

CITY OF LEEDS TREE PRESERVATION ORDER (NO.21) 2023 TPO 2023 21 (28 ELMETE AVENUE ROUNDHAY LEEDS LS8 2QN)

1. BACKGROUND

A Conservation Area notification under s.211 of the Town and Country Planning Act 1990 (Ref: 23/02661/TR) was received by the Council. The notification was validated on 05 May 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 "Re-pollard[ed] back to as previously undertaken". No additional detail was provided.

LCC Officer visited site 30 May 2023. T1 is a mature Horse Chestnut in good overall condition. T1 appears to have historically been "pollarded" to the main stem, in addition to other more recent, and as such it was difficult to determine what works had actually been proposed in the notification, or assess the suitability of proposed work.

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

In order to prevent potentially 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 08 June 2023.

2. OBJECTION

On 05 July 2023, an objection to the Order, was subsequently received from Mr and Mrs Robinson, of 28 Elmete Avenue, by way of an email included an attached pdf letter. The letter has been signed by Mr and Mrs Robinson, Mr and Mrs Bligh of North Lane and Mr and Mrs Clynes of Elmete Avenue.

The objection references a brief conference call that took place on 28 June 2023.

The objection detailed may be summarised as follows;

- Tree works have been proposed/are required to “preserve and maintain the health and longevity of the tree”, and “minimise risk” (1-6)
- That the recent request was to “prune the tree” and “put right sub-standard pruning” (6-15)
- Pruning the tree will improve access to light (16-21)

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

1. LCC Officer assessed T1 and the proposed works during a site visit on 30 May 2023. At time of site visit, T1 appeared to be in good overall physiological condition.
2. As per BS3998:2010 Tree Works – Recommendations 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”.
3. As T1 was in good overall physiological condition, it would appear likely that it is currently self-optimizing and compensating for potential structural issues caused by historic pruning.
4. The appellant and agent have not provided evidence that T1 poses an unacceptable risk to people or property, that would contradict the visual impression that the tree is in good overall condition and self-optimizing.
5. In the event that T1 was not adequately compensating for structural issues caused by historic pruning, intervention may be required. Applications to

prune T1 to mitigate such structural issues will continue to be considered, provided tree works are suitably specific and justified.

6. It is notable that 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.
7. The Objection details that the application was to “prune the tree” to “put right sub-standard pruning”.
8. The proposed work on the application form read “T1 Horse Chestnut - Re-pollard back to as previously undertaken”. No other information has been provided that would clarify the scope of the proposed work. The proposal is vague, and would be difficult to effectively assess unless the tree had consistently been pollarded.
9. Previous recorded s.211 notifications for T1 include 15/00749/TR (“drawback by 1m the branches growing toward the summer house”) and 19/06581/TR (“Drawback branches to give a 2 to 3 metres clearance.”). There is no recent record of consistent pollarding. Inconsistent, significant crown reduction is more consistent with “topping” as opposed to pollarding, which is widely regarded as poor arboricultural practice.
10. Historic works to the tree appear to have included removal of all or most of the crown, with the majority of growth being on the main stem and with a form characteristic of reaction growth. There may have been scope, under the proposal, to remove the entirety of the crown of T1 due to the vague nature of the application. This would have significantly negatively impacted the tree’s amenity value.
11. In the conference call on 28 June 2023, the contractor appeared to suggest that a lesser prune would have been undertaken. This is consistent with the comments in the objection letter. The works described by the contractor would be more consistent with a crown reduction (“operation that results in an overall reduction in the height and/or spread of the crown of a tree [...] whilst retaining the main framework of the crown” (BS3998:2010, 3.13)), as opposed to pollarding (“cutting a tree so as to encourage formation of numerous branches arising from the same height on a main stem or principal branches” BS3998:2010 3.21)).
12. Additionally, as per BS3998:2010 7.7.2: “[Crown reduction] specification should be accurate and clear, so that the desired result is achieved. To avoid ambiguity, the specified end result can be stated either as the tree-height and branch-spread which are to remain, or the average equivalent in branch length (in metres).”

13. As such, the application appeared to use inaccurate terminology and was not sufficiently specific. As outlined above, the Council's available responses When considering applications under s.211 of the Town and Country Planning Act 1990 are:

- 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.”

14. Considering the quality and vague nature of the application, the potential negative consequences of tree work, and the amenity value of T1, the Council decided to make a Tree Preservation Order.

15. As advised during the conference call on 28 June 2023, the Council will continue to consider applications to prune T1, under the TPO. Future applications should be suitably specific and justified, as per Planning Portal guidance and BS3998:2010 Tree Works – Recommendations.

16. The objection outlines that pruning of T1 will increase access to light.

17. T1 is situated to the north-west of 28 Elmete Avenue, to the south-west of 26 Elmete Avenue, and to the north-east of 17 North Lane. Direct shading caused by T1 should be limited to late evening for 28 Elmete Avenue, afternoon and evening for 26B Elmete Avenue, and the early morning for 17 North Lane.

18. While the properties will be affected by direct shading from T1, all properties will have access to sunlight at various points throughout the day, with direct shading at 28 Elmete Avenue and 17 North Lane appearing particularly minimal.

19. T1 is a deciduous tree that temporarily sheds its leaves during autumn and winter. Additionally, T1 is a Horse Chestnut that will likely be affected by Leaf Miner, a common pest of Horse Chestnut that typically causes early defoliation. This will reduce direct shading caused by the tree in autumn and winter, when access to natural sunlight is comparatively scarce.

20. In that context, direct shading caused by T1 does not appear excessive.

21. When considering future tree work applications, Case Officers will consider shading and nuisance issues against the potential negative impacts of pruning on tree condition and amenity.

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.