

**Report of City Solicitor**

**Report to Chief Planning Officer**

**Date: March 2019**

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.16) 2018  
(LAND ADJACENT TO BAYTON LANE HORSFORTH LEEDS 18)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Horsforth	<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 September 2018 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 on behalf of Horsforth Golf Club Ltd.
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 A planning submission was made on 13 July 18 by Horsforth Golf Club Ltd (application number 18/04467/FU). The proposals included a large engineering "land fill" operation that would raise the ground levels up to 4-5 m above existing levels over a large area. This operation required the removal of almost 1 hectare of woodland type maturing trees as well as individual specimens. The plans also posed a risk of damage to prominent trees along Bayton lane.
- 1.5 The woodland and specimen trees are clearly visible from the surrounding locale. They provide public amenity and are important in terms of the character of the landscape. To lose trees on this scale and block views with a landfill embankment would have devastating consequences in both respects.
- 1.6 The submitted Arboricultural Report by JCA (ref 14094/AJB) confirmed the high value of the trees. All the trees within the site boundary were, almost without exception, given a high value Category B rating. A provisional Tree Preservation Order was, therefore, made and served on 5th June 2018, in respect of woodland block of mixed deciduous trees.
- 1.7 The main belt of trees (west side) provides a green corridor with a stream running through a large part of it. The belt forms part of the Leeds Habitat Network which is covered by LCC policy G9 therefore this proposal would be in contraction to this policy due to loss of bio-diversity and culverting an open stream.
- 1.8 It was noted that the proposals did provide for new tree planting but even if they survived these trees would take many decades to attain the size and stature of those proposed for removal. In other words these trees are not replaceable and the new planting would do little to mitigate the harm.
- 1.9 Given the above there was a risk that the trees could be removed at any time to enable works to begin. The Council considered it to be expedient in the circumstances to serve a TPO. This would allow the trees to be fully considered in any planning negotiations and prevent any pre-emptive removals taking place.
- 1.10 A Tree Preservation Order was therefore made and served on 7 September 2018.

## **2 Main issues**

- 2.1 An Objection to the Order was submitted on behalf of Horsforth Golf Club Ltd by AWA Tree Consultants.
- 2.2 All grounds of objection, as referred, 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 documents<sup>1</sup>

6.1 City of Leeds Tree Preservation Order (No.16) 2018 (Land adjacent to Bayton Lane, Horsforth) dated 7 September 2019.

6.2 Objection to the Order was submitted by AWA Tree Consultants on behalf of Horsforth Golf Club Ltd dated 8 October 2018. **(Exempt under Access to Information Rule 10.4(2))**

6.3 The Tree Officer's comments in respect of the 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.