

**Report of City Solicitor**

**Report to Chief Planning Officer**

**Date: JANUARY 2020**

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.9) 2019**

**(COMMERCE HOUSE, WADE LANE, LEEDS 2)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Little London & Woodhouse	<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: 10.4(2) Appendix number: 2 & 3	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

**Summary of main issues**

1. A Tree Preservation Order ("the Order") was made in respect of the above site on 1 August 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. One objection to the TPO was subsequently submitted by an arboricultural consultant on behalf of the landowner by the planning consultant, on behalf of the landowner and its agent.
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 be confirmed as originally served.

### 1.3 **Background information**

1.4 A pre-application enquiry was received by the Council in relation to proposed re-development of Commerce House, Wade Lane, Leeds 2 (PREAPP/18/00025). Concerns were subsequently raised by the planning officer concerning unprotected trees growing in close proximity to the proposed redevelopment. 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 The Tree Officer conducted a site visit and observed that inappropriate pruning of trees that had taken place along Wade Lane. Some trees were consequently too damaged to warrant protection, whilst others situated on Wade Lane are already protected by an existing Preservation Order.

1.6 Two London Plane trees, situated on the Commerce House site itself, were considered to be of such nature and condition to possess sufficient amenity value to warrant protection A Tree Preservation Order ('TPO') was originally made and served on 26 October 2018 (No.23. 2018),

1.7 This original Order expired prior to determination, and therefore, an identical replacement TPO was made and served on 1 August 2019 (No.9 2019).

## 2 **Main issues**

2.1 An objection to the expired TPO No.23. 2018 was submitted by the planning consultant, on behalf of the landowner and its agent, on 23 November 2018.

2.2 In response to the serving of the replacement Order TPO No.9. 2019, a further letter of objection was submitted by the planning consultant dated 28 August 2019.

2.3 The grounds of objection raised in both letters, have been applied to the replacement Order and considered together by the Tree Officer. 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.

3.3.2 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 biodiversity value). The retention of existing trees wherever possible, is a positive factor in combatting climate change (as well as contributing to the improvement of Biodiversity in Leeds). 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 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

- 5.1 That the Order be confirmed as originally served.

## 6 Appendices

- 6.1 City of Leeds Tree Preservation Order (No.9) 2019 (Commerce House, Wade Lane, Leeds 2) dated 1 August 2019.
- 6.2 Objection to the original, expired TPO No.23 2018 submitted by the planning consultant, on behalf of the landowner and its agent, dated 23 November 2018. **(Exempt under Access to Information Rule 10.4(2))**
- 6.3 Objection to TPO No.9 2019 submitted by the planning consultant, on behalf of the landowner and its agent, dated 28 August 2019. **(Exempt under Access to Information Rule 10.4(2))**
- 6.4 The Tree Officer's comments in respect of the letters of Objection.

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

- 7.1 None.

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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.