

## **CITY OF LEEDS TREE PRESERVATION ORDER (NO.52) 2023 (CHURCH STREET, BOSTON SPA, WETHERBY LS23 6DW)**

### **1. BACKGROUND**

A hybrid planning application (23/02872/FU) for full planning application for demolition of existing structure and development of 13 dwellings including new access from Church Street with associated works and outline application for seven self build/custom build houses with all matters reserved except access from public highway was received by the Council on 10 May 2023. Subsequently a full application (23/03008/FU) for demolition of existing buildings and erection of 49 dwelling retirement living accommodation was received by the Council on 17 May 2023. During consideration of the applications, it became apparent that a Walnut tree with veteran tree potential, and other site trees of good quality and amenity value were at risk of removal and damage to facilitate development.

The trees were assessed by a Leeds City Council Landscape Officer and a Tree Officer during a site visit on 25 October 2023, and the Walnut tree assessed against the Recognition of Ancient, Veteran & Notable Trees (RAVEN) criteria developed by Julian Forbes-Laird (Chartered Arboriculturist) based on widely accepted attributes published and promoted by the Ancient Tree Forum. Several site trees were considered to merit individual or group TPOs and the Walnut tree was assessed as a likely veteran or notable tree with veteran potential.

Considering the amenity value of the site trees, it was deemed expedient for the Council to make a provisional TPO for the site, which was made and served on 12 December 2023.

A letter of support for the TPO was received by email correspondence from an adjacent landowner on 12 February 2024, particularly endorsing the inclusion of the Walnut tree.

The Walnut tree has been subsequently reassessed between 29 April and 3 May 2024 by the Council's Forestry Manager who concluded the tree would not fit within criteria to meet veteran status at this time but is of good quality with amenity value and still merits inclusion in the TPO.

### **2. OBJECTION 1**

On 12 January 2024 an objection to the Order was received by email correspondence from the Agent for McCarthy Stone (Developer). The grounds of objection detailed may be summarised as follows;

1. The site has been allocated for housing development by Leeds City Council and the protection of the Walnut tree (T2) and the southern Sycamore within G5 contradict the allocation.
2. T2 and the southern Sycamore within G5 have limited amenity value.

3. Removal of T2 and the southern Sycamore within G5 will be mitigated by retention of other trees and new tree planting.
4. The southern Sycamore within G5 is poor quality and likely to require extensive future management.
5. The veteran status of T2 is disputed based on a RAVEN assessment carried out by an Arboricultural Consultant and lack of bat activity.
6. T2 was accepted for removal as part of approved planning application 14/03309/FU and subsequent planning application decision did not specifically reference the loss of T2 or its veteran status as a reason for refusal.

The below comments of the Landscape Officer in relation to the objection were sent to the Agent for McCarthy Stone (Developer) on 30 January 2024.

### **3. COMMENTS OF THE LANDSCAPE OFFICER IN RELATION TO OBJECTION**

#### **1**

1. T2 and G5 are located adjacent to the north boundary of the allocated site identified as HG1-39 in the Site Allocations Plan and are not considered to preclude development of this site for housing in principle. Additionally, the acceptability of development proposals in relation to trees is not considered as part of the TPO process.
2. The suitability of applying a TPO relies on the Order being expedient in the interests of amenity (Town and Country Planning Act 1990 section 198). Tree Evaluation Method for Preservation Orders (TEMPO) assessments for each tree and group were carried out during the site visit and tree assessment. T2 scored 20 and G5 scored 17, a score of 16+ denotes a tree or trees which definitely merit TPO and have passed both the amenity and expediency assessments, where the application of a TPO is fully justified based on the field assessment exercise.
3. As above, the acceptability of development proposals in relation to trees is not considered as part of the TPO process.
4. The southern Sycamore within G5 was surveyed by a Leeds City Council Landscape Officer and a Tree Officer in October 2023, and by two Arboricultural Consultants in October 2021 and February 2022 and found to be in good physiological condition and fair structural condition with 10-20+ years life expectancy. The tree is part of a group of two trees which scored 17 in the TEMPO assessment and is suitable for a TPO.
5. The veteran status of a tree is not relevant to the test for making a TPO, which relies on amenity value. Regardless of the veteran status of T2, this tree scored 20 in the TEMPO assessment and is suitable for a TPO.

6. Previous planning decisions are not considered as part of the TPO process.

#### **4. OBJECTION 2**

On 15 January 2024 an additional objection to the Order was received by email correspondence from the Agent for the landowner. The grounds of objection detailed may be summarised as follows;

1. Evidence justifying the TPO for the Walnut tree (T2) has not been made available.
2. Justification for the loss of T2 has been provided throughout the live planning application consideration process.
3. Development of the allocated housing site would require removal of structures within the RPA of T2 and cause damage to this tree.
4. The veteran status of T2 is disputed based on a RAVEN assessment carried out by an Arboricultural Consultant.
5. T2 was accepted for removal as part of approved planning application 14/03309/FU and subsequent planning application decision did not specifically reference the loss of T2 or its veteran status as a reason for refusal.

The below comments of the Landscape Officer in relation to the objection were sent to the Agent for the landowner on 30 January 2024.

#### **5. COMMENTS OF THE LANDSCAPE OFFICER IN RELATION TO OBJECTION 2**

1. The suitability of applying a TPO relies on the Order being expedient in the interests of amenity (Town and Country Planning Act 1990 section 198). Tree Evaluation Method for Preservation Orders (TEMPO) assessments for each tree and group were carried out during the site visit and tree assessment. T2 scored 20, a score of 16+ denotes a tree or trees which definitely merit TPO and have passed both the amenity and expediency assessments, where the application of a TPO is fully justified based on the field assessment exercise.
2. The acceptability of development proposals in relation to trees is not considered as part of the TPO process.
3. T2 is not considered to preclude development of this site for housing in principle. The acceptability of development proposals in relation to trees, including methodologies for removal of structures within the RPA, is not considered as part of the TPO process.

4. The veteran status of a tree is not relevant to the test for making a TPO, which relies on amenity value. Regardless of the veteran status of T2, this tree scored 20 in the TEMPO assessment and is suitable for a TPO.
5. Previous planning decisions are not considered as part of the TPO process.

#### **4. CONCLUSION**

Having carefully considered the issue raised by the objections the Council is on balance satisfied that the Tree Preservation Order is warranted on the grounds of amenity and expediency and that confirmation of the Order is appropriate in its original form.

#### **5. RECOMMENDATION**

That the Order be confirmed as originally as served.