

Report of City Solicitor

Report to Chief Planning Officer

Date: MARCH 2015

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER NO.22 (2014)
(HIGHWAY VERGE ADJACENT TO 2 BROADWAY GUISELEY LS20 8JU)**

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 25 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. One objection to the Order from the adjacent property owner was 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 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 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 as originally served.

2 Background information

- 2.1 The Council received a Conservation Area Notice of intention from the adjacent property owner to remove a large Oak tree, validated on 4 September 2014. Section 4 of the standard application form that the tree was in the ownership of the property owner.
- 2.2 The application referred to a number of issues with the tree, primarily, loss of light and the accumulation of detritus. It was also suggested that the tree was responsible for structural damage to the property; however, an accompanying structural report dated 25 September 2012 advised that “there is no indication of any ground heave or landslip affecting the property. No signs of any damage, due to tree root action, to the building were noted”
- 2.3 The information submitted did not support the allegation of tree related subsidence and it was, therefore, considered expedient to protect it and a Tree Preservation Order was, therefore, served on 25th September 2014.
- 2.4 Following the serving of the Order, the ownership of the tree has been clarified and it has been established that tree is located on adopted highway and is managed by Parks and Countryside.

3 Main issues

- 3.1 An objection to the Order was received from the adjacent property owner on 24 October 2014, which was supported by a new structural report
- 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 objection be overruled and the Order be confirmed as originally served.

7 Background documents¹

- 7.1 City of Leeds Tree Preservation Order (No.22) 2014 (Highway Verge Adjacent to 2 Broadway Guiseley LS20 8JU) dated 25 September 2014.
- 7.2 E-mail objection from the adjacent property owner dated 24 October 2014, with accompanying structural report. **(Exempt under Access to Information Rule 10.4(2))**
- 7.3 The Tree Officer's comments in respect of the objection.
- 7.4 Further e-mail representations from the adjacent property owner in relation to the Tree officer's comments dated 23 February 2015. **(Exempt under Access to Information Rule 10.4(2))**

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.