

Report of City Solicitor

Report to Chief Planning Officer

Date: April 2014

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.26) 2013
(LAND OFF EAST BUSK LANE OTLEY LS21)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Otley & Yeadon	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. A Tree Preservation Order was made in respect of the above site on 21 October 2013 on a provisional basis.
2. Under the Town and Country Planning (Tree Preservation) (England) Regulations 2012 the Order will expire if it has not been confirmed (whether or not subject to modification) within 6 months of the date of making.
3. One objection to the Order has been received within the statutory objection period.
4. The Chief Planning Officer is requested to determine whether or not the Order should be confirmed or confirmed subject to modification in light of the objection.

Recommendation

5. That the objection be overruled and the Order confirmed in its original form.

1 Purpose of this report

- 1.1 To set out the background to the making of the provisional Tree Preservation Order and to note the fact that one objection to the Order have been submitted to the Council
- 1.2 To seek a determination from the Chief Planning Officer that the objection should be overruled in all the circumstances and that the Order be confirmed in its original form.

2 Background information

- 2.1 The Local Planning Authority was contacted by in the region of 20 members of the public, expressing concern that several trees had been removed from the site frontage adjacent to East Busk Lane. The land is currently an open Paddock area with trees to the boundaries.
- 2.2 It became evident that the trees had been removed in connection with a subsequent Outline planning application for residential development (planning reference 13/04089/OT). A tree report was submitted with the planning application.
- 2.3 As a consequence of the pre-emptive felling of trees and the formal submission of an outline Planning Application, there was significant concern raised by members of the public and 3 Ward Councillors with regard to safeguarding any viable trees from removal, pending the consideration of the planning application.
- 2.4 A site visit was undertaken and the majority of trees were inspected and found to be in reasonable condition. They were readily visible from East Busk Lane and surrounding footpaths and were considered to be collective amenity assets forming green buffer to adjacent land.
- 2.5 It was therefore considered expedient to protect these trees, together with other trees of value in the vicinity of the application site and an Order was therefore made and served on 21 October 2013. Those trees which were found to contain significant defects were omitted from the TPO.

3 Main issues

- 3.1 On 20 November 2013 an objection to the Order was submitted by the owner's planning consultant.
- 3.2 The grounds of objection have been considered by the relevant Tree Officer and for the reasons given in his comments it is considered that the Order should be confirmed as originally served.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Tree Preservation Orders are served on landowners on a provisional basis any other party holding an interest in the land other parties and adjoining landowners where any trees overhang their boundary.
- 4.1.2 A minimum statutory objection period of 28 days applies in respect of any Order made.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Human Rights. It is necessary to balance the rights of the landowners against the public interest in the protection of trees provided for by the statutory provisions. Local Planning Authorities have the powers to make Tree Preservation Orders if it appears to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area. In the present case the amenity of the trees is considered on balance to justify the making confirmation of a Tree Preservation Order and to outweigh the rights of the property owners to manage trees without local authority control.

4.3 Council policies and City Priorities

- 4.3.1 The work of the Sustainable Development Unit forms a vital element of the Vision For Leeds, City Priority Plan and Council Business Plan, the following two of which are relevant to are The aims of maintaining high quality buildings, places and green spaces, which are clean, looked after and respect the City's heritage and of enabling growth of the city whilst protecting its distinctive green character are promoted by the making of Tree Preservation Orders.

4.4 Resources and value for money

- 4.4.1 There are no resource implications.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Report is not subject to call in.
- 4.5.2 The Chief Planning Officer is authorised to take the decision whether to determine Tree Preservation Orders under Part 3 Section 2A of the Constitution (Council non-executive functions).

4.6 Risk Management

- 4.6.1 There are no specific risks involved.

5 Conclusions

- 5.7 The grounds of objection have been considered by the Tree Officer and for the reasons given in his comments it is considered that the objection should be overruled.

6. Recommendation

6.1 That the Order be confirmed as originally served.

7 Background documents¹

7.1 City of Leeds Tree Preservation Order (No.26) 2013 (East Busk Lane Otley LS21) dated 21 October 2013.

7.2 Objection dated 20 November 2013 (**Exempt under Access to Information Rule 10.4(2)**)

7.3 The Tree Officer's comments in respect of the objection.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.