

North Tyneside Council Report to Planning Committee Date: 27 October 2015

ITEM 6
Title: The Council of the
Borough of North
Tyneside (1 The Terrace,
Front Street, Benton) Tree
Preservation Order 2015

Report from Service: Environment, Housing and Leisure

Report Author: Phil Scott - Head of Environment, Housing and Leisure
(Tel: 643 7295)

Wards affected: Benton

1.1 Purpose:

To consider the above Tree Preservation Order taking into account any representations received in respect of the Order.

1.2 Recommendation(s)

Members are requested to consider the representations to The Council of the Borough of North Tyneside (1 The Terrace, Front Street, Benton) Tree Preservation Order 2015 and confirm the Order without modification.

1.3 Information

1.3.1 The planning history for this site is set out below:

95/01307/TREECA
Fell 2 no. sycamore trees within Longbenton Conservation Area
Application Permitted

1.3.2 In April 2015 the Council was notified that the owners of the property intended to fell a sycamore tree within the curtilage of 1 The Terrace, Front Street within the Benton Conservation Area (15/00572/TREECA). The tree was considered worthy of protection and was made subject of a tree preservation order.

1.3.3 1 letter of objection has been received to the confirmation of the Tree Preservation Order from the owner of No 1 The Terrace.

1.3.4 Objections from occupiers of No 1 The Terrace

The tree is located on our property next to a stone boundary wall.

The wall is being pushed over by the tree and we consider this to be a real danger to pedestrians on the path next to the wall (width of path at this point is 90cm).

The pictures [Appendix 1] that are attached indicate the following:

- The tree is pushing the stone wall over the pedestrian footpath and road.
- It shows that the roots are breaking and lifting up our driveway next to the wall and the foundations of our garage (an original outbuilding)
- The tree has pushed our steel gatepost out of line and we are no longer able to close our gate.
- They show the height of the trunk is 60cm off ground level and growing into the wall

In addition to this the tree is blocking natural light to our adjacent neighbours' houses and gardens (Carolyn Close) from early afternoon onwards.

1.4 Officers comments

- 1.4.1 The Landscape Architect visited the site and supplied the following comments:
The request the fell 1no sycamore tree to be refused. The tree is worthy of a TPO. (See Photos within Appendix 2)

The tree has good shape and form and is a mature specimen visible from Front Street and Eastfield Road, Benton. The applicant wishes to remove the tree as it is causing damage to a free standing garden wall. The tree is prominent from the footpaths associated with this road. A Tree Preservation Order would control any works that may be requested and maintain the visual amenity and character of the area. The wall is a stone wall and contributes to the character of the Conservation Area in the same way in which the tree does. It is possible to retain both the tree and the wall by undertaking repairs to the wall that can 'bridge over' tree roots unless a structural engineer confirms otherwise. The TPO will allow further investigations to be carried out and the opportunity to retain both the tree and the wall and hence maintain the character of the Conservation Area.

- 1.4.2 In accordance with the Town and Country Planning Act 1990 (as amended) the Authority considered it necessary to issue a Tree Preservation Order to maintain and safeguard the contribution made by this tree to the landscape and setting of the site. The Tree Preservation Order was served on the owners and other relevant parties on 27.05.15. A copy of this original Order is attached as Appendix 3.
- 1.4.3 The Order must be confirmed by 27.11.15 otherwise the Order will lapse and there will be nothing to prevent the removal of this tree which is currently protected.
- 1.4.4 1no letter of representation has been received from the occupiers of No 1 The Terrace. A copy of this representation is included as Appendix 4 to this report.

1.5 Decision options:

1. To confirm the Tree Preservation Order with no modifications.
2. To confirm the Tree Preservation Order with modifications.
3. To not confirm the Tree Preservation Order.

1.6 Reasons for recommended option:

Option 1 is recommended. A Tree Preservation Order does not prevent the felling of trees, but it gives the Council control in order to protect trees which contribute to the general amenity of the surrounding area. If the Order was confirmed then the occupier(s) of 1 The Terrace could apply to fell or carry out any pruning works to the tree.

1.7 Appendices:

- Appendix 1 – Objectors Photographs
- Appendix 2 – Photograph of Trees and Setting
- Appendix 3 – The Council of the Borough of North Tyneside (1 The Terrace, Front Street, Benton) Tree Preservation Order 2015
- Appendix 4 – Objectors Comments.

1.8 Contact officers:

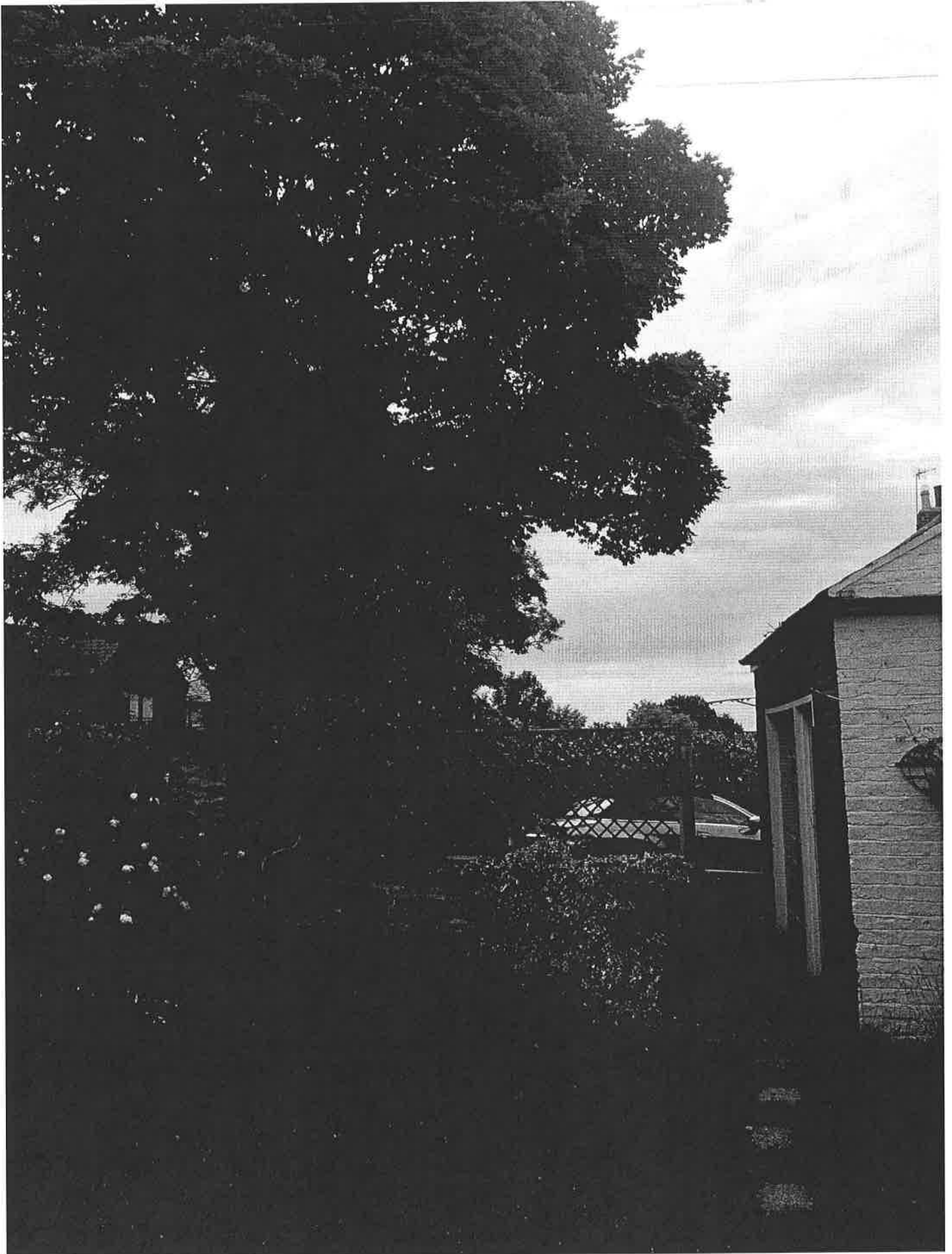
Sean Gallagher (Tel: 643 7756)

1.9 Background information:

The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author:

1. Town and Country Planning Act 1990.
2. Circular 36/78 Trees and Forestry.
3. Tree Preservation Orders: A Guide to law and Good Practice – Addendum May 2009.
4. 2012/605 The Town and Country Planning (Tree Preservation) (England) Regulations 2012

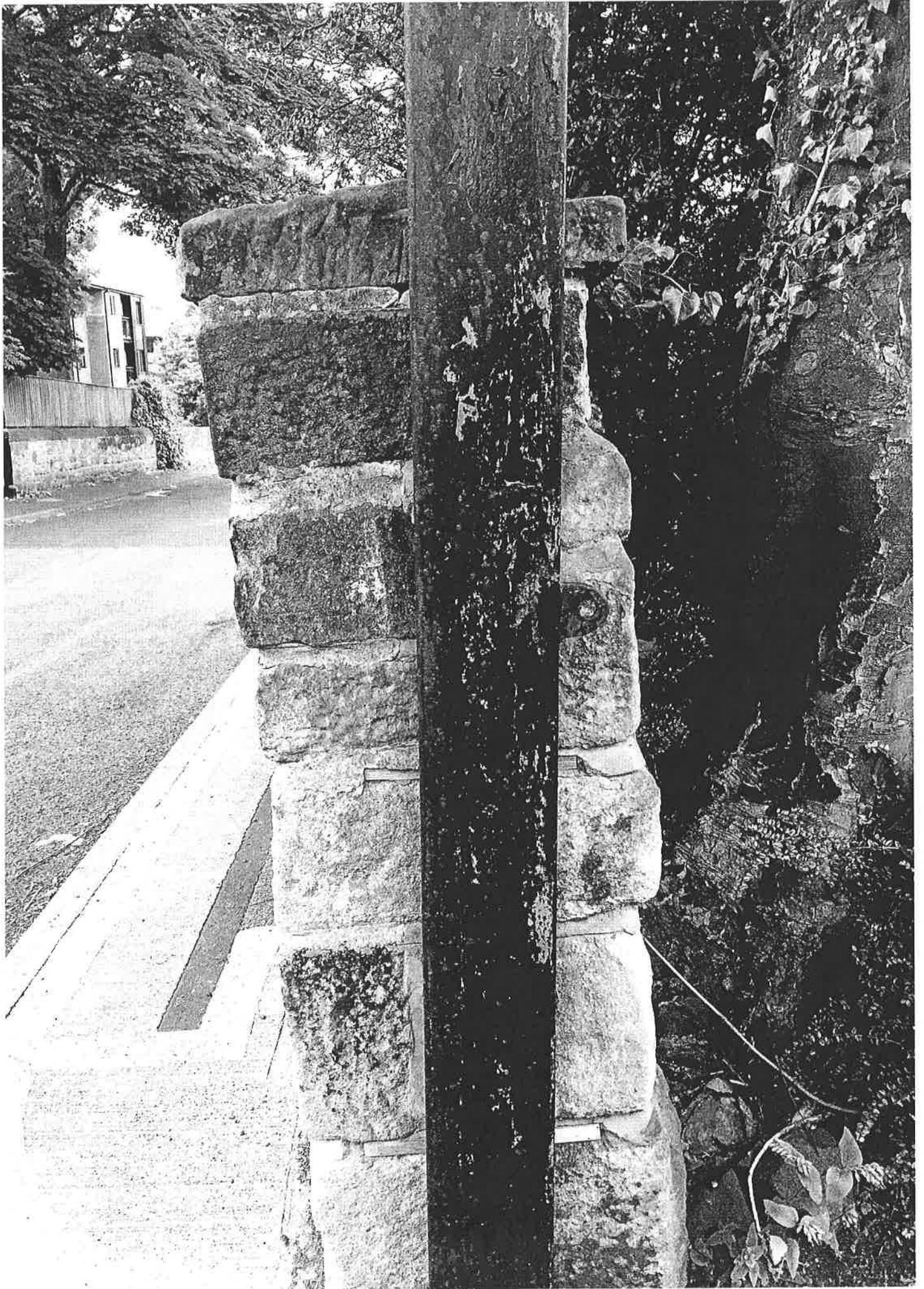
Report author Sean Gallagher

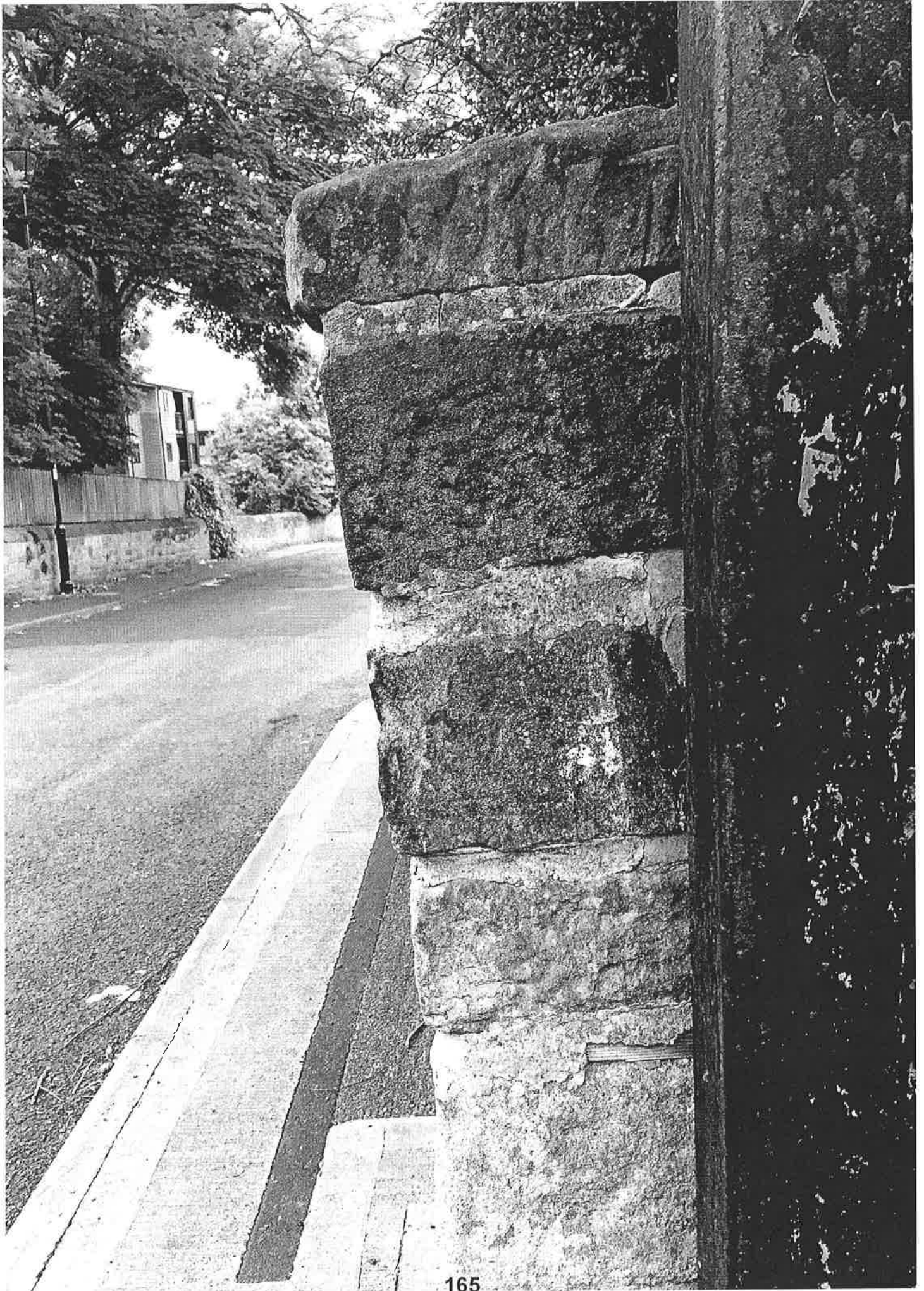








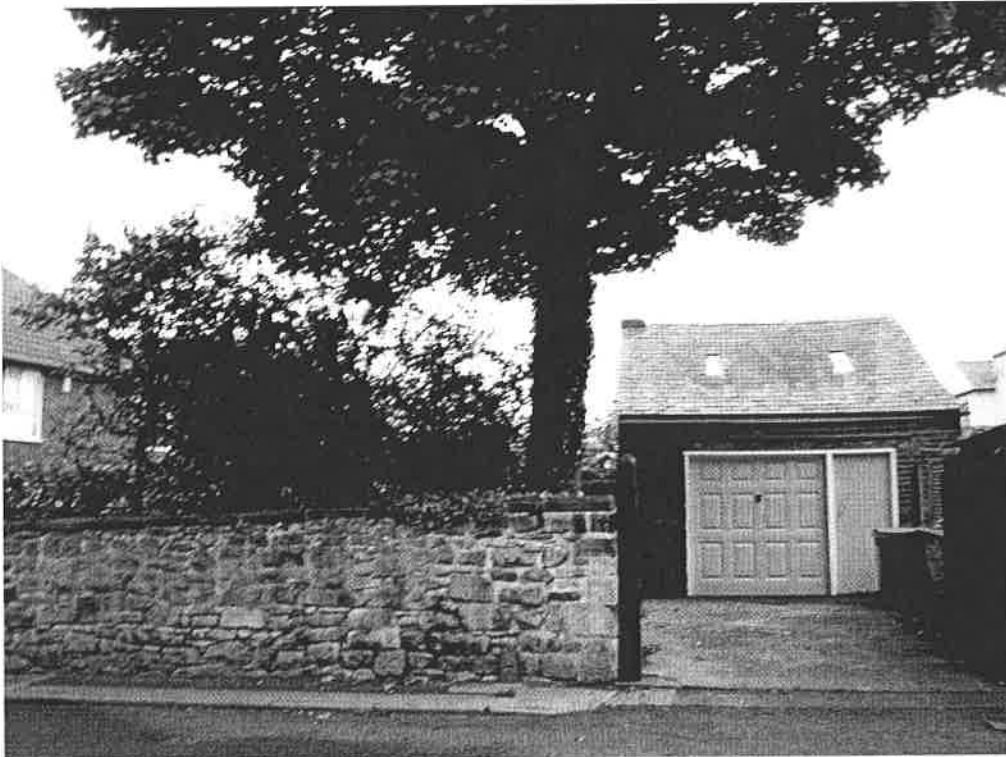








Appendix 2 Photograph of Tree and Setting







Town and Country Planning Act 1990
The Council of the Borough of North Tyneside (1 The Terrace, Front Street, Benton) Tree Preservation Order 2015

The Council of the Borough of North Tyneside in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

1. This Order may be cited as the (1 The Terrace, Front Street, Benton) Tree Preservation Order 2015.

Interpretation

2. (1) In this Order “the authority” means the Council of the Borough of North Tyneside

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3.—(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4.—In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 27th day of May 2015

The Common Seal of the
Council of the Borough of North Tyneside
was affixed to this order in the presence of:



D McEwan

Chair of the Council

HM Coombs

Authorised Signatory

**The Council of the Borough of North Tyneside
(1 The Terrace, Front Street, Benton) Tree Preservation Order 2015**

SCHEDULE

The map referred to is at a scale of 1:500 and is based on an enlargement of the 1:1250 O.S. edition of sheet numbered NZ 2768. The area covered by the Order is land at 1 The Terrace, Front Street, Benton, Tyne and Wear.

The area is wholly within the Metropolitan Borough of North Tyneside in the County of Tyne and Wear.

Specification of trees

Trees specified individually
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Acer sp (sycamore)	Located approximately 18 metres in a north westerly direction from the north east corner of 1 The Terrace and approximately 16.2 metres in a northerly direction from the north western corner of 1 The Terrace.

Trees specified by reference to an area
(within a dotted black line on the map)

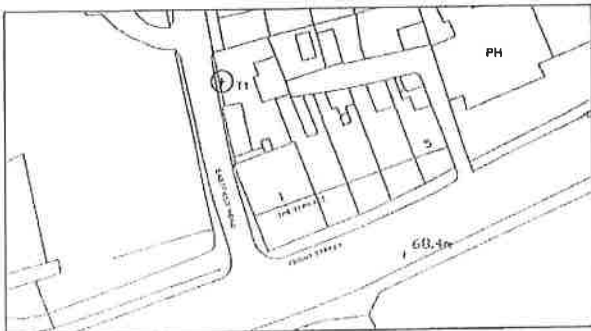
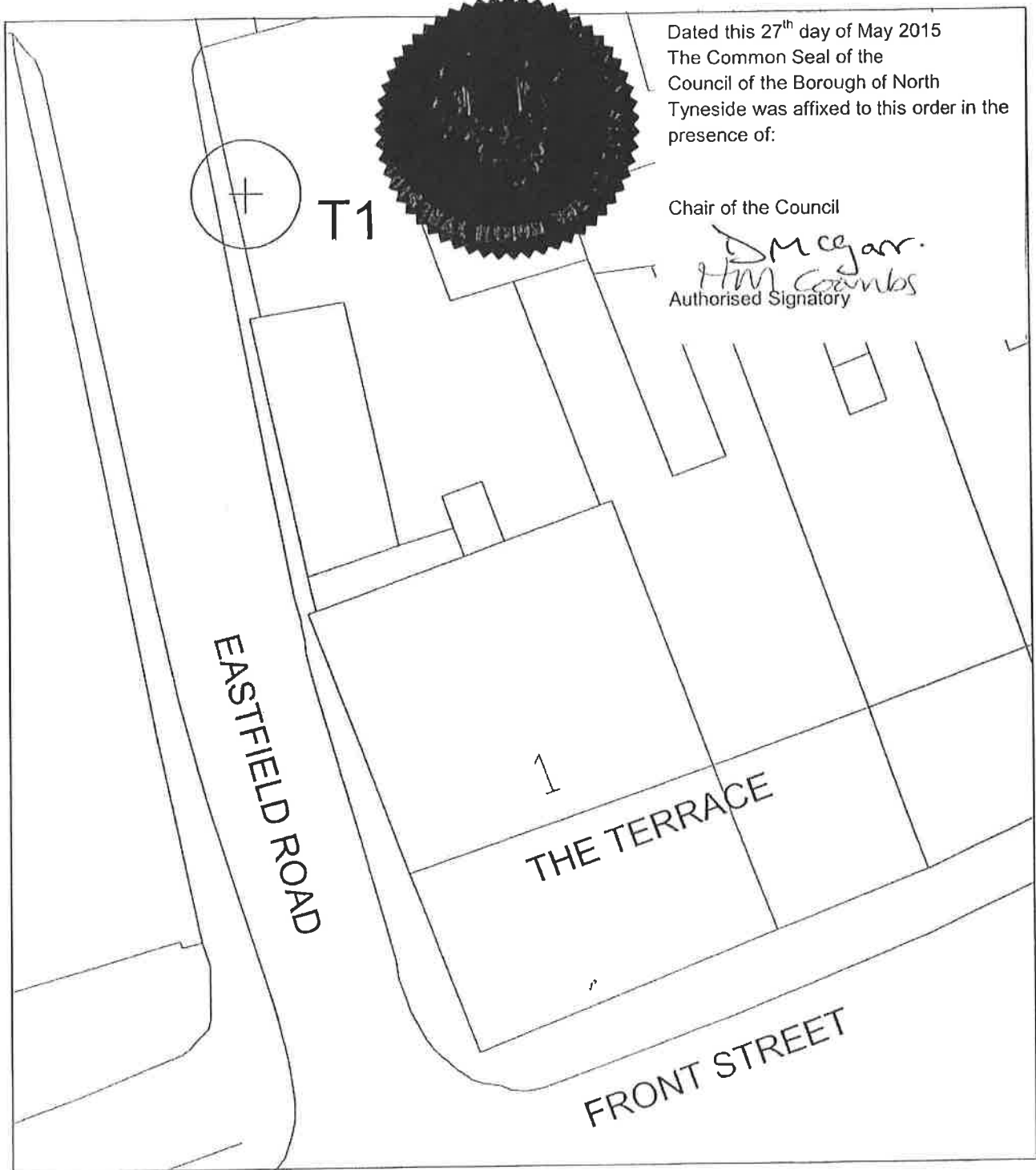
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		

Groups of trees
(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
None		

Woodlands
(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		



NORTH TYNESIDE COUNCIL
 1 THE TERRACE, FRONT STREET, BENTON, TYNE
 AND WEAR
 TREE PRESERVATION ORDER 2015

PH1 Scott
 Head of Environment and Leisure
 Quadrant East
 The Seawall
 Coastal Business Park
 North Tyneside
 NE27 0BY
 Scale 1:1500

© Crown Copyright and database right 2013. Ordnance Survey Licence
 Number 010016801

Elizabeth Kerr

Subject: FW: 1 The Terrace, Front Street, Benton NE12 8AH [Scanned]
Attachments: IMG_2265.JPG; IMG_2266.JPG

From:
Sent: 29 June 2015 21:30
To: Democratic Support; Elizabeth Kerr
Subject: Fw: 1 The Terrace, Front Street, Benton NE12 8AH

----- Forwarded Message -----

From:
To: "democraticsupport@northtyneside.gov.uk" <democraticsupport@northtyneside.gov.uk>
Cc: "elizabeth.kerr@northtyneside.gov.uk" <elizabeth.kerr@northtyneside.gov.uk>
Sent: Monday, 29 June 2015, 21:17
Subject: 1 The Terrace, Front Street, Benton NE12 8AH

Dear Sir Madam

We are objecting to the temporary preservation order which has been placed on the tree on our property. We were informed that "If by 26 May 2015 you do not hear from us, you may carry out the work, in accordance with your letter/notice as long as you do so within 2 years from the date of your letter/notice."

We didn't hear from the council by the 26th May and as previously arranged our Tree Surgeon arrived on site to start the preparation work to remove the tree and reduce the height of our Laurel hedge on 27th May. It wasn't until we returned from work at 6.30pm on that day that we found a letter from the council outlining the intention to put a temporary preservation order on the tree in question.

We reiterate the following when we applied for permission to remove the tree:

The tree is located on our property next to a stone boundary wall. The wall is being pushed over by the tree and we consider this to be a real danger to pedestrians on the path next to the wall (width of path at this point is 90cm)

The pictures that are attached indicate the following:

The tree is pushing the stone wall over the pedestrian footpath and road
It shows that the roots are breaking and lifting up our driveway next to the wall and the foundations of our garage (an original outbuilding)
The tree has pushed our steel gatepost out of line and we are no longer able to close our gate
They show the height of the trunk is 60cm off ground level and growing into the wall

In addition to this the tree is blocking natural light to our adjacent neighbours houses and gardens (Carolyn Close) from early afternoon onwards.

We would very much appreciate your reasonable consideration in the above matter.

Yours sincerely