

## Report of City Solicitor

## Report to Chief Planning Officer

**Date: October 2016**

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.10) 2016  
(32 KENSINGTON TERRACE HYDE PARK LEEDS 6)**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Hyde Park & Woodhouse		
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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

## Summary of main issues

1. A Tree Preservation Order ("the Order") was made in respect of the above site on 12 April 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 the objection period, by way of an arboricultural report submitted on behalf of the Owner.
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 A tree works application to fell an Oak Tree within the grounds of 32 Kensington Terrace was received in April 2016.
- 2.2 The site was subsequently visited to view the proposals and it was evident that the tree in question was prominent and possessed significant amenity value. The works were considered to be excessive, detrimental and unnecessary.

It was, consequently, considered expedient to protect the tree and an Order was therefore, made and served on 12 April 2016

## **3 Main issues**

- 3.1 One objection to the Order was submitted on 11 May 2016, by Independent Arboricultural Consultants acting on behalf of the Owner.
- 3.2 The grounds of objection and the further representations contained in the arboricultural report have been considered by 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 documents<sup>1</sup>**

- 7.1 City of Leeds Tree Preservation Order (No.10) 2016 (32 Kensington Terrace Hyde Park) dated 12 April 2016.
- 7.2 The objection to the Order submitted by e-mail dated 11 May 2016 (**Exempt under Access to Information Rule 10.4(2)**)
- 7.3 The Tree Officer's comments in respect of the initial objection.

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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.