

**Report of City Solicitor**

**Report to Chief Planning Officer**

**Date: February 2015**

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER NO.20 (2014)**

**(LAND TO EAST OF NOS. 46 & 49-59 FOREST BANK, GILDERSOME, MORLEY)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Morley North	<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 5 September 2014 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. Four objections to the Order have been received within the statutory objection period. A further objection was submitted on 16 February 2015.
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 objections.

**Recommendation**

5. That the objections be overruled and the Order be confirmed as originally served.

## **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 four objections 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 as originally served.

## **2 Background information**

- 2.1 Concerns were expressed by local residents to the Council that some residents in the vicinity of the trees now identified in the Order were carrying out or intended to carry out work that would lead to the unwarranted loss of a number of trees with a subsequent loss of amenity.
- 2.2 A site visit was made and it was concluded that the trees did make a significant contribution to the amenity of the areas, being a small but prominent area of woodland in an area of mature residential properties.
- 2.3 Therefore, a Tree Preservation Order was considered appropriate and that given the number of trees and the nature of the cover, a Woodland designation would be appropriate. An Order was therefore, made on this basis and served on 5 September 2014.

## **3 Main issues**

- 3.4 Subsequently, 4 objections to the Order were received within the objection period, one from the owner and 3 from adjacent neighbours.
- 3.5 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.
- 3.6 A further objection was submitted by the owner of another neighbouring property on 16 February 2015. Whilst a copy of this objection is appended to the report, the Tree Officer's comments do not address its content given the lateness of its submission.

## **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 each objection have been considered by the Tree Officer and for the reasons given in his comments it is considered that the objections should be overruled.

## **6. Recommendation**

That the Order be confirmed as originally served.

## **7 Background documents<sup>1</sup>**

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<sup>1</sup> 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.

- 7.1 City of Leeds Tree Preservation Order (No.20) 2014 (Land to east of Nos. 46 & 49-59 Forest Bank, Gildersome, Morley) dated 5 September 2015.
- 7.2 Letters of objection **(Exempt under Access to Information Rule 10.4(2))**
- 7.3 The Tree Officer's comments in respect of the objections.
- 7.4 Further representations in relation to the Tree officer's comments. **(Exempt under Access to Information Rule 10.4(2))**
- 7.5 Objection submitted 26 February 2015 **(Exempt under Access to Information Rule 10.4(2))**