

Report of City Solicitor

Report to Chief Planning Officer

Date: January 2017

Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.22) 2016

(LAND TO THE REAR OF 2-12 VICTORIA STREET ALLERTON BYWATER WF10)

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Kippax and Methley	<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 19 August 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.
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 planning application was submitted for a proposed conservatory to the side/rear at No. 41 Main Street, Allerton Bywater (16/03732/FU).
- 2.2 Concerns were raised by the planning officer about the proposal's failure to comply with the Council's adopted guidance in respect of separation distances to trees in relation to an Acer Tree, situated on adjoining open space in Council ownership.
- 2.3 Given the high amenity value and good condition of the tree, the planning officer perceived the tree to be under threat and that it would be expedient for the Council to serve a Tree Preservation Order ('TPO') O to protect it.
- 2.4 A site visit was undertaken by a Landscape Officer, who concluded that the tree did make a significant contribution to the amenity of the area and was generally in a healthy condition. It was, therefore, considered appropriate to make a Tree Preservation Order, which was made a served on 19 August 2016.

3 Main issues

- 3.1 One objection to the Order was received within the objection period from the applicant referred to above.
- 3.2 All grounds of objection and the further representations contained in the arboricultural report have been considered by Landscape 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 Landscape 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.22) 2016 (Land to the rear of 2-12 Victoria Street Allerton Bywater WF10) dated 19 August 2016.
- 7.2 Objection submitted on behalf of the developer to the Order dated 23 August 2016 (**Exempt under Access to Information Rule 10.4(2)**)
- 7.3 The Landscape 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.