

CITY OF LEEDS TREE PRESERVATION ORDER (NO.46) 2024 TPO 2024 46 (LAND AT CLARENCE ROAD HORSFORTH LEEDS LS18 4LB)

1. BACKGROUND

A Conservation Area notification under s.211 of the Town and Country Planning Act 1990 (Ref: 24/02661/TR) was received by the Council on 29 January 2024.

The notification included in the following proposal:

T1 large Sycamore - Drawback on the western aspect from over the garden by approximately 3.5m in the lower canopy going to approximately 1m in the upper canopy. The reason for drawing the tree back is the excessive shading caused to the garden.

T2 Elm - To remove

T3 Sycamore - To remove

T4 Beech - Draw back on the northern aspect to give a 2m clearance from the property

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

LCC Officer visited site 31 May 2024, to assess tree works.

It was considered that the group of trees at the western boundary of the property were in fair to good overall condition, and had amenity value due to their screening the recent development and prominence in the wider landscape, including from the adjacent public right of way and adjacent highways, including Newlathes Road, Victoria Gardens and Clarence Drive.

The proposed removal of T3 Sycamore was considered to undermine the amenity value of the group.

In the interest of public amenity, it was deemed expedient for the Council to serve a Tree Preservation Order ('TPO') on the site, which was made on 20 June 2024.

2. OBJECTION

An objection to the Order was received from Charles Cocking of JCA Limited, acting on behalf of the resident of 42 Clarence Road, by way of an email on 23 July 2024.

The objection may be summarised as follows;

- The client has highlighted nuisance issues including shading, leaf litter and requirement to prune to maintain clearance from the property (
- The client has raised concerns regarding their liability, due to the trees location next to the public footpath
- The client has highlighted concerns regarding the structural integrity of the boundary wall
- The agent suggests that T3 does not qualify under TEMPO
- T3 was retention category "C" in the recent BS5837:2012 survey, and so is a low value" tree that is easily replaceable.

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

1. The issues highlighted by the client are largely related to nuisance, including shading, leaf litter and proximity to the property.
2. T3 is an early-mature located to the south-west of the property and will cast an appreciable degree of shading throughout the day. However, this is an inevitable consequence of owning a property such as this, with mature protected trees in the garden, the presence of which the appellant would have been aware of at the time the property was purchased, considering the trees pre-date the development of the site.

3. The requirement to prune trees to maintain suitable clearance is a maintenance expense that should be anticipated when purchasing a property adjacent to established trees.
4. Clearance of autumn leaves from gardens and gutters is regarded as a normal part of property maintenance, particularly when purchasing properties surrounded by mature trees. Removal of T3 is unlikely to significantly affect the requirement to clear leaves from the garden.
5. As such, this justification is not considered sufficient to support removal of trees with amenity value in a Conservation Area. However, the Council will support alternative, minor works to alleviate nuisance issues.
6. In response to 24/02661/TR, the Council approved pruning T3 to maintain suitable clearance from the property. In follow up application 24/03728/TR (mistakenly identified as 40 Clarence Road on the application form, but still relating to trees at 42 Clarence Road), the Council approved lateral reduction of T1 and T3 to create a "window" in the canopy of the trees to increase access to direct light in the rear garden.
7. The Council is likely to support applications for tree work that look to alleviate nuisance issues, provided they do not significantly negatively impact the amenity value of protected trees.
8. The Council will support applications that are in the interest of maintaining the health and safety of the tree, provided there is suitable justification for the works. The client is advised that the trees should be routinely assessed by a suitably qualified and competent arboriculturist.
9. The client suggests that T3 is displacing the boundary wall.
10. It is notable that both the BS5837:2012 survey that took place prior to the development, and client's appointed arboriculturist, have suggested T3 has 20-40 years safe useful life expectancy. If the tree was considered to be displacing the boundary wall and outgrowing its context, as suggested, it would not have a 20-40 year safe useful life expectancy.
11. The agent suggests that T3 does not qualify for a TPO under TEMPO methodology (Tree Evaluation Method for Preservation Orders).
12. According to the agent's TEMPO assessment, T3 scores 3 for Condition (Fair), 2 for Retention Span (20-40 year remaining), 2 for Relative Public Visibility (a small tree or a medium tree visible only with difficulty), and 1 for Other Factors. This results in a score of 8, which would not qualify for a TPO.
13. LCC Officer agrees with the Condition, Retention Span and Other Factors section of the agent's TEMPO assessment. However, the Officer disagrees with the Relative Public Visibility score. T3 is not a small tree or medium tree visible only with difficulty, as it is clearly visible from the public right of way

and adjacent highways, including Newlalthes Road, Victoria Gardens and Clarence Drive. The Relative Public Visibility score is 4.

14. This brings the score to 10 (3+2+4+1), which then qualifies for the expediency assessment section of TEMPO. T3 was subject to a s211 notification, scoring 5 on the expediency assessment and a total score of 15. A score of 15 equates to "TPO defensible".
15. This is assuming T3 is only considered as an individual tree. However, TPO 46_2024 is a group order. This would raise the "Other Factors" score to 4 for the group, and a TEMPO of 18. A score of 18 equates to "definitely merits TPO".
16. It is suggested that T3 is a low value tree that is easily replaceable, based on a BS5837:2012 assessment that took place in March 2019.
17. On reviewing the schedule for the BS5837:2012 assessment, it is not clear why T3 is Category C. T3 has very similar measurements, condition and description to the adjacent Beech and Lime tree, both of which are Category B. T3 could, arguably, be considered Category B.
18. According to the tree schedule, T3 has a diameter of 61cm. Using basic tree aging methodology, it is estimated that T3 is approximately 75 years old. The crown spread is 9 metres north to south, and 8 metres east to west.
19. According to United Bank of Carbon research for the University of Leeds ("What is "Like for Like", 2021), in order to offset the loss of carbon sequestration provided by a Category C 61 cm in diameter, between four and ten replacement trees would be required (depending on potential stature of the replacement trees). T3 could, arguably, be considered Category B, which would require between 7 and 17 replacement trees.
20. In that context, LCC Officer disagrees that T3 is a low value tree that can be easily replaced.
21. It is notable that the BS5837:2012 assessment suggested that T3 should be retained as part of the development.

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

The Order should be confirmed, as originally served.