



Doncaster Council

Report

18th August 2020

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

**Doncaster Borough Council Tree Preservation Order (No.411) 2020 Chateau
Renee and Woodside, Sutton Road, Campsall, Doncaster.**

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr C McGuiness	Norton and Askern	No

EXECUTIVE SUMMARY

1. The site has recently been subject to development pressure due to two planning applications: for one dwelling (ref. 18/02033/OUT which has just been granted on appeal) and for three dwellings (ref. 18/02034/OUT: which has just been dismissed at appeal). All matters are reserved in these applications.
2. The Council made the above Tree Preservation Order (TPO) on 13th March 2020 covering two Deodar Cedar, two Pine, one Japanese Cedar, one Wellingtonia, two Atlas Cedar, two Cherry, one Poplar, one Sycamore, one Monkey Puzzle, one Crimson Maple and an area of trees along the southern, western and northern (part) boundaries of the site made up of Holly, Pine, Norway Maple, Cherry, Oak, Hawthorn, Sycamore, Ash and Elm. The trees are protected as 14 individual trees and one area made up of a shelter belt. This followed the Council's comments made at the time of the 18/02033/OUT application to the effect that following the granting of planning permission the Council will serve a tree preservation order under section 198 of the Town and Country Planning Act 1990 (as amended) to enforce the tree-related planning conditions applied to it.
3. The TPO took provisional effect on 13th March 2020 and must be confirmed by 13th September 2020 to remain in force.

4. Two objections to the TPO has been received from the owner/developer of Chateau Renee along with comments from AWA Tree Consultants Ltd in supporting the objection.
5. The decision whether to confirm 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

6. Not applicable.

RECOMMENDATIONS

7. It is recommended that Members confirm the TPO with modification.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

8. 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.
9. By its very nature, a TPO is an imposition on the existing property, those that are to be constructed 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

10. In August and September 2017, the Council received two outline applications (ref. 17/02191/OUT and 17/02311/OUT) from the property owner submitted on his behalf by HTC Architects. The outline applications were both withdrawn following advertisement and consultee comments on the 06th November 2017 and 20th November 2017 respectively.
11. In August 2018, the Council received the outline applications (ref. 18/02033/OUT and 18/02034/OUT) from HTC Architects on behalf of the owner, which were accompanied by a tree survey in accordance with British Standard BS 5837:2012 Trees in relation to design, demolition and construction. Recommendations and an arboricultural impact assessment.
12. The tree survey identified a total 119 items of woody vegetation, comprised of 111 individual trees and 8 groups of trees, hedges or shrubs; Of the surveyed trees: 4 trees are retention category 'U', 21 trees are retention

category 'B', and the remaining 94 trees are retention category 'C'.

13. Species diversity at the site is good, with a mix of self-set native tree species and a wide variety of planted ornamental species. The site's trees have a good age diversity, with a mix of young, semi mature, early mature and mature trees.
14. The developments, as proposed, would require the removal of 20 trees and a section of 2 groups as a result of the trees conflicting directly with the footprint of proposed buildings and access roads. These include 20 category C trees and the two sections of the groups which are both category C.
15. As part of the planning process the Council has attempted to work with the developer and the agent to resolve the issues with trees and to find a reasonable compromise between the need for development and need to retain, as appropriate, the better trees at the site.
16. The Council's stance on the applications has been consistent since the time of the 17/02191/OUT and 17/02311/OUT applications and, yet the proposal submitted for the 18/02034/OUT application unfortunately demonstrates that the developer has chosen not to heed the advice relating to trees and other key consultees and, this being the case, the Council was left with no option other than to serve the TPO to protect the best trees at the site and those that collectively have landscape and conservation value for the wider area. Additionally, for the 18/02033/OUT application (one dwelling) the order reflects the council's intent to serve a tree preservation order under section 198 of the Town and Country Planning Act 1990 (as amended) to enforce the conditions applied to the planning permission. The individual trees included in the TPO are fine amenity specimens which are notably prominent in the street scene of this part of Campsall as well as being part of the background treed landscape. Some the individuals are partly obscured by other trees, but have good prospects if retained and protected.
17. It is not the Local Planning Authority's intention to prevent development of the site. Although it is acknowledged that the retention of trees will constrain future development of the land, the Local Planning Authority will continue to work with the developer to produce a development layout that appropriately balances tree retention and planting and the future use of the site. In addition, the Order will reinforce any planning conditions applied to any future planning permission to develop the site to protect the trees during development in accordance with section 197 of the Town and Country Planning Act 1990 (as amended). It is also acknowledged that periodic pruning of the trees 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 and would not diminish the amenity value or environmental benefits of the trees.
18. The TPO, which confers statutory protection on the trees was made by Legal Services and served on 13th March 2020 on the tree owners, the planning agent and other interested parties. The TPO takes provisional effect for six months and will lapse and be of no further effect if it is not confirmed by 13th September 2020.
19. The decision on confirming the TPO is put before members due to 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 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 and 41 of the report).

OPTIONS CONSIDERED

20. Option 1 (Preferred Option): That after due consideration of the representations made, the TPO be confirmed with modification through the omission of one Japanese Cedar (T3) and one Atlas Cedar (T5) from the order. This is due to T5 having had a catastrophic structural failure since the provisional order was served and the reconsideration of T3 following consultation comments. The comments consider the tree to have a small, compact and sparse crown that limits the visibility of tree. After being confirmed with modification the interested parties would be notified of the decision. This is the recommended option.
21. 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

22. The Council has a duty under section 197 of the Town and Country Planning Act 1990 (as amended) to make provision for the protection of trees through the planning process.
23. The trees subject to the TPO are prominent in the street scene of this part of Campsall, the surrounding streets and as part of the background treed landscape are considered to be under threat of being lost to development and/or once the properties are occupied.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

	Outcomes	Implications
	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; <ul style="list-style-type: none">• Better access to good fulfilling work• Doncaster businesses are supported to flourish• Inward Investment	
	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; <ul style="list-style-type: none">• The town centres are the beating	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

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

RISKS AND ASSUMPTIONS

24. Not applicable

LEGAL IMPLICATIONS [Officer Initials: AB; Date 30/07/2020]

25. 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 31-41 of the report) along with the case officer’s responses.

FINANCIAL IMPLICATIONS [Officer Initials: BC; Date: 29/07/2020]

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

HUMAN RESOURCES IMPLICATIONS [Officer Initials: KJ; Date: 31/07/2020]

27. There are no direct HR Implications in relation to the recommendations of this report.

TECHNOLOGY IMPLICATIONS [Officer Initials: PW; Date: 29/07/20]

28. There are no technology implications in relation to this report.

HEALTH IMPLICATIONS [Officer Initials: CT; Date: 30.07.20]

29. Public Health supports the preferred option noted above. Trees contribute positively to the creation of sustainable quality environments; they enhance views and help to create a sense of place. Trees soften hard surfaces improving air quality by trapping air-borne pollutants, provide a cooling effect and shade in summer, reduce noise and release oxygen. Well-considered landscape design will enhance the quality of our built environment. Trees help generate a feeling of well-being and should where possible, be preserved.

EQUALITY IMPLICATIONS [Officer Initials: DA; Date: 29/07/2020]

30. There are no equality implications.

CONSULTATION

31. 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.

32. The period for objections closed on 12th July 2020. The developer and the project arborist has submitted a letter of objection.

33. The following is a summary of the issues raised in the letters of objection and the case officer's responses below each point in italics.

34. Using the 'TEMPO' method, trees identified as T3, T4, T5, T6, T7, T8, T9, T12 and T13 do not merit a TPO and there has been a "failure to correctly assess the value of these specific trees using the approved methodology".

35. There are a number of tree amenity assessment methods, with no single one "approved". As such, the council is unable to agree that there has been a "failure to correctly assess the value of these specific trees using the approved methodology". However, the council does use a structured amenity assessment that, whilst not dissimilar to 'TEMPO, does justify the inclusion the trees identified above in the TPO.

36. The area order A1 includes trees that do not merit protection, the Order should be modified to only protect appropriate trees using individual or group classification TPOs.

37. The council do not disagree that some of the trees within the belt designated as A1 do not merit long term protection. In general, in view of the density and number of trees within Area designations it is inevitable that such designations will include trees of lower quality and value and that to 'weed' these out of an Area classification would be difficult, open to misinterpretation and be unnecessarily confusing. Rather, any poorer quality trees can be managed through the usual Tree Preservation Order application process.

38. Trees identified as T1, T2, T3, T5, T6, T7, T8, T9, T10, T11, T12, T13 and T14 are not under threat from any development proposals as the owner intends to retain them for landscaping around the site. The opening statement of the reason for the order clearly makes reference to that point as a reason when this is not valid.
39. *The council welcomes that the developer does not want to remove the individual trees from the site. However, the purpose of the TPO including these trees is to reinforce the planning conditions attached to planning consents that are meant to protect the retained trees from damage and prevent future residents of the dwellings removing them arbitrarily upon first ownership.*
40. The implementation of the TPO is unnecessary and unreasonable.
41. *For the implementation/creating a Tree Preservation Order, the local authority can either initiate this process themselves or in response to a request made by any other party. In this case, the appointed tree officer for the local authority made the TPO as a result of the two planning applications. This is because Tree Preservations Orders should be made in respect of trees where it appears necessary in connection with the grant of planning permission. This is in line with the local authority's duty to ensure, whenever appropriate, that planning conditions are used to provide for tree preservation.*

BACKGROUND PAPERS

Site plan with trees plotted (Appendix 1)

Outline application for erection of 4 dwellings following demolition of existing dwelling (With all matters reserved)(ref. 17/02191/OUT)

Outline application for the construction of a detached house with garage and summerhouse (All Matters Reserved)(ref. 17/02311/OUT)

Outline application for the construction of 1 dwelling (re-submission of withdrawn application 17/02191/OUT)(ref. 18/02033/OUT)

Outline application for the construction of 3 houses (all matters reserved) (resubmission of withdrawn application 17/02311/OUT)(ref. 18/02034/OUT)

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Doncaster Unitary Development Plan (UDP) adopted 1998

Doncaster Council Core Strategy 2011-2028

The emerging Doncaster Local Plan

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