

OBJECTION TO TREE PRESERVATION ORDER AT 20 HILLHEADS ROAD, WHITLEY BAY

An enquiry was received to the council regarding a mature sycamore tree located on a private property at 20 Hillheads Road, Whitley Bay. There was concern from the council that the enquiry would result in the removal of a mature tree that was prominent in the streetscape.

The sycamore tree is semi mature and visible from the public roads and footpaths around Hillheads Road. 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 and therefore a decision was made to protect the tree from removal with a Tree Preservation Order (TPO) and on 22nd June 2021, a TPO was served to protect 1no sycamore tree.

The order was served on the owners and occupiers of 20 and 22 Hillheads Road. 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'*

An objection has been received from the occupier of 20 Hillheads Road on the 28th June 2021 with a further objection received on 24th July 2021 in relation to the TPO being placed on the Sycamore tree at 20 Hillheads Road Whitley Bay.

The objection to the TPO can be summarised as follows:

1. Limited information provided by the LPA when making the enquiry
2. How was the tree assessed and why was the homeowner not engaged as part of that process?
3. Who is responsible for the tree?
4. Subsidence to property caused by the tree including damage to the path and drainage system.
5. Tree overhangs the roof of the property and the public pavement.
6. Tree planted too close to the property

The making of a TPO is a 'discretionary' power under the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012, that allows the Local Planning Authority (LPA) time to consider if the tree is worthy of protection or not.

The Local Planning Authority currently has over 100 individual tree preservation orders in place for various parts of the borough and the majority of TPO's are protecting trees in privately owned property. There is a process within the authority to determine whether a tree or trees merit protection based on a number of factors such as the size, type or location of the tree or trees and whether it/they are at risk of removal or damage. Whilst the TPO does bring additional responsibilities to the owner of the tree, this is not unusual across the borough.

The TPO would mean that any person who intends to undertake works to a protected tree, needs to apply to the LPA. If you carry out work on a protected tree without LPA's consent, this may result in a criminal prosecution and a fine of up to £20,000.

With regard to the objections received, the following information is provided:

1. 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.
2. 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.

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.

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.

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.

3. 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.
4. 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.

5. 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.
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 (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.

Conclusion

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.

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.