

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **WEDNESDAY, 27 SEPTEMBER 2023**

REPORT BY: **CHIEF OFFICER (PLANNING, ENVIRONMENT AND ECONOMY)**

SUBJECT: **GENERAL MATTERS - TREE PRESERVATION ORDER NO.345 AT SUNNYBANK, KING STREET, MOLD**

1.00	PURPOSE OF REPORT
1.01	To consider a letter of objection to a provisional Tree Preservation Order (TPO) affecting two mature pines at the Sunnybank, King Street, Mold. The report summarises the objections, provides the officer's responses and considers other relevant factors.
1.02	It is recommended that the provisional TPO is confirmed without modification so that it remains in force.
2.00	REPORT
2.01	On 15 March 2023 a six-week conservation area notification (TCA/000243/23) was submitted to the Council to fell two mature pines, located at the front of the property known as Sunnybank, King Street, Mold, one of a pair of attractive Edwardian period villas. Having assessed the trees, it was considered that the trees afforded significant amenity and merited protection by a provisional TPO, to prevent them from being felled once the six weeks' period had expired.
2.02	The provisional TPO was made on 12 April 2023 and will expire on 11 October 2023, following which, the trees will no longer be protected unless the provisional TPO is confirmed by a resolution of the Planning Committee. If the provisional TPO is confirmed it will become permanent and provide continued protection to the two pine trees.
2.03	The owner of Sunnybank has submitted a letter of objection to the provisional TPO. The points of objection can be divided into two main categories, firstly the assertion that the roots of either or both pines have caused damage to the property and secondly, that the trees are unsafe. The letter of objection is eight pages long and

	notwithstanding the need to summarise these points, the objections relevant to the trees are included in this report.
2.04	Structural Damage – Summary of Points of Objection
	Edwardian homes are typically built on shallow foundations making them vulnerable to ground movement caused by large tree growth. Pine trees generally have shallow rooting habits which is particularly relevant in this case as they tend to use a large proportion of the available water in the upper sections of the water table, which can contribute to subsidence related damage to buildings.
2.05	In the turret room [<i>the ground floor hexagonal room attached to the southwest corner of the main dwelling and one of the principal historical features of the listed building</i>] significant cracking of the original internal tiled window sills has occurred which corresponds with diagonal cracking in the external brickwork, in addition the original parquet floor slopes upwards. The objector states that these did not exist when they moved to the property in 2005.
2.06	Structural Damage – The Council’s Response
2.07	The property is one of a pair of fine Edwardian dwellings that are Grade II Listed and of merit to Mold Conservation Area. It is considered that the two mature pines complement the dwelling and are of a species frequently planted in large Victorian and Edwardian properties. It should also be recognised that the two mature pines contribute significantly to the amenity of King Street and the Conservation Area.
2.08	The fact that relatively minor movement has occurred in the turret room is not disputed however only circumstantial evidence has been provided to support the claim that the trees are the cause of the damage observed. Critically, the claim is not supported by a structural engineer’s report.
2.09	The movement in the turret room is variously referred to as subsidence, upward movement and cracking, and it is important to define precisely what movement is occurring, and when, which could indicate its cause.
2.10	In broad terms tree roots can damage structures in two ways- ‘Direct action’ where a root pushes directly against a structure as it grows. <i>or</i> ‘Indirect action’ where tree roots dry out a soil, which if it is prone to shrinking upon drying, can cause subsidence (downward movement) and heave (upward movement) when the soil rewets. This seasonal cycle of movement can damage buildings when the foundations rely on that soil for support.

2.11	It is considered that 'direct action' is most unlikely to have caused the movement in the turret room because it is a substantial structure that is not within two or three metres of the trunk where movement resulting from the direct action of tree roots is possible.
2.12	The possibility that tree roots are causing the movement in the turret room as result of 'indirect action' is considered to be low because the clay soils present across Flintshire are not highly shrinkable and due to the regional climate are not subject to prolonged periods of drying. In addition, pines do not have a high-water demand.
2.13	Where trees are implicated in subsidence insurance claims it is industry best practice to require a building surveyor's report, trial hole report, soil and root analyses, a level monitoring report and an arboricultural report to determine liability for a claim. The insurance industry's requirement for a range of reports reflects the complexity of tree related subsidence. By comparison, in this case, only a tree report has been provided in support of the claim that the trees are damaging the building, which describes the damage but not the mechanism for how it has been caused by the pines.
2.14	A matter of particular concern observed on site visit, is that the surface water drains off the property's driveway towards the dwelling and into a drainage channel at the base of the outside wall. On visual inspection by the Forestry Officer and the Built Conservation Officer this drainage channel is not watertight and is directing rainwater towards the foundations and is very likely to be soaking them during heavy rain. Edwardian and Victorian properties frequently have clinker foundations which will expand if saturated. This has not been investigated by the owner as a possible cause of the movement in the turret room.
2.15	To assist with the investigation of the cause of the movement present in the turret room it was agreed with the owner that the Council would appoint a structural engineer specializing in listed buildings to undertake a report. At the time of preparing this committee report the surveyor had not been able to gain access to visit the property. The owner has also been advised that the Council's Historic Building Repairs Grant could contribute towards the cost of making repairs to the dwelling once the cause of the movement is known.
2.16	It is acknowledged that the driveway's surface has become uneven with age due in part to the tree roots. Repairs could be made to the driveway without the need to remove the roots or felling the trees.

2.17	The respective contributions the two pines and the listed building make to the Conservation Area are both material considerations for the LPA to consider and each are significant. Both are important and yet complement each other to the extent that, together, they are a feature of amenity within the conservation area that is greater than the sum of its parts. The best outcome would be to make repairs to the listed building, ensuring that damage does not reoccur and retaining the trees as a feature of the property and Conservation Area.
2.18	<u>Tree safety – Summary of Points of Objections</u>
2.19	Even if the pine tree root structure was not close enough to the property to damage the foundation, which they are, the trees still present a threat to the property and surrounding public areas. The arborist reported the tree closest to the property has a weak union making it susceptible to major limb failure during inclement weather. In March 2013 a large limb fell leaving one precariously hanging.
2.20	With the ever-changing climate conditions of drier/hotter summers, rainier winters, strong and random storms, strong winds: tornado/funnel clouds, this compounds concern of safety to road users, public, residents and the Grade II listed building.
2.21	A large neighbouring tree fell onto the public highway, amazingly on this occasion there was no injury or fatalities however, there was structural damage caused to the garden wall of Sunnybank.
2.22	The objector says their concerns have been dismissed with the decision making based on the one-sided view of the Forestry Officer who places tree preservation (on the grounds of amenity) over the risks and dangers to the public and to a Grade II listed building. Therefore, the objector now places full responsibility of any incident of the considered dangerous trees onto Flintshire County Council.
2.23	The objector has engaged with members of the Welsh Government, Local Councillors and Government Bodies to raise concern of the risk and danger to human life and to the Grade II listed building(s).
2.24	<u>Tree safety – The Council’s Responses</u>
2.25	Members are advised that in addition to affording significant visual amenity trees have a vital role in mitigating climate change and maintaining biodiversity. These benefits should be balanced against the low risk of catastrophic failure that an individual tree might present. This is the approach the Council adopts on the many trees it manages on its own land and is an accepted part of Tree Risk Assessment.
2.26	Both trees are healthy and do not have any major defects that present an unacceptable risk to people or property. The second paragraph of the report by Treehogs submitted on behalf of the property owner in

	support of the Conservation Area notification to fell the trees, states that they are in a reasonable condition and only later then refers to the tree nearest the dwelling leaning and having a weakness in a codominant stem union.
2.27	It is considered that this weakness is not major and could be addressed by the pruning of 2-3 selected limbs towards the corner of the dwelling to lessen weight, this was recommended in an email to the owner on 10 August 2022. There is also the option of inserting a brace in the tree, although this would not be justified if pruning is carried out. The identification of this minor weakness does not justify the removal of both trees. By comparison, the sycamore in the neighbouring garden which fell into the road was evidently in poor condition and would have been severely decayed for a number of years prior to its failure.
2.28	Even where they are subject to a TPO the owners of trees are responsible for them and are under a duty of care to manage the risks that they pose. The duty of care in UK law does not require the risk of tree failure to be eliminated, only reasonable steps to be taken.
2.29	It is recognised that climate change represents a major challenge for everyone, and it is important that these effects are responded to as they arise, however felling the trees based on unquantified climate impacts would be premature.
2.30	<u>General – Points of Objections</u>
2.31	Insurance specialist advice that the objector has obtained is that they will not insure for accidental damage to a property with trees over 10m in height and within 10m of the property.
2.32	The objector states that they are also passionate and believes in sustainability and protecting our environment. The objector asks for approval to remove the two Corsican Pines which are not suitable for a town centre property, allowing the objector to look at a replanting scheme of suitable tree species that would not only offer local amenity but also be in proportion and not a threat to the Grade II listed building, both future protecting the property and maintaining local amenity, public safety.
2.33	<u>General – The Council’s Responses</u>
2.34	In return for lower premiums, insurance companies will often impose conditions and it is up to the policy holder to be aware of them and search for an alternative provider if the precondition cannot be met.
2.35	It is not considered that the pines are out of proportion with the listed building. The maturity and stature of the two pines contribute to the setting of the listed building which replacement tree planting would not for many years. LPA should protect trees which are considered to

	contribute to the character or amenity of a particular locality in accordance with Planning Policy Wales (Edition 11).
3.00	CONCLUSION
3.01	If it is not resolved to confirm the TPO it will lapse on 12 October 2023 and the trees will cease to be protected and are most likely to be felled.
3.02	If the TPO is confirmed the owner will need to apply to the Council to carry out work to the trees unless they are specifically exempt. It is possible that the owner may apply to fell the trees by, for instance, providing more comprehensive information about the alleged subsidence in the turret room. Any proposed tree work and its reasons would need to be considered on its merits at that time.
4.00	RECOMMENDATIONS
4.01	Taking into account the reasons for the objection and the Council's consideration of them it is recommended that Tree Preservation Order No. 345 is confirmed without modification.
	LIST OF BACKGROUND DOCUMENTS Conservation Area notification (Reference TCA/000243/23) Tree Report by Treehogs (12/01/2023) Provisional TPO No.345 (15/04/2023) Objection to the TPO (15/05/2023)
	Contact Officer: Stuart Body (Forestry Officer) Telephone: 01352 703264 Email: stuart.body@flintshire.gov.uk