

Report of City Solicitor

Report to Chief Planning Officer

Date: October 2016

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.14) 2016
(LAND OFF A58 WETHERBY ROAD SCARCROFT)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Harewood	<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 20 May 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. Three objections to the Order was received within the objection period, along with two representations in support
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 three objections to the Order has been submitted to the Council
- 1.2 To seek a determination from the Chief Planning Officer that the objections should be overruled in all the circumstances and that the Order should be confirmed as originally served.

2 Background information

- 2.1 In May 2016, concerns were expressed by a Ward Councillor to the Council that it was believed that the upcoming auction of a piece of land adjacent to the A58 in Scarcroft could lead to the loss of a number of trees on that land, with a subsequent loss of amenity
- 2.2 A site visit was undertaken and it was concluded that the trees did make a significant contribution to the amenity of the area and were generally in a healthy condition.

It was, therefore, considered appropriate to make a Tree Preservation Order. Given the number of trees and the nature of the cover, a Woodland designation was chosen and an Order made and served on 20 May 2016

3 Main issues

- 3.1 Three objections to the Order were received within the objection period, along with two representations in support. These objections were made on behalf of the beneficial owners of the land, the successful bidder and a property company respectively.
- 3.2 All 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 All grounds of 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 documents¹

- 7.1 City of Leeds Tree Preservation Order (No.14) 2016 (Land off A58 Wetherby Road Scarcroft) dated 12 April 2016.
- 7.2 Objection of the Beneficial Owners to the Order with enclosures dated 8 June 2016 **(Exempt under Access to Information Rule 10.4(2))**
- 7.3 Objection of the Successful Bidder to the Order dated 16 June 2016 **(Exempt under Access to Information Rule 10.4(2))**
- 7.4 Objection of the Property Company to the Order dated 15 June 2016 **(Exempt under Access to Information Rule 10.4(2))**
- 7.5 Letter in support of the Order from a resident of Green View Scarcroft dated 23 May 2016 **(Exempt under Access to Information Rule 10.4(2))**
- 7.6 E-mail in support of the Order from a local resident dated 25 May 2016 **(Exempt under Access to Information Rule 10.4(2))**
- 7.7 The Tree Officer's comments in respect of the three Objections

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.