

**To the Chair and Members of the
PLANNING COMMITTEE**

**Doncaster Borough Council Tree Preservation Order (No.385) 2016 - Land on the
West Side of Cusworth Lane, Cusworth**

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr Joe Blackham	Roman Ridge	No

EXECUTIVE SUMMARY

1. The Council made the above Tree Preservation Order (TPO) following consideration of a section 211 conservation area notification to fell and remove one sycamore tree, which, in the opinion of officers, would be detrimental to the character and appearance of the local area.
2. The TPO took provisional effect on 21st September 2016 and must be confirmed by 21st March 2017 to remain in force.
3. One letter of objection to the making of the TPO has been received.
4. The decision on confirming the TPO is put before Members due to this objection. Members are required to give due consideration to the representations made when reaching their decision.

EXEMPT REPORT

5. Not applicable.

RECOMMENDATIONS

6. It is recommended that Members confirm the TPO without modification.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

7. There is growing recognition of the role that trees play in improving urban environments. As well as being pleasing to look at, trees provide numerous other benefits to the population and the environment as a whole. These benefits are known as 'ecosystem services' and include reduction of temperature extremes; intercepting heavy rain to reduce storm-water run-off; recycling carbon-dioxide; producing oxygen; filtering dust and airborne pollutants; providing shade from harmful ultra-violet radiation and supporting wildlife.

8. By its very nature, a TPO is an imposition on the property and the adjacent land. However, it is a method of control of land in much the same way as any planning permission. The ethos of the Town and Country Planning Acts since 1947 has been to safeguard the wider amenity of environs for the benefit of all residents. This control is, however, balanced by a right of application to carry out work on a protected tree and a right of independent appeal should the Council refuse proposed work. There is no charge for this process.

BACKGROUND

9. The Council registered a section 211 conservation area notification (ref: 16/01881/TCON) to fell and remove one sycamore tree, which stands in a paddock on the north west side of Cusworth Lane Cusworth on 12th August 2016. The land is within the Cusworth conservation area.
10. The proposal was considered in accordance with Government Planning Practice Guidance (Tree Preservation Orders and Trees in Conservation Areas: Protecting trees in conservation areas) - the impact that the proposed work will have upon the character and appearance of the Cusworth conservation area was considered in the light of an amenity evaluation of the tree.
11. The tree has an attractive form and is clearly visible from the adjacent streets of Back Lane and Cusworth Lane as well as from the grounds of Cusworth Hall as an individually identifiable skyline tree. A structured amenity assessment of the tree indicates that its removal would have an adverse impact on the character and appearance of the conservation area and that the making of a TPO would be defensible.
12. One objection to the removal of the tree was received in response to publicity for the notification, citing that the tree enhances the setting of the buildings and adds to the character of the village and that the trees have been here longer than the residents and hopefully will be here for a lot longer.
13. The Council's Design and Conservation Officer resolved that the tree is considered to make a positive contribution to the conservation area and the Parks and Gardens (both local and nationally designated) and on these grounds the felling would be considered unacceptable.
14. As such a TPO, which confers statutory protection on one mature sycamore tree was made by Legal Services and served on 21st September 2016 on the tree owner and the applicant. The TPO takes provisional effect for six months and will lapse and be of no further effect if it is not confirmed by 21st March 2017.
15. The decision on confirming the TPO is put before members due to an objection to the making of the order. Members are required to give due consideration to the representations made in respect of this order when reaching their decision. These are set out under consultation (sections 29-47 of the report).

OPTIONS CONSIDERED

16. Option 1 (Preferred Option): That after due consideration of the representations made, the TPO be confirmed without modification, and the interested parties be notified of the decision. This is the recommended option.

17. Option 2: That after due consideration of the representations made that the TPO is not confirmed, and the interested parties are notified of the decision. This option is not recommended.

REASONS FOR RECOMMENDED OPTION

18. The Council's Trees & Woodlands Strategy (Theme 2 of the Doncaster Green Infrastructure Strategy 2014-2028; adopted April 2014) states that powers under planning legislation will be used to protect existing trees as appropriate.

19. The tree subject to the TPO is a 14m tall early-mature sycamore situated in a paddock on the north west side of Cusworth Lane Cusworth, standing to the north west of New Cottage, Cusworth Lane, Cusworth. The reasons for the recommended option are based upon the good health and visibility of the tree.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

20.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>As acknowledged in Doncaster's Economic Growth plan, the environment and wider 'place' agenda are vital ingredients in a successful economy. As set out in the report trees provide many benefits and provide a setting for investment.</p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>There is a strong causal link between greenery and lower crime rates and an enhanced sense of community. Research shows that even modest amounts of greenery are associated with lower crime rates by helping people to relax and by reducing levels of aggression. High quality green spaces increase the tendency to bring people together outdoors, increasing surveillance, discouraging crime and fostering a sense of pride and 'ownership'. There is also strong evidence that the presence of green infrastructure improves people's health and well-being, through improved air quality and providing an environment to encourage activity</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating</i> 	<p>The protection of mature trees is a key component of maintaining the quality of our green infrastructure and will help to protect the environment for current and future</p>

	<p><i>Jobs and Housing</i></p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	generations. This also forms a key part of our response to climate change (including addressing the risk of flooding and improving air quality and other 'ecosystem services').
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	Council services are modern and value for money.	
	Working with our partners we will provide strong leadership and governance.	

RISKS AND ASSUMPTIONS

21. Not applicable.

LEGAL IMPLICATIONS

22. Regulation 7(1) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 states that "the authority shall not confirm an order which they have made unless they have first considered objections and representations duly made in respect of it and not withdrawn". Members are required to give due consideration to the representations made in respect of this order. These are set out under Consultation (sections 27-42 of the report) along with the case officer's responses.

FINANCIAL IMPLICATIONS

23. There are no specific financial implications to the recommendations of this report.

HUMAN RESOURCES IMPLICATIONS

24. Not applicable.

TECHNOLOGY IMPLICATIONS

25. Not applicable.

EQUALITY IMPLICATIONS

26. Not applicable.

CONSULTATION

27. The persons on whom the TPO was served were duly notified of the reasons for

making the order along with the period allowed for objections and the form that any objections or representations should take.

28. The period for objections closed on 21st October 2016. One letter of objection to the making of the TPO has been received.
29. The following is a summary of the issues cited with the Officer's responses below each point in italics.
30. The Council gave consent to fell an adjacent tree around 8 years ago.
31. *Each case is dealt with individually and a decision based on an amenity assessment of each tree. There is no record of consent being granted to fell another tree on this land. The nearest tree with a record of notification was a mature weeping willow tree in the garden of the adjacent Grasmere House, which was initially made subject to a TPO but felling was later allowed following the failure of a large limb in high winds.*
32. The tree is within the 18m set down by the Council as how close a tree can be to a property.
33. *The Council has no guidance stating how close trees should be to a property. The amenity evaluation takes account of proximity by a ratio of tree height / distance from the property, with 1:1 or greater scoring higher. This tree is within the 0.5-0.75 band indicating it is between half and three-quarters of its height from the dwelling.*
34. *Table A.1 of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction – Recommendations informs that the recommended minimum tree / building distance required to avoid direct damage to a heavily-loaded structure (i.e. a dwelling) through incremental root and stem growth is 1.2m. Damage by indirect action (subsidence) can occur in shrinkable soils such as clay when vegetation takes moisture from the ground, causing a significant volume change resulting in ground movement, which may result in differential movement of the foundations. However, this is a complex issue and the components of the interacting system of trees/soils/buildings/climate are each so variable that their interaction is totally unpredictable. Thus, it is not practical to make predictions of the risk of damage and section 3.47: Reasons for works - Subsidence of the Trees & Woodlands Strategy (Theme 2 of the Doncaster Green Infrastructure Strategy 2014-2028) sets out a presumption against tree removal based on an unquantified and speculative possibility of damage occurring at some unspecified point in the future.*
35. The tree is in a field and is of a size that obstructs sunlight. How can an assessment of light be made without access to the properties, which has not been done.
36. *The position of the sun in the sky at different times of year is predictable and therefore makes desktop assessment of light availability possible with a site plan and calculations. Whilst it is not suggested that such assessments are accurate they provide a reasonable indication of the likely degree of overshadowing. In this case, the tree will cast a shadow over the garden between 3pm and 7pm in mid-summer, the area in shade progressively increasing then diminishing. The period of shading taken in the context of a*

whole day is considered not to be an unreasonable constraint on residential amenity.

37. The tree cannot be seen from Cusworth Hall and only from distance above surrounding properties and cannot be seen in its entirety.
38. *The tree can be seen from the grounds of Cusworth Hall from the entrance to the shrubbery walk adjacent to the bottom of the paddock in which it stands. It is not necessary to see the whole of a tree for it to provide amenity value and it was scored as an individually identifiable skyline tree on the landscape assessment.*
39. It is a sycamore and can easily be replaced and we are willing to plant 2 to make up for its loss.
40. *Sycamore gets a bad press but is a valuable, naturalised landscape tree with far better ecological value than it is given credit. Sycamore also constitutes a large proportion of the tree resource of Cusworth making it one of the character species of this part of Doncaster. Whilst the planting of new trees is always welcomed this in itself is not justification to fell a healthy amenity tree.*
41. Do not understand why a TPO was made at this stage and tree not considered worthy at time the blanket order for the park was made.
42. *The TPO was made at this stage in response to the notification to fell the tree. In considering a conservation area notification the Council must decide two things; whether the proposed work will have an adverse impact on the character or appearance of the conservation area and, if it would, whether the tree is of a quality that merits a TPO. A structured amenity assessment of the tree indicates that its removal would have an adverse impact on the character and appearance of the conservation area and it has a pleasant form and is of a stature that makes it individually identifiable in the landscape, meriting its TPO status.*
43. *The land on which the tree stands was not included within the 'blanket order' boundary for Cusworth Park – A8 of the Doncaster Rural District Council Tree Preservation Order (No.3) 1961 Warmsworth / Sprotbrough / Marr / Brodsworth. This order was made over 50 years ago when this tree may not have possessed sufficient landscape value to merit extension of the boundary to include it.*
44. The land owner has no objection to tree removal.
45. *No correspondence citing dissatisfaction with the making of the TPO has been received from the land owner. By its very nature, a TPO is an imposition on the land with the aim of safeguarding the wider amenity of environs for the benefit of all residents. The Council's consideration of the tree is likely to be from a very different point of view to that of a land owner.*
46. If topped, the tree root system – would only increase at a greater rate into New Cottage. Only solution is to fell.
47. *There has been no suggestion of 'topping' the tree, which would be a worse solution than felling from an arboricultural point of view. The suggestion made*

was for crown lifting the tree (i.e. removing the lowest lateral branches), which can usefully increase clearance between the crown and ground level and allow evening sunlight (when the sun is lower in the sky) to pass unobstructed beneath the crown.

48. Members are required to give due consideration to the representations made in respect of this TPO when reaching their decision on whether, or not, the Doncaster Borough Council Tree Preservation Order (No.385) 2016 Land On The West Side Of Cusworth Lane Cusworth should be confirmed.

BACKGROUND PAPERS

Doncaster Borough Council Tree Preservation Order (No.385) 2016 Land On The West Side Of Cusworth Lane Cusworth

16/01881/TCON - Notice to fell one sycamore (being situated within the Cusworth conservation area)

Trees & Woodlands Strategy (Theme 2 of the Doncaster Green Infrastructure Strategy 2014-2028); adopted April 2014

British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction – Recommendations (British Standards Institute, 2012)

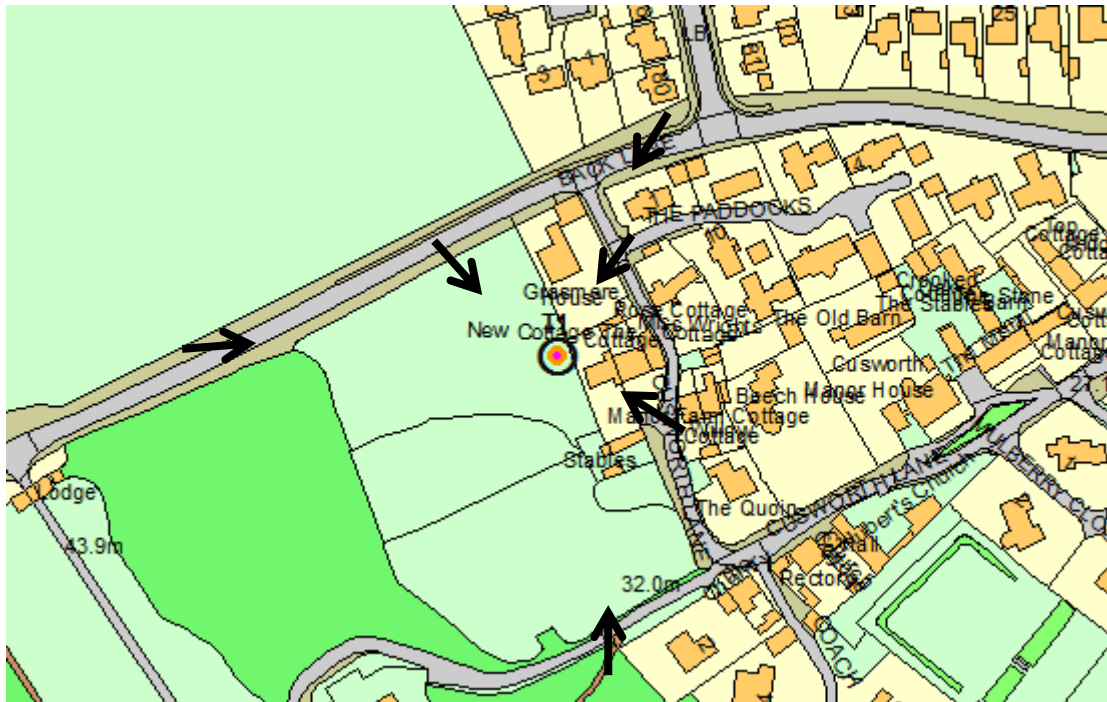
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