

Development Management, Planning Services

Cheshire West & Chester Council

4 Civic Way,

Ellesmere Port

CH65 0BE

8<sup>th</sup> March 2024

Intended 2024 work on Lime Tree (28 Heath Lane, CH66 5NS)

## 1 Background

The site visit in 2022 with the Council tree officer and ongoing e-mail correspondence resulted in an indication of minor work to the Lime tree close to my house that would be supported if a planning application was submitted. Unfortunately the work suggested was found insufficient to remove risks from the tree with the increasing risks from severe weather. Planning application 22/01327/TPO was submitted requesting removal of the TPO to permit more extensive work to render the tree safe under foreseeable extreme weather conditions. Removal of the TPO was seen as a better option to considering an application for the tree to be removed and would also make ongoing maintenance simpler, more effective, and less bureaucratic. The Council decision letter dated 30th May 2022 did allow some reduction work but only to the height resulting from 2012 permitted work and did not refer to the TPO.

An appeal on the Council decision was registered in May 2022 to obtain a response on possibility of removal of the TPO on the Lime tree. The result of the appeal was received 4th March 2024 stating it would not proceed because there is no legal right to appeal to the Secretary of State against a Tree Preservation Order. This letter mentioned an appeal can be made to the Secretary of State on Council decisions concerning works on a protected tree. However the parts of the registered appeal covering extent of the work was not considered or mentioned.

No tree work was carried during the 2-year appeal process and the height and canopy of the protected tree continued to increase with a history of natural branch breakages. This new application for tree work reflects the situation and the need to reduce the height and canopy of the Lime tree on risk grounds.

A Council communication stated, “that no tree can be completely risk free, but risk can be reduced and managed by having the tree regularly inspected by a professional who will advise as to when pruning work or complete removal is required”. A basic risk assessment will should that protective measures are required and as the owner I prefer not to seek permission to remove the lime tree but to reduce risks to a tolerable level which appear more than any Council Planning TPO practices for private ground allow.

## 2 Details of this Planning Application

Because the Lime tree is extremely close to the house and the main bedroom the Council is asked to allow sufficient reduction of height, branches, and canopy to ensure that risk to the property is tolerable under the most extreme wind conditions likely to be encountered in present and future years.

Should the Council approve this application it is intended to carry out the following work on the Lime tree.

Reduce the pollard hight of the larger heavy vertical branches to not more than the falling or toppling distance to the main roof and main bedroom.

The outer branches will be close to their present pollard hight, but the larger central branches would have their present pollard hight lowered.

Ongoing regular selective pollarding of the canopy to maintain this smaller with lighter branches and reduced wind resistance to lower the risk of a large branches breaking.

Other advantages will be:

The smaller canopy will allow increased solar energy and light to reach the property.

There will be reduced ground water extraction and risk to surrounding properties.

There will be reduced tree debris and waste, with substantial falls on the public footpath being rarely cleared.

Reduced work to clear flat roofs and unblock roof gutters.

## 3 Relevant Factors

During a storm during the night 26-27 November 2021, a large branch broke from the more distant protected cedar tree on a neighbour's property, and fell across the front of the property, grazing the front of the house and slightly damaging the roof above the main bedroom. This made us more aware of the danger presented by the closer Lime Tree, which is the properties responsibility. A metre more towards the house could have caused serious injury to occupants of the main front bedroom and for the last application the incident mentioned to the Council with appropriate photographs.

The Lime tree is centred under 6 m from the front wall of the house and its annual canopy growth overhangs the front bedroom. The tree is on underlying sandstone rock which is expected to restrict depth of its roots.

The Council decision on planning application 22/01327/TPO was received in a letter attached to e-mail dated 31<sup>st</sup> May 2022. It stated “The tree is not considered for removal. Permission is granted to re-pollard the crown pruning back to previous permitted cuts i.e. remove all regrowth since it was last cut”. The decision did not mention removal of the TPO which led to the 2022 appeal. Also the decision did not address risks from the tree since the pollarding height permitted would have left large and heavy branches significantly higher the house roof.

Talking to tree professionals on this matter I am advised that even if a tree can be proved to be healthy, this will not be a guarantee that it cannot fail in extreme winds. When exposure and consequences of a risk are assessed unacceptable a tree risk can only be made tolerable by its height reduction or an appropriate distance.

It is accepted that the Council will have concern about the appearance of the Lime tree after work requested and an alternative solution, but less preferred, is to replace the tree, with of an agreed type moved as much as possible from the house and potential growth more suited the distance.

An Appendix document containing photographs of the Lime tree’s impact on the property was submitted with the planning application and also for the appeal process in 2022. This document includes photographs of the incident in 2021 that I want to avoid repeating and is attached to this application.

W J S Rogers