



DEVELOPMENT CONTROL COMMITTEE: –

10th September 2009

REPORT OF THE HEAD OF REGENERATION – DEVELOPMENT AND DELIVERY

CONFIRMATION OF TREE PRESERVATION ORDER 8 OF 2009 AT 26 LICHFIELD STREET, WALSALL WS1 1TJ.

1. PURPOSE OF REPORT

To seek the confirmation of the Tree Preservation Order No 8 of 2009.

2. RECOMMENDATIONS

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order No 8 of 2009 in an unmodified form. A plan showing the Tree Preservation Order is attached to this report.
- (ii) Support the reason for making the Tree Preservation Order set out in the report detail, paragraph 1.1.
- (iii) Note that three representations have been received in respect of this Tree Preservation Order.

3. FINANCIAL IMPLICATIONS

Within budget, in general, new Tree Preservation Orders generate additional applications for consent and increase officers' workload.

4. POLICY IMPLICATIONS

Within Council policy – YES

5. LEGAL IMPLICATIONS

The owners and future owners of this site will be required to apply for Council permission if they wish to fell or prune any tree protected by the Tree Preservation Order. Failure to do this renders anyone carrying out unauthorised works to trees liable to criminal proceedings.

6. **EQUAL OPPORTUNITY IMPLICATIONS**

NOT APPLICABLE

7. **ENVIRONMENTAL IMPACT**

The management of Walsall's tree cover through the administration of the Tree Preservation Order system has positive implications in protecting trees for their visual and environmental benefits. Removal of protected trees is often necessary because trees have a finite lifespan and may also cause nuisance or damage. In these instances the Council has to decide whether the removal of protected trees is justified. In the event that felling a tree is permitted, the Council can secure replacement planting to maintain tree cover.

8. **WARD(S) AFFECTED**

The Tree Preservation Order 8 of 2009 is located within St. Mathews Ward.

9. **CONSULTEES**

Owners and near neighbours were sent copies of the Tree Preservation Order and invited to make representations to the Council in either opposition or support of this Tree Preservation Order. Any response is described within the report.

10. **CONTACT OFFICER**

Cameron Gibson - Extension: 2453

11. **BACKGROUND PAPERS**

File PD1/17/885 relating to Tree Preservation Order No 8 of 2009.

Simon Tranter,
HEAD OF REGENERATION – DEVELOPMENT AND DELIVERY

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1.0 **REPORT DETAIL.**

1.1 The Tree Preservation Order No 8 of 2009 was made on 23rd April 2009. The tree is visually prominent in the locality and was protected for the following reasons:

- The tree forms a prominent landscape feature in the local area and will continue to contribute to landscape quality in the future.
- The tree adds to the amenity and visual diversity of the immediate area.
- A Conservation Area Notification had been received by the Council (ref: 09/0327/TR) which stated the tree is to be removed.
- The Council's Unitary Development Plan identifies policies for protection of the trees and green spaces

The Conservation Area Notice stated the intent to remove 3 trees from the rear of 26 Lichfield Street. Two of the trees were of poor shape and form being suppressed under the canopy of the more mature third tree. Consequently, the removal of the 2 poor trees was not considered detrimental to the overall amenity value of the area and their removal was considered acceptable. However, the more mature tree is of good shape, form and condition and is highly visible to the numerous users of the car park and the surrounding buildings. As a result, the removal of the tree was considered to be detrimental to the overall amenity, aesthetic and landscape value of the area and its removal was not considered acceptable. Consequently, and in compliance with the rules and regulations of Conservation Areas, a Tree Preservation Order was made on the more mature tree of the three.

1.2 The minimum six week period allowed for objection to the Order expired on 9th June 2009. Three representations were received; one from Mr. James Pyne (Director, Peter Pyne Walsall Ltd, 26 Lichfield street, Walsall), one from Wendy Foster (Salon Manageress, Peter Pyne Walsall Ltd, 26 Lichfield Street, Walsall), and one from Claire Hickinbottom (Flat 1, 26 Lichfield Street, Walsall), who object to the TPO for the following reasons;

- The trees are used as shelters and hiding places for drug users and other undesirables.
- The employees of Peter Pyne Walsall Ltd (hairdressers) have been subjected to drug taking activities and physical exposure from the drug users and undesirables using the trees as shelter.

- There is a question about what the tree adds to the local area and what it gives to the general public. It cannot be seen by the general public on Lichfield Street, is not situated near a public footpath and is surrounded by private land.
- The tree is not of any particular rarity and there are better trees along Lichfield Street.

1.3 The Councils response to the above issues is as follows (in bullet point order);

- Although no evidence could be found on site to support the statement that the area is used by drug users and others, there is no reason for the Council to disbelieve it, It was noted that the area had been cleared of ground vegetation and any rubbish that may have been present as the area of ground around the base of the trees was pretty clear. This may have been counter-productive in that it may have made it easier for undesirable people to access the area beneath the trees for the shelter, but this cannot be positively stated without ongoing analysis. In any event, the removal of the tree would not deter anybody from entering the site as it has several other natural hiding places nearby. There are also some natural hiding places around the Walsall Primary Care Trust building adjacent and around the car park although it is unclear if these are frequented or not.
- It is unfortunate that the employees of Peter Pyne Walsall Ltd have been subjected to drug taking activities and physical exposure although there are considered to be other measures that can be adopted to mitigate these. The area immediately adjacent to the rear of the building has already been fenced off with substantial palisade fencing mitigating the potential for burglary and personal attacks. However, it is questionable as to the frequency of the drug taking activities etc that are undertaken in this area and if the staff at the hairdressers feel in any way threatened by the presence of any person, whether it be inside or outside the building, the police should be contacted. As above, it is considered that the removal of the tree would not deter anybody from entering the site and it may be more prudent for Peter Pyne Walsall Ltd to have a robust health and safety procedure in place to deal with the instances where persons may be present to the rear.
- It is recognised that the tree is situated on private land. Government guidance¹ states that The Council may make a TPO if it appears to them to be expedient in the interests of amenity to do so. This relates primarily to trees situated on private land as, in the Secretary of States view, it would very rarely be appropriate for the Council to make a TPO on trees within their ownership (i.e. public land), as they are deemed to be under good management. However, the tree in this TPO fulfils all the criteria for consideration of inclusion in a TPO² due to its visibility to a wide range of persons from those using the car park to those who work in the Walsall Primary Care Trust building to those who reside in the nearby properties to those simply using the car park as a cut through from Lichfield Street to Lower Forster Street (see photo 1 below).
- The tree species in this instance is a Sycamore. It is a common tree and readily self sets in numerous locations. However, trees do not necessarily need to be

¹ Tree Preservation Orders: A Guide to the Law and Good Practice - DETR

² See TEMPO Survey Data Sheet and Guidance Notes at Appendix 1.

uncommon or rare to warrant inclusion in a TPO. The purpose of a TPO is to protect trees and woodlands in the interests of amenity and is for the benefit of the general public. It is not discriminatory against any particular tree species as the main criteria for inclusion in a TPO is amenity value. Again I refer you to the TEMPO Survey Data Sheet and Guidance Notes at Appendix 1 for clarification of this.

To summarise, the comments raised in the three objections are considered insufficient to warrant the non-confirmation of the TPO. The tree is prominent in the locality and contributes significantly to the amenity, aesthetic and landscape value of the area.

- 1.4 The Committee is therefore recommended to confirm Tree Preservation Order No 8 of 2009 in an unmodified form.

Photo 1 – view of Sycamore from Lower Forster Street looking towards Lichfield St.



