

111 MARINE AVENUE, WHITLEY BAY: OBJECTION TO TPO (REVISED)

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

New information has been submitted which implies that the tree is the cause of subsidence related damage to 111 Marine Avenue and its neighbouring property 113 Marine Avenue.

The following reports have been supplied:

1. Site Investigation Report 30.11.2021 (Reference 9368226) by Sedgwick which includes root identification.
2. Arboricultural Assessment Report 14.03.2023 (Reference 254714) by Property Risk Inspection.
3. Engineering Appraisal Report 111 Marine Avenue, Whitely Bay 14.01.2022 (Reference 9368226) by Sedgwick
4. Engineering Appraisal Report 113 Marine Avenue, Whitley Bay 18.01.2022 (Reference 9383602) by Sedgwick
5. Monitoring Details Report 23.06.2023 (Reference 9368226) by My Home Needs Ltd.

111 Marine Avenue has a basement with a pumping chamber. This collects ground water and pumps it to an external gully. The drainage system to the property has been investigated via a CCTV survey and defects were found in the drainage system although root ingress was not reported. The CCTV survey revealed joint displacements and also mortar intrusion caused by ground movement. It is recommended that repairs are carried out to prevent an escape of water from the drainage system although at this stage it is not known if any repairs have been carried out.

A single trial hole has been undertaken that establishes the soil type and foundation depths of the property where 3no dead roots were found (less than 0.07mm in diameter). The trial pit was undertaken in the basement of the property.

Eleven level monitoring readings, taken from around all sides of both No. 111 and 113 Marine Avenue, showing the level readings difference of the property and crack readings of No.111 and 113 party wall stairway. The readings were from 10 visits at 6 weekly intervals dating from 26th January 2022 through to 21st June 2023.

Soil analysis reporting was undertaken with soils tested from TP1 with liquid limit, plastic limit and plasticity index readings provided. The plasticity index readings are between 29 and 35% which show the soils having medium volume change potential.

The principal damage takes the form of diagonal plaster cracking, to the right-hand party wall at first floor level. The pattern of damage indicates a mechanism of downwards movement of the party wall. However, the level of damage is slight, and is classified as category 2 in accordance with '*BRE Digest 251 - Assessment of damage in low-rise buildings*' which state '*Cracks easily filled. Recurrent cracks can be masked by suitable linings. Cracks not necessarily visible externally; some external repointing may be required to ensure weather-tightness. Doors and windows may stick*

slightly and require easing and adjusting. Typical crack widths up to 5 mm'. The Policyholder has confirmed that door stick during certain months and to some extent, seasonal shrinkage and swelling movements can be expected with larger movements likely to occur only in exceptional spells of dry weather.

The site investigations confirmed the depth of the foundation is approximately 500mm deep. Taking into account the presence of the tree, the depth of the foundation is inadequate to cope with the shrink /swell properties of the soil (it is recommended that a foundation depth of approximately 1.25m minimum is required for soils with a PI of 20- 40) and the cracking in the property is the result of downward movement of the foundations onto (medium) shrinkable clay subsoil.

In the case of damage to the property itself, the information provided in support of the application shows minor damage to the structure that can be repaired (category 2 in accordance with BRE Digest 251 - Assessment of damage in low-rise buildings). Combined with the high amenity value that the trees present, 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,
- The damage to the property in accordance with category 2 'BRE Digest 251 - Assessment of damage in low-rise buildings' is aesthetic and can be repaired.

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

The report concludes that damage to the drainage system is the result from ground movement as opposed to the leaking drainage system, however it is not known at this stage if the repairs to the drainage system have been carried out which can fully eliminate any association with any movement to the property. Permission has also been granted for the removal of 2no trees which are in much closer proximity to the building that the sycamore and cherry so it would be useful to see if the removal of the trees and the repairs to the drainage has any impact on the soil moisture levels.

Whilst it is acknowledged that the soil is susceptible to movement as a result of changes in volume of the clay, the damage resulting from the movement according to category 2 of the BRE Digest 251 - Assessment of damage in low-rise buildings, is considered to be 'aesthetic' (Classification of Damage) and can be addressed via 'remedial work'.

Any reason to remove a protected tree must be fully justifiable and the trees provide a high level of amenity. Whilst there is a level of information provided, the level of

damage resulting from soil movement is not so extensive that it cannot be repaired. In addition, the report (under Vegetation Management of the Engineering Appraisal Report for 11 Marine Avenue) states that *'it may be necessary to undertake tree removal in order to mitigate against further movement'* and therefore the requirement to remove the sycamore and cherry tree is not conclusive.

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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