

## Report of City Solicitor

### Report to Chief Planning Officer

**Date: 21 MAY 2020**

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.15) 2020**

**(4/6, HOLLYSHAW TERRACE, WHITKIRK, LS15 7BG)**

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: 10.4(2) Appendix number: 2, 3, 4, 5, 6, 7, 9 & 10	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

### Summary of main issues

1. A provisional Tree Preservation Order ("the Order") was made in respect of the above site on 27 November 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. Three objections to the Order was subsequently submitted by local residents, along with two submissions in support.
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 objections.

### Recommendation

5. That the objections are 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 three objections to the Order has been submitted to the Council
- 1.2 To seek a determination from the Chief Planning Officer that the objections should be overruled in all the circumstances, and that the Order be confirmed as originally served.
- 1.3 **Background information**
- 1.4 Concerns were raised by a local resident in Spring 2019 that a mature Beech Tree situated in the gardens of 4 and 6 Hollyshaw Drive Whitkirk, was intended to be felled and a request was received for a Preservation Order to be placed on the tree to protect it
- 1.5 A site visit was undertaken by the Tree Officer, who considered that the tree was an attractive, prominent, apparently healthy specimen; possessing sufficient amenity value, to justify protection. It was, therefore, considered appropriate to make a tree preservation order, which was made and served on 28 May 2019 (TPO No.4 2019).
- 1.6 Representations in support were received from residents of 6 Hollyshaw Terrace and 46 Knightway. Three Objections to that Order were received from residents of 4 Hollyshaw Terrace, 42 Knightway and 44 Knightway.
- 1.7 It did not possible to fully consider these objections and other correspondence received within normal timescales, to enable a determination to be made as to whether or not TPO No.4 2019 should be confirmed, prior to its statutory expiry.
- 1.8 Consequently, a further provisional order, (reference TPO 15 2019) was made and served on 27 November 2019 tree preservation (hereinafter referred to as 'The TPO'). The supporters and objectors were informed that their objections to the previous order would be carried forward for consideration under the new Order.

## **2 Main issues**

- 2.1 Objections to the TPO have been submitted by residents of 4 Hollyshaw Terrace, 42 Knightway and 44 Knightway
  - 2.1.1 The residents of 42 & 44 subsequently submitted additional comments on 28 April 2020.
- 2.2 The grounds of objection and additional comments have been considered by the Tree Officer. For the reasons given in her comments it is considered that the Order should be confirmed as originally served.

## **3 Corporate Considerations**

### **3.1 Consultation and Engagement**

3.1.2 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.

3.1.3 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 Tree Officer and for the reasons given in his comments it is considered that the objections 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.15) 2019 (4 & 6 Hollyshaw Terrace, Whitkirk LS15 7BG) dated 17 January 2020.
- 6.2 Submission in support from occupant of 6 Hollyshaw Terrace submitted 6 June 2020 **(Exempt under Access to Information Rule 10.4(2))**
- 6.3 Letter in support from occupant of 46 Knightsway submitted 24 June 2019 **(Exempt under Access to Information Rule 10.4(2))**
- 6.4 Letter of Objection, from occupant of 42 Knightsway submitted 5 June 2019. **(Exempt under Access to Information Rule 10.4(2))**
- 6.5 Letter of Objection from occupant of 44 Knightsway, dated 5 June 2019. **(Exempt under Access to Information Rule 10.4(2))**
- 6.6 Letter of Objection from occupant of 4 Hollyshaw Terrace, dated 6 June 2019. **(Exempt under Access to Information Rule 10.4(2))**
- 6.7 Further joint representations of occupants of 42 & 44 Knightsway, submitted 28 April 2020. **(Exempt under Access to Information Rule 10.4(2))**
- 6.8 The Tree Officer's comments in respect of the Objections and additional comments taken as a whole.
- 6.9 Response from occupant of 4 Hollyshaw Terrace to The Tree Officer's comments submitted 28 April 2020. **(Exempt under Access to Information Rule 10.4(2))**
- 6.10 Response from occupants of 42 & 44 Knightsway to The Tree Officer's comments, submitted 13 May 2020. **(Exempt under Access to Information Rule 10.4(2))**

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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.