  
Town Hall  
Knowsley Street  
Bury  
BL9 0SW

Your Reference: RA/057984

Email: [Legal.Services@bury.gov.uk](mailto:Legal.Services@bury.gov.uk)

20<sup>th</sup> June 2025

**WITHOUT PREJUDICE**

Dear Rizwana Ali

**Tree Preservation Order (No. 365) 2025**

Further to your letter of formal notice dated 8th April 2025 regarding the above Tree Preservation Order (TPO), we write to formally object to the confirmation of the Order. We respectfully submit the following grounds for our objection:

**1. Physical Damage and Encroachment**

The tree in question, situated at 48 Hilda Avenue, extends well beyond the boundary of the said property into the airspace of our property at 71 Moorside Road and those of neighbouring properties.

Its branches have caused repeated and ongoing damage to our rear garden fence, children's toys and we have had to move and replace items due to this.

**2. Health and Safety Risk**

The risk posed by falling branches represents a serious safety concern.

When we first bought our property at 71 Moorside Road, we had paid a Tree Surgeon to come out and cut the overhanging branches of the said tree and the other bushes from 43 Hilda Avenue which cause a nuisance / overtake our garden. We used a firm called Just Trees who were Bolton based. Geoff was unable to prune the tree in question from our garden. However, even back then (approx. 10 years ago) we were advised by Geoff of Just Trees that the tree was in fact unsafe, he felt it was top heavy on one side. He also advised that the tree was leaning heavily and that he wouldn't be surprised if it actually fell in years to come.

This has been a constant worry for us over the years, and looking out of our bedroom window and from the garden we can see that the tree is slowly moving and leaning further to one side.

Mr M Dundon & Miss K Fox  
71 Moorside Road  
Tottington  
Bury  
BL8 3HR

Our children are unable to use their trampoline and we have had to move items such as their easel and large outdoor Connect 4 etc due to falling branches especially on windier days.

If the tree were to fall due to adverse weather (i.e. strong winds), it could threaten multiple properties in its vicinity including our own.

### **3. Root Encroachment and Structural Impact**

We are also concerned about the affect the trees roots will be having on our property. Tree roots are known to expand and we wonder whether the roots would be impacting the foundations of our property.

### **4. Impact on Light and Amenity**

As we live on a hill, our back garden is significantly lower that the surrounding properties including that of 43 Hilda Avenue. The tree significantly restricts access to natural light and fresh air in our garden and property. Its dense canopy obstructs sunlight, affecting our enjoyment and use of the outdoor space.

### **5. Lack of Public Amenity Value**

The tree is not located in a conservation area, nor does it hold any known rarity, cultural, or historic value.

We do not believe TPO is in the interests of the local community. The tree is situated in a private garden no access or benefit to the wider public.

### **6. Concerns Over Motivations for the Order**

We are concerned that the TPO is being used to further private interests rather than genuine environmental or public concerns.

We believe that the TPO has been influenced by the owners of 48 Hilda Avenue. This has arose from the growing tensions between surrounding neighbours and the pruning of the tree.

The owners of 48 Hilda Avenue do not maintain the bushes surrounding their property, let alone the tree. Their bushes and the said tree, which take over our gardens, are pruned by the owners of neighbouring properties and disposed of at an expense to ourselves.

Previously 48 Hilda Avenue had a big tree at its entrance. The owners had the said tree removed from the entrance to their own property to enable them the have the driveway which they have created now for multiple vehicles. In that case no consideration was given to 'the prominence of the area, the quality of the tree and the contribution to the character of the surrounding area'.

Mr M Dundon & Miss K Fox  
71 Moorside Road  
Tottington  
Bury  
BL8 3HR

### **Conclusion and Request**

We would request that a qualified person is appointed to come and make a report on this tree. We would allow access into our property / land so that a view can be made from our perspective. Not only this but we would also highly recommend that it is looked at from a safety aspect to the neighbouring properties. As highlighted previously, we were advised by a tree surgeon it was likely to fall over coming years so it is a worry.

We respectfully request that the Council revoke the proposed Tree Preservation Order.

Alternatively, if the TPO is granted, we respectfully request that a condition be included requiring the owners of 48 Hilda Avenue to ensure, at their own expense, that any branches of the tree which encroach upon the airspace of our property, or any adjoining properties are regularly pruned.

We understand that the TPO cannot be confirmed until objections, such as ours, have been fully considered.

I have attached photographs of the tree in question from our property.

Please can you acknowledge receipt of this correspondence.

Yours sincerely

**Mr Mark Dundon & Miss Kelly Fox**







