

CITY OF LEEDS TREE PRESERVATION ORDER (NO.10) 2024 TPO 2024 10 (5 SHAFTESBURY AVENUE LEEDS LS8 1DR)

1. BACKGROUND

A Conservation Area notification under s.211 of the Town and Country Planning Act 1990 (Ref: 24/00062/TR) was received by the Council. The notification was validated on 03 January 2024.

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 included the proposed works to Beech T1: "Reduce the height and spread by no more than 2 metres back to suitable growth points".

An LCC Officer visited the site on 25 January 2024. The LCC Officer considered that the proposed tree work was not suitable, with the potential to be detrimental to the condition, form and amenity value of T1.

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 13 February 2024.

2. OBJECTION

On 14 February 2024, an objection to the Order was received from Professor House, of 5 Shaftesbury Avenue, by way of an email. Following email correspondence, the objection was updated on 18 February 2024, and 23 February 2024.

The objection may be summarised as follows;

- The Council has not objected to previous tree works (1-3)
- Crown reduction is appropriate management of T1 moving forward (4-8)
- A new Tree Preservation Order is not expedient (9-13)
- The objector will hold the Council responsible, in the event of damage relating to the tree (14)

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

1. There have been three previous applications to undertake works to T1. These include 14/05775/TR, 19/06934/TR and 21/08940/TR.
2. The proposals are limited to pruning to maintain suitable clearance from the property and overhead utilities, and crown thinning. None of the proposals include upper or full crown reduction, as was proposed in 24/00062/TR.
3. If the most recent proposal had been limited to pruning to maintain suitable clearance of the property and overhead utilities, the Council would not have objected to the 3 January 2024 s.211 conservation area notification and a new TPO would not have been considered.
4. The objector suggests that full crown reduction of T1 is suitable moving forwards. This is not considered to be consistent with modern standards of tree work, specifically the European Tree Pruning Standards 2021. These standards have been promoted by the Arboricultural Association, and are freely available online.
5. European Tree Pruning Standards 2021 section 3.4.3 Upper Crown Reduction: "This type of pruning intervention is less common and should always be considered along with the need to mechanically stabilise the whole tree or to follow natural crown retrenchment [and] is an intervention that often irreversibly affects the architecture of the crown and the physiology of the whole tree."
6. Section 3.4.4 Crown Shaping states "Shaping a tree (trimming, pollarding etc.) is a set of interventions that irreversibly alter the tree's natural crown architecture. It must be started when a tree is young and must be sustained for the rest of its life [...] It is not advisable to start tree shaping when a tree

reaches maturity or later because it will cause extensive injuries and an imbalance between the leaf area and the root system”.

7. Section 3.4.2 notes that lateral reduction is suitable to “[eliminate] conflict with surrounding structures” and “does not intervene in the height of the crown and does not alter the height of the tree”.
8. When considering the European Tree Pruning Standards 2021, the case officer disagrees that the crown reduction proposed is appropriate management moving forward. The works have not been proposed to mechanically stabilise the tree, and lateral reduction will be sufficient to maintain clearance from the property and overhead utilities.
9. It is argued that a new Order for T1 is not expedient.
10. As detailed above and in Government guidance, 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, the Council 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.”
11. If new Order had not been served, consent would have been granted for the works proposed by default. As outlined in the Officer Report, and further detailed in Section 4 to 8 above, the works proposed in the s211 application were considered to be unsuitable and likely to be detrimental to tree condition and amenity value.
12. Tree Officers consider TEMPO when serving new Orders (Tree Evaluation Method for Preservation Orders). TEMPO includes an expediency assessment at Section 5. The highest scoring section of the expediency assessment is “Immediate threat to tree inc. s.211 Notice”.
13. In that context, serving the Order was expedient.
14. The objector has suggested that they will take legal advice regarding liability. The Objector could seek compensation from the Council, under the Town and Country Planning (Tree Preservation) (England) Regulations 2012, if they can show that the refusal of his application caused loss or damage over £500.

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.