

OBJECTION TO DEUCHARS BACKWORTH TPO

A TPO as made on 25 July 2023 and served on the owners and occupiers of the neighbouring properties.

Objections to the TPO have been received from 7 residents from both Deuchars and neighbouring properties and have been summarised as follows.

1. The objections raise concerns about the condition of the boundary wall with Backworth Hall being at risk of collapse. There are cracks in the wall with root ingress and the wall is leaning.
2. The objections raise concerns about the lack of visual amenity that the trees provide.
3. The objections raise concerns about poor light levels to the rear of the property with the sun never getting above the trees and causing a dark damp space
4. The objections raise concerns about poor satellite and TV signal and poor mobile phone signal.
5. The objections raise concerns about Sycamore trees and sap, tree debris (falling branches) and bird faeces
6. The objections raise concerns about removal of trees and unauthorised pruning work to trees in neighbouring properties
7. The objections raise concerns about metal health issues.

Relevant planning policies relevant to this TPO confirmation are:

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

1. The condition of the boundary wall

In June 2021 Kingston Properties, a property management company for the former Deuchar Building, contacted the council regarding the trees located on land belonging to Backworth Hall. The trees located along a northern boundary wall of the Hall, overhang the residents car parking area of the converted Deuchars property. Kingston Properties requested informal advice on proposed pruning and felling works to trees along the boundary wall with Backwoth Hall for the following reasons:

- Loss of light to 2 cottages at the rear of the development.
- Damage to cars and car park area, due to the debris falling from a height.
- Damage to a stone built boundary wall, which is starting to have various issues, due to the tree roots destabilising the structure of the wall.

Following a site visit it was noted that the trees were located at a distance that provided sufficient clearance over the car park and that access to the car park was unobstructed. No arboricultural reason was provided to justify works to the trees and Kingston Properties were informed that regular maintenance of the trees to remove deadwood does not require consent from the local authority. This would prevent debris falling on to cars in the car park. Whilst the trees may have some impact on light levels to the neighbouring properties there would need to be clear evidence that the trees are a severe restriction to light levels within the properties and any future works to the trees to enable additional light into those properties would need to be justified. Any issues relating to light levels could be addressed by appropriate pruning works.

With regard to the boundary wall, Kingston Properties were advised to obtain a report from a structural engineer or experience builder for their opinion on how to stabilise the wall whilst retaining the trees. This report would be considered with any application for tree works.

In February 2022, a structural report was received from Kingston Property Services requesting our advice on the content of the report prior to an application being submitted. Kingston Properties survey of the wall concluded that the trees are causing structural damage to the wall south of the former Deuchars PH, and the recommendation was that certain trees should be removed.

The structural report was assessed by the Council and the following advice provided: *'the works to the wall would require an increased buttress on the north face of the southern boundary wall to add structural stability. This would help alleviate the issue of the ground level to the south being around*

800mm higher than the car park level and the lean of the wall. It may also be appropriate that works to remove a tree(s) growing directly adjacent to the wall as part of the works. However, it would be useful if within any future proposals to undertake works to the wall there would be consideration to retain some of the trees identified in para 3.1 where possible. Could the strengthening works to the wall allow for the retention of the trees?

If the intention is as part of the works to reduce the land on the southern face of the boundary wall by 500mm how far away from this wall would a reduction in the land level be necessary? Could root pruning be incorporated into these works and if significant root intrusion was present in the wall a potential re-evaluation of retaining trees be considered?'

To date, no response to these comments has been received from Kingston Properties and in June 2023, an application was received with a report providing supporting evidence for the removal of trees (23/00769/TREECA). However, the supporting report is the same report submitted in February 2022 with no additional information or response to address the councils earlier comments. Due to the lack of response and information, it was felt that the trees were under actual threat of removal without any clear justifiable reason and a TPO was made in respect of the trees.

2. Public/visual amenity

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. If a tree in a conservation area is not covered by a TPO, the Town and Country Planning Act requires that written notification, or a section 211 notice, is given to the LPA, describing what works are to be carried out to trees, at least six weeks before the work starts. This gives the LPA an opportunity to consider protecting the tree with a TPO. A TPO is made in effect of amenity and does not distinct between different types of tree species or its size.

A section 211 notice was received informing the LPA that, based on the findings of the structural engineers report, it was the intention to remove 5no sycamore trees located on land belonging to Backworth Hall and prune 1no sycamore tree located within the grounds of the Deuchars property.

A site visit was carried out and an evaluation of the trees was made and it was found that the trees were healthy and as part of a collective group, contributed to the amenity of the conservation area. The amenity of the trees was evaluated by using the TEMPO assessment (Tree Evaluation Method for Evaluating Preservation Orders). This assessment is carried out by the local planning authority and is a widely recognised and respected method of assessing the 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, 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.

Furthermore, the tree(s) usually need to be under an immediate or foreseeable threat to warrant protection, and in this case, the sycamore trees (and one willow, incorrectly identified as a sycamore in the application 23/00769/TREECA) were considered under threat of removal. If a score of 11 and above is achieved in the assessment, then the tree is considered worthy of a TPO. In this case the trees were evaluated with a score of 16, which 'definitely merits' a TPO and therefore the decision was made to protect the trees. The TEMPO assessment is attached for information.

The trees (sycamore and willow) are in reasonable health, early maturity, approximately 14 to 15 m high. The sycamore tree located within the grounds of Deuchars is large, very mature and clearly visible at the top of the driveway between Deuchars and the neighbouring industrial unit. The sycamore trees and willow behind the wall and on land belonging to Backworth Hall are partially visible from Backworth

Lane between a gap between Deuchars and the neighbouring stone cottages to the east of Deuchars. These trees can be seen from short distance views as an individual specimens from the large public space to the front of the cottages. These trees form a larger tree collective and their loss, both from short and long-distance views would be considered a visual change on a permanent basis.

The trees, with the exception of the tree located within the grounds of Deuchars, have fairly narrow canopies but adds maturity to the built environment and helps provide some privacy and screening between properties. It is part of a larger collective grouping of trees which is prominent feature in the landscape and by virtue of its size and location, the tree makes a useful contribution to the outlook from nearby properties and thereby to visual amenity.

3. Light issues

Trees will cast a shadow or reduce natural light to an area of a garden or property on a seasonal basis. However, there is no "right to light" and protected trees would not be removed 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. Where requests are made to prune trees to increase light levels, each instance will be assessed on its merits.

4. Poor satellite, TV signal and mobile phone signal

There is no legal right to a television reception. The satellite or TV provider may be able to suggest an alternative solution to the problems with television and satellite signal which can often be alleviated by the relocation of the aerial or satellite dish as well as the use of a signal booster. The felling of trees is not an arboricultural reason to resolve obstructed mobile phone or other telecommunications signals.

5. Damp, falling leaves, sap and issues associated with trees

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.

Honeydew is caused by greenfly (aphids) feeding on the tree, which excrete a sugary sap. Often the honeydew is colonised by a mould which causes it to go black. Unfortunately, there is little that can be done to remove the aphids which cause the problem; and pruning the tree will generally only offer temporary relief. Whilst the sap from sycamore trees can be troublesome on cars and property, it can usually be washed off with warm soapy water.

Bird droppings can also be seen as a nuisance. However, they are naturally occurring in urban environments and it would not therefore be considered a realistic option to prune or remove a tree for this reason. Nesting birds are protected under the Wildlife and Countryside Act 1981 (and other related wildlife laws).

There are risks associated with trees, for example, unexplained falling branches, dead wood within the trees canopy and the fallout of debris from the trees is no more than should be expected by similar trees of normal vigour. This is a natural phenomenon that should be expected when living in an environment with established trees. As trees grow, it is natural for them to drop branches. 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. Responsibility for the tree 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 or property even if the tree is protected by a tree preservation order. As it is difficult to predict the safety of a tree, 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. A tree surgeon to undertake an assessment of the trees who will be able to determine if there is any risk and how the risk, if present, can be mitigated. Branch failure does not always render a tree dangerous and often are isolated events.

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.

6. Objections raise concerns about removal of trees and unauthorised pruning work to trees in neighbouring properties

This refers to trees within Backworth Hall. Matters of this nature are beyond the scope of this report and have no bearing on the Tree Preservation Order issued at this location.

7. The objections raise concerns about mental health issues.

The trees themselves, together with other trees in the locality, offer greater benefits and mounting evidence now realises improved health by improved air quality and reduced carbon emissions. Whilst there is great sympathy for the mental health of the occupier of the property, the benefits these trees in the conservation area offer to the wider population outweigh the inconvenience they may cause to an individual. Also, well maintained trees will help alleviate the perception of threat by falling branches or over dominance.

Conclusion

The trees are in fair condition, reasonably healthy with no major defects. They are an important element of the local landscape and part of a wider tree group within a wildlife corridor as defined by the Local Plan. Therefore, the trees not only provide amenity value but also are important for biodiversity.

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 homeowners have been fully considered and balanced against the contribution the trees make to the to the local environment.

Whilst it is acknowledged the reasons for objecting to the TPO, in particular concerns about visibility, individual impact and wider impact require due consideration, it is not felt that they outweigh the contribution these trees make to the area.

Due to the size of these trees, the age of the trees (and potentially its historical value), their health and current condition, their biodiversity value and on the understanding that the trees are at risk of being felled, it is considered expedient in the interests of amenity to confirm the Tree Preservation Order.

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.