

**CITY OF LEEDS TREE PRESERVATION ORDER (No.26) 2013,
(LAND OFF EAST BUSK LANE, OTLEY LS21)**

1. BACKGROUND

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.

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.

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.

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.

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.

The planning application was considered and refused for multiple reasons, although the impact on trees was considered to be minimal due to the fact that the majority of trees were proposed for retention in the scheme. Following this refusal, additional unprotected trees and hedges were removed from the site frontage leading to additional public and Ward Member concern.

2. OBJECTION

An objection to the TPO dated 20 November 2013 was s submitted by Johnson Brook Planning Consultants, acting on behalf of Stephen Smiths Garden Centre and BBS Brick and Stone Ltd.

The points raised in the objections can be summarised as follows:

1. The making of the TPO is not considered expedient in the interest of amenity
2. The Sycamore referred to in the Schedule to the Order as (T1) has a wound on the trunk, has been graded as C2 in the tree report submitted with the outline planning application and does not merit inclusion within the TPO.

Other trees that are included in the Order have been graded as either C2 or B2 on the report demonstrating the low quality of trees and unsuitability for inclusion within a TPO.

3. Under Human Rights Act 1998 Public Authorities must act in a manner that is compliant with the terms of the European convention on Human Rights article no.6

3. COMMENTS OF THE TREE OFFICER IN RELATION TO THE OBJECTION

1. The pre-emptive felling of trees and hedges, prior to submission of the outline planning application indicated the existence of a clear threat to the remaining site trees. The trees are highly prominent from numerous public locations, including East Busk Lane and surrounding footpaths. The removal of unprotected frontage trees and hedges since the serving of the TPO has opened up the site, offering even greater views of the boundary trees, thereby increasing their amenity value.
2. The tree report recommended in various cases that no works were necessary, minor remedial pruning was required, or suggested the option to fell or retain in accordance with development proposals. The report did not recommend the removal of any tree on arboricultural grounds. It is noted that the planning application proposed the retention of the majority of the trees which are now protected.
3. In respect of even-handed and open decision-making, Paragraph 3.38 of the 'Blue Book' recommends decision-making by committee, based on a report from officers. In Leeds, the Constitution provides for decision-making to be delegated to the Chief Planning Officer, again based on a report from officers, and the further recommendation in Paragraph 3.38 that a copy of the report is The suggestion that a member site visit might be organised, possibly followed by a hearing for the objectors and officers to have a final say on the issues, is not normal practice in Leeds. However it is considered that the normal Leeds practice in decision-making and dealing with objections is fair and even-handed and complies with Article 6 of the European Convention on Human Rights.

4. CONCLUSION

The Order is warranted on the grounds of amenity and expediency and, therefore, the imposition of the Order is appropriate.

Any sensible tree works applications would be considered on their merits, notwithstanding the fact that the tree report has indicated that the majority of trees do not require any works or require only minor remedial pruning.

Any development related tree issues can be considered through the Planning process.

5. RECOMMENDATION

That the Order be confirmed as originally as served.