

Report of City Solicitor

Report to Chief Planning Officer

Date: November 2018

Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.10) 2018

((WOODLAND TO THE REAR OF 16 -18 NETHERFIELD DRIVE, GUISELEY))

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Guiseley & Rawdon		
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 5 June 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 from the owners of 18 Netherfield Drive.
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 is 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.
- 1.3 Background information
- 1.4 The making of the Order initially stemmed from the contacting of Landscape Team by Councillor Wadsworth and a local resident, with a request to serve a TPO on a tree located adjacent to Parkinson Park Guiseley. The trees were inspected on site and it was noted by the Tree Officer that the Cypress was clearly failing and removal was readily agreed.
- 1.5 Whilst the original request was to protect a single tree, Councillor Wadsworth subsequently requested that additional trees in the vicinity be protected as a collective. Concern had been raised that the trees might be at risk for being felled and he advised that public interest came for the Order was supported by a local resident and but also the Friends of Parkinson Park.
- 1.6 Once resources permitted, the site was visited by a Tree Officer who observed a visually prominent woodland block of mixed deciduous trees on land to the rear of 16 & 18 Netherfield Drive.
- 1.7 Following the continued interest of Councillor Wadsworth in respect of additional trees in the vicinity and members of the public, the site was again visited. The Tree Officer concurred with a colleague that the trees formed a highly prominent woodland collective and should be protected for their collective, rather than individual, amenity value.
- 1.8 A provisional Tree Preservation Order was, therefore, made and served on 5th June 2018, in respect of woodland block of mixed deciduous trees.

2 Main issues

- 2.1 An Objection to the Order was subsequently received from the owners of 18 Netherfield Drive.
- 2.2 The Objectors thereafter submitted an application for tree works, and in the context of their application made further points of objection respect of the Order itself.
- 2.3 All grounds of objection, as referred to at 2.1 and 2.2 above, have been considered by the 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 objection to the Order should be overruled.

5. Recommendation

That the Order be confirmed as originally served.

6 Background documents¹

- 6.1 City of Leeds Tree Preservation Order (No.10) 2018 (Woodland to the rear of 16-18 Netherfield Drive Guiseley) dated 5 June 2018.
- 6.2 Chain of Correspondence between the Owners of 18 Netherfield Drive and Legal Services during the period 14 June to 16 July, within which initial points of objection are made. **(Exempt under Access to Information Rule 10.4(2))**
- 6.3 Further correspondence between Legal Services and the Objectors dated 12 October 2018 following the submission of a tree works application, which contains further points of objection. **(Exempt under Access to Information Rule 10.4(2))**
- 6.4 The Tree Officer's comments in respect of the Objection.
- 6.5 Further representations submitted by the owners of Netherfield Drive, dated 8 November 2018 in response to the Tree Officer's comments. **(Exempt under Access to Information Rule 10.4(2))**

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.