

## **CITY OF LEEDS TREE PRESERVATION ORDER (NO.12) 2023 (7 ASHWOOD VILLAS, HEADINGLEY, LEEDS LS6 2EJ)**

### **1. BACKGROUND**

A Conservation Area notification under s.211 of the Town and Country Planning Act 1990 (Ref: 23/00751/TR) was received by the Council to crown reduce two Lime trees (T1 and T2) at 7 Ashwood Villas, Headingley. The notification was validated on 16 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

The notification outlined that T1 would be reduced by 3 to 4m, and that T2 would be reduced by 2-2.5m. According to the notification, T1 has "out grown space is very large and has dropped material near targets (telecom wires and neighbours garden), [and is] causing excessive shading" and T2 has "out grown space and is causing excessive shading, the area is congested".

LCC Officer inspected the trees 14 March 2023. LCC Officer considered that works proposed were not suitable in the context of the site.

LCC Officer considered that T1 and T2 were prominent trees in a Conservation Area, and that a new Tree Preservation Order was justified in the interests of amenity.

LCC Officer sent an email to the agent, on 14 March 2023, advising them that works would not be supported and offering them the chance to withdraw or amend the notification. No response was received by the LCC Officer.

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

## **2. OBJECTION**

On 23 April 2023, an objection to the Order, was subsequently received from Mr and Mrs Pickles, of 7 Ashwood Villas, by way of an email. The objection detailed may be summarised as follows;

- A tree surgeon has advised them that a crown reduction is required, due to risk associated with T1 and to "reduce congestion" of T2.
- T1 and T2 have dead branches over target areas.
- That the Council has not responded in a constructive manner, and that this has put safety at risk.
- Other trees at Ashwood Villas have been removed or "pollarded" in the last year.

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

1. LCC Officer considered a crown reduction unsuitable based on the justification provided in the notification, and in the subsequent objection.
2. While T1 is a tall, mature tree, at time of inspection the tree appeared to be in good overall condition.
3. An Arboricultural Association conference presentation (Muir, 2019), identified that while reduction in height will temporarily improve safety factors of trees, this is often a short term effect due to regrowth. The negative effects of pruning is likely to have other implications for trees, including reduced physiological condition and decay at pruning wounds, with the potential to exacerbate nuisance and risk associated with the tree in the longer term.
4. LCC Officer did note that the crown of T1 was close to and occasionally touching overhead wires. However, the proposed works do not address this. Pruning to facilitate minor clearance from wires typically only requires selective removal or lateral reduction of smaller diameter tertiary and secondary branches, as opposed to the proposed works which would involve crown reduction at all aspects.

5. Regarding T2, both notification and objection comment that the reduction will be done to “reduce congestion”.
6. It is not entirely clear what is meant by this. The crown of T2 is not in significant conflict with adjacent trees, so it is unclear how a crown reduction would reduce congestion.
7. If the aim is to reduce congestion of branches within the crown of T2, then this would suggest a crown thin is required. While crown thinning is a form of pruning that has fallen out of acceptance in recent years, T2 was noted to have a dense crown at time of inspection. Thinning of minor epicormic growth, to facilitate access during climbing, would be considered suitable. This work would be considered as part of a separate application.
8. Under regulation 14 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 permission is not required for the removal of deadwood. The new preservation order will not prevent the landowner removing deadwood, or neighbouring residents from removing deadwood that overhangs their property.
9. It is recommended that, when planning to remove deadwood, parties notify the council in writing and with supporting evidence (e.g. photographs).
10. The proposed crown reduction was far beyond the scope of what would be required for routine deadwood removal. Deadwood can be safely removed from trees, without the need for additional unnecessary tree work.
11. Under s.211 of the Town and Country Planning Act 1990 Council responses to Conservation Area notifications are limited to No Objection (i.e. works are supported) or serving a new TPO. At their discretion, LCC Officers will also request that proposed tree works are amended or withdrawn.
12. In this instance, LCC Officer advised the agent that the notification would not be supported. The agent was given the opportunity to withdraw or amend the notification. The agent did not respond to the LCC Officer’s email.
13. As the work was not supported, and the agent did not take the opportunity to withdraw or amend the notification, the only available option to the Council was to recommend a new TPO was served.
14. When a tree is protected by a TPO, under regulation 17 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 the Council may grant or refuse consent for works, or offer a Split Decision where alternative works may be recommended. In the event the order is confirmed, the Council will be able to recommend alternative works to the trees moving forwards.
15. Additionally, if an application to work on protected trees is refused by the Council, the applicant may appeal to the Planning Inspectorate under

regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

16. The objection alleges that the choice to TPO T1 and T2 has put safety at risk.
17. The applicant and agent have not provided justification, at this stage, that would support the proposed reduction in height and subsequent negative impact on amenity value of the trees.
18. As outlined above, the negative effects of proposed pruning has the potential to have other implications for trees, including reduced physiological condition and decay at pruning wounds, which can exacerbate nuisance and risk associated with the tree in the longer term.
19. Under regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 permission is not required for the removal of deadwood. This is also outlined in government guidance (Paragraph: 060 Reference ID: 36-060-20140306).
20. As such, LCC Officer does not consider that serving the TPO has put safety at risk.
21. The objection notes that notifications to remove or prune other trees on the street have received No Objection.
22. It is presumed that the notifications referred to are 22/05416/TR (21/08369/TR) and 22/07089/TR.
23. 22/05416/TR was a notification to remove a Sycamore at the boundary of 13 and 15 Ashwood Villas. The notification was initially refused and a TPO was served (Ref: 21/08369/TR). Objections to the TPO were received, however due to internal pressures in the department these were not responded to in the required time and the TPO was not confirmed.
24. In that context, the Council did not object to the subsequent notification to remove the tree.
25. 22/07089/TR was a notification to crown reduce and crown lift two Cherry trees at 5 Ashwood Villas. The Cherry trees in the notification are lower value compared to T1 and T2 at 7 Ashwood Villas and were not considered suitable for a new tree preservation order.

#### **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 tree works applications. Permission is not required for the removal of dead wood.

## **5. RECOMMENDATION**

That the Order be confirmed as originally as served.