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PLANNING COMMITTEE: –

31 March 2010

REPORT OF THE HEAD OF REGENERATION - DEVELOPMENT AND DELIVERY

**CONFIRMATION OF TREE PRESERVATION ORDER 19 OF 2010 ON LAND AT 5 AND 7 JESSON ROAD, WALSALL WS1 3AY.**

**1. PURPOSE OF REPORT**

To seek the confirmation of the Tree Preservation Order 19 of 2010.

**2. RECOMMENDATIONS**

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order 19 of 2010 in an unmodified form. A plan showing the Tree Preservation Order and a schedule of the trees is attached to this report.
- (ii) Support the reason for making the Tree Preservation Order set out in the report detail, paragraph 10.
- (iii) Note that two 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 19 of 2010 is located within the St. Matthews 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.

**REPORT DETAIL**

10. The Tree Preservation Order 19 of 2010 was made on 19<sup>th</sup> October 2010. The trees are visually prominent in the street scene and were protected for the following reasons:

- The trees form a prominent landscape feature in the local area and will continue to contribute to landscape quality in the future.
- The trees add to the amenity and visual diversity of the immediate area.
- The trees are at risk of removal through proposed development (application reference 10/1156/OL). The development proposes to create an access between the properties with the land towards the rear boundaries being utilised for the construction of 3 detached dwellings (see attached plan).
- The Council's Unitary Development Plan identifies policies for protection of the trees and green spaces.

11. The minimum six week period allowed for objection to the Order expired on 1<sup>st</sup> December 2010. Two responses have been received by letter on 29<sup>th</sup> November 2010 from the owners of both properties concerned. This was despite a lengthy meeting between the Council's Tree Officer and the owner of no. 5 Jesson Road, where the need for the TPO was discussed and how that affected the sites. Nevertheless, the owners submitted an objection on the following grounds:

- We have lived in the property with no TPO for 12 years and could have felled the trees at any time, but didn't.
- We have planted a significant number of new trees and employ a qualified tree surgeon for one day each fortnight to tend the garden.
- We were advised by the developers to fell the tree before submitting the planning application but didn't.
- Our desire is to retain as many mature trees as possible.
- We now have to apply for the tree work, which is a waste of public funds due to the amount of consultation and internal paperwork required.
- There is no way I would fell or harm such trees as the Beech trees or Monkey Puzzle. I didn't previously so why would I now?

The owner of no.7 Jesson Road is the son of the owner of no.5 Jesson Road. The objection from no. 7 Jesson Road merely confirms that he agrees with the sentiments and the approach outlined in the letter from the owner of no. 5 Jesson Road.

The Officer's response to the objection is as follows;

- This TPO was made in response to a planning application (10/1156/OL) to construct 3 houses in the rear gardens of 5 and 7 Jesson Road. The application was refused on 19<sup>th</sup> October 2010 for a number of reasons including the loss of trees. Therefore, if the TPO was removed, there is a risk that the trees could be felled to remove a constraint to future development. Any future development is likely to lead to the loss of trees.
- While I have no reason to doubt the owners' assertions that they are happy for the trees to stay if the land remains their garden, there is no guarantee that development proposals will not come forward in the future. It is therefore recommended that the TPO is confirmed so it continues to protect the trees.
- Subsequent discussions with the owners of no. 5 Jesson Road have indicated that the design of the proposed development was not to their approval and that they understood the reasoning behind the Tree Preservation Order. However, the imposition of the TPO and the need to apply for permission for routine pruning work is an issue. The Council's Tree Officer has discussed the particular pruning issues on site and offered alternative solutions. He has also indicated works that may be exempt from the need to apply, and trees that are not considered to be included in the TPO. This appears to have eased the issue of routine maintenance although any pruning works to the more mature trees (which would not be classed as routine) would still require the submission of a formal application.
- The owners have stated that they still wish to undertake some form of development to the rear of the properties for financial reasons although this was not a definite at the time of speaking. As the planning issues on site have not been determined yet, it would be foolish to revoke the TPO and allow the owners the freedom to remove or severely prune the trees to facilitate any future

proposed development. The Councils Tree Officer has advised that it is normal practice protect all the trees on site until such times as any planning issues have been resolved and then re-assess the site to make a more specific TPO, if necessary. The owner of the site appeared to agree that this was a sensible approach.

12. The Committee is therefore recommended to confirm Tree Preservation Order No 19 of 2010 in an unmodified form.

13. **CONTACT OFFICER**

Cameron Gibson - Extension: 2453.

14. **BACKGROUND PAPERS**

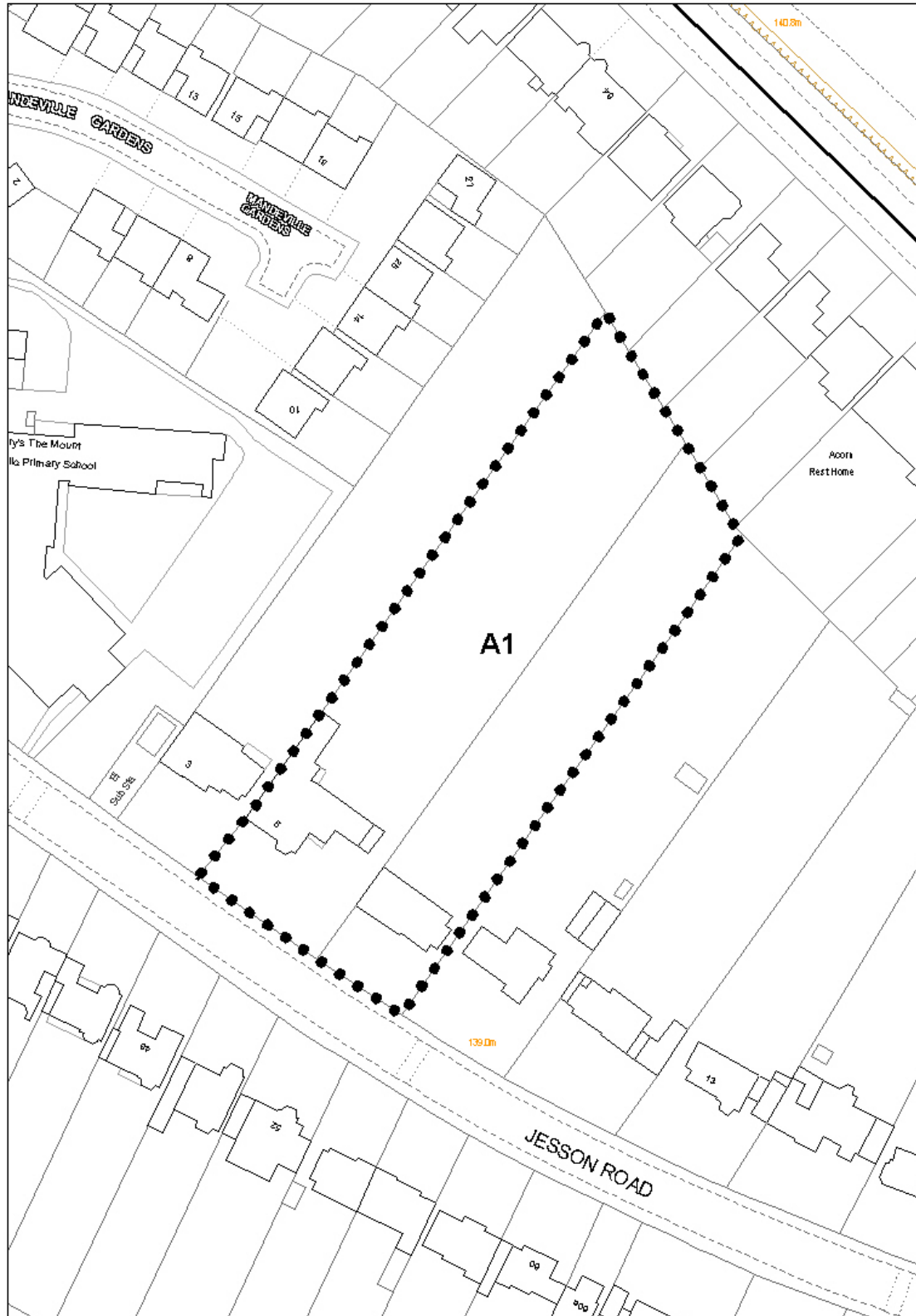
File PD1/17/920 relating to Tree Preservation Order 19 of 2010.

**Simon Tranter,**  
HEAD OF DEVELOPMENT AND DELIVERY



## TPO 19 of 2010

5-7 Jesson Road, Walsall WS1 3AY.



Not to Scale    Date 12 October 2010    Centre 402053E 297660N    Cameron Gibson

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