

Dear Mr Egan,

Your letter, dated 7th MARCH 2005, duly arrived. Next day, above your signature, further communication, dated 8th MARCH 2005 also arrived. Apparently, the second communication ~~which~~ should have been included with the letter dated 7th March 2005. There was no apology for its omission (a lack of courtesy?) You may decide that, also, to date a letter the same day as a TPO is to be effective and also to post it on that day, ensures late arrival of information. A fine legal point is thus raised. Ensuring Mrs Durham is available and NOT ON LEAVE would have saved me time and effort. After all, you did suggest I telephoned her. I am to inform her, as matter of courtesy, that I did not, to make a personal appearance if she can guarantee that Council before taking any further action regarding the TPO for this property was aware of the contents of this, my letter of objection. If necessary, I would read this letter to Council if no one else will. The foregoing serves to support my lack of confidence in your Department and my dealings, in general, with "City Hall". (It is my intention to inform you of two other causes for concern in a different letter.)

I have managed to read, and hopefully understand the letter dated 7th MARCH 2005, but wish, could say the same for the accompanying document. Do you really expect generic 70 year old taxpayers to have the eyesight and patience to wade through, and decipher that load of gobbledegook (the Army has a more descriptive word)?

I am writing to you before 4th APRIL 2005, as invited to notify you of my objections, and comments to the Tree Preservation Order 191. I doubt if you, Council or Tree Officers conversant with the history of the trees on the Avalon property. It is tolerably amusing, but totally illogical, that you should sign TPOs, after Council approval of course, when neither party has seen the trees in question. You both should have seen the trees, in situ and know their history before slapping TPOs on them, willy-nilly. The trees were planted in the early sixties so have been growing some 40 years i.e. those that have survived that long. In objecting to any TPOs on existing trees, I am taking into account the fates of other trees and the problems they have caused in the past. The vast majority of the trees here are conifers, shallow-rooted and fast-growing. Many trees are dying, which is one criterion which should be applied before TPOs are ever considered. It is my intention to cite numerous occasions, over the years, when falling trees have threatened life and property. Two trees, a dead laburnum, and one other, recently fell into a neighbouring garden. Another criterion, militating against TPOs is DISEASE. Some trees, in such a condition have been removed in the course of time. The criterion which most intelligent people use when considering the worth of a tree is DANGER. It is this factor which is at the core of my objection, to all the trees, which are the subject of TPO 191. Danger is created by shallow-rooted trees, or by trees being brittle, because of lack of water, resulting in trees toppling, or snapping and being carried considerable distances. Trees can be weakened in gales and topple or snap long after the gales have finished. This has happened on this property. History should teach us to apply lessons from the past to prevent present and future disasters and tragedies. I am trying to do this by seeking to remove trees. TPOs, passed by Council, facilitate the possibility of tragedy. If Council passes TPOs, in spite of objections, and one of these trees falls and kills someone, can Council be charged with murder? I ask you this question as the Head of a Department which purports to concern itself with legal services? Since 1976, when we moved here, my wife and I have tried to treasure the trees and manage them (various Tree Officers have told us to "manage our trees", and

hilariously, prevented us from doing so. The history of this property will prove that we have been forced to conclude that we must err on the side of caution BEFORE SOMEONE IS KILLED AND OR PROPERTY IS SERIOUSLY DAMAGED.

HISTORY

① In 1982, my terminally-ill mother-in-law, staying with us at ADELIN was late for an urgent hospital appointment. I stress, that after a period of mild weather, an enormous tree had snapped but luckily fallen away from the house narrowly missing car and caravan. The driver was blocked. Clearing it, delayed my mother-in-law. Had the tree fallen in a different direction, most of the house would have been demolished. In spite of this we continued to cherish the trees, because we regarded this as a "one-off". Events were to prove us wrong causing us to change our opinion, totally. We are totally opposed to any trees on the property ESPECIALLY WITHIN FALLING DISTANCE OF THE HOUSE. We have no desire to be responsible FOR THE DEATHS OF ANY HUMAN BEINGS. Further historical details will indicate that we are right. One factor, which, has contributed to our change of opinion, which may come as a surprise, is the imposing TPOs, is that trees tend to increase in size with the passage of time. The 3 years increase since 1982 has increased the element of DANGER. As trees grow larger they need more water - without it they slowly die and FALL or they become BRITTLE and SNAP, all the more easily, if they are top-heavy. The inhabitants of this area are aware of this situation but it seems the collective opinion of local people is ignored (see later in this letter).

② It was suggested by one Tree Officer that there were too many trees on the property too close together. This has caused (insufficient) natural thinning as a result. Other trees have been helped to survive by my judicious thinning WHO CAN POSSIBLY SAY, WITH ANY REAL CERTAINTY, THE EXACT DEGREES OF BRITTLENESS AND STABILITY, POSSESSED BY THE REMAINING TREES? Wind conditions will obviously affect these qualities sooner or later. SO FAR NO PERSON HAS BEEN INJURED OR KILLED BY FALLING TREES OR BRANCHES - SO FAR! Why should TPOs help to create conditions which could produce such tragedies? Property-wise, damage to fences has been the only inconvenience caused by falling trees, apart from time and expense of clearing-up.

③ Three conifers had been planted within ten feet of the house. Were the roots seeking the drains? These trees were twice the height of the house. Our bedroom could be demolished if they fell. We felt safer when these trees were removed but I cannot remember exactly when.

④ You may recall the Boxing Day gales of some five or six years ago. They wrought havoc on this property. Two high shallow rooted conifers fell across the Rickerby-hirst road, blocking it. Council workmen reopened the road and I spent three weeks clearing the debris. WHAT A MIRACLE NO ONE WAS KILLED! The tops of two other trees snapped twenty feet from the top, and were carried 40 yards into an adjacent field. Lady Luck must have arranged for no persons or beasts to be in that field. ANOTHER MIRACLE NO ONE WAS KILLED. The property was littered with ~~smaller~~ fallen branches, many of sufficient

size to have caused a fatality.

As soon as we could afford, after those events, although agreeing that some trees might be beautiful we decided not to push our luck. After agreement with a Tree Officer and our neighbour Mrs Bray, three conifers on our joint boundary were halved. Other giant trees along our drive were removed. Had these trees not been managed in this way, what might have happened in the gales of JANUARY? Either our house, or that of Mrs Bray could have met a nasty fate. Our house could still meet a nasty fate if TPO 191 is enforced. Ironically, trees from garden next ^{door} as well as some of our own, were blown down in JANUARY 2005. If trees may have remained standing but those that fell created a domino effect.

These trees were among more than a dozen ^{blown over} or snapped in January. We remain eternally grateful that these merely ^{blown over} totally blocked the drive (see enclosed photographs - please return) or by falling at a favourable angle house, narrowly failed to hit it. One sky-scraping tree was cracked, splitting dangerously. Our drive is the only means of vehicular ingress and egress. I avoid the problems caused for my mother in law when it was blocked. It be kept open in case of emergency. My wife has made a remarkable recovery from the removal of a brain tumour but has some disability. If she ever needed medical aid and this could not be obtained because a TPO forbade the removal of a tree, and that tree fell, blocking the drive - - - - - !!!

The only way to prevent blockage of the drive and guarantee no damage to person or property is to remove trees. Trees should not pose a threat to visitors, postmen, meter readers etc. The trees referred to as G-3, on the diagram sent, pose such a threat and I especially object to any of these being the subject of a TPO. There are seven, not nine, trees in this group. The Tree Officer is keen to preserve the two tallest trees. He is at present considering whether to recommend my application to fell the other five. He is aware I wish to fell the two tall trees. Let X = distance from house to two tall trees. These trees are $2\frac{1}{2}$ times height. It does not take a mathematical genius to calculate the fate of my house and for its inhabitants if these trees fall in that direction. In another direction they will block the drive - - - - - !!!

One criterion for preserving trees is visual amenity - i.e. many members of the public can see and enjoy those trees. The two tall trees are not completely visible to any members of the public. One neighbour sees their tops and is unhappy at the threat posed to her property. She would be happier if they were removed. The visual amenity criterion should, therefore, not apply when considering trees for a TPO. I should be grateful if you would answer this question: Given that visual amenity can facilitate a TPO, why can John Citizen object to a new building the erection of which eliminates his prospect of any trees or open space? Any chance of anyone seeing the two tall trees in their entirety was removed when Council gave permission for the erection of a new bungalow. Perhaps you and I would concur in the Dickens

size to have caused a fatality.

⑤ As soon as we could afford, after these events, although agreeing that some trees might be beautiful we decided not to push our luck. After agreement with a Tree Officer and our neighbour Mrs Bray, three conifers on our joint boundary were halved. Other giant trees along our drive were removed. Had these trees not been managed in this way, what might have happened in the gales of JANUARY? Either our house, or that of Mrs Bray could have met a nasty fate. Our house could still meet a nasty fate if TPO 191 is enforced. Ironically, trees from garden next ^{door} as well as some of our own, were blown down in JANUARY 2005 - 8 trees may have remained standing but those that fell created a domino effect.

⑥ These trees were among more than a dozen ^{blown over} or snapped in January. We remain eternally grateful that these merely ^{totally} blocked the drive (see enclosed photographs - please return) or by falling at a favourable angle house, narrowly failed to hit it. One sky-scraping tree was cracked, splitting leaving dangerously. Our drive is the only means of vehicular ingress and egress. I used the problems caused for my mother in law when it was blocked. It be kept open in case of emergency. My wife has made a remarkable recovery from the removal of a brain tumour but has some disability. If she ever needed medical aid and this could not be obtained because a TPO forbade the removal of a tree, and that tree fell, blocking the drive - - - - - !!!

The only way to prevent blockage of the drive and guarantee no damage to person or property is to remove trees. Trees should not pose a threat to visitors, postmen, meter readers etc. The trees referred to as G-3, on the diagram sent, pose such a threat and I especially object to any of these being the subject of a TPO. There are seven, not nine, trees in this group. The Tree Officer is keen to preserve the two tallest trees. He is at present considering whether to recommend my application to fell the other five. He is aware I wish to fell the two tall trees. Let X = distance from house to two tall trees. These trees are $2\frac{1}{2}$ height. It does not take a mathematical genius to calculate the fate of my house and for its inhabitants if these trees fall in that direction. In another direction they will block the drive - - - - - !

One criterion for preserving trees is visual amenity - i.e. many members of the public can see and enjoy these trees. The two tall trees are not completely visible to any members of the public. One neighbour sees their tops and is unhappy at the threat posed to her property. She would be happier if they were removed. The visual amenity criterion should, therefore, not apply when considering trees for a TPO. I should be grateful if you would answer this question: Given that visual amenity can facilitate a TPO, why can John Cridge object to a new building the erection of which eliminates his presence of any trees or open space? ^(i.e. his visual amenity) Any chance of anyone seeing the two tall trees in their entirety was removed when Council gave permission for the erection of a new bungalow. Perhaps you and I would concur in the Dickens

opinion of the law. Thus there are many reasons to support the removal of the two tall trees and none to preserve them. This assertion is strengthened when

consideration is given to their potential size — even a few years later.

PARA 9 PAGE 3 of the document headed TOWN AND COUNTRY PLANNING ACT seems to cover itself with compensation. It is not readily understandable therefore, I seek enlightenment, you please. Answers to the following questions would help. Does Para 9 mean, when applied specifically to either, or both, of the tall trees in G3 that if they fall and damage house, after Council has imposed a TPO on them, that Council is liable for damage? Once Council has refused permission to fell, does Council then pay for the removal if they either fall or have to be felled? Does Para 9 mean that if I am subject to a Council TPO ~~and~~ ^{cause} injury or death to ~~for~~ a person's results, Council will pay compensation? Will you please assure Council, that as I lie in my bed, crushed and dying under the weight of a tree, I shall afford myself a warm smile, knowing that Council will not only pay for my funeral, an appropriate one, will also be paid into my estate? How reassuring!

7 A further reason to object to the TPO is the proximity of G3 trees to the underground pipe from the house to the septic tank. Given that roots seek water ———— A question arises, "Would the rupture of the pipe constitute a health risk, bearing in mind such a rupture would be gradual and probably remain undiscovered for a while?"

8 The two large trees in G3 are 13 metres approx from the house. I recall reading a newspaper article, which stated, that to avert any danger of subsidence a tree should be planted within 4.0 metres of the house.

The Department of which you are head calls itself Legal and Democratic Service is a branch of the Council. How can you call yourselves democratic when a Council member of which have not carried out a site visit can impose a TPO on that site. Without such a visit, Council is placing far too much reliance on paid officials, their whims, tastes and fancies. Can you confirm, please, that TPO 191 made by Council on 7th MARCH 2005 (this is stated in your letter) was on the recommendation of one Tree Officer? Council, in fact, in reality, relies on a Tree Officer's decision. How much time did Council spend reaching its decision to issue TPO 191? Were all points raised in this letter taken into account e.g. DANGERS to health, persons and property? DEFICIENCIES REPRESENTED BY TPO 191. I believe the recent Freedom of Information Act entitles me to receive answers to ALL questions posed in this letter unless, of course you acquiesce in a negation of the democratic principle. It is not unknown for Councillors, in pursuit of fairness, to visit sites. I was willing to show any Councillor my dangerous trees. They are invited. They come? I look forward to your reply in the hope that TPO 191 will now be confirmed. That would serve to convince me that rules are made for guidance of the wise and the observance of fools.

In conclusion, I wish to know, as per Freedom of Information Act, the number of those in Rickaby, who were for, and the number of those against, the house and its environs becoming a conservation area, in the consultation process a few years ago.

MR. B. CLARE

Yours sincerely,
B. Clare