



SHEFFIELD CITY COUNCIL

Planning & Highways Committee Report

Report of: Director of City Growth Service

Date: 12th September 2023

Subject: Tree Preservation Order No. 471

Author of Report: Vanessa Lyons, Community Tree Officer (Planning).

Summary: To seek confirmation of Tree Preservation Order No. 471

Reasons for Recommendation

To protect a tree of visual amenity value to the locality

Recommendation

Tree Preservation Order No. 471 should be confirmed unmodified.

Background Papers:

- A) Tree Preservation Order No.471 and map attached.
 - B) Tree Evaluation Method for Preservation Orders (TEMPO) assessment attached.
 - C) Images of the tree
 - D) Endcliffe Conservation Area Boundary Plan
 - E) Objection
 - F) Section 211 Delegated Officers Report
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Category of Report: OPEN

CITY GROWTH SERVICE

REPORT TO PLANNING & HIGHWAYS COMMITTEE

Tree Preservation Order No. 471

The Limes 7a Endcliffe Hall Avenue, Sheffield, S10 3EL

TREE PRESERVATION ORDER NO. 471

1.0 PURPOSE

1.1 To seek confirmation of Tree Preservation Order No.471

2.0 BACKGROUND

2.1 Tree Preservation Order No.471 ('the Order') was made on the 30th of March 2023 protect a lime tree which stands on the privately-owned highway to the front of 7A Endcliffe Hall Avenue. The tree is located within the Endcliffe Conservation Area and so is already protected to a limited extent by Section 211 of the Town and Country Planning Act 1990. A copy of the Order, with its accompanying map, is attached as Appendix A.

2.2 The tree stands to the front of 7A Endcliffe Hall Avenue and is part of an avenue of lime trees which runs along the length of both sides of the road. As Endcliffe Hall Avenue is an un-adopted highway, responsibility for maintenance of the road and the trees within it ordinarily falls upon homeowners whose properties front the highway (known as 'frontagers'). Frontagers typically have ownership of the trees that stand in un-adopted highway adjacent to their property.

2.3 On the 13th of February 2023, the Council received a section 211 notice, reference 23/00470/TCA, submitted by a tree surgeon working on behalf of the owner of 7A Endcliffe Hall Avenue. This notice stated the intention to remove the tree in the highway to the front of the property, as following from strong winds the week before, it was felt that the tree was leaning more than it had done previously, and therefore needed removing as a matter of safety. Additionally, its roots were stated as damaging the pavement, and interrupting the electricity supply to electric gates that front the property.

2.4 The tree was subsequently inspected by Vanessa Lyons, Community Tree Officer on the 28th of February, and again on the 13th of March 2023. Due to the potential safety implications outlined in the section 211 notice, a second opinion was requested by Vanessa from a colleague, and from the manager of Sheffield City Council's Tree Service. The inspections revealed some lifting of the tarmac consistent with root growth, which is a normal and common occurrence seen in trees surrounded by tarmac, and which can be remedied by relaying the tarmac. There was no evidence of cracking, lifting or disturbance of the ground within the tree's root plate that would be considered typical of a tree experiencing root plate instability. The kerb to the base of the tree is higher than the surrounding kerb line, but the colour of the kerbstone

and presence of moss indicates that this kerb had been raised for some time, there being no break in the moss, or clean area of non-weathered stone visible, as would be consistent with a kerb that had been recently lifted. Examination of images from Google Streetview showed no change in kerb alignment from before and after the high wind event (see images in Appendix C) and indicate that the kerb has been elevated since 2008.

- 2.5 The stem of the tree leans in the direction of the house, but the upper canopy of the tree shows typical upright growth structure, indicating that the original cause of the lean happened sufficient time ago for the canopy to right itself to a normal orientation. The angle of these branches, and the stem, create a reference point for comparison. Google Streetview photographs indicate that there has been no discernible change in the stem angle or alignment of branches within the canopy from before, and after, the high wind. Looking even further back, according to image comparison, there has been no discernible change for over 10 years. The conclusion drawn by the three members of the Tree Service is that the tree has not recently moved and is not showing any indication of instability such that the tree requires removal on the grounds of safety.
- 2.6 Regarding alleged damage of the mechanism of the electric gate by the tree's roots, there was insufficient evidence provided with the section 211 notice to indicate that the roots are the cause of the issue, or that the gate cannot be fixed with the tree in situ.
- 2.7 The tree was assessed using the Tree Evaluation Method for Preservation Orders (TEMPO). It scored 17 points, indicating that the tree offers sufficient amenity to merit a TPO. It was therefore deemed expedient in the interests of amenity to make the tree subject to an Order. A delegated officer's report outlining the rationale for this was issued alongside a decision notice, stating the intention of the Council to protect the tree with an Order. A copy of the delegated officer report can be found at Appendix F, and a copy of the TEMPO assessment can be found at Appendix B.
- 2.8 Objections.

One duly made objection to the TPO was received, which can be found at Appendix E. The objection was submitted by the owner of 7A Endcliffe Hall Avenue, and the salient points are as follows:

- The applicant has consulted with an arborist who recommends the tree be felled.
- The tree's roots have raised the pavement, broken the gate mechanism and cracked the front garden wall.
- A Council Officer stated that the damage to the pavement was heat related damage, not root damage, and that this is incorrect.

In response

- No evidence was supplied with the section 211 notice to indicate how the arborist arrived at their conclusion that the tree is dangerous and must be removed. This would typically take the form of a detailed

inspection of the tree, of the sort that has been conducted by the Council's own officers.

- Following from a detailed inspection of the tree, and image comparison to identify possible changes in stem angle or branch alignment over time, the expert opinion of three arboriculturists employed by the Council is that the tree is not in a dangerous condition such that removal is necessary.
- The damage to the pavement is caused by ingress of the tree's roots. This is remediable without needing to remove the tree. The Council's arboricultural officer is not of the opinion that the damage is heat related and has no recollection of stating as such.
- There is insufficient evidence to suggest that the tree is the cause of damage to the wall or gate. If so, it is possible that engineering solutions exist which could fix these issues without removing the tree.

3.0 VISUAL AMENITY ASSESSMENT

Visibility: A mature lime of reasonably large stature, forming part of an avenue of mature lime trees which line both sides of Endcliffe Hall Avenue. The tree is prominent within the street scene and fully visible to the public.

Condition: The tree is in reasonable condition with no major outward defects. It leans, but this is a very common feature of many trees, and the upright nature of the canopy shows that the cause of lean is historic and that the tree has returned to upright growth. The canopy of the tree has previously been pruned but has responded with reasonable amounts of growth. There is no indication that the tree has recently moved or that the angle of lean is increasing.

Retention span: The tree is estimated as having an approximate retention span of 20 years, which is a conservative estimate based upon the inhospitable environment (tarmac) the tree is growing in.

Other factors: The tree is part of an avenue of mature limes, similar in size and age and therefore important as an arboricultural feature due to its cohesion. Removal of a constituent part of the avenue should be resisted unless strictly necessary.

Contribution to the conservation area: There is no recent appraisal which outlines the nature of the Endcliffe Conservation Area. However, lime avenues are considered important features of several conservation areas within the city. The lime avenue that lines Endcliffe Hall Avenue adds considerable amenity to the area, and consistency to a street where plots are set back, and houses varied. Such avenues of trees should be preserved where possible.

Expediency: Immediate. Section 211 notice stating removal of the tree.

4.0 EQUAL OPPORTUNITIES IMPLICATIONS

4.1 There are no equal opportunities implications.

5.0 ENVIRONMENTAL AND PROPERTY IMPLICATIONS

5.1 There are no environmental and property implications based on the information provided.

5.2 Protection of the trees detailed in Tree Preservation Order No.471 will benefit the visual amenity of the local environment.

6.0 FINANCIAL IMPLICATIONS

6.1 There are no financial implications.

7.0 LEGAL IMPLICATIONS

7.1 A local authority may make a Tree Preservation Order (TPO) where it appears that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area (Section 198, Town and Country Planning Act 1990).

7.2 A TPO may prohibit the cutting, topping, lopping or uprooting of the trees which are the subject of the Order. It may also prohibit the wilful damage or destruction of those trees. Any person who contravenes a TPO shall be guilty of an offence and liable to receive a fine of up to £20,000.

7.3 The local authority may choose to confirm a TPO it has made. If an Order is confirmed, it will continue to have legal effect until such point as it is revoked. If an Order is not confirmed, it will expire and cease to have effect 6 months after it was originally made.

7.4 A local authority may only confirm an Order after considering any representations made in respect of that order. One objection has been received in respect of the Order.

8.0 RECOMMENDATION

8.1 Recommend Provisional Tree Preservation Order No.471 be confirmed.

Michael Johnson, Head of Planning,

12th September 2023

Appendix B. Tree Evaluation Method for Preservation Orders (TEMPO) assessment

SURVEY DATA SHEET & DECISION GUIDE

Date: 23.03.23	Surveyor: Vanessa Lyons
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Tree details TPO Ref 471 Owner (if known): 7a Endcliffe Hall Ave	Tree/Group T1 Location:	Species: Lime
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REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable |

* Relates to existing context and is intended to apply to severe irremediable defects only

<p>Score & Notes :</p> <p>3. Previously pruned. Tree leans at a 33 degree angle. No signs of recent movement visible during inspection. Comparison of google streetview photographs between 2008 and present day show no change in the angle of the stem, or changes to the angle of upper canopy structure that would indicate movement had occurred.</p>
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b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

<p>Score & Notes</p> <p>1. Estimated retention span of approx. 20 years. Conservative estimate based upon inhospitable growing environment (street tree)</p>
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c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|-----------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |

<p>Score & Notes</p> <p>4. Privately owned but stands on unadopted public highway, Clearly visible to public.</p>

1) Trees not visible to the public, regardless of size Probably unsuitable

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes

4. Tree is part of avenue of limes similar in size and age. Removal of tree would impact upon the cohesion of the avenue.

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes

5 Section 211 notice reference 23/00470/TCA stating intention to remove the tree due to concerns over lean.

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 Does not merit TPO
- 12-15 TPO defensible
- 16+ Definitely merits TPO

Add Scores for Total:

17

Decision:

Definitely merits TPO

Appendix C. Images of the tree

Images showing lack of movement in kerb profile between 2012 and 2022.



Google Streetview. November 2012. Raised kerb at the foot of the tree.



Google Streetview. May 2019. No substantial change to kerb alignment



Streetview October 2022, taken after the high wind event of January 2022, which allegedly caused the tree to move. Tree inspected on 28th February 2023. No indication typical of tree movement was present. Comparison of Streetview photographs show no evidence of movement in kerb profile between 2012 and present day.

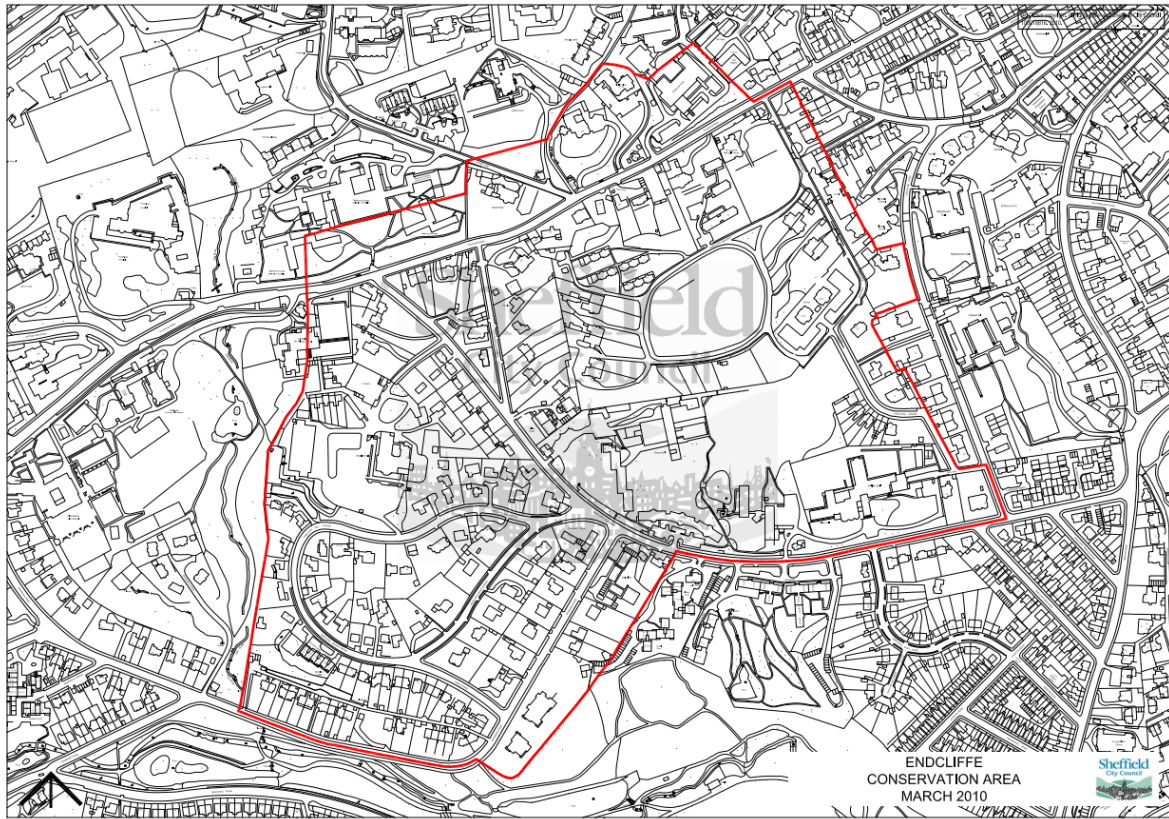


Google Streetview May 2019



Google Streetview October 2022. No discernible change in angle of the tree

Appendix D. Endcliffe Conservation Area Boundary Plan



Appendix E. Objection.

Dear [REDACTED]

I refer to your letter of 6th April 2023.

I strongly disagree with the decision to not allow us to remove the tree and instead put a TPO on it. We consulted with a reputable arborist who recommended that it should be felled as it is in danger of falling.

It is clearly listing and the roots have raised the pavement outside.

Your officer said the damage to the pavement was caused by heat damage and not the roots which is absolutely ridiculous.

Our landscape gardeners also took a look and were amazed that anyone , especially a specialist from the council , could state that it is heat damage.

The roots have also damaged our electronic gate mechanism causing our gates to now be out of order.

Additionally , our front wall has cracks in it from the movement of the tree.

If the tree does fall then the damage will be c £100,000 . This would include the gates and our front wall , a car , our neighbour's garage and part of their house , other trees and lighting in our front garden and the overhead telephone lines.

This assumes that no one is injured .

I would be grateful if you would reconsider this decision and if you wish to visit the site then please let me know.

I will send photos after this email of the tree and the root damage.

Yours Sincerely

[REDACTED]

APPLICATION: 23/00470/TCA

PROPOSAL: Removal of a tree (Endcliffe Conservation Area)

Address The Limes
7A Endcliffe Hall Avenue
Sheffield
S10 3EL

Site visit 28.02.23 and 13.03.23.

The tree is a mature lime which stands on the highway to the front of 7a Endcliffe Hall Avenue. As this portion of the road is un-adopted, homeowners' also own the trees which stand at the front of their properties.

The tree leans at a 33 degree angle and the kerb stone adjacent to the tree is raised. The tarmac at the foot of the tree has been lifted in a manner typical with root growth under the tarmac, and in a manner which can be seen at the base of other trees on the street. The homeowner stated that the electronic gates have stopped working, and that the technician thinks it may be due to root ingress to the lower mechanism of the gate. The tree has previously been crown reduced quite heavily.

The tree was inspected by two Tree Officers and the manager of the Trees and Woodlands Team to ascertain if the tree had moved. The inspections showed that there was no cracking or displacement of the tarmac around the tree which would be indicative of root plate movement. Similarly, there was no buckling or cracking of the lower stem which sometimes accompanies trees which are unstable at the base. Although the kerb stone at the rear of the tree is lifted, Google Street view imagery revealed that the stone has been like this since 2008. Comparison between the tree and street view images indicate no change in the angle of the stem, or in the angle of upper canopy structure between 2008 and the present day, which indicates that the tree has not moved during this time.

Although the tree is lifting the tarmac of the pavement with its roots, there is no evidence that this cannot be fixed with the tree in situ, nor direct evidence that the tree is the cause of the gate malfunction, or that if it is, that this also cannot be fixed with the tree in situ.

The amenity value of the tree was assessed as being sufficient to consider retention of the tree as being desirable. This is based upon the high public visibility of the tree, its health, size, and likely future retention span and also because the tree is a component part of an avenue of other similar sized trees, important for its cohesion. The tree contributes to the leafy nature of the Endcliffe Conservation Area, which features other tree lined streets.

It is the assessment of the Council's Tree Service, who provide expert advice on Tree Applications, that there is insufficient evidence to suggest that the tree is dangerous and

requires removal, and that the tree provides sufficient amenity to make its retention desirable. The Council therefore objects to the removal of the tree and intends to make the tree the subject of a Tree Preservation Order.

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