

North Tyneside Council

Report to Planning Committee

Date: 28 September 2021

Title: 20 Hillheads Road,
Whitley Bay Tree
Preservation Order 2021

Report from Directorate: Environment, Housing and Leisure

Report Author: Phil Scott Head of Environment, Housing and Leisure (Tel: 643 7295)

Wards affected: Monkseaton South

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 20 Hillheads Road, Whitley Bay, Tree Preservation Order 2021 and confirm the Order.

1.3 Information

- 1.3.1 The Council were notified of the intention to remove one sycamore tree to the south of 20 Hillheads Road. These works were assessed, and the Council decided to make a Tree Preservation Order (TPO) for the tree. The Order was served in June 2021 (Appendix 1).
- 1.3.2 One objection has been received following the Council's decision to serve a TPO on the tree from 20 Hillheads Road, Whitley Bay. A copy of the representations is included as Appendix 3 and 4 to this report.
- 1.3.3 Objection from 20 Hillheads Road, Whitley Bay can be summarised as follows:
- No response received to the original enquiry to the Council asking if the tree was subject to a TPO due to the need of undertaking works to the tree because it is growing too close to the adjacent property.
 - The tree has caused damage to the path and drains.
 - It overhangs the roof of the property and the public pavement.
 - All research on this species state that they should not be planted near to a home due to them having an aggressive root system and should be planted at least 15 feet from your house or pavement.
- 1.3.4 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) Limited information provided by the LPA when making the enquiry;
 - b) How was the tree assessed and why was the homeowner not engaged as part of that process?;
 - c) Who is responsible for the tree?;

- d) Subsidence to property caused by the tree including damage to the path and drainage system;
- e) Tree overhangs the roof of the property and public the pavement;
- f) Tree planted too close to the property;
- g) Concluding remarks.

a) Limited information provided by the LPA when making the enquiry

1.3.5 The LPA followed up an enquiry it received and assessed if the tree in question was worthy of protection by a temporary TPO. This is usual practice by the Local Planning Authority when potential works to a tree worthy of merit are brought to the LPA's attention. The LPA can issue a temporary TPO without prior notification to the homeowner and one can be made at any time, even if the answer to the initial enquiry has already been provided. Once a temporary TPO has been made, the LPA has a duty to enforce it whilst a decision is made as to whether the tree is worthy of long term protection, allowing for comments to be submitted. Had a response been provided that confirmed there was no TPO on the sycamore tree, it would have been possible that the tree could have been removed and a tree with high visual amenity would have been lost.

b) How was the tree assessed and why was the homeowner not engaged as part of that process?

1.3.6 The sycamore tree was assessed using the TEMPO assessment system (Tree Evaluation Method for Evaluating Preservation Orders). This assessment is carried out by the LPA and is a widely recognised and respected method of assessing a tree (or trees) suitability for a TPO.

1.3.7 The TEMPO evaluation 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. The TEMPO assessment is only used as guidance and to act as supporting evidence to show how the conclusion to TPO or to not TPO is reached. These factors are taken into consideration to decide whether a TPO is made along with 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 tree was considered under threat of removal.

1.3.8 The sycamore tree is in reasonable health, early maturity, and clearly visible from public footpaths and highways surrounding the property. The tree forms a small tree collective that includes 2no smaller sized street trees, 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. Its loss would be considered a visual change and local residents will experience a changed or altered view on a permanent basis.

1.3.9 With regard to the scoring of the TEMPO evaluation, 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 sycamore tree was evaluated with a score of 15, which 'definitely merits' a TPO, having passed both the amenity and expediency assessments. Therefore, the authority decided that the tree in question merited protection from being removed and made a temporary TPO to protect it. The LPA can issue a TPO without prior notification or involvement of the homeowner.

c) Who is responsible for the tree?

1.3.10 The tree is the property of the landowner and therefore the landowner is responsible for their condition and maintaining and managing the tree. The TPO does not prevent any works from being undertaken but any potential works to the tree must be submitted to and

approved by the Local Authority prior to any works being commenced. This will ensure any works carried out are in accordance with good arboricultural practices and work is not detrimental to the tree.

d) Subsidence to property caused by the tree including damage to the path and drainage system

1.3.11 If there is damage to the structure of the property by the roots of the tree, a structural engineers report must be submitted to the LPA to prove actual damage as the tree may not be the only factor that can cause building movement. For example, natural seasonal soil moisture changes, localised geological variations, damaged drainage, over loading of internal walls and settlement, amongst others so clear evidence is required that the damage caused is due to the trees in order to require their removal. This information is in line with current TPO guidance to ensure trees are not unnecessarily removed. Trees co-exist next to structures and in many situations without conflict, so unless evidence is provided indicating otherwise, removal of the tree is not usually supported.

e) Tree overhangs the roof of the property and the public pavement

1.3.12 Any overhang of branches either over the property or public footpath can be addressed via appropriate pruning. The TPO does 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.

f) Tree planted too close to the property

1.3.13 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 (including sycamores). A protected tree would not be removed because it is considered 'too big' or 'too tall' for its surroundings, particularly if no damage to the fabric of the main building structure has been reported. If there is damage to the structure of the property by the roots of the tree, a structural engineers report must be submitted to the Council to prove actual damage as the tree may not be the only factor that can cause building movement. For example, natural seasonal soil moisture changes, localised geological variations, damaged drainage, over loading of internal walls and settlement, amongst others so clear evidence is required that the damage caused is due to the tree in order to require their removal. This information is in line with current TPO guidance to ensure trees are not unnecessarily removed. Trees co-exist next to structures and in many situations without conflict, so unless evidence is provided indicating otherwise, removal of the tree is not usually supported.

g) Concluding remarks

1.3.14 The Sycamore tree is in fair to reasonable 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 Hillheads 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 this sycamore tree makes to the local environment and it is not felt that they outweigh the contribution this tree makes to the area.

1.3.15 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 the Tree Preservation Order without modification.

- 1.3.16 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

- 1.3.17 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'.

- 1.3.18 Trees play an important role in the local environment providing multiple benefits but they need to be appropriately managed, especially in an urban environment.

- 1.3.19 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.

- 1.3.20 Protecting the tree with a TPO would be in accordance with the Council's 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'*

- 1.3.21 The recently updated National Planning Policy Framework (July 2021) emphasises the importance of street trees to the character and quality of urban environments, which can also help to mitigate and adapt to climate change. From this recognition of the importance of street trees to an urban area the NPPF seeks to ensure that all new streets are tree-lined and that existing trees are retained wherever possible.

- 1.3.22 The National Planning Practice Guidance (NPPG) advises that a local authority should confirm a TPO if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area' (Town and Country Planning Act, 1990).

- 1.3.23 'Amenity' is not defined in law, but the local authority should be able to show that protection would bring about a reasonable degree of public benefit in the present or future. The NPPG identifies certain criteria to consider when assessing the amenity value of a tree(s) that include the visibility of the tree to the public, its contribution to the landscape, the characteristics of the tree, its future potential and whether the tree has a cultural or historical value.

- 1.3.24 In this instance the local authority thought it expedient to place a temporary TPO on the tree in accordance with the Town and Country Planning Act 1990 (as amended) 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 22nd June 2021. A copy of the TPO schedule (Appendix 1) and a map of the TPO (Appendix 2) is included in the Appendices.

1.3.25 The Order must be confirmed by 22nd January 2022 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 20 Hillheads, Whitley Bay Tree Preservation Order 2021

Appendix 2 – Map of 20 Hillheads, Whitley Bay Tree Preservation Order 2021

Appendix 3 – Objection from 20 Hillheads, Whitley Bay 24.07.2021

Appendix 4 – Objection from 20 Hillheads, Whitley Bay 28.06.2021

Appendix 5 – Response from the Council Landscape Architect to the objection of the TPO

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
4. National Planning Policy Framework (July 2021)

Report author Peter Slegg