

SUBJECT:	CONFIRMATION OF TREE PRESERVATION ORDER NO.178
DIRECTORATE:	COMMUNITIES AND ENVIRONMENT
REPORT AUTHOR:	KIERON MANNING, ASSISTANT DIRECTOR - PLANNING

1. Purpose of Report

- 1.1 To have confirmed one (temporary) Tree Preservation Order, made by the Planning Manager under delegated powers. The order currently provides 6 months of temporary protection for the tree, but is required to be confirmed by the Planning Committee to provide long term future protection.

2. Executive Summary

- 2.1 A Tree Preservation Order gives statutory protection to trees that contribute to the amenity, natural heritage or attractiveness and character of a locality.
- 2.2 The making of any Tree Preservation Order is likely to result in further demands on staff time to deal with any applications submitted for consent to carry out tree work and to provide advice and assistance to owners and others regarding protected trees. This is, however, contained within existing staffing resources.
- 2.3 The making of Tree Preservation Orders reduces the risk of losing important trees, groups of trees and woodlands. It further allows the Council to protect trees that contribute to local environment quality.

3. Background

- 3.1 Tree Preservation Order 175 was made on 16th August 2023 protecting 1no. Platanus x Hispanica (London Plane) tree situated on a small piece of land fronting Cross O'Cliff Hill, adjacent to 9 Cross O'Cliff Hill. The piece of land, and tree, in question are within the ownership of 11 Cross O'Cliff Hill.
- 3.2 The tree is considered to contribute to the visual amenity of the area and the unauthorised removal of the tree would be considered to be detrimental to visual amenity.
- 3.3 The initial 6 months of protection would end for the Tree Preservation Order on 16th February 2024.

4. Consideration

The reason for making a Tree Preservation Order on this site is a result of an application from the owners to fell the tree. The tree is located within a conservation area which is why consent was required. During the application process our Arboricultural Officer attended a site visit and identified the tree to be suitable for protection under a Tree Preservation Order stating that the tree has a

high amenity value and the removal would have a harmful effect on the aesthetic appearance of the area.

Consultation has been carried out with the landowner as well as with neighbouring properties who may have an interest in the matter. As a result of these consultations 3 objections have been received from:

- 11 Cross O'Cliff Hill (the landowner)
- 13 Cross O'Cliff Hill
- Management company on behalf of 9 Cross O'Cliff Hill

Additionally, a letter of support has been received from:

- 3 Cross O'Cliff Hill

The primary concerns raised within the 3 letters of objection relate to alleged damage to an adjacent boundary wall, nearby drains, driveways and guttering; and concerns about the general health of the tree following limb breakages.

Following an external inspection of the tree on site, our Arboricultural Officer did not find any current or clear signs of dieback or failure and as such requested the temporary Tree Preservation Order to allow for further analysis of the health and integrity of the tree. Photographs submitted with the letters of objection do show cracks to the adjacent boundary wall, however despite a request, no evidence of the alleged drainage damage, nor a PICUS tomograph to assess the integrity of the tree, have been provided. Following a telephone conversation with the landowner regarding the PICUS tomograph survey, they advised following a discussion with an arborist the tomograph survey was not carried out due to the cost.

The landowner does not disagree that the tree has a significant positive impact on the visual amenity of the area, however the request to fell the tree was made to mitigate the alleged damage being done to the neighbouring properties.

5. Strategic Priorities

- 5.1 Confirmation of Tree Preservation Order 178 would ensure that the tree would not be removed or worked on without the express permission of the Council which would be considered detrimental to visual amenity and as such the protection of the tree would contribute to enhancing our remarkable place.

6. Organisational Impacts

- 6.1 Legal Implications – Anyone who wishes to carry out works to the tree will require consent from the City of Lincoln Council first.

7. Recommendation

- 7.1 It is recommended that Members confirm the Tree Preservation Order without modifications, and that the Officer carries out the requisite procedures for confirmation.

How many appendices does the report contain?

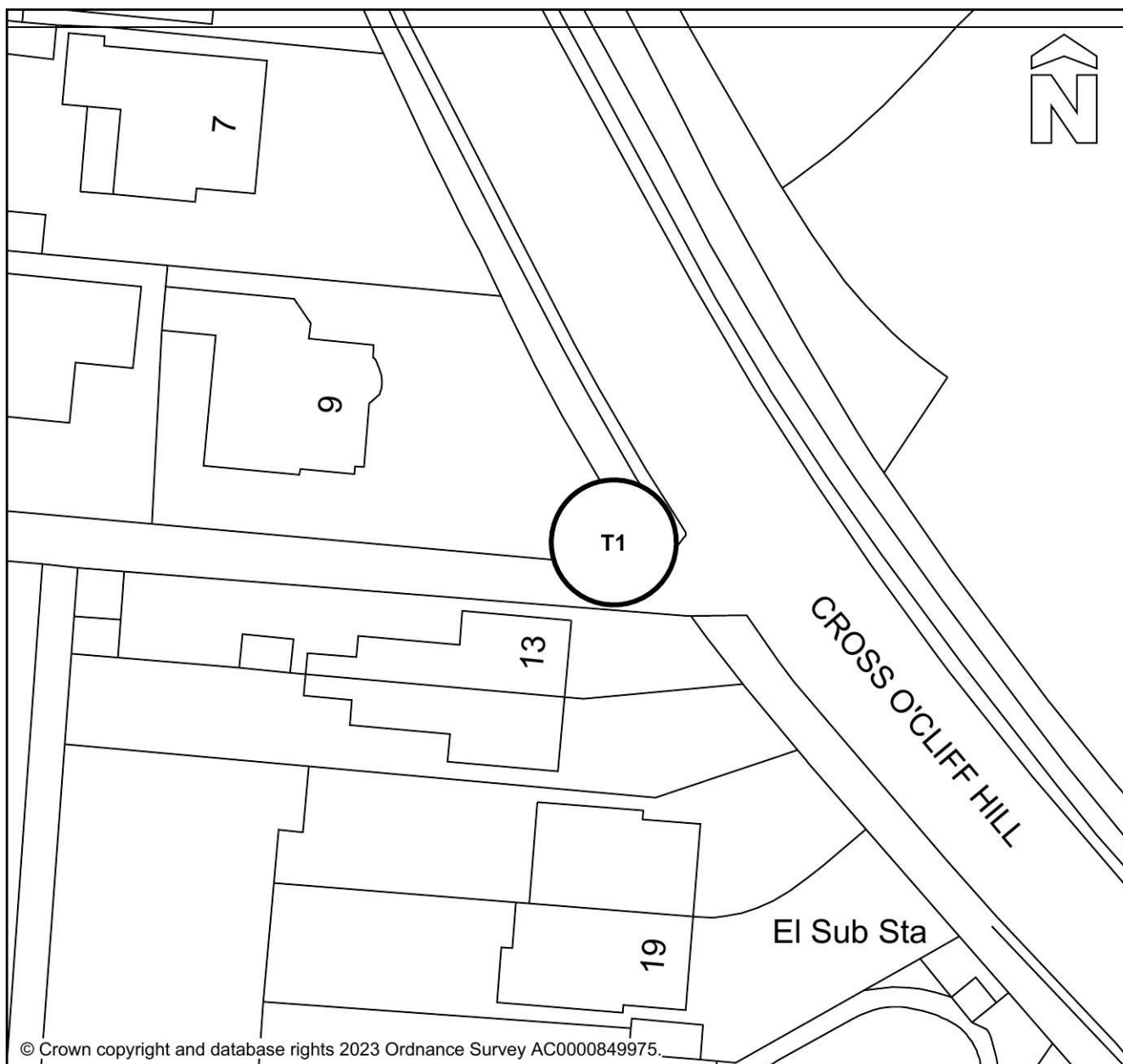
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List of Background Papers:

None

Lead Officer:

Kieron Manning, Assistant Director - Planning
Kieron.manning@lincoln.gov.uk



TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

Cross O'Cliff Hill No.3 Tree Preservation Order 2023

T1 - London Plane

	<p>CITY OF <i>Lincoln</i> COUNCIL</p>
<p>City Hall, Beaumont Fee, Lincoln, LN1 1DD</p>	
<p>Website: www.lincoln.gov.uk</p>	
<p>Scale: 1:500 at A4</p>	
<p>Version 1: 16-Aug-2023</p>	

Appendix 2

Objection from landowner 11 Cross O'Cliff Hill

Mr & Mrs R Mountain
11 Cross O'Cliff Hill
LINCOLN
LN5 8PN

30th August 2023

Planning Services
Department of Communities & Environment
City of Lincoln Council
City Hall
Beaumont Fee
Lincoln
LN1 1DD

For the attention of Kelly Bray

Dear Kelly,

Re: Cross O'Cliff Hill No. 3 Tree Preservation Order 2023

Further to your Notice of making of a Tree Preservation Order, dated 16th August 2023 in which the Council have made this order, namely for the following reasons:-

- The tree contributes to the visual amenity of the area
- The unauthorised removal would be detrimental to the visual amenity thereof

As the owners of the property and land on which the tree is situated, we are sending this letter with our objections and comments stating our case why we believe the said tree should a) not have a tree preservation order placed on it and b) that the tree be removed as requested.

We are not disputing that the tree contributes to the visual amenity of the area, however the size at which the tree currently is and will obviously become over time is now a hazard and liability to the residential area in which it is situated.

The tree extends onto the road of Cross O'Cliff Hill itself which if during high winds/extreme weather conditions which we have experienced, then there is a danger to any traffic passing at the time should one or more of the branches fall into the road.

As we leave the entrance of our driveway by vehicle, the tree blocks any vision to the left and we need to move onto the path to see if traffic is coming up the hill before pulling onto the road. We are unable to see if anyone is coming along the path, until we have moved past the point of the tree which then places us on the path. As you are probably aware LSST Priory Academy is also on the hill and every morning there are a large amount of school children walking/cycling up the hill to attend school. The bus stop on the hill is outside number 9 (next door to ourselves) and as you can appreciate it is extremely busy with children getting off and also on the bus when school finishes at 3.05pm. We often find ourselves, pulling backwards and forwards to let people past until it is clear.

2.

Currently, as you have now placed the Tree Preservation Order on this tree, the branches are now growing at a fast rate and are now touching the vehicle as we leave the drive and the branches growing at the base of the tree are making it even more difficult visually to see what is coming past our drive or to see what vehicles are coming up the hill. This is now a hazard.

Our neighbours at Number 13 have been complaining on a number of occasions to us about the branches from the tree which are now protruding into their gutters and are concerned this will cause damage very soon. They have had to have drainage pipes cleared and replaced due to the tree roots and have also had mains water leaks on their drive, again caused by the roots from this tree. We also have had our mains water pipes replaced. The neighbours have also had problems with falling branches which have damaged their vehicles.

Aswell as the damage the tree is causing at the middle/top, the roots have been and are causing damage to the wall of number 9 at the entrance to their driveway together with areas of their car park which is now lifting.

We have attached a number of photos for you showing the size of tree, how it hangs over the road, into the neighbours gutters and also showing the poor visibility as we exit our driveway.

We would question why a tree preservation order has been placed on this tree particularly now. The tree was originally on the land owned by Number 9 and previously owned by Lincolnshire County Council and no order has ever been in place until we asked for the tree to be taken down.

Mr Tom Gissing, Arboricultural Officer for Lincoln City Council attended in July to assess the tree. He contacted myself (Richard) and advised that in his opinion "the tree had seen its' day and that it was a liability". We agreed with him in the fact that we have been concerned for some time about the safety of the general public, road users on the hill, etc. and that even though it is a prominent tree, it is now in fact a hazard/liability and that the removal would be the best option. We find it difficult to understand why when your Arboricultural Officer has advised that the tree should be taken down that you have not taken his advice into account and have now placed a TPO on the tree.

Should this tree not be removed as advised by Mr Tom Gissing, we will therefore hold the Lincoln City Council liable for any damage caused by this tree.

Yours sincerely

Mr Richard & Mrs Sharon Mountain

Enc.



Top of 11 Cross O'Cliff Drive (branches are now touching vehicles)



Poor visibility looking left at top of No. 11



No. 13 – Gutters



Overhang of tree onto Cross O'Cliff Hill

Appendix 3

Objection from 13 Cross O'Cliff Hill

13 Cross O'Cliff Hill
Lincoln
LN5 8PN
3rd September 2023

Kelly Bray
Planning Services
Department of Communities and Environment
City of Lincoln Council
City Hall
Beaumont Fee
Lincoln
LN1 1DD

Dear Kelly

Thank you for your letter which I received on Friday 18th August reference:

Cross O'Cliff Hill No.3 Tree Preservation Order 2023

As my property is most closely located to the tree for which the Council is seeking a preservation order, I am objecting to the preservation order being granted on a permanent basis due to the following issues:

1. The main trunk of the tree is located less than 650cm from the closest part of my property, and therefore poses significant risks of structural damage due to its proximity.
2. The canopy of the tree is already overhanging my property and interfering with both my roof and guttering.
3. The tree has already caused significant damage to my property as can be observed in the driveway.
4. The main drainage pipes at the front of the property have had to be cleared and replaced, however the drive regularly floods due to ongoing drainage issues caused by roots.
5. I have had 4 mains water leaks on my drive over the past 10 years which have been attributed to damage caused by the roots from this tree.
6. I regularly have large branches falling from the tree during high winds which have caused damage to cars and property and the residue is damaging paintwork to cars on the drive.

Furthermore I would contend that the tree poses the following significant risks:

1. The road is a major link road into Lincoln: The tree canopy overhangs over half way across the road and has significant risk of having a major branch causing damage or harm in high winds were it to come down given the age and condition of the tree.
 2. Cross O'Cliff Hill is used daily by children attending the Priory Academy, the condition of the tree means that even in moderate winds there is significant loss of
-

twigs and small branches which could cause injury to passing pedestrians particularly when these occur at school arrival/departure times.

I am informed that when the Tree Officer visited the site to assess the tree he was of the opinion that the tree did pose a threat and was beyond its useful years. Whilst I agree that the tree has a unique beauty, I would contend that given it's age and proximity to a major trunk road and property, that were such a preservation order be granted this is likely to have a significant risk to both motorists and pedestrian (many of whom are children), as well as to property.

Should you continue in pursuant of the application for the permanent Tree Preservation Order, I would like to receive in writing assurances that Lincoln City Council will meet the costs of any further damage directly to my property caused to the roof, or as a result of damaged caused by the roots to my property, water pipes, drainage or any other amenities.

Please confirm receipt of this letter either in writing or to

Yours Sincerely



David Knight

Appendix 4

Objection from 9 Cross O'Cliff Hill Management Company

Ashleigh Management Company
Ashleigh House
9 Cross O'Cliff Hill
Lincoln LN5 8PN

Kelly Bray
Planning Services
Department of Communities and Environment
City of Lincoln Council
City Hall
Beaumont Fee
Lincoln
LN1 1DD

Dear Kelly,

Re: Cross O'Cliff Hill No.3 Tree Preservation Order 2023

We write to you as Ashleigh Management Company (Lincoln) Limited, and the owner of the retained land at 9 Cross O'Cliff Hill (inclusive of the freeholds of Apartments 1, 3 and 4). The land [at No.9] also contains the freehold properties of three separate owners, so there is a total of six individually owned apartments on site. This objection letter is intended to only represent the views and interests of Ashleigh Management Company (Lincoln) Limited, and not the three remaining freeholders.

Company Details

Business Name: Ashleigh Management Company (Lincoln) Limited
Business Address: 9 Cross O'Cliff Hill, Lincoln, LN5 8PN
Company Directors: Dr Nicole Panizza, Mr Peter Sheils, Ms Carol Visser
Registered Office: Ashleigh House - 9 Cross O'Cliff Hill, Lincoln, LN5 8PN
Company No: 8435532
Email: ashleighmanagementltd@gmail.com

We agree that the beautiful and majestic tree in question contributes to the visual amenity of the area, in particular the views from our apartments. However, we believe that the benefits of this visual amenity do not outweigh the evidential damage it is causing to our property (see images included below) and that of our neighbours: the extent of which is only going to increase significantly as the years pass and the tree's growth progresses, both above and below ground.

We are surprised to learn of the temporary TPO via your letter given that your arborist, Tom Gissing (with whom one of us spoke on his assessment visit to the tree), advised that he would be recommending removal of the tree on the grounds of health and safety.

We have also had discussions with our immediate neighbours who are directly impacted by the tree and have learned of the ongoing challenges which it presents to their daily lives, which are not insignificant, and presumably will be described to you in their respective objection letters.

Whilst we wholeheartedly agree with the principles of conservation and preservation, we are concerned that, in this instance, it overrides health and safety concerns and fails to recognise the behavioural needs of those directly impacted, in terms of housing, car and footpath proximity.

This objection letter aims to inform for the first time, if not add to, existing information regarding the ongoing issues which this beautiful (but problematic) tree poses; to those who live in the direct shadow of it.

Reasons for the Objection

1. We believe the tree is fracturing and destroying our wall's structure (illustrated by the accompanying pictures). This will only deteriorate further, diminishing the boundaries of our property and leaving us with less ownership control.
2. There are evidential fissures in the communal car parking area/grounds, in the near vicinity of the tree, which we attribute to creeping root power and determination from the tree. This is only going to increase causing further damage and disruption to the grounds and car parking facilities for residents of the six apartments on the land at No. 9.

Yours sincerely,

Ashleigh Management Company (Lincoln) Limited

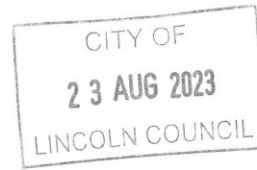
Dr. Nicole Panizza
Mr. Peter Sheils
Ms. Carol Visser

Photo Images of the Current Damage Caused by the Tree to the Grounds of No. 9



Appendix 5

Support from 3 Cross O'Cliff Hill



Kelly Bray
Planning Services
Department of Communities and Environment
City of Lincoln Council, City Hall
Beaumont Fee
Lincoln LN1 1DD

3 Cross O'Cliff Hill
Lincoln LN5 8PN

20 August 2023

Dear Ms Bray

Cross O'Cliff Hill No.3 Tree Preservation Order 2023

We have lived at the above address since 1997.

We strongly support the making of the above Order.

Considering the west side of Cross O'Cliff Hill, from Orchard Walk down to no. 2, there are only seven sizeable deciduous trees on front curtilages; two copper beech, two lime, a Robinia, a horse chestnut, and the London Plane which is by far the largest and most impressive.

Loss of the tree in question would greatly damage the visual amenity of the area.

There is also a cultural/historical aspect to its amenity value. It marks the private drive to no. 11 which was the residence of a significant and much loved Lincoln resident, Margaret J. Widdowson, Headmistress of South Park School (forerunner of the Priory LSST) from 1955 to 1980.

Yours sincerely

Stephen J.G. Hall
Susan B. Hall

