

## **TREE PRESERVATION ORDER AT Arnside, Simmondley Village, Simmondley, Glossop, SK13 6LS HPBC TPO No HPBC 313**

### **1. REASON**

For the members to consider the objections raised to the above temporary Tree Preservation Order made in respect of trees and woodland at Arnside, Simmondley Village, Simmondley, Glossop, SK13 6LS and decide whether the order should be confirmed and made permanent, or allowed to lapse.

### **2. SUMMARY**

A TPO was made on 23<sup>rd</sup> November 2024 to prevent the removal of 2 Alder trees.

The TPO was created in response to a conservation area section 211 notification of intent to carry out works to trees protected by the Simmondley conservation area, namely the removal of 3 Alder trees. The third Alder tree was deemed not suitable, despite it's good health, as its location would foreseeably bring it into direct contact with the neighbouring house.

To date only one objection has been received to the TPO, from the tree owners, Mr & Mrs McKown (17<sup>th</sup> December 2023).

### **3. RECOMMENDED**

- a. The Committee confirms the Tree Preservation Order, as modified, for reasons given at 5 (i) a-c notwithstanding the objections raised.

### **4. BACKGROUND**

- a. The site is located within Simmondley conservation area, with the trees growing in the rear garden of the property Arnside. The locality forms part of the suburban edge of Glossop, and is defined by its mature treed landscape.
- b. On the 9<sup>th</sup> October 2023, a conservation area section 211 notification of intent to carry out works to trees protected by the Simmondley conservation area, namely the removal of 3 Alder trees, was received.

The trees were subsequently inspected, with all three trees found to be in good condition, however one of the trees, due to its location within a couple of metres of the neighbouring property (1 Storth Brook Court), was deemed inappropriate for protection.

- c. The order was served by hand on 23<sup>rd</sup> November 2023 (Supporting Document 1) with all trees present at the time of serving.

- d. On the 17<sup>th</sup> December 2023 an objection as received from Mr and Mrs McKown.

## 5. ISSUES AND OPTIONS

a. Reasons for making the order.

The order was made because:

- i. It is expedient in the interests of amenity and the landscape character of the area ; and
- ii. The trees are under the threat of removal; and
- iii. The trees are located in and contribute to the character of the Simmondley Conservation Area

b. The objections

- i. Definition of amenity

*"I would like someone to explain this to me"*

- ii. Falling branches and catkins (lawn, parking space and people)

*"regularly get branches that snap off the tree and catkins all over my lawn, and all over his (neighbour) drive and car. For us we have the impossible task of keeping the lawn free of them, so my little dog doesn't eat them. For our neighbour, Mr Bridges, he also has the mess to clear up, with the added concern that the branches will damage his car, his property, or even more worryingly his daughter."*

- iii. Why is one allowed to be removed and not all three

*"I would also like an explanation of why we are allowed to cut one tree down but not the other two."*

- iv. Concerns over liability

*"I am concerned that if there is an injury, where does this leave us please? We would like to know legally how we stand, in the event of injury to Mr Bridges, his family, his visitors."*

- v. Trees are not part of a woodland

*"Just to point out these trees are not part of woodland, they are three alder trees in the corner of our garden."*

- vi. Why were the trees not removed as part of the development of Storth Brook Court.

“Before Storthbrook Court was built, the Alder trees just blended in with the other many trees...Once the building started many trees were cut down...It is obvious that these should have been taken down with the others.

c. Consideration of objections

i. Response to Objection item 1

The government guidance on Tree Preservations Orders (<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#amenity-means> ) states the following in relation to what amenity is in relation to TPOs:

***What does ‘amenity’ mean in practice?***

*‘Amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.*

***What might a local authority take into account when assessing amenity value?***

*When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:*

***Visibility***

*The extent to which the trees or woodlands can be seen by the public will inform the authority’s assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.*

***Individual, collective and wider impact***

*Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:*

***size and form;***

*future potential as an amenity;*

*rarity, cultural or historic value;*

*contribution to, and relationship with, the landscape; and*

*contribution to the character or appearance of a conservation area.*

***Other factors***

*Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors,*

*such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.*

As per this guidance, HPBC, has developed an amenity assessment test to check a tree's amenity.

In relation to these trees the following was the score:

### **Section A – Visual Amenity**

The trees are visible in views from the adjacent street, Simmondley Lane, and provide a verdant backdrop to the street scene. The trees could have been scored in the higher section 'Some visual amenity', but it was decided for robustness, to mark them lower.

<b>10</b>	<b>High visual Amenity</b> - Very large trees, or large trees that are prominent landscape features			
<b>7</b>	<b>Relatively high visual amenity</b> - Large trees, or medium trees clearly visible to the public			
<b>4</b>	<b>Some visual amenity</b> - Medium trees, or larger trees with limited view only – important in locality			
<b>1</b>	<b>Limited visual amenity</b> - Small trees, or larger trees visible only with difficulty – important to low number of people	1	1	1
<b>0</b>	<b>Low visual amenity</b> - Young, v. small, or trees not visible to the public, regardless of size			

### **Section B - Other/Exceptional circumstances**

The trees are located in the Simmondley conservation area and contribute to the mature landscape of this section of Glossop, whilst their position helps to screen the recent development of Storth Brook Court, so the new built form is not so obtrusive on the street scene.

<b>2</b>	Exceptional landscape value			
<b>2</b>	Historical associations			
<b>2</b>	Botanical interest or rarity			
<b>2</b>	Screening/buffering	2	2	2
<b>2</b>	Part of a deliberate composition			
<b>2</b>	Conservation Area (in or next to)	2	2	2
<b>2</b>	Contribution to setting of a listed building			
<b>2</b>	Veteran or ancient tree			

2	Trees of particularly good form			
2	Assessment of the importance of Wildlife (17 & 45)			
2	Other – describe			
	<b>Sub total Other factors</b>	4	4	4

### Section C - Suitability of species for the location

Given their upright growing form and their being a native species, along with the treed landscape, they are suitable to the location and unlikely to cause significant issues in the future (outside of normal household maintenance). Note the third tree is marked down, due to its location close to the neighbouring house.

10	Very suitable and in context			
8	Suitable	8	8	
5	Fairly suitable – some issues			5
3	Not really suitable to landscape context but make a contribution to the landscape as a whole			
0	Unsuitable or detrimental to landscape			

### Section D.1 - Condition of the tree(s)

The trees are in good health and structurally fine. No significant tree surgery is required to retain them in this state.

5	Good - Sound, healthy tree needing little, if any attention	5	5	5
3	Fair - Tree with minor, rectifiable defects, or in the early stages of decline.			
1	Poor - A tree with significant, non-rectifiable structural or physiological flaws.			
0	Dead or dangerous			

### Section D.2 - Remaining longevity (in years)

The trees are in early maturity, with an expected 40 years of good life remaining. Tree 3 was marked down, as the tree is expected to require regular and ongoing maintenance to keep it away from the neighbouring house. This level of work is deemed unreasonable and would be expected to shorten the tree's life.

5	100+			
4	40-100	4	4	
3	20-40			
2	10-20			2
0	<10			

This assessment gives trees T1 & T2 an amenity score of 22. T3 received a score of 17.

The assessment form provides the following as guidance for when to make a TPO.

<20 – Not suitable for TPO
20-25 – Consider making an order
25+ – Apply TPO

Given the trees are still growing and that their visibility score could have been increased, and will increase as they grow, it was decided it was appropriate to protect the trees.

- ii. Response to Objection item 2  
The assessment of the trees did not show any signs of large or significant branches having come away from the trees. It is not unusual for twigs and small diameter branches to fall from trees in strong winds.

The falling of small twigs, catkins, seeds, leaves, fruits, etc are seen as natural process within a tree's life cycle and not currently something that a tree owner needs to manage their trees for under the current UK legal system. The clearance of such material is seen as normal household maintenance.

- iii. Response to Objection item 3  
As mentioned in the amenity discussion, T3 is located significantly closer to 1 Storth Brook Close. It is foreseeable that this tree will require regular and significant tree works to maintain clearance from the house. This is not the case with the other two trees. Given their distance from the property and their upright growing habit, it is likely that only minor pruning will be required in the future to maintain a suitable clearance.

- iv. Response to Objection item 4  
A tree owner, irrespective of the presence of a TPO or conservation area protection, has a duty of care to ensure that their tree does not pose an unreasonable, foreseeable risk to people or property.

This duty is normally discharged through the regular inspection of the tree(s) to identify any defects. The National Tree Safety Group describes this as:

“Walk round your garden once a year in late summer/autumn. If your trees look sound and healthy with no obvious defects, that's all you need to do, job done.”

Which can be achieved during normal gardening work.

Further information from the NTSG can be found at:

<https://ntsgroup.org.uk/guidance-publications/>

Where trees are found to have unreasonable and foreseeable risks a tree owner can then make a TPO tree works application to remove or reduce the risk.

- v. Response to objection item 5  
Trees protected by a TPO do not need to be part of a woodland. The TPO legislation allows for individual trees, groups of trees, areas of trees and woodlands to be protected. The key is that they are shown to provide good levels of amenity, which these trees have shown.
- vi. Response to objection item 6  
The trees stood outside of the area being developed for Storth Brook Court, therefore it was not in their control to remove trees that did not stand on their land. Their removal was therefore not considered as part of the development application.

Even if they were, their removal may not have been allowed, if at the time the trees were found to be suitable for retention under a TPO.

As part of the development application the trees on site were assessed by the applicant's tree consultant and the Tree Officer of the time. The trees on the development site that provided good levels of amenity were protected with a TPO, whilst the others were removed to facilitate the development. This is in line with government guidance, i.e. the trees were placed under threat of poor management/removal, so the trees were protected. This is the same approach that has led to the creation of this TPO; trees of good amenity proposed for removal have been protected with a TPO.

## 6. IMPLICATIONS

- a. Resources  
No significant implications.
- b. Legal, Human Rights Act, Equalities, Community Safety, Consultation  
If the Tree Preservation Order is confirmed the owner can still apply to undertake works to the trees and any future planning approval may also override the TPO.
- c. Environmental Issues and Risk Assessment  
Trees, particularly mature trees, contribute to the environment not only in terms of visual amenity, but they also have broader environmental benefits such as storing carbon, mitigating pollution and reducing storm water runoff.

## 7. HOW THIS LINKS TO CORPORATE PRIORITIES

Using planning legislation to protect trees on private land contributes to Corporate aim 4: Protect and Improve the Environment

It is also in line with the Council's tree policy 2.2.1 which states that 'The Tree Preservation Order system will be used to ensure that trees of high amenity which are under threat are protected.'

## **8. APPENDICES**

1 Location Plan, aerial photo and site photos

Supporting Document 1	HPBC TPO 313 – original as served
Supporting Document 2	TPO 313 TPO Assessment
Supporting Document 3	Objection 1 – Mr & Mrs McKown





