



North Tyneside Council

Planning Committee

28 May 2021

To be held on **Tuesday, 8 June 2021** in room Room 0.02, Quadrant, The Silverlink North, Cobalt Business Park, NE27 0BY **commencing at 10.00 am.**

Agenda Item

Page

1. **Apologies for absence**

To receive apologies for absence from the meeting.

2. **Appointment of substitutes**

To be informed of the appointment of any substitute members for the meeting.

3. **Declarations of Interest**

You are invited to declare any registerable and/or non-registerable interests in matters appearing on the agenda, and the nature of that interest.

You are also requested to complete the Declarations of Interests card available at the meeting and return it to the Democratic Services Officer before leaving the meeting.

You are also invited to disclose any dispensation from the requirement to declare any registerable and/or non-registerable interests that have been granted to you in respect of any matters appearing on the agenda.

Members of the public are welcome to attend this meeting and receive information about it. However, in order to enable the meeting to be held in a Covid-secure manner, places for members of the public are limited. Please email democraticsupport@northtyneside.gov.uk or call 0191 6435359 if you wish to attend or require further information.

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To consider the confirmation of the 99 Station Road, Forest Hall Tree Preservation Order 2021	

Circulation overleaf ...

Members of the Planning Committee:

Councillor Ken Barrie
Councillor Julie Cruddas
Councillor Margaret Hall
Councillor Chris Johnston
Councillor John O'Shea
Councillor Willie Samuel (Chair)

Councillor Trish Brady (Deputy Chair)
Councillor Muriel Green
Councillor John Hunter
Councillor Frank Lott
Councillor Paul Richardson

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Planning Committee

Tuesday, 18 May 2021

Present: Councillor F Lott (Chair)
Councillors K Barrie, T Brady, B Burdis, L Darke,
M Green, J O'Shea, P Richardson, W Samuel and
J Stirling

Apologies: Councillors S Graham

PQ153/20 Appointment of substitutes

Pursuant to the Council's Constitution the appointment of the following substitute members was reported:
Councillor J O'Shea for Councillor S Graham

PQ154/20 Declarations of Interest

There were no declarations of interest or dispensations reported.

PQ155/20 Minutes

Resolved that the minutes of the meeting held on 27 April 2021 be confirmed and signed by the Chair.

PQ156/20 Planning Officer Reports

The Committee received guidance in relation to the principles of decision making when determining planning applications and then gave consideration to the planning applications listed in the following minutes.

PQ157/20 21/00739/FUL OGN Offices Hadrian Yard A, B and C Hadrian Way, Wallsend, Tyne and Wear

The Committee considered a report from the planning officers in relation to a full planning application from Smulders Projects UK for variation of condition 5 (hours of operation) to allow 2no. gantry cranes to be operated 24 hours a day Monday to Saturday and partial discharge of condition 6 (noise assessment) in respect of the 2 no. gantry cranes of planning approval 16/01595/FUL (resubmission).

A planning officer presented details of the application with the aid of various maps, plans and photographs.

In accordance with the Committee's Speaking Rights Scheme Mrs B Charleston of Derwent Way, Wallsend had been granted permission to speak to the Committee. Mrs Charleston

outlined her experiences of being disturbed by the existing operations at the yard caused by diesel engines, forklift trucks, cherry pickers and other activities associated with the operation of the cranes. She believed that 11.00pm was a reasonable time at which operations should cease to allow neighbouring residents to get some sleep. She viewed the application as a hostile move by Smulders. The noise abatement notice issued by Environmental Health had been ineffective as residents continued to be disturbed by welding and grinding noises at 2.00am. She referred to light pollution affecting neighbouring housing and residents were unable to enjoy their gardens due to the noise. She asked the Committee to reject the application to safeguard resident's standard of living.

The applicant's agent declined the opportunity to speak to the Committee to respond to Mrs Charleston's comments.

Members of the Committee asked questions of Mrs Charleston and officers and made comments. In doing so the Committee gave particular consideration to:

- a) the location of neighbouring housing in relation to the operations at the yard;
- b) options for installing noise attenuation measures in and around the neighbouring housing;
- c) the measures taken by Smulders to minimise noise disturbance from the yard;
- d) the outcome of the gantry crane noise assessment and the extent to which the operation of the gantry cranes during the night would add to the noise generated from the yard;
- e) the principles set out in Paragraphs 123 and 180 of the National Planning Policy Framework and their relevance to this application; and
- f) the impact of the proposed operation of the gantry cranes on the amenity of neighbouring residents.

Resolved that planning permission be refused on the grounds that the proposal to extend the hours of operation of the gantry cranes would have a significant detrimental impact on the amenity of nearby residents, contrary to Policy DM5.19 of the North Tyneside Local Plan.

PQ158/20 21/00356/FUL Land West of Units 8D to 8F Alder Road, West Chirton Industrial Estate, North Shields, Tyne and Wear

The Committee considered a report from the planning officers, together with an addendum circulated prior to the meeting, in relation to a full planning application from Helio Pact Limited for the erection of new industrial units on a grassed area and hardstanding adjacent to existing industrial units (Block 8). Additional areas of hardstanding and car parking facilities are proposed 14no. new units vary in size from 90-120sqm.

A planning officer presented details of the application with the aid of various maps, plans and photographs.

Members of the Committee asked questions of officers and made comments. In doing so the Committee gave particular consideration to:

- a) the comments of the Council's Landscape Architect and Biodiversity Officer who had concluded that the provision of new areas of wildflower grassland and mixed native hedgerow were acceptable to mitigate the impact of the scheme;
- b) the distance between the site and the nearest housing which had been measured to be 500 metres;

- c) the designation of the land within the Local Plan for employment use;
- d) the design and width of the proposed vehicular access which complied with the required standards; and
- e) the number and adequacy of proposed visitor car parking spaces.

Resolved that (1) the Committee is minded to grant the application; and (2) the Head of Housing, Environment and Leisure be granted delegated authority to determine the application following the completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990 to secure a financial contribution of £4,000 towards employment initiatives within the borough and subject to the conditions set out in the planning officers report, incorporating the amendments set out in the addendum, and the addition, omission or amendment of any other conditions considered necessary.

PQ159/20 Chair's Remarks

As this was Councillor Lott's final meeting as Chair he expressed his thanks to officers for their support and to members for their contributions during a period when there had been few successful appeals against decisions taken by the Committee. Councillor Brady thanked Councillor Lott for his leadership and for sharing his experience and knowledge with her.

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North Tyneside Council Report to Planning Committee Date: 8 June 2021

Report from Directorate: Environment, Housing and Leisure

Report Author: Phil Scott Head of Environment, Housing and Leisure (Tel: 643 7295)

Wards affected: Wallsend

1.1 Purpose:

To consider the above Tree Preservation Order for 11 trees, comprising of two individual trees and nine as part of a group, and taking into account any representations received in respect of the Order.

1.2 Recommendation(s)

Members are requested to consider the representations to Elton Street East, Wallsend, Tree Preservation Order 2021 and confirm the Order with modifications.

1.3 Information

- 1.3.1 The Council were notified of the intention to remove all but one of the trees from the site as part of the development proposals for a medical centre on the site. These works were assessed, and the Council decided to make a Tree Preservation Order (TPO) for the trees (Appendix 1). The Order was served in December 2020. The application for the medical centre (20/01582/FUL) was approved on 16 February 2021 with conditions for the replacement of five trees allowing for 6 trees to be removed during the development with five trees being retained. This was consistent with the information provided by the Council during preapplication discussions that advised that the development should, in the first instance, seek to 'retain, preserve and protect and existing healthy tree structure in its design'.
- 1.3.2 One email of objection has been received following the Council's decision to serve a TPO on the trees from the agent of the applicant of the medical centre (20/01582/FUL). A copy of the representation is included as Appendix 3 to this report with supporting information also submitted (Appendix 4).
- 1.3.3 Objections from the agent, Peacock and Smith can be summarised as follows:
- That due process has not been followed by the Council;
 - The trees are not of a suitable quality to warrant retention;
 - Impact on redevelopment which will have a negative impact on Wallsend Town Centre.
- 1.3.4 A summary of the objections are listed below. The Council has responded, in consultation with the landscape architect (who has provided a full response in Appendix 6), to each of the objections:

- a) Due process not been followed by the Council;
- b) Trees are not of a suitable quality to warrant retention;
- c) Negative impact on Wallsend town centre;

a) Due process

- 1.3.5 The government guidance 'Tree Preservation Orders and trees in conservation areas' states that when a local authority is making a TPO it will serve notice on people with an interest in the land, inviting representations about any of the trees covered by the Order.
- 1.3.6 The Town and Country Planning (Tree Preservation)(England) Regulations 2012 clarifies that a 'person interested' means every owner and occupier of the land affected by the order and every other person whom the authority know to be entitled to cut down, lop or top any of the trees to which the order relates; or to work by surface working any minerals in, on or under the land affected by the order.
- 1.3.7 The landowners were duly informed of the TPO and as no other neighbour satisfied the description of the 'persons interested' the Council has acted in accordance with the due process.
- 1.3.8 The objection claims that as an applicant for a development on the site they should classify as 'persons interested' in the land but applying the wording of the 2012 Regulations the applicant would not be entitled to cut down, lop or top any of the trees to which the order relates without first having approval of the landowner. It is the landowner who is therefore the 'person of interest' and not the applicant of the development.
- 1.3.9 The Council within its correspondence to the landowners, notifying them of the TPO, provided the required guidance that if they wished to make any representations or objections to the TPO, they must be submitting in writing within 28 days from the date of the notice (Appendix 5). The objection states that the Council should ensure that all notified parties are given at least 28 days from the date of the notice to submit their representations, which officers believe have been duly complied with.
- 1.3.10 The difficulties presented by COVID 19 and the limitations on movement and access to the Council offices meant that the Council presented the relevant information on the Council website so that the information was still publicly available for inspection, in accordance with the guidance and regulations.

b) Trees are not of a suitable quality to warrant retention

- 1.3.11 As part of the planning application 20/01582/FUL, an Arboricultural Impact Assessment (AIA) was submitted by Woodman Arboricultural Consultancy (Appendix 4). The objector states that the Local Authority information supporting the TPO does not appear to provide any view as to the quality of the trees. Section 198 of the Town and Country Planning Act 1990 provides that local planning authorities may make Tree Preservation Orders (TPOs) 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". The Act does not define amenity, but Government guidance states that TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.
- 1.3.12 The trees were assessed for their amenity value, not their quality. However, the tree survey information provided by the applicant was a consideration in the final decision of the TPO. In terms of assessing amenity, the Tree Evaluation Method for Preservation Orders (TEMPO) was used. This assessment was carried out by the local planning

authority and is a widely recognised and respected method of assessing a tree(s) importance as a landscape feature, and its amenity value to the general public.

- 1.3.13 The TEMPO evaluation method takes into account factors such as a tree's visibility to the public, their condition, age and remaining life-expectancy, their function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Public access to a tree or trees is not a relevant factor for consideration. Whilst this method is more recognised and widely used by local authorities, it must be remembered however that the TEMPO is only used as guidance and to act as supporting evidence to show how the conclusion to TPO or to not TPO is reached. Nevertheless, these factors are taken into consideration to decide whether a TPO is made, based on a professional judgement rather than a formal method of assessment. If a score of 11 and above is achieved in the assessment, then the trees are considered worthy of a TPO. In this case the collective group of trees was evaluated with a score of 19 and therefore the decision was made to protect the trees by a TPO.
- 1.3.14 In terms of quality, tree survey information was provided within a Pre-Development BS5837 Arboricultural Implications Assessment as part of the application (20/01582/FUL). The site contained *'eleven significant individual trees within influence of the site'* and were surveyed and categorised in accordance with the guidelines contained within BS 5837 (2012) *Trees in Relation to Construction Sites: Recommendations*. The proposal sought to remove ten trees from the site as they were not considered to be of high retention value (i.e. category A trees). All eleven trees except for one were assessed as category B trees i.e. *'Those of moderate quality and value: those in such a condition as to make a significant contribution for a minimum of twenty years. Site design should where practicable retain these specimens'* BS5837 (2012). The AIA tree survey information detailed the trees as having at least 40 years plus Estimated Safe Useful Life Expectancy (SULE) and again applying the guidance from the British Standards 5837 (2012) the trees have *'landscape qualities'* i.e. *'Trees present in numbers, usually growing as groups or woodlands, such that they attract a higher collective rating than they might as individuals; or trees occurring as collectives but situated so as to make little visual contribution to the wider locality'*, therefore, Category 'B' trees based on the BS5837 (2012) and are important enough to be considered a constraint to development and consequently should be retained and afforded appropriate protection during the ground works and construction phase of development.
- 1.3.15 However, the proposed development scheme saw the loss of category B trees from the site. The loss of these trees and associated planting would be a visual change to amenity of the local streetscape with no mitigation offered. On this basis, a TPO (Tree Preservation Order) was made to retain and protect all the trees because they have a visual amenity value worthy of protection and make a significant contribution to the local surroundings. Consequently, the application (20/01582/FUL) was amended and five trees were retained, and five others were to be replanted by way of a condition with the approval. There is currently an application (21/00672/FUL) submitted to vary the conditions of 20/01582/FUL and again the Council is working cooperatively with the applicant on this and a decision is still pending.

c) Negative impact on Wallsend town centre

- 1.3.16 The objector refers to North Tyneside Local Plan (adopted in July 2017) Policy AS8.2 which is an Area Specific Policy which relates to The Forum Shopping Centre. The objection states that under section (d) of AS8.2, the TPO would render the proposed scheme undeliverable and would prevent the key social, community and health benefits arising from the scheme and would *'undermine the comprehensive masterplanning of Wallsend Town Centre'*.

- 1.3.17 By retaining and protecting trees with a TPO, confirming the order would meet section (c) of the same policy AS8.2 'Enhance the internal and external appearance of the shopping centre making the area attractive to shoppers and visitors'. Also, Local Plan Policy DM5.9 'Trees, Woodland and Hedgerows' states that the Council will support strategies and proposals that protect and enhance the overall condition and extent of trees, woodland and hedgerows.
- 1.3.18 Trees are an important feature in urban landscapes and make a significant contribution to the character and quality of our landscape offering a 'sense of place' and amenity with regard to the public's interaction and enjoyment of the immediate and wider area. Therefore, the retention of trees on the site is a material consideration in determining any application. The retention of the trees would therefore be in accordance with Local Plan Policy S3.1 'Competitive Centres' that states the Council will seek ways to support their growth and regeneration, and support proposals for main town centre development that:
- a. Contribute to the protection and enhancement of the vitality and viability of the centre.
 - b. Capitalise upon the character and distinctiveness of the centre, while sustaining and enhancing its heritage assets.
- 1.3.19 Local Plan Policy DM6.1 'Design of Development Applications' outlines that designs should be specific to the place, based on a clear analysis of the characteristics of the site and proposals are expected to demonstrate a design that is responsive to 'landscape features'. The trees are a landscape feature and their retention would be in accordance of the government's recent consultation document of the National Planning Policy Framework (NPPF) that emphasises the importance of street trees within the local environment. The consultation draft of the NPPF highlights how the wider debate concerning trees is growing and the importance of trees, especially in the urban environment, play a small but important role in the wider ambitions to tackle climate change and improve health and well-being. The emphasis is clear that existing trees should be retained wherever possible.
- 1.3.20 Following the developer's initial intention to remove all but one of the trees the Council worked with the developer to agree an alternative scheme that retained five trees and secured 5 to be replanted as per a condition. The approved development now provides a more well thought out design solution that meets the requirements of the Wallsend masterplan aims (as set out in the objection), and the ambitions of the Local Plan that recognises the importance of retaining the trees for visual amenity, whilst supporting the redevelopment and expansion of Wallsend town centre.

Additional Guidance

- 1.3.21 North Tyneside Council is firmly committed to providing a clean, green, healthy, attractive and sustainable environment, a key feature of the 'Our North Tyneside Plan'.
- 1.3.22 Trees play an important role in the local environment providing multiple benefits but they need to be appropriately managed, especially in an urban environment. The Council has recently agreed the North Tyneside Climate Change Emergency Action Plan (2020) and there is increasing evidence to justify the importance of retaining trees for numerous reasons including improved air quality and reduced carbon emissions.
- 1.3.23 Confirming the TPO will not prevent any necessary tree work from being carried out, but will ensure the regulation of any tree work to prevent unnecessary or damaging work from taking place that would have a detrimental impact on the amenity value, health and long term retention of the trees. If the owner were to be concerned about the condition of the trees an application for pruning works can be submitted to the Council as required by the TPO.

1.3.24 In this instance it is considered necessary to modify the TPO to reflect the decision of application 20/01582/FUL and how the works to remove six trees, as agreed, have been undertaken (Appendix 7 and 8).

1.3.25 Protecting the remaining trees with a TPO would be in accordance with the Councils adopted Local Plan policy DM5.9 Trees, Woodland and hedgerows, which states;

*'DM5.9 Trees, Woodland and Hedgerows: Where it would not degrade other important habitats the Council will support strategies and proposals that protect and enhance the overall condition and extent of trees, woodland and hedgerows in the borough and:
a) Protect and manage existing woodlands, trees, hedgerows and landscape features'*

1.3.26 In accordance with the Town and Country Planning Act 1990 (as amended) the Authority considers it necessary to issue a Tree Preservation Order to maintain and safeguard the contribution made by these trees to the landscape and visual amenity of the area. The Tree Preservation Order was served on the owners and other relevant parties on 17 December 2020. A copy of the original TPO schedule (Appendix 1) and a map of the TPO (Appendix 2) is included in the Appendices, but considering the events that have taken place since the original TPO was issued a modified TPO Schedule and modified map of the remaining trees subject can be seen in Appendix 7 and 8.

1.3.27 The Order or modified Order must be confirmed by 16 June 2021 otherwise the Order will lapse and there will be nothing to prevent the removal of these trees which are currently protected.

1.3.28 The Council can choose to consider varying the order, to include the replanted trees once the medical centre has been completed, at a future date.

1.4 Decision options:

1. To confirm the Tree Preservation Order with no modifications.
2. To confirm the Tree Preservation Order with modifications.
3. To not confirm the Tree Preservation Order.

1.5 Reasons for recommended option:

Option 2 is recommended. A Tree Preservation Order does not prevent the felling of trees, but it gives the Council control in order to protect trees which contribute to the general amenity of the surrounding area. Due to the works permitted (20/01582/FUL) that have allowed the removal of six trees the TPO has been modified to reflect only the remaining trees on site. Once the five trees are replanted as per the condition of the application (20/01582/FUL) the TPO could be varied to include the additional trees.

1.6 Appendices:

Appendix 1 – Schedule of TPO for Elton Street East, Wallsend Tree Preservation Order 2020

Appendix 2 – Map of TPO for Elton Street East, Wallsend Tree Preservation Order 2020

Appendix 3 – Email of objection from Agent (Peacock and Smith)

Appendix 4 – Supporting information from the objector – Arboricultural Impact Assessment

Appendix 5 – Notice of making sent to the landowner from the Council

Appendix 6 – Response from the Council landscape architect to the objection of the TPO

Appendix 7 – Modified Schedule of the TPO for Elton Street East, Wallsend Tree Preservation Order 2021

Appendix 8 – Modified map of the TPO for Elton Street East, Wallsend Tree Preservation Order 2021

1.7 Contact officers:

Peter Slegg (Tel: 643 6308)

1.8 Background information:

The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author:

1. Town and Country Planning Act 1990.
2. Planning Practice Guidance (As amended)
3. The Town and Country Planning (Tree Preservation) (England) Regulations 2012
4. National Planning Policy Framework (As amended)
5. National Planning Policy Framework Draft Text for Consultation (2020)
6. North Tyneside Council Climate Emergency Action Plan (2020)

Report author Peter Slegg

Town and Country Planning Act 1990
The Council of the Borough of North Tyneside (Elton Street East, Wallsend)
Tree Preservation Order 2020

The Council of the Borough of North Tyneside in exercise of the powers conferred on them by Sections 198 of the Town and Country Planning Act 1990 hereby make the following Order—

1. Citation

This Order may be cited as The Council of the Borough of North Tyneside (Elton Street East, Wallsend) Tree Preservation Order 2020.

2. Interpretation

- (1) In this Order “the Authority” means the Council of the Borough of North Tyneside
- (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.

3. Effect

- (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.

4. Application to trees to be planted pursuant to a condition

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.

THE COMMON SEAL of THE COUNCIL OF
THE BOROUGH OF NORTH
TYNESIDE was hereunto affixed
to this Order this 17th day of December 2020
in the presence of:-




Authorised Signatory

TREE PRESERVATION ORDER 2020

ELTON STREET EAST, WALLSEND

SCHEDULE

The map referred to is at a scale of 1:500 and is based on an enlargement of the O.S. edition of sheet numbered NZ2966. The area covered by the Order is on land at Elton Street East, Wallsend. The area is wholly within the Metropolitan Borough of North Tyneside in the County of Tyne and Wear.

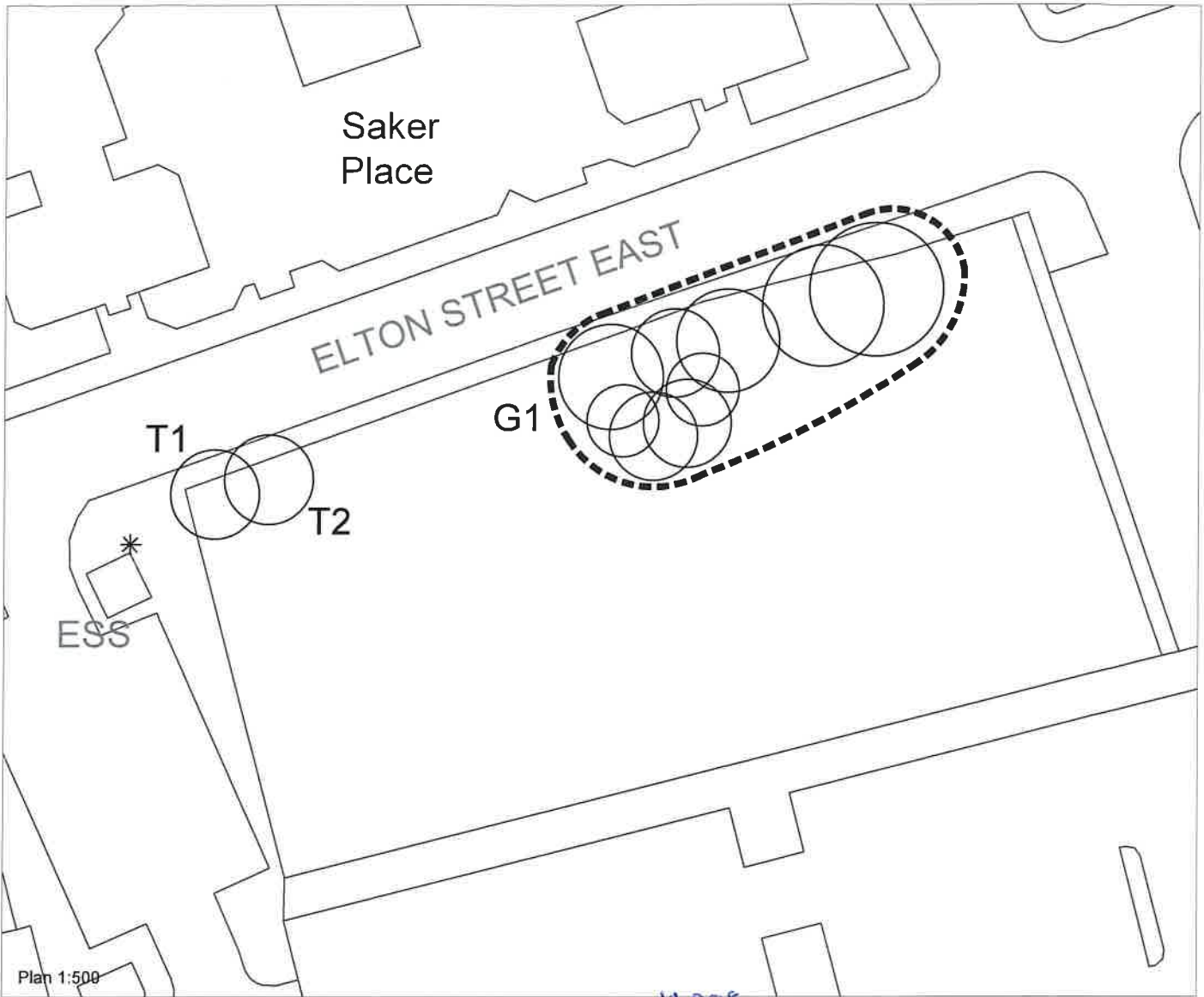
SPECIFICATION OF TREES

TREES SPECIFIED INDIVIDUALLY (encircled in black on the map)		
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Lime (<i>Tilia</i> sp)	Located approximately 8.5m in a north easterly direction from the northern corner of Electricity Sub Station (ESS) marked * and adjacent to Elton Street East
T2	Lime (<i>Tilia</i> sp)	Located approximately 12.7m in a north easterly direction from the northern corner of Electricity Sub Station (ESS) marked * and adjacent to Elton Street East

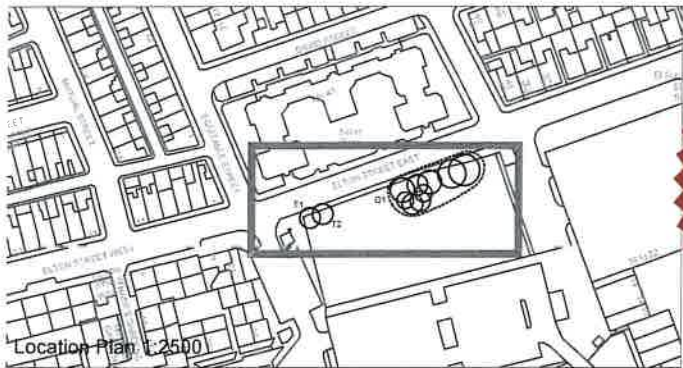
TREES SPECIFIED BY REFERENCE TO AN AREA (within a dotted black line on the map)		
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		

GROUPS OF TREES (within a broken black line on the map)		
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
G1	Group comprising of 9no Lime (<i>Tilia</i> sp.)	Group located to the south side of Elton Street East and along the northern boundary of land at Elton Street East, opposite Saker Place and 56 Elton Street East.



WOODLANDS (within a continuous black line on the map)		
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		



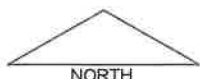
12008



Dated this day :
17 December 2020
 The Common Seal of the Council of the
 Borough of North Tyneside was affixed
 to this Order in the presence of :

PHIL SCOTT
 HEAD OF ENVIRONMENT, HOUSING AND LEISURE
 QUADRANT EAST
 THE SILVERLINK
 COBALT BUSINESS PARK
 NORTH TYNESIDE
 NE27 0BY

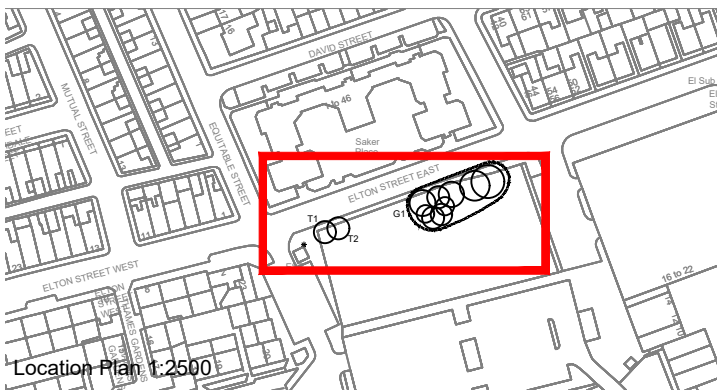
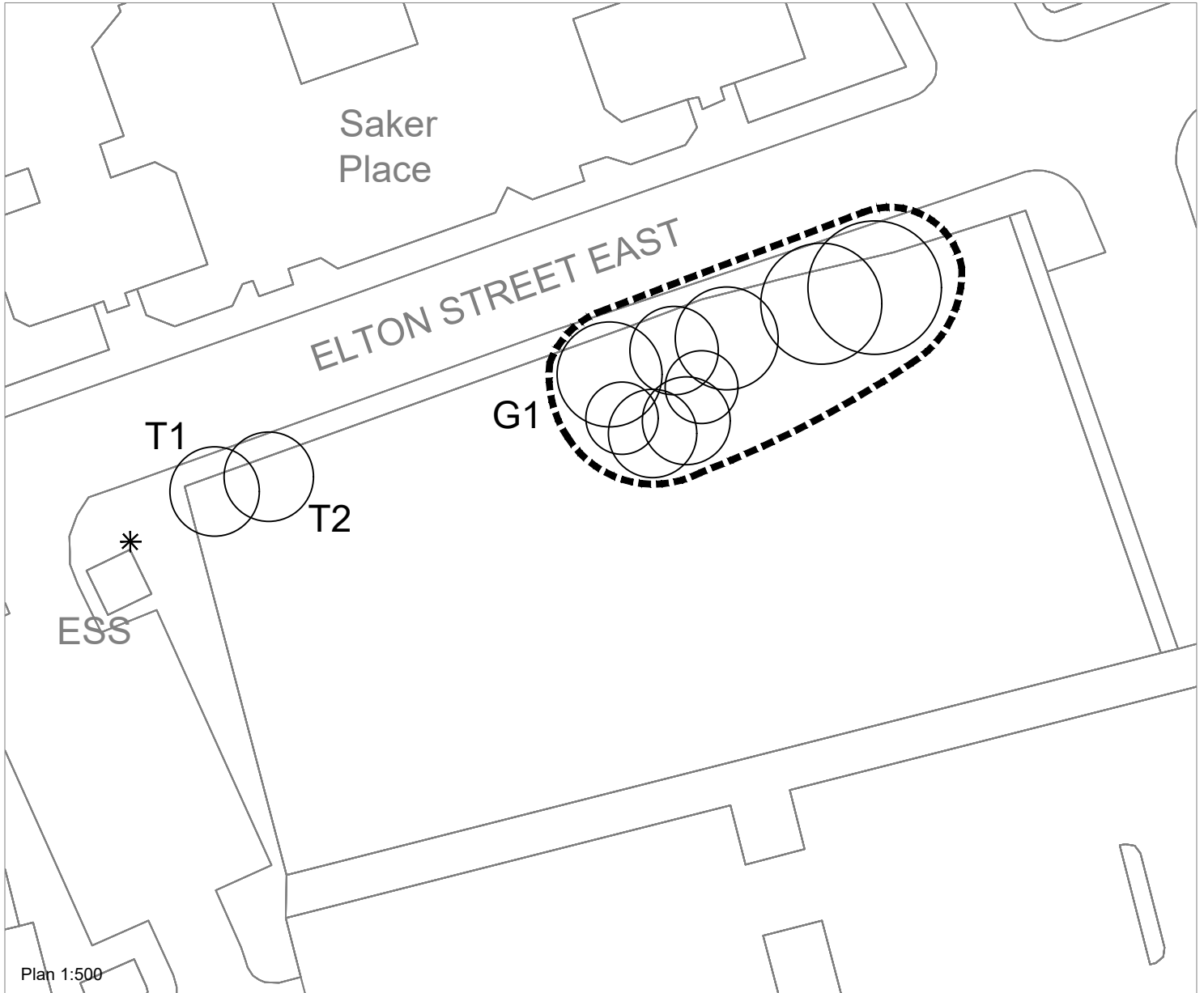


NORTH

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NORTH TYNESIDE COUNCIL
TREE PRESERVATION ORDER 2020
ELTON STREET EAST, WALLSEND

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Dated this day :

December 2020

The Common Seal of the Council of the Borough of North Tyneside was affixed to this Order in the presence of :

PHIL SCOTT
 HEAD OF ENVIRONMENT, HOUSING AND LEISURE
 QUADRANT EAST
 THE SILVERLINK
 COBALT BUSINESS PARK
 NORTH TYNESIDE
 NE27 0BY

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NORTH

NORTH TYNESIDE COUNCIL
TREE PRESERVATION ORDER 2020
ELTON STREET EAST, WALLSEND

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Ref: SB/5383/01/NTDC(15Jan2021) TPO Objection

Rebecca Andison
North Tyneside District Council
Quadrant
The Silverlink
North Cobalt Business Park
North Tyneside
NE27 0BY



15 January 2021

Dear Rebecca

PROVISIONAL TREE PRESERVATION ORDER, ELTON STREET EAST, WALLSEND

Further to our recent discussions, I am writing on behalf on my client, Assura Aspire Ltd, to object to the proposed Tree Preservation order on the site.

Assura Aspire currently have a planning application submitted on the site (LPA Ref 20/01582/FUL). It is this planning application which has led to the issue of these trees being considered. They are an interested person in terms of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

This objection seek to raise concerns in regard to the following aspects:

- That due process has not been followed by North Tyneside DC;
- The trees are not of a suitable quality to warrant retention;
- Impact on redevelopment which will have a negative impact on Wallsend Town Centre.

Due Process

The process to confirm a Tree Preservation Order is set out in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Regulation 5 outlines that as soon as practicable after making an order and before confirming it, the authority should serve notice on person's interest in the land affected by the order with a copy of the Order and a Notice. For the purposes of the regulations, this means every owner or occupier of the land affected by the order and every other person whom the authority knows to be entitled to undertaken works on the trees.

By virtue of the live planning application which had been submitted on 12th October and on which landscape services had been consulted, the authority knew that this would include Assura Aspire Limited. However, no such notice has been served to date on either Assura Aspire, or ourselves as planning agents for Assura. Therefore, due process has not been undertaken.

It is only by virtue of process of the planning application and chasing by ourselves that we were finally informed that an Order has been issued on 17th December with a copy provided on 13th January. Following receipt of this information and background, we have been advised by Democratic Services that the consultation period will close on 15th January.

Furthermore, the TPO was not uploaded on the LPA website –Provisional TPO section where other such documents have been uploaded and remain in situ:

<https://my.northtyneside.gov.uk/category/1154/tree-preservation-orders>

Paragraph 035 (Reference ID: 36-035-20140306) outlines that the authority should ensure all notified parties are given at least 28 days from the date of the notice to submit their representations. From the date of providing the notice, the authority has provided a Consultation period of 2 days, significantly below the legal obligation to provide a 28 day period as outlined in the Regulations. My clients' position has subsequently been prejudiced.

Due to the process undertaken, there is scope that other relevant persons with an interest in the site may not have been consulted. Furthermore, the consultation period should be extended.

Trees not of a Suitable Quality

As part of the submitted planning application, we submitted an Arboricultural Impact Assessment by Woodman Arboricultural. This is re-provided with this response. In the absence of any alternative source of tree survey as part of the Regulation 5, this appears to be unchallenged.

The Local Authority information supporting the TPO does not appear to provide any view as to the quality of the trees. However, it should be noted that as part of the planning application process, a pre-application discussions were held. The LPA formal response (attached) does not indicate that the trees of a high quality, and that their retention is essential. Instead, the response outlines that

“The proposal should be accompanied by a landscaping plan ideally showing the retention of the existing trees and showing areas of proposed soft landscaping. The landscaping shall need to incorporate native species rather than ornamental species.”

The Town and Country Planning (Tree Preservation) (England) Regulations 2012 outline that when assessing trees, the Order must specify the trees or woodlands as being within 4 categories –individual, area, group and woodland. Effectively, this is a sliding scale where individual trees should be considered to merit protection in their own right. The group category should be used to protect groups of trees where the individual category would not be appropriate and the group's overall impact and quality merits protection.

The Order confirms potential individual TPOs for trees T1 and T2, with a wider Group covering trees referred to in our AIA as trees T3 to T11. The AIA considers the merits of trees against BS: 5837 (2012) Trees in Relation to Construction Sites.

The BS: 5837 Categories are described as:

Category A Trees - Those of high quality and value: in such a condition, as to be able to make a substantial contribution for a minimum of forty years. Site design should seek to retain these trees wherever it is practicable to do so.

Category B Trees - Those of moderate quality and value: those in such a condition as to make a significant contribution for a minimum of twenty years. Site design should where practicable retain these specimens.

Category C Trees - Those of low quality and value: Currently in adequate condition to remain until new planting could be established or young trees with a stem diameter below 150mm. These trees although of some value should not be allowed to affect the design of the site layout as they can easily be replaced.

Category U Trees - Those which are dead or dying

Tree T1 in the Regulation 5 notice appears to tally with the AIA T1. The Woodsman AIA outlines that Tree T1 is a Category C tree –of low quality and value. The TPO Order seems to suggest that this is for an individual TPO. In accordance with the Regulations, this would suggest it is of the highest quality worthy of retention. This does not appear to be the case and it does not appear to be suitable for a TPO.

All other trees are identified as category B trees –i.e. worthy of retention where practicable subject to site layout. Tree T8 is also identified as having ‘major deadwood in crown’. It is considered that the trees are not of a suitable quality and value to be suitable to be protected permanently by a Tree Preservation Order.

Impact on Adopted Development Plan Strategy and Wallsend Masterplan (Policies AS8.2 and 8.3)

The planning application under consideration at present seeks to deliver a new medical centre facility including the relocation of two substandard practices in the form of Portugal Place and Park Road along with wider NHS services. It will be a larger facility which can serve the catchment size more appropriately. It will be operated by the NHS.

The site is allocated in the Statutory Development Plan formed by the North Tyneside Local Plan (adopted in July 2017) under Policy AS8.2. This is an Area Specific Policy which relates to The Forum Shopping Centre. The policy seeks to:

“To improve the overall quality of retail provision in Wallsend and contribute to identified requirements for the provision of comparison retail floorspace, the Council will continue to provide support for main town centre uses at The Forum Shopping Centre, as shown on the Policies Map, including the extension to the west, that:

- a) Enhance the role of The Forum Shopping Centre at the heart of the primary shopping area in Wallsend;*
- b) Provide a new retail floorspace to serve the town and wider community;*
- c) Enhance the internal and external appearance of the shopping centre making the area attractive to shoppers and visitors;*
- d) Would deliver enhanced community facilities and services for the whole of Wallsend, alongside the existing improved library services;*
- e) Provide improved and accessible parking provision that is available for use by shoppers at the supermarket, The Forum and the town centre as a whole.”*

The site has been cleared for development. The proposed development would fully accord with the ambitions of the Local Plan and will deliver a significant uplift to the social, community and health of local residents. The proposed application scheme represents the ‘final piece of the jigsaw’ to complete the redevelopment and expansion of Wallsend town centre.

The application scheme has been sensitively designed seeking to provide a building which delivers the correct quantum of floorspace to meet the requirements of the medical centre, whilst respecting the scale and mass of the wider area. The scheme has been subject to negotiation with officers for a period of time. At present, the applicant has confirmed that the scheme needs to see the removal of some of these trees. It has been confirmed in discussions that trees T9, T10 and T11 can be retained. We are currently investigating the potential retention of other trees with the involvement of our arboricultural consultant. Furthermore, the applicant has proposed replacement planting to mitigate the loss of these trees.

Should the trees be subject to a Tree Preservation Order, then it would fundamentally restrict the ability of Assura to deliver the significant benefits arising as a result of the proposed development. The local area would miss out on:

- The replacement of the existing sub-standard facilities at Portugal Place and Park Road with a larger facility which can serve the catchment size more appropriately;
- A transformative healthcare development bringing NHCT community services together with primary care to improve both pathways and patient outcomes;
- The development of a vacant, under-used site;
- The delivery of additional employment and training opportunities within the local area;
- The delivery of a well-designed building, utilising local vernacular and materials in an accessible location;
- The provision of a vital, modern healthcare service to local residents; and
- Completing the form of development anticipated in Local Plan allocations by helping to deliver Area Specific Policy AS8.2
- Furthermore, the inability to allow the Portugal Place surgery to move would prevent the freeing of that site (Local Plan allocation AS8.3) for development in accordance with that allocation.

Therefore, the issuing of a TPO would undermine the comprehensive masterplanning of Wallsend Town Centre.

Conclusion

In conclusion, the grounds for objection are set out in detail above. These are that:

Due Process

- Due process has not been undertaken and it is possible that other persons interested may not have been notified of the issuing of a provisional Tree Preservation Order;
- The Consultation period should be extended;

Quality of trees

- It is considered that the trees are not of a suitable quality to warrant protection.
- Notably proposed individual TPO T1 appears to be a Category C tree of low value

Impact on Adopted Development Plan Strategy and Wallsend Masterplan (Policies AS8.2 + 8.3)

- The proposed development on the site is the 'final piece of the jigsaw' on the Wallsend town centre redevelopment (adopted Local Plan policy AS8.2)
- A TPO would render the scheme undeliverable. This would prevent the key social, community and health benefits arising from the scheme which is to be entirely occupied by the NHS.
- The failure to deliver this medical centre would miss out on other key benefits including
 - o The replacement of the existing sub-standard facilities at Portugal Place and Park Road with a larger facility which can serve the catchment size more appropriately;
 - o The development of a vacant, under-used site;
 - o The delivery of additional employment opportunities within the local area;
 - o The delivery of a well-designed building, utilising local vernacular and materials in an accessible location;
 - o The provision of a vital, modern healthcare service to local residents; and
 - o Completing the form of development anticipated in Local Plan allocations by helping to deliver Area Specific Policy AS8.2
 - o Furthermore, the inability to allow the Portugal Place surgery to move would prevent the freeing of that site (Local Plan allocation AS8.3) for development in accordance with that allocation.

We would request that the TPO is not be confirmed. Should the TPO be sought to be confirmed however, and should planning permission be granted in the meantime, we would request that the TPO is modified in any event to account for the proposed development.

Should you wish to discuss this matter in further detail, please do not hesitate to contact me.

Yours sincerely



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Pre-Development BS5837 Arboricultural Implications Assessment Elton Street Wallsend 2020



Produced for Identity Consult
By Jim Richardson BSc For. HND Arb.

Document Details

Document Title	Pre-Development BS5837 Arboricultural Implications Assessment Elton Street Wallsend 2020
Consultant	Jim Richardson BSc For. HND Arb.
Site Surveyor	Jim Richardson BSc For. HND Arb.
Site Survey Date	22nd September 2020

Document Production and Revisions

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Pre-Development BS5837 Arboricultural Implications Assessment Elton Street Wallsend 2020

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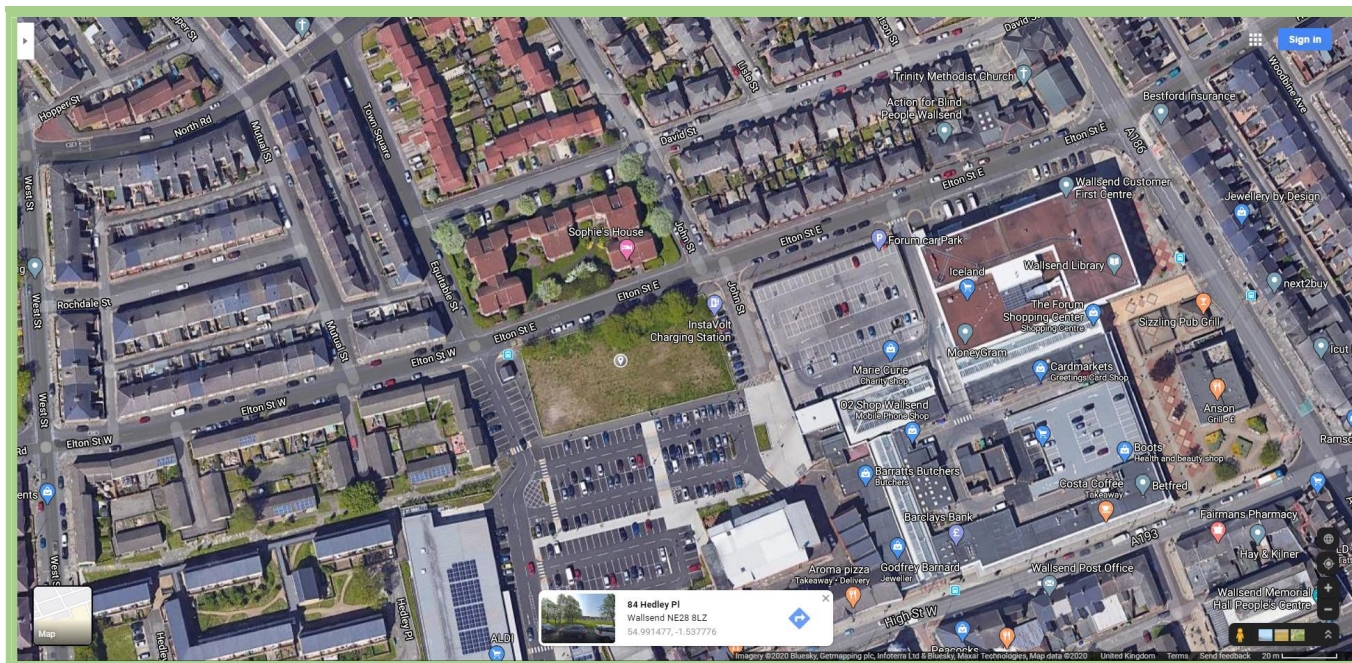
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1. Introduction

- 1.1. Identity Consult have commissioned this pre-development Arboricultural Impact Assessment report on behalf of their client for the proposed infill development of land at Elton Street Wallsend, Newcastle upon Tyne, NE27 8LZ.
- 1.2. The survey and resulting report have been produced to be submitted as part of the planning application for the site to the local planning authority and have been produced in accordance with the best practice guidelines set out in BS 5837 (2012) *Trees in Relation to Construction Sites: Recommendations*.
- 1.3. Documentation used in preparation of this report: Site Plan CAD files – 1951200 and 1662 - 105 Proposed Site Plan.
- 1.4. All observations have been made from ground level without detailed inspection. Some measurements may have been estimated.
- 1.5. Woodsman were provided with a site plan of the area with tree locations marked on. An Arboricultural Constraints Plan (ACP) and Tree Protection Plan (TPP) have been produced to accompany this report. Tree locations and protective measures should be referenced to these plans.

2. Site Details

2.1. Location: Land at Elton Street Wallsend, Newcastle upon Tyne, NE27 8LZ.



2.2. Site Description: The site is an area of rough open grass with trees to the norther boundary.

2.3. Site Visit Details: The site was surveyed on the 22nd of September 2020 during calm clear weather conditions.

2.4. There are eleven significant individual trees within influence of the site. Small trees below 150mm in diameter at 1.5m in height from ground level have not been surveyed in detail and are classified as low retention value as per BS5837 guidelines.

2.5. The trees have had no significant recent management.

3. Statutory Tree Protection

- 3.1. Trees may be legally protected. Tree protection can include Tree Preservation Orders (TPOs) or Conservation Area status. The felling of large quantities of timber may also require a felling licence.
- 3.2. A formal search into the statutory protection of the sites trees has not been carried out as part of this survey and report. Statutory protection of trees can include Tree Preservation Orders (TPOs) and Conservation area status.
- 3.3. Large penalties may be enforced for illegally carrying out works on protected trees. It is therefore advised that clarification of protection status be sought from the local planning authority prior to any tree works being carried out on site. Where appropriate permission for works must be applied for.
- 3.4. Some exemptions to the above may apply such as the removal of trees where full planning permission has been granted where new buildings occupy the space where the protected trees lie.

4. Summary of Findings

- 4.1. There are eleven significant individual trees within influence of the site. Small trees below 150mm in diameter at 1.5m in height from ground level have not been surveyed in detail and are classified as low retention value as per BS5837 guidelines.
- 4.2. The trees have had no significant recent management.
- 4.3. Collectively the trees provide the site with some amenity and screening.
- 4.4. The proposed development will require the removal of all eleven trees none of which are of high retention value.
- 4.5. No tree protection measures will be required.

4.6.

5. Arboricultural Impact Assessment

5.1. There are eleven significant individual trees within influence of the site. Small trees below 150mm in diameter at 1.5m in height from ground level have not been surveyed in detail and are classified as low retention value as per BS5837 guidelines.

5.2. The trees have had no significant recent management.

5.3. Collectively the trees provide the site with some amenity and screening.

5.4. The proposed development will require the removal of all eleven trees none of which are of high retention value.

5.5. No tree protection measures will be required.

6. Arboricultural Method Statement

6.1. The proposed development will require the removal of all eleven trees none of which are of high retention value.

6.2. No tree protection measures will be required.

6.3. Tree Works

6.3.1. All tree pruning, and removal works must conform strictly to BS3998 (*Recommendations for Tree Works*) and must use target pruning in accordance with best practice.

6.3.2. Schedule of Arboricultural Works

1. Provide site managers with a copy of Arboricultural report.
2. Remove all trees from site.
3. Construction Phase
4. Completion.

6.4. Arboricultural Supervision

6.4.1. Tree protection measures on this site are not required. Arboricultural supervision is therefore not considered necessary.

Appendices

I. Notes on Tree Assessment

The trees on site have been assessed and categorised as follows according to BS 5837 (2012) *Trees in Relation to Construction Sites: Recommendations*.

Category U Trees:

Trees unsuitable for retention. Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years.

Category C Trees:

Those of low quality and value: Currently in adequate condition to remain until new planting could be established or young trees with a stem diameter below 150mm. These trees although of some value should not be allowed to affect the design of the site layout as they can easily be replaced.

Category B Trees:

Those of moderate quality and value: those in such a condition as to make a significant contribution for a minimum of twenty years. Site design should where practicable retain these specimens.

Category A Trees:

Those of high quality and value: in such a condition, as to be able to make a substantial contribution for a minimum of forty years. Site design should seek to retain these trees wherever it is practicable to do so.

II. Tree Details

Tree Table Details

- **Tree number:** An individual identifying number – usually relating to tree tag.
- **TPO:** Detail of Tree Preservation Order tree or group number
- **Common Name (Botanical Name)** Species identification is based on visual field observations. (Botanical name in brackets)
- **Retention Category:** For Retention category grading see cascade chart
- **Age Category:** Either an estimate (or statement if accurately known) of the age of the tree, classified as:
 - **Y** = Young tree, established tree usually up to one third of expected ultimate height & spread
 - **MA** = middle aged, usually between one third and two thirds of ultimate height & spread
 - **M** = Mature, almost at full height but still increasing in girth & spread
 - **OM** = Over mature, grown to full size and becoming senescent,
 - **V** = Veteran tree, individuals surviving beyond the typical age range for the species
- **Stem Diameter:** Trunk diameter measured at 1.5 metres from ground level and recorded in millimetres. (Number of stems – MS = Multi stemmed)
- **Height:** Height estimated in metres. (Lower crown height - Height in metres of crown clearance above adjacent ground level)
- **Crown Spread:** Measurement of canopy from the trunk in metres - North, South, East, and West
- **Useful Life Expectancy:** Estimated Safe Useful Life Expectancy (SULE). Short: 0 – 10years Medium: 10– 20 Years, Intermediate: 20-40, Long: 40 + years.
- **Condition:** Physiological Condition;
 - Good = Healthy tree with good vitality.
 - Fair = Moderate health and vitality normal or slightly less for species and age,
 - Poor = Poor shape or form - signs of decline in crown, may have structural weakness.

- Dead = dead or dying tree
- **Comments:** Notes on tree condition and other points of interest.
- **Recommendations:** Management recommendations – actions required.
- **Works Priority:**
 - A - Works to achieve safety or to facilitate the development.
 - B - Works to achieve higher levels of arboricultural management.
 - C - To improve the aesthetic appearance.
- **Root Protection Area (Radius) m:** The distance at which the protective barrier should be erected measured in a radius.
- **Root Protection Area m²:** The area of RPA required.
- **Root Protection Area Square (m):** The RPA area as a square.
- **Bat Roost Potential:**
 - 0 - None – No significant bat roost features.
 - 1 - Low – Only minor significant bat roost features.
 - 2 - Moderate – Some notable bat roost features.
 - 3 - High – Significant or multiple bat roost features.
 - 4 - Confirmed – Confirmed bat roost.
- **Potential for Future Growth:** H – High potential for future growth - A substantial increase in tree dimensions can be expected. M – Medium potential for future growth - A significant increase in tree dimensions can be expected. L – Low potential for future growth - A small increase in tree diminutions can be expected. N – No potential for future growth - Tree considered to be at full size, or only very slow growth anticipated.
- **Pruning:** Removal of living or dead parts of a tree.
- **Crown Cleaning:** The removal of dead, dying or diseased branch-wood, broken or crossing branches or stubs left from previous tree surgery operations unwanted objects, ivy, other climbing plants, and general debris/rubbish.
- **Deadwood Removal:** Removal of significant dead and dying branches and limbs from the tree.
- **Crown Lifting:** Removal of all growth and branches below the height specified.
- **Crown Reduction:** Reduction of the complete outline of the canopy, pruning to appropriate growth points and leaving a natural silhouette.

Tag	TPO	Name (Botanical Name)	Retention Category	Age Category	Mean Diameter - mm (No of Stems)	Height -m (Lower Crown Height) (Significant Branch)	Condition	Useful Life Expectancy	North	South	East	West	Comments	Recommendations	Works Priority	Root Protection Area - Radius (m)	Root Protection Area - Area (m2)	Likelihood of Protected Species Occupancy	Growth Potential
T1		Tilia X europaea (Common Lime)	C2	EM	300(1)	7(1.5)(2)	Poor	10+	4	4	4	4	Low vitality. Dieback in crown.	Remove tree and root.	A Safety Development	3.6	40.72	1 Low	L
T2		Tilia X europaea (Common Lime)	B2	EM	300(1)	9(1.5)(3)	Fair	40+	4	4	5	3		Remove tree and root.	A Safety Development	3.6	40.72	1 Low	M
T3		Tilia X europaea (Common Lime)	B2	EM	350(1)	9(1.5)(2)	Fair	40+	5	4	5	5		Remove tree and root.	A Safety Development	4.2	55.42	1 Low	M
T4		Tilia X europaea (Common Lime)	B2	EM	250(1)	9(2)(2)	Fair	40+	3	4	3	5		Remove tree and root.	A Safety Development	3	28.28	1 Low	M
T5		Tilia X europaea (Common Lime)	B2	EM	300(1)	10(2)(2.5)	Fair	40+	3	4	4	3		Remove tree and root.	A Safety Development	3.6	40.72	1 Low	M
T6		Tilia X europaea (Common Lime)	B2	EM	300(1)	10(2)(3)	Fair	40+	3	4	4	2		Remove tree and root.	A Safety Development	3.6	40.72	1 Low	M
T7		Tilia X europaea (Common Lime)	B2	EM	250(1)	9(2)(2)	Fair	40+	3	3	5	2		Remove tree and root.	A Safety Development	3	28.28	1 Low	M
T8		Tilia X europaea (Common Lime)	B2	EM	300(1)	8(2)(2)	Fair	40+	3	2	3	3	Major deadwood in crown.	Remove tree and root. Remove major deadwood.	A Safety Development	3.6	40.72	1 Low	M
T9		Tilia X europaea (Common Lime)	B2	EM	350(1)	10(1.5)(2)	Fair	40+	4	5	4	3		Remove tree and root.	A Safety Development	4.2	55.42	1 Low	M
T10		Tilia X europaea (Common Lime)	B2	EM	412(4)	10(1.5)(2)	Fair	40+	4	5	4	4		Remove tree and root.	A Safety Development	4.94	76.68	1 Low	M

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Tag	TPO	Name (Botanical Name)	Retention Category	Age Category	Mean Diameter - mm (No of Stems)	Height -m (Lower Crown Height) (Significant Branch)	Condition	Useful Life Expectancy	North	South	East	West	Comments	Recommendations	Works Priority	Root Protection Area - Radius (m)	Root Protection Area - Area) (m2)	Likelihood of Protected Species Occupancy	Growth Potential
T11		Tilia X europaea (Common Lime)	B2	EM	450(1)	10(2)(2)	Fair	40+	4	6	7	3		Remove tree and root.	A Safety Development	5.4	91.62	1 Low	M
R1		Sorbus intermedia (Swedish Whitebeam)			Error									Remove tree and root.	A Safety Development	Error	Error		
R2					Error	2							Stump	Remove tree and root.	A Safety Development	Error	Error	0 None	No
R					Error	1							Fallen Sorbus tree.	Remove tree and root.	A Safety Development	Error	Error	0 None	No
T1		Tilia X europaea (Common Lime)	C2	EM	300(1)	7(1.5)(2)	Poor	10+	4	4	4	4	Low vitality. Dieback in crown.	Remove tree and root.	A Safety Development	3.6	40.72	1 Low	L

III. Cascade Chart for Tree Quality Assessment

Category and definition	Criteria			Identification on plan
Category U Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years	Trees that have a serious, irremediable, structural defect, such that their early loss is expected due to collapse, including those that will become unviable after removal of other category U trees (e.g. where, for whatever reason, the loss of companion shelter cannot be mitigated by pruning) <ul style="list-style-type: none"> <input type="checkbox"/> Trees that are dead or are showing signs of significant, immediate, and irreversible overall decline <input type="checkbox"/> Trees infected with pathogens of significance to the health and/or safety of other trees nearby, or very low quality trees suppressing adjacent trees of better quality NOTE Category U trees can have existing or potential conservation value which it might be desirable to preserve;			DARK RED
Trees To Be Considered For Retention				
Category and definition	Criteria – Subcategories			Identification on plan
	1 Mainly arboricultural values	2 Mainly landscape values	3 Mainly cultural values, including conservation	
Category A Those of high quality and value: in such a condition, as to be able to make a substantial contribution (a minimum of 40 years is suggested)	Trees that are particularly good examples of their species, especially if rare or unusual, or essential components of groups, or of formal or semi-formal arboricultural features (e.g. the dominant and/or principal trees within an avenue)	Trees, groups, or woodlands which provide a definite screening or softening effect to the locality in relation to views into or out of the site, or those of importance (e.g. avenues or other arboricultural features assessed as groups)	Trees, groups, or woodlands of significant conservation, historical, commemorative, or other value (e.g. veteran trees or wood pasture)	LIGHT GREEN
Category B Those of moderate quality and value: those in such a condition as to make a significant contribution (a minimum of 20 years is suggested)	Trees that might be included in the high category, but are downgraded because of impaired condition (e.g. presence of remediable defects including unsympathetic past management and minor storm damage)	Trees present in numbers, usually as groups or woodlands such that they form distinct landscape features, thereby attracting a higher collective rating than they might as individuals but which are not, individually, essential components of formal or semiformal arboricultural features (e.g. trees of moderate quality within an avenue that includes better category A specimens), or trees situated mainly internally to the site, therefore individually having little visual impact on the wider locality	Trees with clearly identifiable conservation or other cultural benefits.	MID BLUE
Category C Those of low quality and value: currently in adequate condition to remain until new planting could be established (a minimum of 10 years is suggested), or young trees with a stem diameter below 150mm	Trees not qualifying in higher categories	Trees present in groups or woodlands, but without this conferring on them significantly greater landscape value, and/or trees offering low or only temporary screening benefit.	Trees with very limited conservation or other cultural benefits	GREY
	NOTE Whilst Category C trees will usually not be retained where they would impose a significant constraint on development, young trees with a stem diameter of less than 150mm should be considered for relocation.			

IV. Scope of Report

This report has been produced to fulfil planning requirements and to ensure that best practice procedures are enforced prior to construction design in accordance with BS 5837 (2012) *Trees in relation to construction: - Recommendations*.

Tree conditions and amenity values have been assessed with regards to their suitability for retention during and following the proposed construction in accordance with the BS: 5837. (2012)

a. Limitations

This report has not been designed as a hazard assessment or safety report and should not be used as such. As such only major visual tree defects are commented upon where appropriate.

This report makes no comment on any trees ability to cause either direct or indirect damage to buildings, walkways, and other utilities other than where direct pressure damage is immediately and obviously foreseeable.

Trees are dynamic and changing structures and this report comments on tree condition as assessed on the day of surveying.

Please note that where trees near are selectively removed other adjacent specimens are initially more prone to failure due to increased wind loads. Given time healthy trees can adapt to this increased wind stress.

Further to this report it is recommended that all trees in areas where failure may result in significant risk of damage to people or property be assessed for hazard on an annual basis to fulfil the owner's duty of care.

b. Survey Methodology

All trees were assessed from ground level only using visual assessment techniques. Heights and crown spreads have been measured using a laser hypsometer and tree diameters have been measured using a girth tape at 1.5m or where multi-stemmed immediately above the root flare as prescribed in the BS: 5837: 2012 *Trees in relation to construction - Recommendations*. No further inspection beyond this visual assessment has been carried out. Some measurements may have been estimated.

IMPORTANT - THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

Town and Country Planning Act 1990

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

The Council of the Borough of North Tyneside (Elton Street East, Wallsend) Tree Preservation Order 2020

THIS IS A FORMAL NOTICE to let you know that on 17th December 2020 the Council made the above Tree Preservation Order.

A copy of the Order is enclosed. In simple terms, the Order means no one is allowed to:

- a) wilfully damage or destroy; or
- b) cut down, top, lop or uproot without the Council's written permission; or
- c) cause or permit the carrying out of any of the above activities to

any of the trees described in the Schedule of the Order and shown on the map.

The Council has made the Order because the trees are located in a prominent position in Elton Street East, are highly visible in the streetscape and contribute to the character of the local landscape. The trees are not protected by a TPO but provide a high level of amenity to the surrounding areas. It is considered that the removal of the tree group will have a detrimental impact on the amenity of the local area.

The Order came into force, on a provisional basis, on 17th December 2020, and will remain in force for six months. During this time the Council will decide whether the Order should be given permanent status.

People affected by the Order have a right to object or make representations on any of the trees or woodlands specified in the Order before the Council decides whether the Order should be made permanent.

If you would like to make any objections or representations, you must submit them in writing within 28 days from the date of this notice. Your comments must comply with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, which is set out over the page.

A certified copy of the Order and map are available for inspection at the offices of North Tyneside Council, Quadrant, The Silverlink North, Cobalt Business Park, North Tyneside NE27 0BY by appointment or on request due to the current working arrangements related to the Coronavirus pandemic.

Please send any objections or representations by post to the address set out below, or via email to democraticsupport@northtyneside.gov.uk, to be received on or before 15th January 2021.

The Council will carefully consider all objections and comments before deciding whether to make the Order permanent.

You will be notified of the Council's decision on whether to confirm, modify, or not confirm the Order when it is made. In the meantime, if you would like any more information or have any questions about this notice, please contact Michael Robson on (0191) 643 5359.

Dated 17th December 2020

A handwritten signature in black ink, appearing to read 'Dave Brown', with a large, stylized initial 'D' on the left.

Dave Brown
Senior Manager, Democratic and Electoral Services

On behalf of:
Head of Law and Governance
North Tyneside Council
Quadrant
The Silverlink North
Cobalt Business Park
North Tyneside
NE27 0BY

Copy of Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012

Objections and representations

6.—(1) Subject to paragraph (2), objections and representations—

(a) shall be made in writing and—

(i) delivered to the authority not later than the date specified by them under regulation 5(2)(c); or

(ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which such objections and representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

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TPO OBJECTION ELTON STREET

A planning application was submitted in October 2020 for the construction of new medical centre with associated clinical support offices, parking, landscaping and associated works at land south of Elton Street East Wallsend. The site contained a number of trees along the northern boundary of Elton Street East which were all to be removed, except for one, to facilitate the construction of the proposed development. It was considered that the trees on the site were worthy of retention and as a result, a TPO was served to protect all the trees on the site on 17th December 2020. The site layout plan was subsequently amended, and an alternative scheme was submitted that retained five trees on the site. This approved development now provides a more well thought out design solution that meets the requirements of the Wallsend masterplan aims and the ambitions of the Local Plan that recognises the importance of retaining the trees for visual amenity, whilst supporting the redevelopment and expansion of Wallsend town centre. Approval was granted on the revised layout that also secured the planting of 5no. new trees.

With regard to the TPO, the LPA has 6 months from the serving of the Order in which to consider any objections. An objection has been received from Peacock and Smith on behalf of their client, Assura Aspire Ltd, to the proposed Tree Preservation Order on the site.

The objection to the TPO can be summarised as follows:

1. That due process has not been followed by North Tyneside DC;
2. The trees are not of a suitable quality to warrant retention;
3. Impact on redevelopment which will have a negative impact on Wallsend Town Centre.

Relevant planning policies relevant to this TPO confirmation are:

- Town and Country Planning (Tree Preservation) (England) Regulations 2012
- NTC Local Plan policies

1. Due Process

The Lead planning officer will make a separate response on this

2. The trees are not of a suitable quality to warrant retention;

As part of the planning application 20/01582/FUL, an Arboricultural Impact Assessment (AIA) was submitted by Woodman Arboricultural Consultancy. The objector states that the Local Authority information supporting the TPO does not appear to provide any view as to the quality of the trees. Section 198 of the Town and Country Planning Act 1990 provides that local planning authorities may make Tree Preservation Orders (TPOs) 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". The Act does not define amenity, but Government guidance states that TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.

The trees were assessed for their amenity value, not their quality. However the tree survey information provided by the applicant and was a consideration the final decision of the TPO. In terms of assessing amenity, the Tree Evaluation Method for Preservation Orders (TEMPO) was used. This assessment was carried out by the local planning authority and is a widely recognised and respected method of assessing tree as an important landscape feature offering significant amenity to the general public.

The TEMPO evaluation method takes into account factors such as a tree's visibility to the public, their condition, age and remaining life-expectancy, their function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Public access to a tree or trees is not a relevant factor for consideration. Whilst this method is more recognised and widely used by local authorities, it must be remembered however that the TEMPO is only used as guidance and to act as supporting evidence to show how the conclusion to TPO or to not TPO is reached. Nevertheless, these factors are taken into consideration to decide whether a TPO is made although as a result of the surveyors judgement rather than a formal method of assessment. If a score of 11 and above is achieved in the assessment, then the trees are considered

worthy of a TPO. In this case the collective group of trees was evaluated with a score of 19 and therefore the decision was made to protect the tree by a TPO.

In terms of quality, tree survey information was provided within a Pre-Development BS5837 Arboricultural Implications Assessment as part of the application (20/01582/FUL). The site contained *'eleven significant individual trees within influence of the site'* and were surveyed and categorised in accordance with the guidelines contained within BS 5837 (2012) *Trees in Relation to Construction Sites: Recommendations*. The proposal sought to remove all eleven trees from the site as none were considered to be of high retention value (i.e category A trees). All eleven trees except for one were assessed as category B trees i.e *'Those of moderate quality and value: those in such a condition as to make a significant contribution for a minimum of twenty years. Site design should where practicable retain these specimens'*. The AIA tree survey information detailed the trees as having at least 40 years plus Estimated Safe Useful Life Expectancy (SULE) with a sub group category of 2 that recognises the trees as having *'landscape qualities'* i.e. *'Trees present in numbers, usually growing as groups or woodlands, such that they attract a higher collective rating than they might as individuals; or trees occurring as collectives but situated so as to make little visual contribution to the wider locality'*. Category 'B' trees are considered to be important enough to be considered a constraint to development and consequently should be retained and afforded appropriate protection during the ground works and construction phase of development.

However, the proposed development scheme saw the loss of all category B trees from the site. The loss of these trees and associated planting would be a visual change to amenity of the local streetscape with no mitigation offered. On this basis, a TPO (Tree Preservation Order) was made to retain and protect trees that provided visual amenity and made a significant contribution to the local surroundings.

3. Impact on redevelopment which will have a negative impact on Wallsend Town Centre.

The objector refers to North Tyneside Local Plan (adopted in July 2017) Policy AS8.2 which is an Area Specific Policy which relates to The Forum Shopping Centre. The objection states that under section (d) of AS8.2, the TPO would render the proposed scheme undeliverable and would prevent the key social, community and health benefits arising from the scheme and would *'undermine the comprehensive masterplanning of Wallsend Town Centre'*.

By retaining and protecting trees with a TPO would meet section (C) of the same policy AS8.2 *'Enhance the internal and external appearance of the shopping centre making the area attractive to shoppers and visitors'* and also the requirements of Policy DM5.9 Trees, Woodland and Hedgerows where the Council will support strategies and proposals that protect and enhance the overall condition and extent of trees, woodland and hedgerows. Trees are an important feature in urban landscapes and make a significant contribution to the character and quality of our landscape offering a *'sense of place'* and amenity with regard to the general public's interaction and enjoyment of the immediate and wider area, therefore the retention of trees on the site is a material consideration in determining any application.

A subsequent scheme has been subsequently been submitted that now provides a more well thought out design solution that meets the requirements of the Wallsend masterplan aims (as set out in the objection) as well as retaining a number of protected trees which would fully accord with the ambitions of the Local as well as recognising the importance of retaining the trees for visual amenity that will *'complete the redevelopment and expansion of Wallsend town centre'*.

4. Other issues:

As part of the planning application process, preapplication discussions were held. The LPA at that stage did not provide any view as to the quality of the trees but noted the presence of trees on the site and stated in their response (Annex B) that *'the development should, in the first instance, seek to retain, preserve and protect any existing healthy tree structure in its design. This should be based on the findings of an Arboricultural Impact Assessment for the application to be considered acceptable'*. The Design Officer also commented that *'Existing trees should be retained ...'*

A group TPO can be used where *'the group's overall impact and quality merits protection'*.

5. Conclusion

The trees are in fair condition, reasonably healthy with no major defects. They have a high amenity value, located in a prominent position and highly visible to the public. The trees are an important element of the local landscape. The Order has been properly made in the interests of securing the contribution these trees make to the public amenity value in the area. The concerns of the objection have been fully considered and balanced against the contribution these trees make to the to the local environment.

Whilst it is acknowledged that the reason for objecting to the TPO, in particular concerns about quality and their contribution to the wider Wallsend masterplan require due consideration, it is not felt that they outweigh the contribution these trees make to the area.

Due to their prominence within the local landscape, the age of the trees, their health and current condition, and on the understanding that the trees were at risk of being felled, it is considered expedient in the interests of amenity to confirm a Tree Preservation Order on these trees.

It is important to reiterate that, if the Order is confirmed, this would not preclude future maintenance works to the trees. Should any works need to be carried out to the trees for safety reasons, or for any other reason, an application can be made to the local planning authority to carry out works.

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TREE PRESERVATION ORDER 2021

ELTON STREET EAST, WALLSEND

SCHEDULE

The map referred to is at a scale of 1:500 and is based on an enlargement of the O.S. edition of sheet numbered NZ2966. The area covered by the Order is on land at Elton Street East, Wallsend. The area is wholly within the Metropolitan Borough of North Tyneside in the County of Tyne and Wear.

SPECIFICATION OF TREES

TREES SPECIFIED INDIVIDUALLY (encircled in black on the map)		
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Lime (<i>Tilia</i> sp)	Located approximately 8.5m in a north easterly direction from the northern corner of Electricity Sub Station (ESS) marked * and adjacent to Elton Street East
T2	Lime (<i>Tilia</i> sp)	Located approximately 12.7m in a north easterly direction from the northern corner of Electricity Sub Station (ESS) marked * and adjacent to Elton Street East

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		

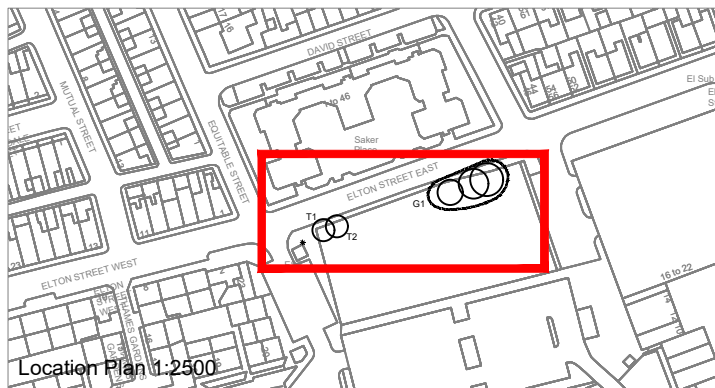
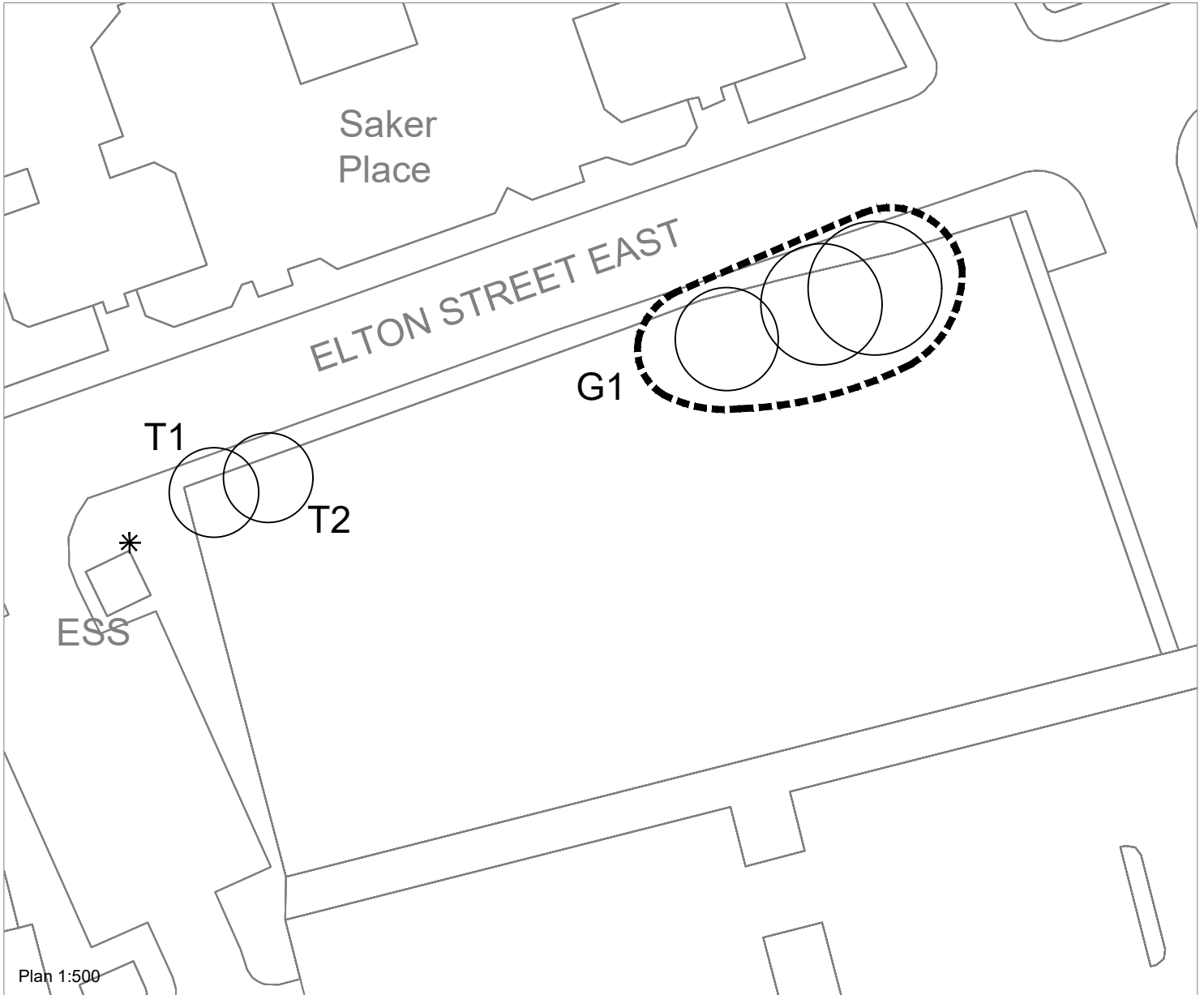
GROUPS OF TREES (within a broken black line on the map)		
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
G1	Group comprising of 3no Lime (<i>Tilia</i> sp.)	Group located to the south side of Elton Street East and along the northern boundary of land at Elton Street East, opposite Saker Place and 56 Elton Street East.

WOODLANDS

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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None		
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Dated this day :

May 2021

The Common Seal of the Council of the Borough of North Tyneside was affixed to this Order in the presence of :

Authorised Signatory

PHIL SCOTT
 HEAD OF ENVIRONMENT, HOUSING AND LEISURE
 QUADRANT EAST
 THE SILVERLINK
 COBALT BUSINESS PARK
 NORTH TYNESIDE
 NE27 0BY



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**NORTH TYNESIDE COUNCIL
 TREE PRESERVATION ORDER 2021**

ELTON STREET EAST, WALLSEND

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North Tyneside Council Report to Planning Committee Date: 8 June 2021

Report from Directorate: Environment, Housing and Leisure

Report Author: Phil Scott Head of Environment, Housing and Leisure (Tel: 643 7295)

Wards affected: Benton

1.1 Purpose:

To consider the above Tree Preservation Order for one tree taking into account any representations received in respect of the Order.

1.2 Recommendation(s)

Members are requested to consider the representations to 99 Station Road, Forest Hall, Preservation Order 2021 and confirm the Order.

1.3 Information

1.3.1 The Council were notified of the intention to prune or remove one sycamore tree to the rear of 99 Station Road, Forest Hall (Appendix 6). These works were assessed, and the Council decided to make a Tree Preservation Order (TPO) for the tree. The Order was served in January 2021.

1.3.2 One objection has been received following the Council's decision to serve a TPO on the tree from a neighbour of 103 Station Road, Forest Hall. A copy of the representation is included as Appendix 3 to this report.

1.3.3 Objections from the neighbour, 103 Station Road, Forest Hall can be summarised as follows:

- The tree is not in a conservation area and has not been deemed suitable for a TPO in the past.
- The tree is a very large sycamore tree which is not a rare variety of tree. It would cause minimal negative impact on the local environment if removed and contributes little to the visual amenity and barely visible from main road.
- Lack of previous management has resulted in the tree becoming too large for its location.
- Roots appear to be damaging the rear lane road surface and is very close to a water main which if damaged could cause serious disruption to surrounding properties. The tree appears to still be growing which will only exacerbate the problem in the future. Photographs of the damage have been submitted (Appendix 4).
- Branches overhang the garden of the objector and present a risk to them and the general public in high winds. Photographs have been submitted (Appendix 4).
- Shading of the tree reduces the enjoyment of the rear garden and growing plants.
- Tree pollen affects objector's health.
- Leaf litter is difficult for the objector to clear, is a slip hazard for pedestrians and attracts rats.

- The tree should be removed or at minimum drastically cut back.
- A TPO will make it more difficult and time consuming for the owner to address the issues raised in the objection.

1.3.4 A summary of the objections are listed below. The Council has responded, in consultation with the landscape architect (who has provided a full response in Appendix 5), to each of the objections:

- a) The tree is not in a Conservation Area;
- b) Concern relating to size of the tree and species;
- c) Public amenity and single tree;
- d) Lack of tree management and size of the tree;
- e) Damage to road surface and underground utilities;
- f) Branch failure resulting from high winds;
- g) Concerns relating to lack of light;
- h) Tree pollen and health;
- i) Leaf fall;
- j) Future growth and management;
- k) Concluding remarks.

a) The tree is not in a Conservation Area

1.3.5 A tree doesn't not have to be located within a conservation area for it to be protected by a TPO. Any tree that provides a level of amenity can be protected. In terms of assessing amenity, the Tree Evaluation Method for Preservation Orders (TEMPO) was used. This assessment was carried out by the local planning authority and is a widely recognised and respected method of assessing tree as an important landscape feature offering significant amenity to the general public.

b) Concern relating to size of the tree and species

1.3.6 There is no legislation as to the presence of an existing tree in relation to urban garden size. Throughout the borough similar juxtapositions can be observed where trees and buildings co-exist in close proximity to each other or mature trees are present in small garden areas. A protected tree would not be removed because it is considered 'too big' or 'too tall' for its surroundings.

1.3.7 It is however acknowledged that due to the tree's proximity to the existing building, periodic remedial work may in the future be required to maintain a reasonable clearance between the canopy edge and building. However, the TPO will ensure that any pruning works are not detrimental to the tree and in accordance with approved standards.

1.3.8 In terms of its species, TPO's are not only restricted to native trees and if any tree contributes to the visual amenity of an area, it is worthy of protection by a TPO. Sycamore trees have just as much value in the landscape as any other tree and although sycamores are not a native species, they have been naturalised in the UK for hundreds of years. In North Tyneside, they now form a valuable part of the wider tree assemblage and our urban landscape. More recently the importance of sycamore trees in our landscape has probably increased in recent years since disease to both elm and ash have resulted in a major loss of trees within the borough. Its contribution to public amenity is addressed separately.

c) Public amenity and single tree

1.3.9 TPOs are administered by Local Planning Authorities (LPA) and are made to protect trees that bring significant amenity benefit to the local area. This protection is particularly important where trees are under threat. A TPO is made in effect of amenity and does not distinct between different types of tree species or its size. Any species of tree can be

protected, although a TPO can only be used to protect trees and cannot be applied to shrubs and bushes.

1.3.10 The TEMPO evaluation method takes into account factors such as a tree's visibility to the public, its condition, age and remaining life-expectancy, its function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Public access to a tree or trees is not a relevant factor for consideration. Whilst this method is more recognised and widely used by local authorities, it must be remembered however that the TEMPO is only used as guidance and to act as supporting evidence to show how the conclusion to TPO or to not TPO is reached. Nevertheless, these factors are taken into consideration to decide whether a TPO is made although as a result of the surveyor's judgement rather than a formal method of assessment. If a score of 11 and above is achieved in the assessment, then the trees are considered worthy of a TPO. In this case the Sycamore tree was evaluated with a score of 15 and therefore the decision was made to protect the tree by a TPO.

1.3.11 The sycamore tree is in reasonable health, early maturity, approximately 12 to 15 m high with the majority of the crown clearly visible from public footpaths and highways of Cambridge Avenue. The tree does not only have to be visible from the 'main' road (Station Road) but must be visible from surrounding public footpaths and highways. The tree can be seen at short distance views and as an individual tree, has greater visual impact in the streetscape. Its loss would be considered a visual change and local residents will experience a changed or altered view on a permanent basis.

d) Lack of tree management and size of the tree

1.3.12 Responsibility for the trees lies with the owner of the land on which the tree is growing. There is a duty for the landowner to take reasonable care to ensure that their trees do not pose a threat to people and property as the owner of the tree is responsible for any damage caused to property or persons by their tree, or part of it, failing. Concerns relating to the size of the tree are addressed elsewhere.

e) Damage to road surface and underground utilities

1.3.13 A series of photographs have been supplied that show the condition of the rear lane. The sycamore tree overhangs the rear lane. The objection implies that the tree is responsible for damage to the road surface and potentially underground services. However, the road surface is constructed from a variety of surfaces with evidence of past excavations for either new or upgraded services. In parts the road is constructed from concrete slab which has a limited life and tarmac can deteriorate quickly as a result of harsh weather conditions. No evidence has been provided that proves the presence of tree roots in this location or if they are contributing to any damage. This is insufficient information to allow the removal of the tree or withdraw the TPO.

f) Branch failure resulting from high winds

1.3.14 The fallout of debris from the tree is no more than should be expected by similar trees of normal vigour and is a natural phenomenon that should be expected when living in an environment with established trees. There is a duty for the landowner to take reasonable care to ensure that their trees do not pose a threat to people and property as the owner of the tree is responsible for any damage caused to property or persons by their tree, or part of it, failing. Branch failure does not always render a tree dangerous and often are isolated events, however, regular inspections of the tree by a tree surgeon will ensure that the tree is maintained in a good and safe condition.

g) Concerns relating to lack of light

1.3.15 The TPO would prevent the removal of the tree for light purposes unless it is demonstrated that a severe restriction has resulted. Remedial tree works such as crown thinning can relieve the situation, but shade is not sufficient reason to allow the removal of the tree or the withdrawing of the TPO. Where requests are made to prune trees to increase light levels, each instance will be assessed on its merits.

h) Tree pollen and health

1.3.16 The sycamore tree and the other trees in the locality, collectively offer greater benefits and mounting evidence now realises improved health by improved air quality and reduced carbon emissions (as seen by recent COVID-19 events). It is acknowledged that the objector has referred to their health, however imposing a TPO would not prevent an application from being made for pruning works to the tree.

i) Leaf fall

1.3.17 Leaf fall is a natural and seasonal inconvenience and whilst troublesome it is not legally a nuisance and not sufficient to allow the removal of the tree or withdraw the TPO.

j) Future growth and management

1.3.18 It is the owner's responsibility to have their trees checked regularly by a competent person and professional arboricultural advice should be sought to ensure trees are maintained in a safe condition. As trees mature, it is natural for them develop dead wood within the canopy. This can be addressed through simple management and regular inspections as part of a sensible risk management approach and which can reduce the likelihood of problems in the future. The TPO will ensure any works undertaken are carried out in accordance with good arboricultural practices and does not prevent future works from being undertaken but approval from the local authority would need to be sought beforehand.

k) Concluding remarks

1.3.19 The sycamore tree is in fair condition, reasonably healthy with no major defects. It is located in a prominent position within the rear garden next to a public highway. It is therefore highly visible to occupiers of neighbouring residential properties and from vehicular traffic and pedestrians on Cambridge Avenue. Therefore, the tree is considered to be an important element of the local landscape. The Order has been properly made in the interests of securing the contribution this tree makes to the public amenity value in the area. The concerns of the homeowner have been fully considered and balanced against the contribution this sycamore tree makes to the to the local environment.

1.3.20 Whilst it is acknowledged that the reason for objecting to the TPO, in particular concerns about its visibility, individual impact and wider impact require due consideration, it is not felt that they outweigh the contribution this tree makes to the area.

1.3.21 Due to its prominence within the local landscape, the age of the tree, its health and current condition, and on the understanding that the tree is at risk of being felled, it is considered expedient in the interests of amenity to confirm a Tree Preservation Order on this tree.

1.3.22 It is important to reiterate that, if the Order is confirmed, this would not preclude future maintenance works to the tree. Should any works need to be carried out to the tree for safety reasons, or for any other reason, an application can be made to the local planning authority to carry out works to the protected tree.

Additional Guidance

- 1.3.23 North Tyneside Council is firmly committed to providing a clean, green, healthy, attractive and sustainable environment, a key feature of the 'Our North Tyneside Plan'.
- 1.3.24 Trees play an important role in the local environment providing multiple benefits but they need to be appropriately managed, especially in an urban environment.
- 1.3.25 Confirming the TPO will not prevent any necessary tree work from being carried out but will ensure the regulation of any tree work to prevent unnecessary or damaging work from taking place that would have a detrimental impact on the amenity value, health and long term retention of the tree. If the owners/occupiers were concerned about the condition of the tree and require pruning works to be carried out, an application to the Council can be submitted as required by the TPO.
- 1.3.26 Protecting the tree with a TPO would be in accordance with the Councils adopted Local Plan policy DM5.9 Trees, Woodland and hedgerows, which states;
- 'DM5.9 Trees, Woodland and Hedgerows: Where it would not degrade other important habitats the Council will support strategies and proposals that protect and enhance the overall condition and extent of trees, woodland and hedgerows in the borough and:*
- a) Protect and manage existing woodlands, trees, hedgerows and landscape features'*
- 1.3.27 In accordance with the Town and Country Planning Act 1990 (as amended) the Authority considers it necessary to issue a Tree Preservation Order to maintain and safeguard the contribution made by the tree to the landscape and visual amenity of the area. The Tree Preservation Order was served on the owners and other relevant parties on 29th January 2021. A copy of the TPO schedule (Appendix 1) and a map of the TPO (Appendix 2) is included in the Appendices.
- 1.3.28 The Order must be confirmed by 28 July 2021 otherwise the Order will lapse and there will be nothing to prevent the removal of these trees which are currently protected.

1.4 Decision options:

1. To confirm the Tree Preservation Order with no modifications.
2. To confirm the Tree Preservation Order with modifications.
3. To not confirm the Tree Preservation Order.

1.5 Reasons for recommended option:

Option 1 is recommended. A Tree Preservation Order does not prevent the felling of trees, but it gives the Council control in order to protect trees which contribute to the general amenity of the surrounding area.

1.6 Appendices:

- Appendix 1 – Schedule of 99 Station Road, Forest Hall Tree Preservation Order 2021
- Appendix 2 – Map of 99 Station Road, Forest Hall Tree Preservation Order 2021
- Appendix 3 – Objection from 103 Station Road, Forest Hall
- Appendix 4 – Photographs submitted as part of the objection from 103 Station Road Forest Hall
- Appendix 5 – Response from the Council Landscape Architect to the objection of the TPO
- Appendix 6 – Agent's original enquiry to remove the tree

1.7 Contact officers:

Peter Slegg (Tel: 643 6308)

1.8 Background information:

The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author:

1. Town and Country Planning Act 1990.
2. Planning Practice Guidance (As amended)
3. The Town and Country Planning (Tree Preservation) (England) Regulations 2012

Report author Peter Slegg

Town and Country Planning Act 1990
The Council of the Borough of North Tyneside (99 Station Road, Forest Hall)
Tree Preservation Order 2021

The Council of the Borough of North Tyneside in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

1. This Order may be cited as the (99 Station Road, Forest Hall) Tree Preservation Order 2021.

Interpretation

2. (1) In this Order “the authority” means the Council of the Borough of North Tyneside

(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 29th day of January 2021

The Common Seal of the
Council of the Borough of North Tyneside
was affixed to this order in the presence of:



A handwritten signature in blue ink, appearing to read "Stephen G. Bellamy". The signature is written in a cursive style and is located below the text "was affixed to this order in the presence of:".

Authorised Signatory

TREE PRESERVATION ORDER 2021

99 STATION ROAD FOREST HALL

SCHEDULE

The map referred to is at a scale of 1:500 and is based on an enlargement of the O.S. edition of sheet numbered NZ2769. The area covered by the Order is on land at 99 Station Road, Forest Hall. The area is wholly within the Metropolitan Borough of North Tyneside in the County of Tyne and Wear.

SPECIFICATION OF TREES

TREES SPECIFIED INDIVIDUALLY

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Sycamore (<i>Acer</i> sp)	Located approximately 11.7m in a northerly direction from the south western corner of 97 and 97A Station Road and approximately 1.0m back from the boundary.

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

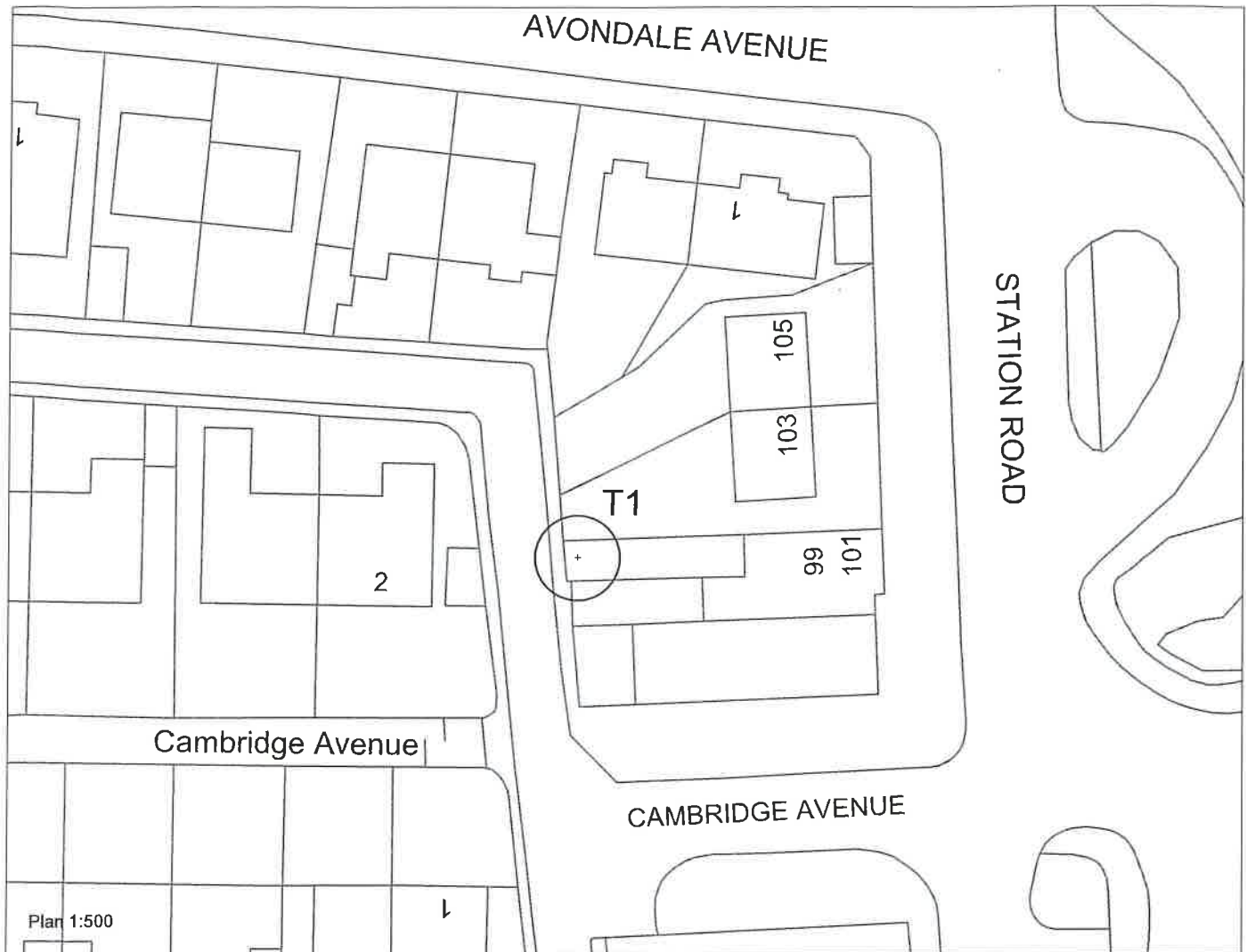
(within a broken black line on the map)

<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		



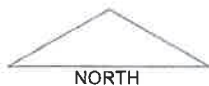
Dated this day :

29 January 2021

The Common Seal of the Council of the Borough of North Tyneside was affixed to this Order in the presence of :

Authorised Signatory

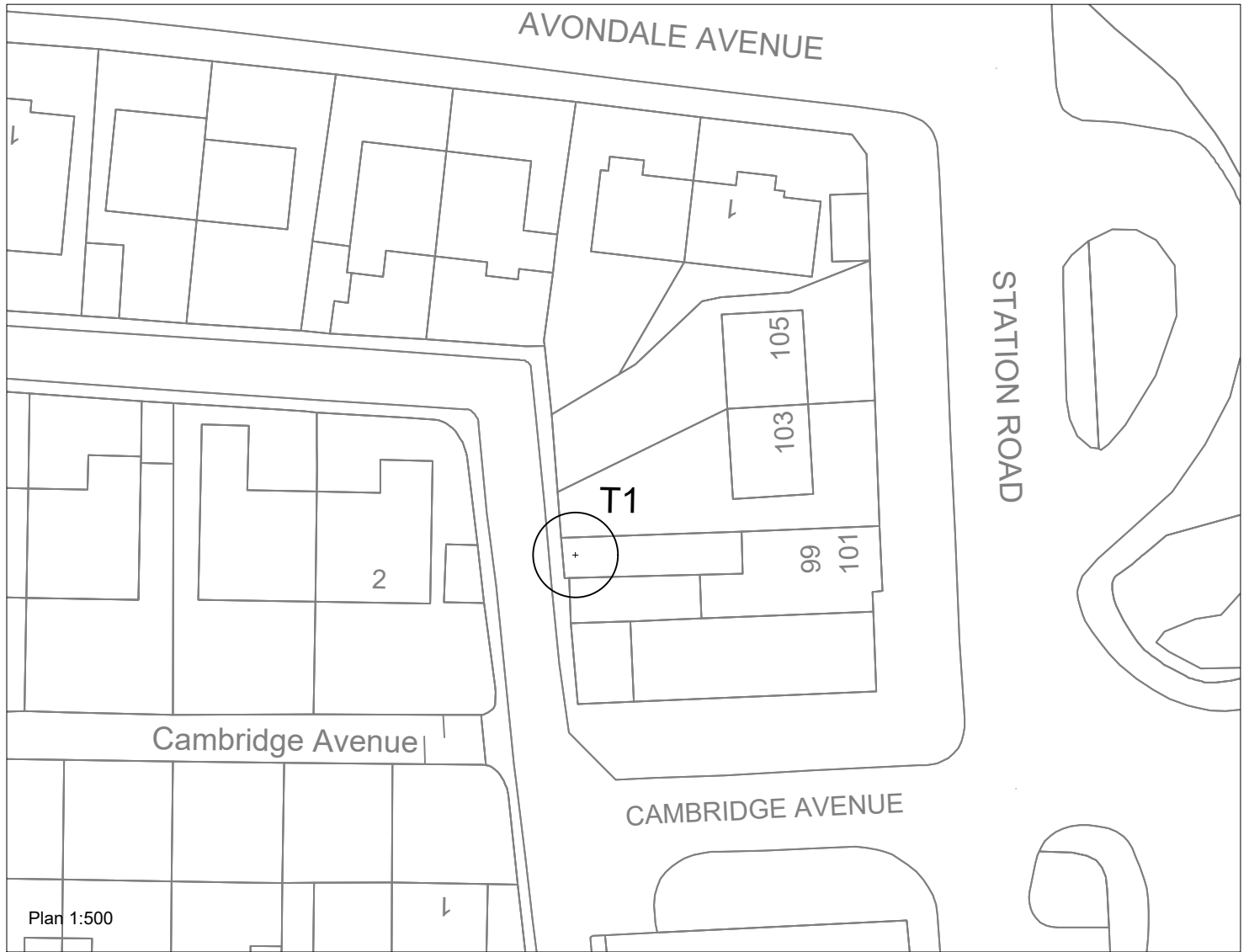
PHIL SCOTT
 HEAD OF ENVIRONMENT, HOUSING AND LEISURE
 QUADRANT EAST
 THE SILVERLINK
 COBALT BUSINESS PARK
 NORTH TYNESIDE
 NE27 0BY



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NORTH TYNESIDE COUNCIL
TREE PRESERVATION ORDER 2021

99 STATION ROAD, FOREST HALL



Dated this day :

January 2021

The Common Seal of the Council of the Borough of North Tyneside was affixed to this Order in the presence of :

Authorised Signatory

PHIL SCOTT
 HEAD OF ENVIRONMENT, HOUSING AND LEISURE
 QUADRANT EAST
 THE SILVERLINK
 COBALT BUSINESS PARK
 NORTH TYNESIDE
 NE27 0BY

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**NORTH TYNESIDE COUNCIL
 TREE PRESERVATION ORDER 2021**

99 STATION ROAD, FOREST HALL

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103 Station Road
Forest Hall
Newcastle Upon Tyne
NE12 7HS
16/2/2021

Dear Sir/Madam

I would like to object to a TPO being placed on the sycamore tree at 99 Station road, Forest Hall.

I would like to raise the following points.

This tree is not in a conservation area and has not been deemed suitable for a TPO in the past.

The tree is a very large sycamore tree which is not a rare variety of tree. It would cause minimal negative impact on the local environment if removed.

This tree is a single tree in the backyard of the property and contributes little to the surrounding visual amenity as it can be barely seen from the main road.

The tree has not been managed properly in the past and allowed to become too large for its location.

This tree is very large and the roots appear to be damaging the rear lane road surface and is very close to a water main which if damaged could cause serious disruption to surrounding properties. The road surface where the mains is was only recently repaired and is already damaged again. I have attached photos of the damage for your records.

The tree has very large branches that overhang my garden and the back lane which could present a risk to myself and the general public in high winds. Photos attached.

The tree totally overshadows my rear garden this greatly reduces the use I have of my garden in the afternoon as the sun is blocked out for most of the afternoon and drastically reduces any pleasure I can get from my rear garden. This also affects what can be grown due to the shade including my lawn which I constantly have to reseed.

The sycamore produces a lot of tree pollen which affects my health due to the fact I suffer from severe asthma.

As well as pollen the leaf fall in the autumn blankets my back garden which I struggle to clear. The blanket of leaves also brings repeated visits of rats who appear to make a home under them. The leaf fall also blankets the back lane which could pose a slip hazard for pedestrians.

This tree has been left unmanaged for years and should be removed or as a minimum drastically cut back.

The tree appears to still be growing and if left will become a bigger problem in the future to the surrounding properties and causing more damage to the road surface and water mains in the back lane.

Placing a TPO on this tree will only serve to make it more difficult and time consuming for the owner of the property to address the issues I have raised.

I do hope my concerns are fully considered before placing a TPO on this tree

Yours sincerely



Photographs submitted by the objector (103 Station Road, Forest Hall) to the 99 Station Road Forest Hall Tree Preservation Order 2021

February 2021

Photograph 1



Photograph 2



Photograph 3



Photograph 4



Photograph 5



Photograph 6



Photograph 7



Photograph 8



Photograph 9



Photograph 10



OBJECTION TO 1no SYCAMORE TREE LOCATED AT 99 STATION ROAD

A TPO as made on 29th January 2021 to protect 1no sycamore tree located at 99 Station Road Forest Hall. The order was served on the owner of 99 Station Road, Forest Hall on 29th January 2021. The LPA has 6 months from the serving of the Order in which to consider any objections.

An objection has been received from the occupier of 103 Station Road Forest Hall in relation to the TPO being placed on the sycamore tree at 99 Station road, Forest Hall.

Relevant planning policies relevant to this TPO confirmation are:

- Town and Country Planning (Tree Preservation) (England) Regulations 2012
- NTC Local Plan policies

The objection to the TPO can be summarised as follows:

1. This tree is not in a conservation area and has not been deemed suitable for a TPO in the past.
2. The tree is a very large sycamore tree which is not a rare variety of tree. It would cause minimal negative impact on the local environment if removed.
3. This tree is a single tree in the backyard of the property and contributes little to the surrounding visual amenity as it can be barely seen from the main road.
4. The tree has not been managed properly in the past and allowed to become too large for its location.
5. Tree roots appear to be damaging the rear lane road surface and potentially underground utilities that serve surrounding properties.
6. Risk of branch failure resulting from high winds that overhang the garden and the back lane.
7. The tree overshadows the garden restricting use.
8. The sycamore produces a lot of tree pollen which affects health.
9. Leaf fall causing a slip hazard for users of the rear lane, also requiring clearing from the garden, and encourages vermin
10. Unmanaged, concerns about future growth and damage to rear lane and underground services.

The sycamore tree is not located in a conservation area

A tree doesn't not have to be located within a conservation area for it to be protected by a TPO. Any tree that provides a level of amenity can be protected. In terms of assessing amenity, the Tree Evaluation Method for Preservation Orders (TEMPO) was used. This assessment was carried out by the local planning authority and is a widely recognised and respected method of assessing tree as an important landscape feature offering significant amenity to the general public.

Concerns relating to the size of the tree and species

There is no legislation as to the presence of an existing tree in relation to urban garden size. Throughout the borough similar juxtapositions can be observed where trees and buildings co-exist in close proximity to each other or mature trees are present in small garden areas. A protected tree would not be removed because it is considered 'too big' or 'too tall' for its surroundings.

It is however acknowledged that due to the tree's proximity to the existing building, periodic remedial work may in the future be required to maintain a reasonable clearance between the canopy edge and building. However, the TPO will ensure that any pruning works are not detrimental to the trees and in accordance with approved standards

In terms of its species, TPO's are not only restricted to native trees and if any tree contributes to the visual amenity of an area, it is worthy of protection by a TPO. Sycamore trees have just as much value in the landscape as any other tree and although sycamores are not a native species, they have been naturalised in the UK for hundreds of years. In North Tyneside, they now form a valuable part of the wider tree assemblage and our urban landscape. More recently the importance of sycamore trees in our landscape has probably increased in recent years since elm and ash have resulted in a major loss of trees within the borough. Its contribution to public amenity is addressed separately.

Public Amenity and single tree

TPOs are administered by Local Planning Authorities (LPA) and are made to protect trees that bring significant amenity benefit to the local area. This protection is particularly important where trees are under threat. A TPO is made in effect of amenity and does not distinct between different types of tree species or its size. Any species of tree can be protected, although a TPO can only be used to protect trees and cannot be applied to shrubs and bushes.

The TEMPO evaluation method takes into account factors such as a tree's visibility to the public, its condition, age and remaining life-expectancy, its function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Public access to a tree or trees is not a relevant factor for consideration. Whilst this method is more recognised and widely used by local authorities, it must be remembered however that the TEMPO is only used as guidance and to act as supporting evidence to show how the conclusion to TPO or to not TPO is reached. Nevertheless, these factors are taken into consideration to decide whether a TPO is made although as a result of the surveyors judgement rather than a formal method of assessment. If a score of 11 and above is achieved in the assessment, then the trees are considered worthy of a TPO. In this case the Sycamore tree was evaluated with a score of 15 and therefore the decision was made to protect the tree by a TPO.

The sycamore tree is in reasonable health, early maturity, approximately 12 to 15 m high with the majority of the crown clearly visible from public footpaths and highways of Cambridge Avenue. The tree does not only have to be visible from the 'main' road (Station Road) but must be visible from surrounding public footpaths and highways. The tree can be seen at short distance views and as an individual tree, has greater visual impact in the streetscape. Its loss would be considered a visual change and local residents will experience a changed or altered view on a permanent basis.

Lack of tree management and size of the tree

Responsibility for the trees lies with the owner of the land on which the tree is growing. There is a duty for the landowner to take reasonable care to ensure that their trees do not pose a threat to people and property as the owner of the tree is responsible for any damage caused to property or persons by their tree, or part of it, failing. Concerns relating to the size of the tree are addressed elsewhere.

Damage to road surface and underground utilities

A series of photographs have been supplied that show the condition of the rear lane. The sycamore tree overhangs the rear lane. The objection implies that the tree is responsible for damage to the road surface and potentially underground services. However, the road surface is constructed from a variety of surfaces with evidence of past excavations for either new or upgraded services. In parts the road is constructed from concrete slab which has a limited life and tarmac can deteriorate quickly as a result of harsh weather conditions. No evidence has been provided that proves the presence of tree roots in this location or if they are contributing to any damage. This is insufficient information to allow the removal of the tree or withdraw the TPO.

Branch failure resulting from high winds

The fallout of debris from the tree is no more than should be expected by similar trees of normal vigour and is a natural phenomenon that should be expected when living in an environment with established trees. There is a duty for the landowner to take reasonable care to ensure that their trees do not pose a threat to people and property as the owner of the tree is responsible for any damage caused to property or persons by their tree, or part of it, failing. Branch failure does not always render a tree dangerous and often are isolated events, however, regular inspections of the tree by a tree surgeon will ensure that the tree is maintained in a good and safe condition.

Concerns relating to lack of light

The TPO would prevent the removal of the tree for light purposes unless it is demonstrated that a severe restriction has resulted. Remedial tree works such as crown thinning can relieve the situation, but shade is not sufficient reason to allow the removal of the tree or the withdrawing of the TPO. Where requests are made to prune trees to increase light levels, each instance will be assessed on its merits.

Tree pollen and health

The sycamore tree and the other trees in the locality, collectively offer greater benefits and mounting evidence now realises improved health by improved air quality and reduced carbon emissions (as seen by recent COVID-19 events). Whilst there is great sympathy for the health of the occupier of the property, the benefits this tree and tree groups in the conservation area offer to the wider population outweigh the inconvenience they may cause to an individual.

Leaf fall

Leaf fall is a natural and seasonal inconvenience and whilst troublesome it is not legally a nuisance and not sufficient to allow the removal of the tree or withdraw the TPO.

Future growth and management

It is the owner's responsibility to have their trees checked regularly by a competent person and professional arboricultural advice should be sought to ensure trees are maintained in a safe condition. As trees mature, it is natural for them develop dead wood within the canopy. This can be addressed through simple management and regular inspections as part of a sensible risk management approach and which can reduce the likelihood of problems in the future. The TPO will ensure any works undertaken are carried out in accordance with good arboricultural practices and does not prevent future works from being undertaken but approval from the local authority would need to be sought beforehand.

Conclusion

The sycamore tree is in fair condition, reasonably healthy with no major defects. It is located in a prominent position within the rear garden next to a public highway. It is therefore highly visible to occupiers of neighbouring residential properties and from vehicular traffic and pedestrians on Cambridge Avenue. Therefore, the tree is considered to be an important element of the local landscape. The Order has been properly made in the interests of securing the contribution this tree makes to the public amenity value in the area. The concerns of the homeowner have been fully considered and balanced against the contribution this Sycamore tree makes to the to the local environment.

Whilst it is acknowledged that the reason for objecting to the TPO, in particular concerns about its visibility, individual impact and wider impact require due consideration, it is not felt that they outweigh the contribution this tree makes to the area.

Due to its prominence within the local landscape, the age of the tree, its health and current condition, and on the understanding that the tree is at risk of being felled, it is considered expedient in the interests of amenity to confirm a Tree Preservation Order on this tree.

It is important to reiterate that, if the Order is confirmed, this would not preclude future maintenance works to the tree. Should any works need to be carried out to the tree for safety reasons, or for any other reason, an application can be made to the local planning authority to carry out works to the protected tree.

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Hello Peter

Would you be able to respond to Mr Blackwood?

Thanks

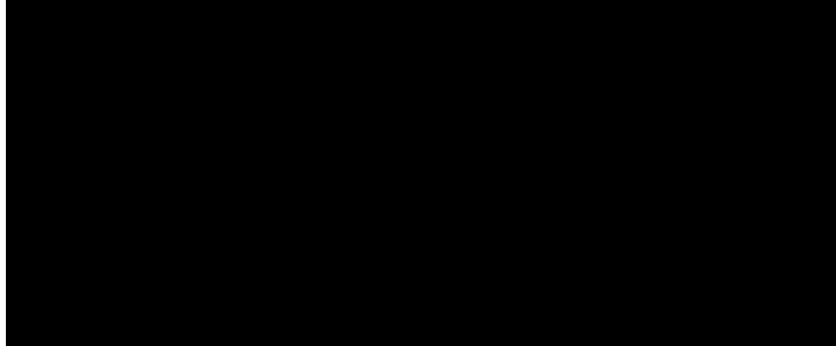
Dave



I have been asked to remove a tree at the rear of a pharmacy in Forrest Hall. Address: 99 Station Rd, Forest Hall, Newcastle upon Tyne NE12 7HS.
Could you be able to tell me if it has a TPO on it please, its not showing up on your map.

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Sincerely,







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