

# North Tyneside Council

## Report to Planning Committee

### Date: 07 03 2024

**ITEM**  
Title: 13 Queens Road,  
Whitley Bay, Tyne and  
Wear Tree Preservation  
Order 2023

**Report from Directorate:** Environment, Housing and Leisure

**Report Author:** John Sparkes, Director of Regeneration and  
Economic Development

**Wards affected:** Monkseaton North

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#### 1.1 Purpose:

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

#### 1.2 Recommendation(s)

Members are requested to consider the representations to the 13 Queens Road, Whitley Bay, Tyne and Wear Tree Preservation Order 2023 and not confirm the Order.

#### 1.3 Information

- 1.3.1 Trees in a conservation area that are not protected by an Order are protected by the provisions in section 211 of the Town and Country Planning Act 1990. These provisions require people to notify the local Council, using a 'section 211 notice', 6 weeks before carrying out certain work on such trees, unless an exception applies. The work may go ahead before the end of the 6 week period if the local planning authority gives consent. This notice period gives the Council an opportunity to consider whether to make an Order on the tree.
- 1.3.2 The notice to fell the single hawthorn tree (23/01022/TREECA) in Monkseaton conservation area was assessed and in this case the Council decided to make a Tree Preservation Order (TPO) for the tree. The Order was served in August 2023 (Appendix 1).
- 1.3.3 One letter of objection has been received following the Council's decision to serve a TPO on the tree from the owner of the tree. A copy of the representation is included as Appendix 3 to this report. The grounds of objection can be summarised as follows:
- Previous application to remove a laburnum because of similar issues was approved in 2016.
  - The root system of the tree has damaged the adjacent wall and poses a risk to pedestrians.
  - Proximity of the tree to the water supply and the roots may fracture the supply pipe and it is also in close proximity to the telephone pole.
  - The crown overhangs the pavement and pose a risk to passing pedestrians.
  - Removal is part of a planned set of landscaping works to the front garden, which include a replacement tree to be planted.

- The tree has a low amenity value and is in poor condition even though it has been maintained for the past 11 years. It is a hedgerow species and does not contribute positively to the streetscape.

1.3.4 A summary of the objections are listed below. The Council has responded to each of the objections:

- a) Previous tree removed for similar issues.
- b) Damage to boundary wall and potential impact on water supply, telephone wires and pedestrians.
- c) Removal would be part of wider landscaping works with a replacement tree to be planted.
- d) The tree does not provide a high level of amenity and therefore should not be considered worthy of protection by a TPO
- e) Concluding remarks

**a) Previous tree removed for similar issues**

1.3.5 The site previously had a laburnum tree of a similar size in the front garden adjacent to the boundary wall and highly visible from the street scene which the local authority accepted could be removed in 2017 (16/00060/TREECA).

1.3.6 Each application is considered on its merits and when determining the removal of the laburnum, the retention of the hawthorn would have been an important consideration. It is a mature specimen, providing canopy cover to the front garden and its removal would have reduced the impact on amenity value to the local area.

1.3.7 In determining the recent application to fell the hawthorn (23/01022/TREECA) the local authority decided to adopt a provisional TPO. This allowed additional time for the local authority to consider the case for protecting the tree with a TPO. The loss of the previous laburnum tree in 2017 increases the importance of the remaining hawthorn tree.

**b) Damage to boundary wall and potential impact on water supply, telephone wires and pedestrians.**

1.3.8 Evidence has been submitted (Appendix 3, 5 and 6) asserting that the tree is causing damage to the adjacent brick wall of the owners property and potential impact to the water supply, telephone wires and pedestrians.

1.3.9 The displacement of the wall appears to be caused by pressure from the roots of the tree, but no detail or information has been submitted to establish if the wall can be repaired whilst retaining the tree. As the wall will need to be repaired to ensure its safety and alleviate any concerns, the wall could be taken down and rebuilt with an option of incorporating a concrete lintel in the foundation to 'bridge over' tree roots to stop any pressure. However, further investigation by an appropriate person, builder or engineer who could provide further advice and suggest methods for protecting the tree roots and repairing the wall should be provided.

1.3.10 There is no evidence of the tree having an impact on the water infrastructure, even though it is in close proximity to it. Trees co-exist with many underground pieces of infrastructure without causing a nuisance and there is no clear justification to remove the tree based on a perceived threat.

1.3.11 The tree has previously been regularly pruned, which has resulted in the tree having a managed form that prevents it causing a nuisance to telephone wires and the adjacent footpath. There is no reason why this previously agreed management of the tree could not be continued to alleviate any potential nuisance of the tree.

**c) Removal would be part of wider landscaping works with a replacement tree to be planted**

- 1.3.12 The proposed works to remove the tree are part of the owners' redesign of the front garden, which include the removal and replacement of the tree in question (Appendix 4). The owners claim the tree to be in poor condition, but this does not appear to be the case and it would be anticipated that the tree would survive for several more years and due to its species type, cope with the continued management of its crown, with limited impact to its overall condition.
- 1.3.13 The justification to remove the tree based on redesigning the front garden would not be a justification to remove a tree. The tree is a mature specimen and there are no arboricultural reasons to remove the tree. The landscaping plans could be amended to accommodate the tree and still achieve a redesign including the benefits listed, such as a raised bed and gravel drainage.

**d) The tree does not provide a high level of amenity and therefore should not be considered worthy of protection by a TPO**

- 1.3.14 The tree is a hawthorn, which as highlighted by the owners, is a common native hedgerow species, but it is also a common street tree. The tree provides wildlife benefits and is able to tolerate urban environments, being robust enough to endure regular pruning, if required. The tree has an amenity value that is worthy of protection and this was the justification for the provisional TPO.

**e) Concluding remarks**

- 1.3.15 Whilst many of the reasons submitted to justify the removal of the tree are not considered justified, the authority is mindful of the amenity value of the tree in regard to the existing street trees along Queens Road.
- 1.3.16 On reflection the authority would agree with the owners that there are several mature trees in close proximity to the tree in question and many others that stretch along Queens Road. These street trees are the principal assets to shaping the character and appearance of the area and have a far greater impact on the amenity value to the local area than the tree in question. The loss of the tree would have a detrimental impact on the overall canopy cover and reduce the amenity value of the local area, but its loss would not be of such significance that it would justify the tree being retained. On balance the loss of the tree would be accepted.
- 1.3.17 The authority cannot require a replacement tree to be planted in a conservation area if it is not subject to a TPO (provided it is not dead, dangerous and not removed without consent). Therefore, even though the owners are clear with their intentions to plant a replacement, there is no power at the disposal of the local authority that would require them to plant a replacement tree. It would be at the owners' discretion to plant a replacement or not.
- 1.3.18 It is not uncommon for the local authority to place a TPO on a tree, with the intention of seeking a future replacement tree to ensure the character and appearance of the conservation area is preserved and enhanced in accordance with Policy DM6.6 of the Local Plan (2017) and to maintain the authority's commitment to protect and enhance the overall condition and extent of trees in the Borough in accordance with Policy DM5.9 of the Local Plan (2017), but on reflection the officer considers the loss of the tree to be acceptable.

**Additional Guidance**

1.3.19 In accordance with the Town and Country Planning Act 1990 (as amended) the Authority considered it necessary to issue a Tree Preservation Order to consider 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 30th August 2023. A copy of this original Order is attached as Appendix 1 and the map is attached as Appendix 2.

1.3.20 The date to confirm the Order passes on 29<sup>th</sup> February 2024. Members are asked to consider the report as recognition as to the merits of the tree and the officers recommendation.

**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 3 is recommended. A Tree Preservation Order would not be justified based on the points above.

**1.6 Appendices:**

Appendix 1 – 13 Queens Road, Whitley Bay, Tyne and Wear Tree Preservation Order 2023.

Appendix 2 – Map of 13 Queens Road, Whitley Bay, Tyne and Wear Tree Preservation Order 2023.

Appendix 3 – Objection from 13 Queens Road, Whitley Bay.

Appendix 4 – Landscape drawing submitted by 13 Queens Road, Whitley Bay.

Appendix 5 – Photograph 1 Impact of tree on boundary wall.

Appendix 6 – Photograph 2 Proximity of the tree to the water supply.

**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

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