



Doncaster Council

Report

Date: 29.05.2018

To the Chair and Members of the
PLANNING COMMITTEE

**Doncaster Borough Council Tree Preservation Order (No.401) 2018
No. 2 Lichfield Road, Wheatley**

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr C McGuinness	Wheatley Hills And Intake	No

EXECUTIVE SUMMARY

1. The Council made the above Tree Preservation Order (TPO), covering a single mature Oak tree, on 19.02.2018. This followed a meeting on 15.02.2018 with the tree owner at his recently acquired property where efforts to retain the tree by agreement failed. The Council made the TPO on the grounds that the removal of the tree was unnecessary and would be detrimental to the character and appearance of the local area.
2. The TPO took provisional effect on 19.02.2018 and must be confirmed by 19.08.2018 to remain in force.
3. The owner has instructed a firm of solicitors to act on his behalf and the solicitors have enclosed with their letter of objection, a further seven objections to the TPO.
4. The decision whether to confirm the TPO is put before Members due to these objections. 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 to a protected tree and a right of independent appeal should the Council refuse proposed work. There is no charge for this process.

BACKGROUND

9. In January 2018 the Council received an enquiry from the owner of the tree as to its protected status. The Council offers a free inspection and advisory service for privately owned trees irrespective of their protected status. The case officer met with the tree owner at his property on 15.02.2018 to discuss the tree. Also present was a tree work contractor engaged by the tree owner. The owner was informed that the tree was not subject to a TPO or any other statutory instrument and that there was, therefore, nothing to prevent the tree from being removed.
10. The mature Oak tree is fine amenity specimen, estimated at 20m in height being prominent in the street scene of Lichfield Road and the surrounding streets, but not outgrowing its location in the relatively spacious and open garden of no.2 Lichfield Road; the tree being 17m from the rear elevation of no.2 Lichfield Road and 20.5m from the side elevation of no.40 Liverpool Road. The stature of the tree would suggest that it is in the region of 100 years old.
11. The fact that there was nothing to prevent this tree from being removed, does not, in the Council's opinion, mean that the tree should necessarily be removed and four days after the above meeting the TPO was served.
12. The TPO, which confers statutory protection on one mature Oak tree was made by Legal Services and served on 19.02.2018 on the tree owner and neighbouring properties. The TPO takes provisional effect for six months and will lapse and be of no further effect if it is not confirmed by 19.08.2018.
13. The decision on confirming the TPO is put before members due to objections to the making of the order. The owner has instructed a firm of solicitors to act on his behalf and the solicitors have enclosed with their letter of objection, a further seven objections to the TPO. 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 28-41 of the report).

OPTIONS CONSIDERED

14. 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.
15. 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

16. 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
17. The tree subject to the TPO is a ~20m tall mature oak situated in the rear garden of no.2 Lichfield Road 17m from the rear elevation of the property and 20.5m from the side elevation of no.40 Liverpool Road.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

18.

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<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</p>

		<p>infrastructure improves people's health and well-being, through improved air quality and providing an environment to encourage activity.</p> <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 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>
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting 	

	<p>community assets and strengths</p> <ul style="list-style-type: none"> • Working with our partners and residents to provide effective leadership and governance 	
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RISKS AND ASSUMPTIONS

19. Not applicable

LEGAL IMPLICATIONS [Officer Initials: HL; Date: 24.04.2018]

20. 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 27-44 of the report) along with the case officer’s responses.

FINANCIAL IMPLICATIONS [Officer Initials: BC; Date: 24.04.2018]

21. There are no financial implications to the recommendation of this report.

HUMAN RESOURCES IMPLICATIONS [Officer Initials: CR; Date: 01.05.2018]

22. There are no human resources implications in relation to this Planning Committee report and proposed preservation order.

TECHNOLOGY IMPLICATIONS [Officer Initials: PW; Date: 26.04.2018]

23. There are no direct technology implications in relation to this decision. TPOs are created using the existing Uniform system, which would need to be updated to reflect the outcome of Planning Committee.

HEALTH IMPLICATIONS [Officer Initials: CH; Date: 24.04.2018]

24. There is a plethora of evidence to support the health benefits of trees and tree cover including those that are located in urban areas. There are positive health effects of viewing natural landscapes (including trees) on stress levels and speed of recovery from stress or mental fatigue, faster physical recovery from illness and long term overall improvement on people’s health and well-being are reported. The wider benefits of trees on health include the positive measureable impact on air quality, the reduction in the impact of the ‘urban heat island effect’, reduction in the likelihood of surface water flooding and the potential to reduce noise pollution. These benefits for the wider community could be affected if trees are to be removed completely from an urban area.

EQUALITY IMPLICATIONS [Officer Initials: JT; Date: 24.04.2018]

25. There are no equality implications.

CONSULTATION

26. 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.
27. The period for objections closed on 19.03.2018. The owner has instructed a firm of solicitors to act on his behalf and the solicitors have enclosed with their letter of objection, a further seven objections to the TPO from residents who live close to the tree.
28. The following is a summary of the issues raised in the letters of objections and the case officer's responses below each point in italics.
29. The tree is big and becomes unstable in adverse weather conditions whereby falling leaves and twigs pose a potential danger to young children who live at the property.
30. *Whilst the Council understands the relationship of tree size to perceptions of safety, the risk trees pose to human safety is very low and the Health and Safety Executive formally recognises this risk as "extremely low" and firmly within its "broadly acceptable" category of risk. It needs to be remembered that the tree will have acclimatised to around 100 years of weathering since it grew from an acorn or was planted as a sapling within the then parkland grounds of Wheatley Hall. Additionally, adverse weather conditions tend to keep people, including young children, indoors. There is no evidence of movement of the root plate in the ground rendering the tree unstable.*
31. The tree interferes with satellite signal reception.
32. *The Council's Green Infrastructure Strategy adopted on 30.04.2014 recognises that in many cases it is possible to resolve issues of poor reception involving trees by finding an engineering solution, which may include the use of boosters or relocating the satellite dish. To the Council's knowledge these avenues have not been explored.*
33. The tree owner has concerns that the tree is undermining the property foundations.
34. *At the present time this is purely speculative. If, however, evidence of this is supplied to the Council, then this matter will be given serious attention. The components of the interacting system of trees/soils/buildings/water availability are each so variable that their interaction is totally unpredictable. Instead, one must realise that in the vast majority of cases trees and the built environment exist in harmony whilst accepting that trees will, very occasionally, cause damage. If this occurs, provided that prompt action is taken to investigate and deal with the offending tree(s), the property will restabilise with a need for only minor cosmetic repairs. This approach is preferable on both environmental and economic grounds.*
35. The branches overhang and pruning is not adequate or appropriate.
36. *In attempting to secure the retention of the tree through agreement, the Council suggested that management, rather than felling, could be*

considered. However, no attempt has been made to consider management. The Council does not agree with the assertion that pruning of the tree is inappropriate. Indeed, the regulation 5 notice (the notice stating the grounds for the serving of the TPO) includes wording to the effect that it is acknowledged that periodic pruning of the tree may be needed in the future and works would be permitted (subject to an application for consent) that are considered to be necessary and in accordance with good arboricultural practice.

37. The debris produced by the tree and which blocks the drains.

38. *The Council's Green Infrastructure Strategy recognises that trees are living growing organisms which follow a yearly cycle, of which the production of leaves, fruits and seeds are a natural consequence. Whilst the Council accepts that this consequence does have implications for garden and other maintenance, to fell the tree for this reason would, in the Council's view, be a disproportionate response to the problem faced.*

39. The tree canopy obstructs the street lighting column.

40. *This can be addressed by pruning (subject to an application for consent).*

41. The tree is causing patches of dead grass at no.4 Lichfield Road.

42. *Whilst it is accepted that trees may cause patches where grass may struggle to grow and that this may be considered to be unsightly to the applicant, it is the tree that confers amenity to the wider locality (in terms of greenery and the numerous 'eco-system' benefits) rather than the grass at no.4 Lichfield Road. As such, the Council considers that would be disproportionate to remove the tree to regenerate a small area of grass.*

43. The tree is a danger which precludes reasonable use of the property.

44. *For the reasons in sections 28-42, above, the Council does not agree with this statement.*

BACKGROUND PAPERS

Site plan with tree plotted (Appendix 1)

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The Doncaster Green Infrastructure Strategy 2014 - 2028: Creating a Greener, Healthier and more Attractive Borough
<http://www.doncaster.gov.uk/services/planning/green-infrastructure-strategy>

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