



Walsall Council

DEVELOPMENT CONTROL COMMITTEE: –

25th April 2006

REPORT OF THE DIRECTOR FOR URBAN REGENERATION

CONFIRMATION OF TREE PRESERVATION ORDER NO. 26 OF 2005 123
LONGWOOD ROAD.

1. **PURPOSE OF REPORT**

To seek the confirmation of the Tree Preservation Order No 26 of 2005.

2. **RECOMMENDATIONS**

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order No 26 of 2005 in 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 paragraph 1.2.
- (iii) Note that 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 26 of 2005 is located within the Aldridge Central and South Ward.

9. **CONSULTEES**

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

10. **CONTACT OFFICER**

Ian McDermott - Extension: 2453

11. **BACKGROUND PAPERS**

File PD1/17/702 relating to Tree Preservation Order No 26 of 2005.

Tim Johnson,
DIRECTOR FOR URBAN REGENERATION

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CONFIRMATION OF TREE PRESERVATION ORDER 26 OF 2005 123 LONGWOOD ROAD.

REPORT DETAIL.

Background Reasons for the Making of this TPO.

The trees, the subject of this Order, are situated within the curtilage of 123 Longwood Road. A planning application has been received that puts a number of mature trees along the boundary under threat. The existing Tree Preservation Order (Aldridge Brownhills TPO 14 of 1961) was found to be incomplete and therefore invalid. It shall be revoked at the time of confirmation of this order. The trees are a component part of an old hedgerow in what is still green belt land. The trees are prominent in the street scene and should be protected for the following reasons:

- *The trees form a prominent landscape feature in the local area and will continue to provide an important item of landscape quality in the future.*
- *The trees add to the amenity and diversity of the immediate area.*
- *The Council's Unitary Development Plan identifies policies for protection of trees and green spaces*

Subsequently a number of trees have been damaged by the development process and the Council is considering enforcement action.

The minimum six week period allowed for objection to the Order expired on 30th November 2005. A single response from the planning agent for the site has been received and this is detailed below and the entire correspondence can be seen on the file.

The Site

The site is within the curtilage of 123 Longwood Road, Walsall.

The Surrounding Area

The surrounding area is residential to one side and agricultural to the other.

The Trees

The trees are a broad mix of various species such as Oak, Ash, Cherry, Sycamore and will be more specifically detailed once the tree survey required by the development process is completed.

UDP Policies

The relevant policy for tree protection is ENV19 Existing Woodlands, Trees and Hedgerows. This policy seeks to provide implementation of the objectives of the UDP. Particularly in regard to providing; *a means of protecting trees and woodlands*. The Policy states that; *the council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows*.

Relevant Guidance

Guidelines for the making of TPOs are currently contained in the Town and Country Planning Act 1990 (the Act) and the Department of the Environment, Transport and the Regions (DETR); Tree Preservation Orders: The Law and Guide to Good Practice, (2000). Which states that the Local Planning Authority (LPA) may make TPOs if it appears 'expedient in the interests of amenity' to do so.

The guidance states that "TPOs should be used to protect selected trees if their removal would have a significant impact on the environment and its enjoyment by the public." The Circular goes on to state that "trees may be worthy of preservation for their intrinsic beauty or their contribution to the landscape." It also states that the benefit of the trees may be present or future.

Future Management of the Order

In regard to trees which overhang adjacent property. The Council will consider if trees should be pruned or felled and replacement planting undertaken. The Council employ a fully qualified officer to deal with these issues and the officer will visit a site and discuss any tree problems with the owner / occupier to assist in the management of the trees.

Objections

A single objection has been received from the Planning Agent contracted to represent the site owner in this matter. The salient points of his objection are;

1. That there were errors in the serving of the order and the land owner was not made aware of the TPO.
2. That the use of an area order is inappropriate as it is unclear.
3. The imposition of a TPO is unreasonable.
4. The trees have no amenity.
5. That no Council Officer has visited the site.
6. That not all the trees can be seen from a public space (no amenity).
7. That some trees are exempt.

Response to Objections

The Council's Arboricultural Officers have considered the objection and have the following response;

1. It is evident from the correspondence received that the landowner is now fully aware of the placing of a TPO on his land, regardless of his being abroad at the time of serving.
2. The boundary of the area TPO is clear as can be seen from the attached plan and includes the entire curtilage of the property.
3. The Council has a clearly defined duty to protect trees which are the subject of development pressure. The consequent damage to the trees is evidence that the Council were justified in this consideration. This is not considered unreasonable.
4. Amenity is not just a visual issue and consideration has to be given to environmental amenity as well as future amenity. Trees which are currently insignificant due to their size will grow to become larger and make a positive contribution to the landscape.
5. Council officers have made several visits to this property and indeed at least one in the company of the owner and his agent.
6. Indeed not all trees can be seen from a public space and Members attention is drawn to 4 above.
7. Any trees which are exempt can indeed be removed after the owner or his appointed agent give 5 days notice to the council.

Conclusions

The trees in question are worthy of protection for their contribution to the local landscape, particularly in breaking up the visual roof-scape and providing a quality environment. The trees are a component part of the quality of the local landscape. They will, in the future, also provide a mature visual and wildlife amenity feature that will add quality directly to the local area along with other trees. It is therefore considered expedient in the interests of the amenity of the area to secure the long-term retention of the amenity using a TPO.

Recommendations

That Tree Preservation Order No. 26 of 2005 should be confirmed in unmodified form.

TPO 26 of 2005, 123 Longwood Road, Walsall

