

111 MARINE AVENUE, WHITLEY BAY: OBJECTION TO TPO

The trees subject to this TPO are located on land at 111 Marine Avenue, Whitley Bay. An objection has been received from the owner of the property to this order that has been served at the above address. The order was served as the owner wishes to remove the trees, however it was considered that the trees are sufficiently prominent in the streetscape to warrant protection by a TPO

An objection to the serving of the TPO has been received from a tree surgeon acting on behalf of the owner based on the following:

- The tree is potentially causing damage to the property.

The application refers to 4no trees located within the gardens of the property; T1 Sycamore, T2 Cherry, T3 Apple and T5 Laburnum. All trees have been identified for removal to combat subsidence damage.

There are two issues to be considered:

- The contribution the trees make to the conservation area (amenity value)
- The potential damage to the property (subsidence)

Amenity Value

In serving a TPO, the tree must be able to show that protection would bring a reasonable degree of public benefit in the present or future. As defined by the governments 'Tree Preservation Orders and Trees in Conservation Areas' '*Amenity* is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public'. To evaluate amenity, the TEMPO assessment (Tree Evaluation Method for Evaluating Preservation Orders) was used to assess the suitability of a tree for a TPO. This is a widely recognised and respected method of valuation which 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. Furthermore, the tree(s) usually need to be under an immediate or foreseeable threat to warrant protection.

With regard to amenity, the trees need to be visible from public places, usually the public highway, footpaths and open spaces. In this case the trees are highly visible from a public highway and footpaths which surround the property to the east and west. The sycamore tree is a large and mature sycamore on the northern boundary of the property which has a commanding individual presence visible from locations on Marine Avenue. Therefore, the tree is considered to have a high degree of visual prominence and makes a significant contribution to the character and appearance of the local area. T2 (cherry), T3 (apple) and T5 (laburnum) are much smaller trees, closer to the house. However, all the trees make a positive and significant contribution to the landscape to some extent, although the apple possibly less so than the other trees.

The sycamore (T1) is an old pollard and has some decay in the point of pollard. However, this does not detract from the positive effect the tree makes on the landscape and there are management options that could be used should the pollard growth and decay become an issue of concern.

Structural damage to property

In the case of damage to the property itself, the information provided in support of the application shows minor damage to the structure, intermediate/high plasticity soil, inconclusive root analysis and no seasonal monitoring. There is a recommendation within the engineer report to provide level and crack monitoring to 'confirm the exact nature of any movement to the building and gather evidence in respect of any necessary TPO application'.

If there is damage to the structure of the property by the roots of the tree, a fully detailed structural engineers report must be submitted to prove **actual** damage as the tree may not be the only factor that can cause building movement. For example, natural seasonal soil moisture changes, localised geological variations, damaged drainage, over loading of internal walls and settlement, amongst others so clear evidence is required that the damage caused is due to the trees in order to require their removal. This information required will be in line with current TPO guidance to ensure trees are not

unnecessarily removed. In many cases, trees co-exist next to structures and in many situations without conflict, so unless evidence is provided indicating otherwise, it is not considered a reason remove the tree.

Typical evidence and information that is necessary to assess the influence of a tree can be provided by a Structural Engineer and should include:

- A description of the property including, type and depth of foundations, a description of the damage and the crack pattern, the date that the damage first occurred/was noted, details of any previous underpinning or building work, the geological strata for the site identified from the geological map.
- Details of vegetation in the vicinity and its management since discovery of the damage, together with a plan showing the vegetation and affected building.
- Measurement of the extent and distribution of vertical movement using level monitoring. However, where level monitoring is not possible, the applicant should state why and provide crack-monitoring data. The data provided must be sufficient to show a pattern of movement consistent with the presence of the implicated tree(s).
- A profile of a trial/bore hole dug to identify soil characteristics and foundation type and depth.
- The sub-soil characteristics including soil type (particularly that on which the foundations rest), liquid limit, plastic limit and plasticity index.
- The location and identification of roots found. Where identification is inconclusive, DNA testing should be carried out.

In addition, this should be supported by a drainage survey and a report from an arboriculturalist to support the tree work proposals, including arboricultural options for avoidance or remediation of indirect tree-related damage.

On the basis of the information given, the request to fell T1 Sycamore, T2 Cherry is not supported and a TPO is proposed for the following reasons:

- The removal of the tree would impact on visual amenity,
- Lack of evidence with regard to damage to the property.

Justification for the removal of 2no trees

The trees are suitable for a TPO based on a TEMPO assessment. Any reasons to remove trees must be convincing and the information submitted with the application is not sufficiently convincing to remove all the trees. Putting any issues with subsidence aside and assessing at the trees based on amenity (TEMPO assessment) and their contribution to the character of the conservation area it was decided that the Apple and Laburnum have a less convincing TEMPO score than the Sycamore and the Cherry, would not merit a TPO and could be removed.

Conclusion

Trees co-exist next to structures and in many situations without conflict, so unless evidence is provided indicating otherwise, it is not considered a reason remove the tree.

The TPO does not prevent works being undertaken to the tree but ensures that if any pruning works or construction works in close proximity to the tree are carried out so that the tree is not damaged in any way. Further detail is provided in BS5837: 2012 '*Trees in Relation to Construction-Recommendations*'.

The making of a TPO is a 'discretionary' power under the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012, that allows the Local Planning Authority (LPA) time to consider if the tree is worthy of protection or not.

The Local Planning Authority currently has over 100 individual tree preservation orders in place for various parts of the borough and the majority of TPO's are protecting trees in privately owned property. There is a process within the authority to determine whether a tree or trees merit protection based on a number of factors such as the size, type or location of the tree or trees and whether it/they are at risk of removal or damage. Whilst the TPO does bring additional responsibilities to the owner of the tree, this is not unusual across the borough.

The Sycamore and cherry tree at this current stage, are in reasonable condition with no major structural defects. They are located in a prominent position within the front garden of the property and therefore highly visible to occupiers of neighbouring residential properties and from vehicular and pedestrians routes on Marine Road. Therefore, the tree is considered to be an important element of the local landscape. The Order has been made in accordance with Government guidelines and 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 the Sycamore and Cherry trees makes to the to the local environment and it is not felt that they outweigh the contribution this tree makes to the amenity of the local area. Their loss would be considered a visual change and local residents will experience a changed or altered view on a permanent basis.

Due to the prominence of the trees within the local landscape, the age of the trees, their current condition, and on the understanding that the trees are at risk of being felled, it is considered expedient in the interests of amenity to confirm a Tree Preservation Order without modification on this tree.

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 to the protected trees.

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