

North Tyneside Council

Report to Planning Committee

Date: 8 June 2021

Title: 99 Station Road,
Forest Hall Tree
Preservation Order 2021

Report from Directorate: Environment, Housing and Leisure

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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 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