

OBJECTION TO 1NO CHERRY TREE LOCATED ON LAND AT CARLYLE COURT, WILLINGTON QUAY

An enquiry was received by the council that pruning works were being undertaken to a cherry tree located on land to the frontage of 9 and 10 Carlyle Court. An attempt had been made to remove the tree, but work has stopped before the tree could be removed.

The cherry tree is semi mature and visible from the public roads and footpaths around Carlyle Court. The tree is not protected by a TPO or located in a conservation area but provides a high level of amenity to the surrounding public area. It is considered that the removal will have a detrimental impact on the amenity of the local area. The work undertaken was not considered to be detrimental to the health of the tree, therefore a decision was made to protect the tree from further pruning works or removal and on 28th May 2021, a TPO was served to protect 1no cherry tree.

The order was served on the owners and occupiers of 9 and 10 Carlyle Court. The LPA has 6 months from the serving of the order in which to consider any objections.

Relevant planning policies relevant to this TPO confirmation are:

- Town and Country Planning (Tree Preservation) (England) Regulations 2012
- NTC local plan policies

The purpose of this report is to assess the objections received and determine whether the TPO should be confirmed or not.

The government's advice in the National Planning Practice Guidance (NPPG) states that;

"When deciding whether an Order is appropriate, authorities are advised to take into consideration,

- *what 'amenity' means in practice*
- *what to take into account when assessing amenity value*
- *what 'expedient' means in practice*
- *what trees can be protected and*
- *how they can be identified'*

One letter of support for the TPO has been received. However, an objection has been received from the occupier of 10 Carlyle Court in relation to the TPO being placed on the cherry tree at Carlyle Court, Willington Quay.

The objection to the TPO can be summarised as follows:

1. The tree restricts light into bedroom/office room
2. Financial impact caused due to its proximity to my home.
3. The tree is not in a conservation area and is not a species of significance importance.
4. Blossom from trees causing drainage issues resulting in flooding

1. The tree restricts light into bedroom/office room

The tree is located approximately 6.0m to the east building elevation of 9 and 10 Carlyle Court and stands in front garden space of both properties. The canopy overhangs both garden spaces almost equally. It is approximately 6.0m to 7.0m in height with the outer edge of the canopy approximately 3.0m from the building elevation.

The tree will cast shade to the front building elevations in the mornings during the winter months as the sun travels to the rear of the properties in the afternoon. However, during the height of the summer months this impact will be reduced and when the tree was inspected in the morning of May there was no significant shading of the property. This is therefore not considered extreme and not sufficient to object to the TPO.

2. The tree is not in a conservation area and is not a species of significance importance.

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. 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.

3. Financial impact caused due to its proximity to the property.

No detail has been provided as to why the insurance company refused to cover the property. Insurance companies may ask before a policy is taken out if the tree poses a risk or if the tree has been maintained thereby minimising any potential risk. There are many instances where trees, even without a TPO, are in close proximity to buildings which is why insurance policies will help protect you from any risk.

4. Blossom from trees causing drainage issues resulting in flooding

Falling leaves, blossom and seeds under the current British legal system are not recognised as a nuisance and therefore not a reason to remove a tree. They are all considered natural processes and their removal (picking up leaves, removing seedlings, etc) is seen as normal maintenance of a person's property.

Conclusion

The Cherry tree is in fair condition, reasonably healthy with no major defects. It is located in a prominent position within the front garden of the property. It is therefore highly visible to occupiers of neighbouring residential properties and from vehicular traffic and pedestrians on Carlyle Court. 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 this Cherry tree makes to the to the local environment and it is not felt that they outweigh the contribution this tree makes to the area.

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 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 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.