

REPORT OF THE STRATEGIC DIRECTOR OF GROWTH & DEVELOPMENT

ORIGINATING SECTION: **PLANNING (DEVELOPMENT MANAGEMENT)**

REPORT TO PLANNING & HIGHWAYS COMMITTEE - 15th SEPTEMBER 2022

TITLE: **Tree Preservation Order – 37 Alexandra Road, Blackburn 2022 (ref: BWD3)**

WARDS: **SHEAR BROW AND CORPORATION PARK**

COUNCILLORS: **Akhtar Hussain
Suleman Khonat
Zainab Rawat**

1.0 PURPOSE OF THE REPORT

- 1.1 To request that the Committee endorse the actions of the Council's Arboricultural Officer/Planning Manager (Development Management) in making and serving 37 Alexandra Road, Blackburn 2022 Tree Preservation Order (TPO) (ref: BWD3).
- 1.2 To request that the Committee confirm 37 Alexandra Road, Blackburn 2022 Tree Preservation Order (TPO) (ref: BWD3) without modification.

2.0 RECOMMENDATION

- 2.1 That the actions of the Arborist and Planning Manager(Development Management) in making and 37 Alexandra Road, Blackburn 2022 Tree Preservation Order (TPO) be endorsed.
- 2.2 37 Alexandra Road, Blackburn 2022 Tree Preservation Order (TPO) (ref: BWD3) is confirmed without modification.

3.0 BACKGROUND & RATIONALE

- 3.1 On the 18th May 2022, a formal "Notice of intent to undertake works in a conservation area" was submitted by the owner of No.37 Alexandra Road, Blackburn, Mr Steven Derbyshire, to fell 2no sycamore trees within the rear garden of the property (ref: 10/22/0468).
- 3.2 The Council's Arboricultural officer visited the site on the 10th June 2022, to ascertain whether the trees were worthy of protection, and then submitted their formal response to the local planning authority on the 21st June 2022. Image 1 is a photograph of the tree taken on the 10th June 2022, image 2 is the site location.



Image 1: Photograph of Sycamore trees taken on 10th June 2022.

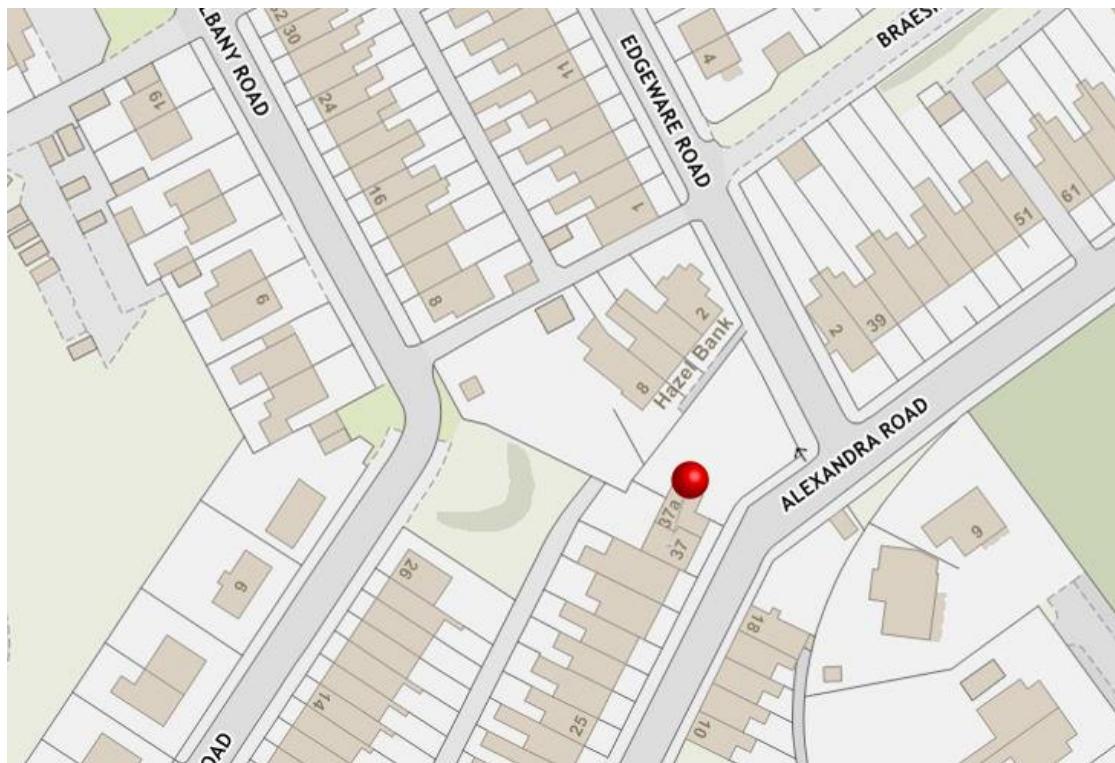


Image 2: Site location plan – Sycamore trees, 37 Alexandra Road, Blackburn.

- 3.3. The Arboricultural officer subsequently carried out a Tree Evaluation Method for Preservation Orders (TEMPO), which was undertaken on the 10th June 2022. The assessment gave the tree a very high score as illustrated in image 3, which fully warrants a TPO.

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 10/06/2022	Surveyor: Karen O'Shea
Tree details TPO Ref (if applicable): Tree/Group No: T1 and T2 Species: Sycamore Owner (if known): Location: In the rear garden of 37 Alexandra Road Blackburn	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

5) Good	Highly suitable	Score & Notes
3) Fair	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

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	4
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

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	Score & Notes
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	
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 arboricultural features, or veteran trees	Highly suitable	Score & Notes
4) Tree groups, or members of groups important for their cohesion	Suitable	
3) Trees with identifiable historic, commemorative or habitat importance	Suitable	
2) Trees of particularly good form, especially if rare or unusual	Barely suitable	
1) Trees with none of the above additional redeeming features (inc. those of indifferent form)	Probably unsuitable	

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Highly suitable	Score & Notes
3) Foreseeable threat to tree	Suitable	
2) Perceived threat to tree	Suitable	
1) Precautionary only	Barely suitable	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total:
1-6	TPO indefensible	
7-11	Does not merit TPO	
12-15	TPO defensible	16
16+	Definitely merits TPO	Decision: TPO

Image 3: TEMPO Assessment 10th June 2022.

- 3.4 A copy of the TPO and Schedule is attached to this report. The emergency TPO was served on the landowner/freeholder on the 22nd June 2022.

- 3.5 The two sycamore trees are very large and the owner of the property is concerned they may fall onto the house. If the health and stability of the trees are in question then a professional health and safety inspection report would need to be submitted that provides evidence that these trees are at risk. From the site visit undertaken by the Arboricultural Officer, both trees looked to be in good health with vigorous canopies that can be seen above the properties and also from the opposite Leopold Road. One tree has a large stem that has grown at an angle towards the property, but has then straightened itself back up. The other tree is densely covered in ivy hindering a full inspection of the trunk.
- 3.6 It is fully appreciated both trees are large and dominate the rear garden, and for this reason there would be no objection to reduction work on the trees, but it is considered there are no reasons to justify warranting their removal. The ivy on the tree should be removed to allow a thorough inspection and the canopies reduced back from the house by approximately 3 metres. A reduction in height would also be considered to help appease the applicants concerns.
- 3.7 Subsequently, on the 27th June 2022, the local planning authority objected to the notice to fell the trees. As such, a visual tree assessment called TEMPO was used to determine if the trees merited statutory protection by a way of a TPO (refer to Image 3). The trees scored 16 which more than merits a TPO.

CONSULTATIONS:

- 3.8 The current freeholders of the land, where the tree is located, the neighbouring properties, and the ward councillors/Chair of the Committee were informed of the proposed TPO on the 22nd June 2022.
- 3.9 Acknowledgements were received from Cllrs Dave Smith (Chair) and Zainab Rawat.
- 3.10 Objections were received from the following:

Colin Gilbert, No.8 Hazel Bank, Blackburn – 27th June 2022:

The two trees are sycamores which are often classed as weeds.

They are not a native tree.

They are huge and stop us growing anything in our lower garden because of the shadow they cast.

One of the trees is a potential danger to number 37's foundations.

Instead of TPO's, I would like to see these trees felled.

Please acknowledge receipt of this email and what your final decision(s) are.

Kind regards

Colin Gilbert

Steven Derbyshire and Carolanne Connolly, owners of No.37 Alexandra Road, Blackburn – 29th June 2022:

Dear Sir/Madam.

I wish to object to the tree preservation order 10/22/0468 which has been placed on two large sycamore trees that are situated in my back garden.

There are a number of reasons why I asked for permission to have the trees removed. They are very large trees, 80 -100 feet in height and have grown so large that the canopy of one of the trees hangs over the roof of the house. We are concerned that the roots of this tree may damage the foundations of our home as it continues to grow and spread.

In the last few years an increasing number of tree limbs have fallen from the trees and they are quite large and potentially dangerous. When the weather is windy both trees sway appreciably and we are increasingly concerned that if either of these trees fell, they would completely demolish our home. One tree in particular has a curved trunk and leans very much towards the house so could only fall in that direction.

I understand the importance of trees and the need to protect them is vital. My partner and I are nature lovers, keen gardeners and we do much to encourage wildlife into our garden, so we don't make the request lightly. We have already planted two much smaller trees into the garden and have half a dozen other small trees, currently in pots and including native species, that we would like to plant if we can find space for them. At the moment, the 2 sycamore trees in question form an enormous canopy over the garden, hindering the growth of the smaller trees, shrubs and flowers we have. I would also point out that there is another large sycamore tree in the back garden which we haven't requested be felled as we appreciate the importance of the trees for birds and insects.

I hope that information will help to convince you that we are responsible people who realise that felling trees is something that shouldn't be done lightly and I promise that, if granted the necessary permissions, we will do everything we can to make good the loss of those trees and replace them with something even better.

Please give our objection all due consideration.

Mubasar Khaliq, 35 Alexandra Road, Blackburn – 30th June 2022:

Further to the recent letter that I received about the Proposed New Tree Preservation Order at 37 Alexandra Road, Blackburn; I am writing to highlight some of my key concerns.

Though the trees are next door, one is particularly relevant to me (T2) due to the proximity and overhang. I love gardening, trees and the outdoors however I have some significant concerns about these trees, especially, T2.

I have lived at this property for around 13 years, in this time I have noticed T2 significantly grow, this in turn caused the following issues:

1. Growing close to my property, the branches are growing closer to my property and so are the roots, the actual garden wall, which is thick and made from rock has visible cracks and damage caused by growth from T2, I am concerned about future growth will cause this wall to fall altogether.

2. Our Light has significantly reduced, my mum is 80 plus, she has moved in with us as we are her main carers and she has limited mobility. On most days the only outdoors she gets to see is the back garden, sadly year on year the lighting which was once thoroughly enjoyed, with us have a sun area /conservatory at the back of the house - has reduced massively. The impact of the reduced light impacts on us all, and prevents us from enjoying the sun or daylight at the rear of the house, however it has had a detrimental impact on my mum.

3. Finally due to the increasing overhang we have had a number of near misses where huge branches have fallen in my garden. In winter 2021 we had a number of seriously windy days and this caused huge branches to fall, causing a few near misses that were too close for comfort, this included a branch which hit our conservatory roof and one that nearly hit my child whilst they were out in the garden. I did flag my concern about T2 and the hazard it presented to my family to the owner of 37 Alexandra Road.

In the light of the above concerns, I request the proposed order is not implemented as it will present a seriously health and safety risk, in the case of damage or injury who will be responsible, when I am telling clearly how significant risk there is.

I look forward to receiving your acknowledgement and response.

3.11 Response to the objections received:

They are very large trees, 80-100 feet in height and have grown so large that the canopy of one of the trees hangs over the roof of the house:

Response: Trees are not a threat due to being tall. Whereas it is appreciated this can cause alarm, a tall tree can be perfectly safe and healthy.

We are concerned that the roots of this tree may damage the foundation:

Response: It is assumed this is just a concern and there is no structural cracking or movement that has been noted. If any structural defects are present than a report from a qualified structural engineer following investigation works would need to be provided to support the reasoning for wanting to fell the sycamore trees on these grounds.

In the last few years an increasing number of tree limbs have fallen from the trees and they are quite large and potentially dangerous. When the weather is windy both trees sway appreciably and we are increasingly concerned that if either of these trees fell, they would completely demolish our home.

Response: If there is a concern on the health of the trees then a health and safety survey should be undertaken. If this concludes the trees are in a dangerous condition then this report should be submitted to support the reason for removal of the trees.

One tree in particular has a curved trunk and leans very much towards the house so could only fall in that direction of our home as it continues to grow and spread.

Response: Trees can grow in all directions and for many reasons. This trunk has been inspected during the site visit undertaken by the Arboricultural Officer, and the reasoning for the lean was the trees response to competition as it was establishing. The trunk of this tree has straightened up over the years, which would be expected, and gave no concern as to its stability. A lean on a tree is only a concern if it's a new lean and/or the ground to the base has moved or is uplifted.

The 2 sycamore trees in question form an enormous canopy over the garden, hindering the growth of the smaller trees, shrub and flowers we have.

They are huge and stop us growing anything in our lower garden because of the shadow they cast (No.8 Hazel Bank).

Response: This is appreciated and a justified response, however an application to reduce the canopies would be considered.

Growing close to my property (No.35), the branches are growing closer to my property and so are the roots, the actual garden wall, which is thick and made from rock has visible cracks and damage caused by

growth from T2, I am concerned about future growth will cause this wall to fall altogether.

Response: The branches could be pruned back following an agreed application. If the roots are causing structural damage to the wall then an investigation would need to be carried out and evidence submitted in the form of a structural engineers report. This could then be taken into consideration against the works applied for.

Our light has significantly reduced, my mum is 80 plus, she has moved in with us as we are her main carers, and she has limited mobility. On most days the only outdoors she gets to see is the back garden, sadly year on year the lighting which was once thoroughly enjoyed, with us having a sun area/conservatory at the back of the house, has reduced massively. The impact of the reduced lights impacts on us all, and prevents us from enjoying the sun or daylight at the rear of the house, however it has had a detrimental impact on my mum.

Response: Works to reduce the tree(s) could be considered via a new application to help with this issue.

Finally, due to the increasing overhang we have had a number of near misses where huge branches have fallen in my garden. In winter 2021 we had a number of seriously windy days and this caused huge branches to fall, causing a few near misses that were too close for comfort, this included a branch which hit our conservatory roof and one that nearly hit my child whilst they were out in the garden. I did flag my concern about T2 and the hazard it presented to my family to the owner of No.37 Alexandra Road.

Response: If there is a concern on the health of the trees then a health and safety survey should be undertaken. If this concludes the trees are in a dangerous condition then this report should be submitted to support the reasons for removal of the trees.

- 3.12. The application to fell the two sycamore trees in a conservation area was not justified on the grounds that the trees are very large and may fall into the house. If the health and safety of the trees are in question, then a professional health and safety inspection report would need to be submitted that provides evidence that these trees are at risk. From the Arboricultural Officer's site visit both trees looked to be in good health with vigorous canopies that can be seen above the properties and also from the opposite Leopold Road.

3.13 It is fully appreciated both trees are large and dominating and for that reason reduction work could be applied for, but it is considered this does not fully justify warranting the removal of the trees. These trees scored 16 on a TEMPO assessment that fully warrants them worthy of protecting. Therefore, it is considered that the TPO should remain unless a justified reason is presented as evidence in a future application.

4.0 CONTACT OFFICER: Gavin Prescott, Planning Manager
(Development Management)

5.0 DATE PREPARED 1st September 2022