

Report of City Solicitor

Report to Chief Planning Officer

Date: FEBRUARY 2020

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

(20/22 PRIEST HILL GARDENS, WETHERBY LS22 7UD)

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Wetherby	<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 & 5	<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 17 September 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 Order was subsequently submitted by the owner of 22 Priest Hill Gardens.
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 planning application (18/07533/FU) was previously submitted by the owner of 22 Priest Hill Gardens for predominantly a garage extension. The application included the removal of a prominent Sycamore tree. The woodland is listed in National Forestry Inventory, the majority of which was unprotected, prior to the serving of the provisional Order.
 - 1.5 The accompanying arborist report to this application focused on presenting a case to demonstrate that the tree was not at that time covered by an existing Tree Preservation Order due to its age, and that it would cause harm in the future.
 - 1.6 The report did however state that the tree was generally in reasonable health with only insignificant minor defects. The application was refused for a number of reasons including the loss of the tree.
 - 1.7 The decision to refuse the planning application was appealed to the Secretary of State, but was dismissed by the planning inspectorate. The appeal decision supported the Council's reasons for refusal including the loss and harm that would result from the loss of the tree.
 - 1.8 Given the doubt raised by the applicant as to whether the tree was already protected by an existing Order, its amenity value and the potential for it to be removed in the future, it was deemed expedient by the relevant Landscape Officer to make a new Tree Preservation Order to ensure protection of the tree.
 - 1.9 The Order was accordingly made on 17 September 2019 and served on the owners of nos. 20 and 22 Priest Hill Gardens.
- 2 **Main issues**
 - 2.1 One letter of objection was received from the owner of 22 Priest Hill Gardens dated 17/10/2019, supported by the arborist report prepared in relation to the planning application.
 - 2.2 The grounds of objection have been considered together by the Landscape 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 bio-diversity 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 Landscape 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**¹

- 6.1 None.

7 **Appendices**

- 7.1 City of Leeds Tree Preservation Order (No.12) 2019 (20/22 Priest Hill Gardens, Wetherby LS22 7UD) dated 17 September 2019.
- 7.2 Objection of the Owner of 22 Priest Hill Gardens to the Order, dated 17 October 2019. **(Exempt under Access to Information Rule 10.4(2))**
- 7.3 Arborist Report submitted in support of the Objection. **(Exempt under Access to Information Rule 10.4(2))**
- 7.4 The Landscape Officer's comments in respect of the letters of Objection.
- 7.5 Further representations of the Objector submitted in response to the Landscape Officer's comments, dated 5 March 2020. **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.