

PLACE (GROWTH & DEVELOPMENT) DEPARTMENT

**ORIGINATING SECTION: PLANNING (DEVELOPMENT
MANAGEMENT)**

REPORT TO PLANNING & HIGHWAYS COMMITTEE - 26th May 2022

**TITLE: Confirmation of Tree Preservation Order – 15
Lammack Road Blackburn (C12)**

WARDS: Billinge and Beardwood

1.0 PURPOSE OF THE REPORT

- 1.1 To request that the Committee endorse the actions of the Council's Arboricultural Officer/Planning Manager (Development Management) in making and serving the 15 Lammack Road Blackburn Tree Preservation Order 2022.
- 1.2 To request that the Committee confirm 15 Lammack Road Blackburn Tree Preservation Order (C12) without modification.

2.0 RECOMMENDATION

- 2.1 That the actions of the Arboricultural Officer and Planning Manager (Development Management) in making and serving the 15 Lammack Road Blackburn Tree Preservation Order 2022 be endorsed.
- 2.2 That the 15 Lammack Road Blackburn 2022 Tree Preservation Order (C12) is confirmed without modification.

3.0 BACKGROUND & RATIONALE

- 3.1 On 29th October 2021, the local planning authority received a formal full planning application (ref: 10/21/1223) to remove the wall at the front of the property in order to create a new access and car parking space in the front garden of No.15 Lammack Road, Blackburn. The proposals were to impact upon three existing mature trees on the eastern boundary of the application site. During the assessment of this enquiry, the Council's Arboricultural Officer, considered the trees in question, were worthy of protection – see Image 1.



Image 1: Image showing position of Lime trees..

3.2. The Arboricultural Officer subsequently carried out a Tree Evaluation Method for Preservation Orders (TEMPO), which was undertaken on the 13th January 2022. The assessment gave the tree a high score as illustrated in image 2, which fully warrants a TPO. Members are advised that the planning application for the new access and car parking space at No.15 Lammack Road, is still under consideration, and a site meeting is scheduled for the 12th May, with the applicant, and the Council's Arboricultural and Highways Officer, to discuss revisions that would satisfy both concerns relating to the impact on the protected trees, and highway safety.

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 13/1/2022		Surveyor: R JONES	
Tree details	1, 2 & 3	Tree/Group No:	Species: Tilia sp
TPO Ref (if applicable):		Location: 15 Camrack Rd	
Owner (if known):	LIME		

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	Score & Notes 3
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		

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes 2
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		

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	Score & Notes 4
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	

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	Score & Notes 1
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	

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

5) Immediate threat to tree inc. s.211 Notice	Score & Notes 5
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 15	Decision: TPO.
1-6	TPO indefensible		
7-11	Does not merit TPO		
12-15	TPO defensible		
16+	Definitely merits TPO		

Image 2: TEMPO Assessment 13th January 2022.

3.3 A copy of the TPO and Schedule is attached to this report.

- 3.4 The trees are situated on the eastern boundary of the property and are all mature in age. A high visual amenity for the area, the trees are approximately 13m in height and average a 'Diameter at Breast Height' of 400mm and a Crown Spread of approximately 8m. The trees are a typical size and age for planting in this area and an integral part of the character of this part of Lammack Road.
- 3.5. The current property owners, where the trees are located, and the ward councillors were informed of the proposed TPO on the 26th January 2022.
- 3.6 An objection was received from the trees' owner, Mr Mahmood, stating a number of issues including: blocked drains, impact upon a gas pipe, trees removed at No.17, and confusion as to the original TPO. Although not formal, an objection in the form of an email from the residents at No.13 Lammack Road was also received on the 10th February 2022, where they simply said; "*You will not make this TPO because the leaves make the path slippery*". A summary of the representations received are detailed below in section 6, appendix 1.
- 3.7 In terms of the objections, drains and pipes are not a material consideration when looking to protect trees. All modern drains and pipes are made of a plastic non penetrable material and are usually not compromised by tree roots. With regards to the issues at the neighbouring property No.17, all these issues are being addressed through the appropriate enforcement channels, together with the proposed development approved under application reference 10/21/0885. Members are also advised this is not a material consideration for this site, the subject of the TPO. The confusion with the TPO, as referenced, is relating to the fact that the trees are already subject to a TPO dated 1991, where the tree species were listed as Elm and not Lime. This is the reason for re-making the order.
- 3.7 The trees are of considerable amenity value and are under threat of removal if the planning proposals, submitted at the time under application reference 10/21/1223, were approved. The emergency Tree Preservation Order was made on the 26th January 2022, and the Council has six months in which to confirm this order. As such, the deadline for confirmation is 26th July 2022, and if the TPO is not confirmed by this date the trees would potentially not be protected due to the issue with the 1991 Order.

4.0 **CONTACT OFFICER:** Gavin Prescott, Planning Manager
(Development Management)/Roland Jones,
Arboricultural Officer

5.0 **DATE PREPARED:** 3rd May 2022

6.0 APPENDIX 1 – SUMMARY OF REPRESENTATIONS

Objection – Mr Ashid Mahmood, 15 Lammack Road, Blackburn. **Received 16.02.2022**

Mr Ashid Mahmood

15 Lammack Road

Blackburn

BB1 8JW

Ref:G&D/P/GJP/TPO/C12 16th February 2022

To whom it concerns,

I am writing to you as the owner of 15 Lammack road following the provisional TPO sent to me on the 28th Jan 2022.

Firstly, I would like to address the statement on the letter which stated that the order has been made ‘following concerns received by the local community that the trees in questions are likely to be felled’. As respectable members of the Lammack community I have always followed the guidelines and worked with the local council and my surrounding neighbours prior to any work being carried out on my trees. I am confident these issues have not been raised by the local residents.

I am extremely concerned about the process the council has followed regarding this TPO.

I am objecting to the provisional TPO due to the following reasons:

Please see image 1 below: which illustrates I have a drainage system from the dwelling running past the tree roots and over the recent years I have had several blockages due to the roots.



Image 1 – Manhole adjacent to the tree roots leading to the dwelling.



Image 2- Illustrates my main gas line entering the external wall onto the property and past the tree roots to the dwelling which has been replaced on Dec 28th 2021, due to a gas leak at the entry of the property. I was advised by my gas company that the soil and roots pushing towards the main gas pipe have caused this.

I also object due to the following reasons:

As you are aware my planning for vehicular access ref: 10/21/1223 was submitted in Dec 2021 and that this TPO concerns have only emerged due to my development plans, as I wanted to work with my local council.

The council have now only re-classified the correct species after I submitted my planning, and on the date of my planning decision date 28/01/2022 the TPO letter arrived which is very concerning.

The Lime trees on my original TPO were ‘not afforded protection’ and my tree survey 10/20/1130 clearly identifies this. This was also confirmed by Roland Jones. I have clear communication confirming this.

I feel that this is a deliberate barrier, unjust and unfair. The council were well aware of the incorrect species back in Nov 2020. The council had enough time to change the TPO back then.

My planning application was only submitted after taking advice from the planning officer Jamie Edwards in Sept 2020 with regards to the development at no 17 Lammack road for vehicular access. As per conversation and site visit by Jamie, I was advised I would not have any issues as and when I decided to put in an application. Several properties on Lammack road already have driveways. I sought the same opportunity as No 17 Lammack road.

I feel that this TPO is a unnecessary barrier on my planning application due to the recent decisions that have been made at No 17 Lammack road with regards to visual amenity.

My development opportunity has been obstructed and I am concerned, especially as I sought to work with the council throughout this development.

On the original report (10/20/0881) for 17 Lammack road, it concluded that T3 and T4 (TPO trees would be retained.) However, on their re-submission report 1/09/2021 it was concluded that to 'facilitate the development these TPO trees would have to be felled' and the visual amenity would not be affected as the tree officer supported the new landscaping scheme submitted to cover the 'interests of visual amenity for the surrounding area.'

The following image shows the trees at No 17 before they were felled and the after effect.

The neighbours (No 17) trees were a similar species and same age and these were granted consent to fell without the need of a tree report.



T3 and T4 retained. T3 and T4 felled

It is clearly evident from these pictures the visual amenity has changed considerably. I am concerned that due to recent decisions for No 17, I am being penalised and not being treated equally. Since this development, No 19 Lammack road has also been given the same consent for vehicular access.

Please see image below:

I feel the current trees can be removed as there are no visual merits in retaining them. Coming down Lammack road as the image shows there are number of trees which hold more visual amenity to the surrounding areas. The trees on my property are set

back and only appear in the immediate approach to my property. These trees can be removed and can be replanted elsewhere within the site curtilage. The same replanting opportunity that has been given to No 17.(Point 14 of Policy 9)

Set back image trees on 15 Lammack Rd



Immediate approach to our property



Approach from top of Lammack Rd

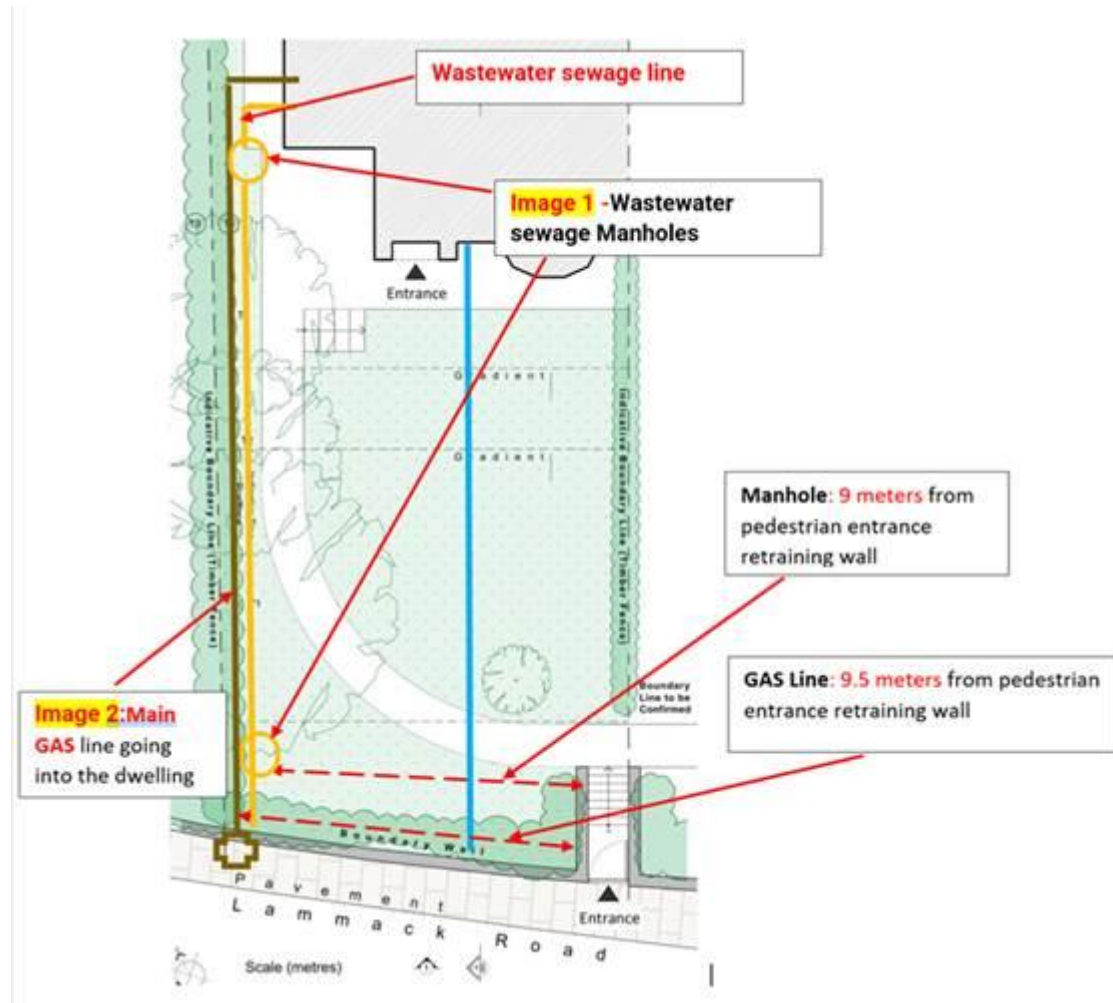


I feel the actions so far from the council are not justified and I am apprehensive about the inconsistencies for 2 developments that are clearly identical. It is clearly evident that the visual amenity will still be maintained by our proposed development than to No 17 development.

For these reasons, I feel that the TPO cannot be justified and this has purely been applied on amenity. I would like to reiterate that throughout I wanted to work with the council and would like to continue to do so but be treated fairly and equally, and be given the same development opportunity.

I await your response and hope to find some kind of a solution before this goes in front of the planning committee

Please see below the plan on the full utilities coming into 15 Lammack road.



Kind Regards

A.Mahmood

**Further Objection – Mr Ashid Mahmood, 15 Lammack Road, Blackburn.
Received 09.03.2022**

Hi Roland,

Thank you for your reply below. However, I would like to address a few key points.

I am aware of the TPO 1991 Old35G2 which covered No 15 and No 17 Lammack road. However, the communication prior to my planning regarding Lime trees on our property that I have from the local authority clearly states 'lime trees are not protected', hence the reason I put my planning in and why this was communicated to Jamie in January 2022 by myself via email.

As my previous email stated, my planning application was submitted after a site visit and telephone call conversation with the planning officer who advised I would not have any issues with my planning as no 17 had been given the same planning consent.

Following issues have still not been clarified.

As you are no doubt aware the 'proposed TPO' is being updated purely as I submitted my planning. However, the TPO sent to me on the 28/01/2022, you stated that the order has been raised 'following concerns received by the local community that the trees in question are likely to be felled' and due to 'visual amenity.' The pictures I sent below clearly show my trees are set back and these trees can be removed as there are no visual merits in retaining them.

As per email below, which I am sure you are also aware that No 17 had '4 protected trees' at the front of their property, T1, T2, T3 and T4. I am aware that T1 and T2 were given consent to fell due to health and safety, dated Sept 2020 prior to the development planning being submitted. T3 and T4 as stated on Jamie's report dated 18/11/2020, were to be 'retained.'

The resubmission report dated 1/09/21 also stated T3 and T4 were to be retained. However, 'to facilitate the development the trees would now have to be felled'. The tree officer supported 4 replacement trees to be replanted.

These trees T3 and T4 were significant to the 'visual amenity' but now the visual amenity has changed considerably as shown in the pictures in my previous email.

T3 and T4 were given consent to fell without the need of a tree report, whereas we were told to submit a tree report. These inconsistencies are very concerning.

No 17 could have had their development stopped at any time as the resubmission was only re sent to the council after development had started. At no point did they have to submit a tree report. But yet allowed to 'fell 2 TPO' trees because of the development.

Firstly, It is vitally important to note, how can 2 developments which are identical, one be allowed to fell TPO trees and my development facing several obstacles due to trees.

The council have been willing to work with No 17 development but hesitant with ours. This stance raises concern that the council are being selective.

It is clearly evident that No 17 throughout their development have been granted several changes without any challenges from the council, from 1 car to 2 car parking spaces, wall height amendments and allowed to fell TPO trees. Whereas I have faced several challenges from day 1 of my planning.

I am sure you will agree I have raised some valid concerns which have not been addressed yet.

I am willing to replant any trees that are affected by my development just like No 17 have.

I would like to reiterate that I sought the same development opportunity as my neighbours. Lammack road is a very busy road and several accidents and hazards are visible on this road which make it difficult for our young children to cross safely.

My development would be beneficial to this area also as there are numerous driveways on Lammack road, and as policy 11 states 'the introduction of off street parking within the curtilage is considered complimentary to the host property and wider locality'.

I am very apprehensive why my planning application has been halted and feel the council is not willing to work with me and find a solution.

I await your response before my application goes in front of the planning committee.

Regards

A Mahmood

Objection – Mr Hassan Patel, 13 Lammack Road, Blackburn. Received 07.02.22

Hi Please note I am not happy that you have put a TPO on the 3 trees as you have marked in your plan

Please can you remove the TPO immediately as this is giving me and my family problems last Friday 04/02 at 6.00pm I slipped on my drive and badly hurt my left knee because there is a lot of sapp and leaf's fallen from the trees and has become very slippery this has become a major hazard also previously I have had my both cars damaged due to branches landing on the roof

My next door neighbour from 15 Lammack is prepared to remove the trees as they are putting in a drive at his cost which I am happy for him to do so please can you remove the TPO, so they can proceed with the works required.

Kind Regards
Hassan Patel

Comments - Councillor Jackie Floyd. Received 27.01.22

Thank you Gavin

I sense with Climate emergency and all the greenery in our ward this won't be the first of these reviews. It's important to get the details correct.