

CITY OF LEEDS TREE PRESERVATION ORDER TPO (NO.6) 2019

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

Comments of the Principal Landscape Architect

1. BACKGROUND

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').

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.

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. OBJECTIONS TO THE ORDER

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.

THE OBJECTIONS

1) The objection of the Developer, can be summarised as follows:

- a) The TPO is likely to result in significant restraints and limitations on future site development by sterilising around 35% of the developable area rendering the site unviable
- b) The TPO Amenity Valuation Checklist states the site is under "development pressure" but that this site has been known to the Council for some 18 years so it is a surprise that the Council considers it to be expedient to issue a TPO.
- c) Whilst there is a reference in the Site Allocations Plan for the need to take account of nature conservation interests, there is no reference to the need to protect any specific woodland within the site. Why the importance of the trees wasn't explicitly reflected in the allocation?

- d) The amenity value assessment prepared by the Developer suggests that the vast majority of the TPO trees represents self-seeded, unmanaged woodland mostly of low and moderate quality trees.
- e) In respect of amenity for those accessing the site, it must be noted that there is no formal public right of way rather it is 'Permitted Access' which can be terminated at any time.
- f) The "A" frame access is overgrown making access difficult for pedestrians. This suggests that the scale of amenity value is limited as only a small number of people are "determined to fight their way through."
- g) It is accepted that the trees on the plateau also provide for some visual benefit but this could be achieved by a narrower corridor
- h) The advantages of a scheme with the narrower modified TPO corridor would be
 - (a) The benefit of new homes in a low value location.
 - (b) A management regime for the modified TPO area providing for the longevity of the trees
 - (c) Contributions to the previously identified blue/green infrastructure as part of the Wyke Beck flood alleviation project

2) Additional Points Raised by the Landscape Architect can be summarised as follows:

- a) There would be the same visual benefits with a narrower TPO tree belt
- b) Views from inside the site should be excluded from the amenity valuation as the footpath use is permissive only and could be withdrawn any time
- c) Some foliage shown in the amenity assessment is part of the steep banking and only a small percentage is as very small percentage of that visible. If only part of the woodland was retained, there would be a negligible change in visual impact.
- d) The TPO woodland is largely or wholly screened from new viewpoints.

3) The objections of the Landowner can be summarised as follows:

- a) The amenity evaluation checklist contains a fundamental error in section E1 (page 3, where it claims that no exemptions apply to the site. This is incorrect as the current lawful use of the land is as operational railway, and it remains the case that the trees can be felled should the need arise for operational railway purposes.
- b) A 5 metre corridor of trees will be removed to facilitate electrification of the railway line as part of the Trans- Pennine upgrade. It is unusual for a TPO to be served on operational railway land.
- c) The same public amenity could be provided without the need for the full extent of the trees.
- d) Reliance cannot be placed on the permeability of the site by the public as contributing to amenity because the footpath/ access is on a permissive basis only.
- e) Covering the whole site with the Order would be fundamentally at odds with the purposes of the housing allocation in the plan.
- f) UDP allocation makes reference to natural generation of the site leading to local importance as a wildlife habitat. This makes no reference to the requirements of visual amenity. which is now a material consideration.
- g) Additional planting could be provided elsewhere in the vicinity to offset the loss of nature conservation.
- h) The pre-application meeting was intended to set parameters including useful screening and nature conservation role, but a 40m wide strip of TPO is a crude and ineffective method of negotiation given operation needs and housing growth targets. It is understood that the applicant is willing to discuss the buffer and will present evidence how the site will effectively be rendered unviable by the order.

3. COMMENTS ON THE OBJECTIONS

Due to the overlapping nature of the three objections, the various points of objection from each objector are dealt with below as a single response under relevant headings

- **Operation Use Of Site**

Waterloo Sidings, as the site was known, has not been in operational use since the early 1990s except for the occasional storage until around the turn of the century as stated in the objection letter. It has been allocated for housing since 2001 and also included in the Council's Site Allocations Plan (SAP) of July 2019 for residential. The developer's pre-application documentation included a Conveyancing Plan. It is clear that there isn't a current intention to convert the land back to operational use. Under these circumstances described, the site could not be considered as "operational railway" as defined under the Town & Country Planning Act 1990.

Should the site be withdrawn from the SAP to be returned to operational use, then an exemption to the requirement to apply for consent to carry out tree works on a TPO would apply.

The 5 meter corridor required to facilitate electrification of the line has been considered, and the Order Map has been modified to reflect this operational land by removing a 5m strip alongside the railway line, together with further modification referred to below.

GOV.UK Guidance 2014 states:

What is the exception for work by or for statutory undertakers?

The authority's consent is not required in certain circumstances for work carried out by, or at the request of, those statutory undertakers listed in the Town and Country Planning (Tree Preservation) (England) Regulations 2012. These statutory undertakers, or contractors working at their request, are advised to liaise with local authorities prior to carrying out work to trees protected by an Order. It is expected that all vegetation control is carried out in accordance with best arboricultural practice. They should also take care to not contravene the provisions of legislation.....

- **The TPO belt could be narrowed in width**

The TPO woodland belt size was determined by its natural entity definition on the ground. It was based on the obvious edge that is characteristic of a woodland i.e. where it fronts onto existing open breaks or fixed edges. However taking on board the objection comments it is considered justifiable and reasonable to reduce the width of the TPO.

On balance it is felt that this will still retain a meaningful woodland habitat and still retain the essence of the public amenity attributes of the belt. It must not be lost sight

of the fact that in excess of 100- 150 trees are outside the TPO belt on the plateau and therefore not protected by the Order.

GOV.UK Guidance 2014 states: *The woodland category's purpose is to safeguard a woodland as a whole.*

As previously mentioned, the width of The TPO belt has also been reduced for the 5m clearance for the overhead line.

- **Permissive paths**

It is acknowledged that paths within the site are Permissive Paths and not Public Rights of Way, but the fact is- the public can and do walk around within the site at present. Even if the "A" frame access point is overgrown, members of the public are clearly using the site and it is understood that there are other access points being used.

In any event, the Council's Amenity Assessment does not solely rely on the internal public access, but rather on a broad spectrum of public amenity opportunities as demonstrated. If the permissive rights were to be withdrawn this would not fundamentally undermine the TPO.

The GOV.UK Guidance 2014 additionally states that the amenity can be in the future. In this case the woodland belt would offer amenity to the future residents when the site is developed.

- **Expediency**

The point was made about it not being expedient to make the TPO as the site has been known to the Council for some 18 years; why suddenly is the site under "development pressure"? The answer to this is that site activity has commence as in bore holes and ground tests etc. A regraded access has been recently formed off Wykebeck Ave and there are many signs of ground disturbance within the site. This is all new activity.

Additionally the pre-application proposals tabled would necessitate the removal of almost all the plateau trees. This raised a concern that "site clearance" of all the trees could be imminent. In the light of this situation it was deemed expedient for the Council to serve a TPO to ensure the trees were protected in order to be considered as part of the overall development proposals for the site.

- **Viability**

It is not accepted that the TPO is likely to result in significant constraints on development, rendering the site unviable. The current plans for the site would amount to overdevelopment at the expense of trees and bio-diversity. The submitted

pre-application layout proposal was for 202 units which is well beyond the SAP number of 140 units.

There are many issues with this layout as described in the pre-application decision letter to the developer. The layout would not be policy compliant in terms of Green Space GS requirements. However the TPO woodland belt could provide for some of the GS requirements. The Council welcomes further discussion and is happy to work with the developer in producing a more realistic scheme that does not compromise valuable site assets such as the woodland belt. A successful planning approval may override a TPO.

- **Site Allocations Plan (SAP)**

The Site Allocations Plan SAP for the Council is very high level. One of the main criterion for allocation is a site must be sustainable. The SAP may give some clues to site issues but is not intended to provide detailed surveys and detailed lists of site issues which will emerge at a more detailed stage. SAP is about the selection of sites. The detailed site specifics are for a planning application. The SAP does not purport to be a catch all or reference all site requirements and issues/ constraints. Now that this site is entering an application phase, many material considerations will become apparent. Visual amenity is one such consideration.

The SAP description for this particular does draw attention to nature conservation interests but goes no further. The detail of this would be revealed through site surveys such as an ecological survey at application stage. However a woodland is a “nature conservation interest” and there may be others too.

- **Quality of the woodland**

The woodland belt is of high quality. This assertion is based on the findings of the submitted independent tree survey produced. This actually states under item 4.2 (tree categorisation) that Area A (the woodland belt) is of high merit in terms of group value (although individually trees may not be of high merit). The belt is described thus: **...they combine as a high amenity group.** The group has been given a retention **category A**, which is the highest score. The Council would accord with this assessment. The group value of a woodland is acknowledged in the GOV.UK Guidance 2014:

When should the woodland category be used?

The woodland category’s purpose is to safeguard a woodland as a whole. So it follows that, while some trees may lack individual merit, all trees within a woodland that merits protection are protected and made subject to the same provisions and exemptions.

- **Tree replacement**

These well-established trees could not simply be chopped down and be replaced with new planting elsewhere as suggested. The function they provide (an established screen) would be lost together with the amenity and bio-diversity qualities.

This belt forms part of a green corridor running parallel to the railway line. There are existing breaks in the corridor e.g. where roads cross it but this does not render it valueless. It still appears visually coherent and from a bio diversity perspective, birds and larger mammals can cross gaps.

Additionally older trees lock in carbon which is important in this declared Climate Emergency. 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.

In the light of the recently declared LCC climate change emergency, it is important to recognise the value in terms of Carbon storage and their year on year carbon sequestration in addition to public amenity and bio-diversity value.

- **Photographic assessment**

It is always possible to pick and choose views within an area where the trees cannot be seen from. The amenity assessment photographs clearly show the visibility of the tree belt and its importance in the landscape. Just because an alternative view within a similar geographical area obscures or partially obscures sight of the trees does not undermine the credibility of the visual assessment.

4. CONCLUSION

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.

5. RECOMMENDATION

That the Order be confirmed subject to modification of the Order Map; 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.