

CITY OF LEEDS TREE PRESERVATION ORDER (NO.11) 2023 (CORNER STONES CLEAVESTY LANE EAST KESWICK LEEDS LS17)

1. BACKGROUND

A Conservation Area notification (Ref: 23/00739/TR) was received by the Council to undertake works to various trees at Corner Stones, Cleavesty Lane, East Keswick. Trees are situated within the East Keswick Conservation Area (CA No. 26).

The works included removal of Scots Pine, and pruning of Cypress, Hawthorn, Birch, Ash and Beech. Proposed works were indicated using annotated photographs, provided by the applicant.

The notification was validated 15 February 2023.

When considering applications under s.211 of the Town and Country Planning Act 1990 to grant consent to carry out prohibited activities to a tree in a Conservation Area in accordance with the 6 March 2014 Tree Preservation Orders and trees in conservation areas Guidance (Paragraph: 118 Reference ID: 36-118-20140306) Leeds City Council ('LCC') may:

- make a Tree Preservation Order if justified in the interests of amenity, preferably within 6 weeks of the date of the notice;
- decide not to make an Order and inform the person who gave notice that the work can go ahead; or
- decide not to make an Order and allow the 6-week notice period to end, after which the proposed work may be done within 2 years of the date of the notice."

The Tree Preservation Orders and trees in conservation areas Guidance also provides guidance on the definition of amenity:

"What does 'amenity' mean in practice?

'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.

Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future."

Paragraph: 007 Reference ID: 36-007-20140306

A Leeds City Council Officer visited site 16 March 2023. Proposed removal of the Scots Pine, and proposed works to the Birch, Ash and Beech, were considered not suitably justified and were considered poor arboricultural practice, and were not supported.

The LCC Officer considered that trees at Corner Stones were prominent trees in a Conservation Area, and that a new Tree Preservation Order was justified in the interests of amenity.

In order to prevent unsuitable work to trees with amenity value, it was deemed expedient for the Council to serve a Tree Preservation Order ('TPO') on the site, which was served on 23 March 2023 (Ref: TPO 11_2023).

Due to the value of other trees on site, and recent and historic tree works, it was considered appropriate to include an additional Beech and Spruce tree within the TPO.

2. OBJECTION

On 20 April 2023, an objection to the Order, was subsequently received from Mr Johnston, of Corner Stones Cleavesty Lane, by way of an email. The objection detailed may be summarised as follows;

- Trees within the order do not provide public amenity value.
- Trees are situated within a Conservation Area, and this is considered to provide adequate protection.
- Trees at the site are located on shallow topsoil, which may increase the risk of failure associated with trees on site.

3. COMMENTS OF THE TREE OFFICER IN RELATION TO THE OBJECTION

1. As detailed in government guidance, for a tree to be considered a public amenity "The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public."

Paragraph: 008 Reference ID: 36-008-20140306.

2. The trees at Corner Stones have attractive, natural forms that provide a positive impact on the character of the Conservation Area, providing amenity value. The trees are a nesting, feeding and roosting site for local birds, insects and squirrels. Trees within TPO 11_2023 are visible from the public highways at Cleavesty Lane (T1, T2, T3), Rose Croft (T4) and South Mount (T5, T6). As such, trees at Cornerstones are considered to be a public amenity.
3. It is argued that the existing Conservation Area protection are sufficient for trees on site.
4. As detailed above, when considering applications under s.211 of the Town and Country Planning Act 1990 to grant consent to carry out prohibited

activities to a tree in a Conservation Area in accordance with the 6 March 2014 Tree Preservation Orders and trees in conservation areas Guidance (Paragraph: 118 Reference ID: 36-118-20140306) Leeds City Council ('LCC') may:

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 - decide not to make an Order and allow the 6-week notice period to end, after which the proposed work may be done within 2 years of the date of the notice.”
5. The existing protection offered by the Conservation Area was sufficient until the s.211 notification was submitted. Once the notification was submitted, the protection offered by the Conservation Area was no longer sufficient and the Council had to decide whether to serve a new TPO, or not serve a new TPO, in response to the notification.
 6. The s.211 notification included pruning work that is poor arboricultural practice that would have been detrimental to the condition and amenity value of affected trees, and removal of trees with public amenity value. As such, the Council decided to make a TPO in the interests of amenity.
 7. The objection comments claim that the trees are situated on shallow topsoil, resulting in limited rooting conditions which may make certain trees on site more prone to failure. Trees highlighted by the objection comment include T1, T3 and T5.
 8. Limited rooting conditions can be a notable feature, and this may inform the Council's approach to tree work applications moving forwards, provided applications are supported by suitable evidence. For example, a Static Tree Pull test can be used to assess tree stability, and if remedial work or removal are required.
 9. The objection highlights T1, T3 and T5, suggesting that pruning works proposed to T1 and T3, and removal of T5, was informed by the trees being situated on shallow topsoil.
 10. The pruning works proposed to T1 and T3 in the s.211 notification would have resulted in large sections of the crown being removed. In addition to the negative impacts on condition and amenity outlined in section 6, the proposed works would have negatively affected the mass damping effects of T1 and T3. The pruning proposed in the s.211 notification may have increased the likelihood of failure of T1 and T3.
 11. T5 has a minor lean. The lean appears to be historic with the crown showing more balanced growth. The tree appeared to be in good overall physiological condition at time of survey and as such is likely self-optimizing, as per BS3998:2010 0.1 (“Trees are dynamic, continually self-optimizing organisms,

i.e. each year, by producing new shoots, roots and radial increments of wood and bark, they maintain both their physiological functions and their structural integrity”). In that context, removal of T5 would appear premature.

12. The objection notes that T5 is leaning and claims that the neighbouring properties at South Mount are at risk in the event of failure. The minor lean of T5 is in the opposite direction of properties at South Mount.

4. CONCLUSION

The Order is warranted on the grounds of amenity and expediency and therefore, the imposition of the Order is appropriate.

The Council will consider future applications to prune and/or remove trees at the site.

5. RECOMMENDATION

That the Order be confirmed as originally as served.