

Report of City Solicitor

Report to Chief Planning Officer

Date: 22 APRIL 2016

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER NO.5 (2016)
(LAND AT DARTMOUTH PARK, ADJACENT TO PARK AVENUE, MORLEY)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Morley South	<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 ("the Order") was made in respect of the above site on 12 February 2016 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 was received within t the objection period, which was subsequently expanded upon by way of an arboricultural report.
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 has 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 should be confirmed as originally served.

2 Background information

- 2.1 Following receipt of tree works application, 16/00312/TR by the owner of an adjoining property, several objections from local residents and Ward Councillors were received. Concern was expressed as to future development aspirations on the site and the potential impact on the trees.
- 2.2 The site was subsequently visited to view the proposals and it was evident that the trees in question were prominent. The majority are park trees located on Council land.
- 2.3 Ordinarily it is not Council policy not to make its own trees subject to Tree Preservation Orders as they are deemed to be under responsible and sympathetic management by the Forestry Department and therefore not at risk. The Conservation Area notification however sought to remove the canopy overhanging the park boundary.
- 2.4 The tree works applied for were considered to be excessive, detrimental and unnecessary and therefore an Order and copied to the owner of the adjoining property who submitted the tree works application, together with other adjoining properties.

3 Main issues

- 3.1 One objection to the TPO was subsequently submitted by an arboricultural consultant on behalf of the adjoining property owner who had made the tree works application.
- 3.2 The grounds of objection and 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', which are relevant to the aims of: maintaining high quality buildings, places and green spaces which are clean and looked after; respecting the City's heritage; enabling the growth of the city whilst protecting its distinctive green character. These aims 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

- 5.1 The various 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

That the Order be confirmed as originally served.

7 Background documents¹

- 7.1 City of Leeds Tree Preservation Order (No.5) 2016 (Land at Dartmouth Park, Adjacent to Park Avenue, Morley) dated 12 February 2016.
- 7.2 The objection to the Order submitted by e-mail dated 11 March 2016 (**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.