

**Report of City Solicitor**

**Report to Chief Planning Officer**

**Date: 17 JANUARY 2020**

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.6) 2019**

**(LAND EAST OF RAILWAY LINE, HALTON MOOR AVENUE, LEEDS 9)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Temple Newsam	<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 July 2019 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 determined within 6 months of the date of making.
3. Two objections to the TPO was subsequently submitted by the landowner and a developer respectively.
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 Order be confirmed subject to modification of the Order Map (appended as background document 6.5), with the remaining points of objection being overruled.

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 have been submitted to the Council
  - 1.2 To seek a determination from the Chief Planning Officer that the Order be confirmed subject to modification of the Order Map, with the remaining points of objection being overruled.
  - 1.3 **Background information**
  - 1.4 A pre-application enquiry was received by the Council proposing a new residential scheme (PREAPP/19/00267). A concern was immediately raised as the proposal was considered not to properly take into account the high quality and highly visible trees known to be on the site. The woodland is listed in National Forestry Inventory, the majority of which was unprotected, prior to the serving of the provisional Tree Preservation Order ('TPO').
  - 1.5 During a site visit undertaken it was noted that test digs and gas monitoring were being carried out in and adjacent to the trees. The proposals tabled would result in all the woodland belt being removed.
  - 1.6 In order to ensure that the trees were properly considered in the proposals a decision was made to serve a Tree Preservation Order ('TPO') on the site. In particular to protect the belt of woodland trees, which was made and served 19 July 2019.
- 2 **Main issues**
  - 2.1 Two objections to the TPO were subsequently submitted by the Landowner and a Developer, respectively, the second of which being supported by a visual amenity assessment of a Landscape Architect
  - 2.2 All grounds of objection have been considered by the Principal Landscape Architect, and for the reasons given in his comments it is considered that (subject to the modification referred to below), the TPO is warranted on the grounds of amenity and expediency and that the objections to the Order should be otherwise overruled
- 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.

3.3.2 In the light of the Climate Change Emergency recently declared by the Council, it is important to recognise the value of existing trees, in terms of Carbon storage and their year on year carbon sequestration ( in addition to public amenity and bio-diversity value). The retention of existing trees wherever possible is a positive factor in combatting climate change. By way of comparison, it will take at least 30 years for newly planted trees planting to make a similar contribution.

## 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 **Conclusion**

4.1 All grounds of objection have been considered by the Principal Landscape Officer, and for the reasons given in his comments it is considered that subject to the recommendation below, the objections to the Order should be otherwise overruled.

## 5. Recommendation

That the Order be confirmed subject to modification of the Order Map (appended as background document 6.5) a) through the removal of a 5m strip from the western boundary edge of the TPO woodland belt adjacent to the railway line, to facilitate electrification of the railway line; and b) through further reduction the width of the TPO considered to be reasonable and justified in all the circumstances

## 6 Background documents<sup>1</sup>

- 6.1 City of Leeds Tree Preservation Order (No.6) 2019 (Land east of Railway Line, Halton Moor Avenue, Leeds 9) dated 19 July 2019.
- 6.2 Letter of Objection submitted by the Landowner dated 16 August 2019 **(Exempt under Access to Information Rule 10.4(2))**
- 6.3 Letter of Objection submitted on behalf of the Developer dated 19 August 2019, with supporting Visual Amenity Assessment by of a Landscape Architect **(Exempt under Access to Information Rule 10.4(2))**
- 6.4 The Principal Landscape Officer's comments in respect of the Objections.
- 6.5 Modified Order Map

---

<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.