

**Report of City Solicitor**

**Report to Chief Planning Officer**

**Date: AUGUST 2017**

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.7) 2017**

**(115 ILKLEY ROAD, OTLEY)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Otley & Yeadon	<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 7 March 2017 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. Two objections to the Order were received within the 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 objections are 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 two 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.
- 1.3 Background information
  - 1.1 The Council received a Conservation Area Notification Ref 17/00354/TR on behalf of the owner of the above property proposing to fell all trees front, side and rear of garden. Whilst the notification did propose to retrain and prune 2 Birch Trees, the extent of pruning was not stated and a request for more information was sent to the applicant.
  - 1.2 A site visit was consequently undertaken by the Tree Officer to inspect the trees. Both trees appeared generally healthy and were visible from much of The Avenue, given their frontage position.
  - 1.3 The site was inspected and the trees found to form a highly prominent linear block running to the important River Wharf corridor, enhancing the surrounding Conservation Area
  - 1.4 Whilst it was accepted that several specimens were poor and could be removed through a considered application, it was considered the whole sale removal of trees could not be justified.
  - 1.5 In the circumstances the making a Tree Preservation Order ('the Order'), to protect the trees was considered appropriate, such Order made and served on 7 March 2017

## **2 Main issues**

- 2.1 Two objections to the Order were received within the objection period, the first being from the owner of the trees, and the second from a neighbour.
- 2.2 All grounds of objection 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.

### **3 Corporate Considerations**

#### **3.1 Consultation and Engagement**

3.1.1 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.

3.1.2 A minimum statutory objection period of 28 days applies in respect of any Order made.

#### **3.2 Equality and Diversity / Cohesion and Integration**

3.2.1 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.

#### **3.3 Council policies and City Priorities**

3.3.1 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.

#### **3.4 Resources and value for money**

3.4.1 There are no resource implications.

#### **3.5 Legal Implications, Access to Information and Call In**

3.5.1 The Report is not subject to call in.

3.5.2 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).

#### **3.6 Risk Management**

3.6.1 There are no specific risks involved.

#### **4 Conclusions**

- 4.1 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 documents<sup>1</sup>**

- 7.1 City of Leeds Tree Preservation Order (No.7) 2017 (115 Ilkley Road Otley) dated 7 March 2017.
- 7.2 E-mail objection to the Order submitted by the owner dated 21 March 2017  
**(Exempt under Access to Information Rule 10.4(2))**
- 7.3 E-mail objection to the Order submitted by a neighbouring property owner dated 5 April 2017  
**(Exempt under Access to Information Rule 10.4(2))**
- 7.4 The Tree Officer's comments in respect of the Objections.

---

<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.