



PLANNING COMMITTEE: –

26th April 2012

REPORT OF THE HEAD OF REGENERATION - DEVELOPMENT AND DELIVERY

CONFIRMATION OF TREE PRESERVATION ORDER 14 OF 2011 ON LAND AT, AND ADJACENT TO, 2 MOAT FARM WAY, PELSALL.

1. **PURPOSE OF REPORT**

To seek the confirmation of the Tree Preservation Order 14 of 2011.

2. **RECOMMENDATIONS**

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order 14 of 2011 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 one representation has 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 14 of 2011 is located within the Pelsall 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 14 of 2011 was made on 10th November 2011. The trees are visually prominent 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 property of 2 Moat Farm Way was for sale, with it being sold subject to contract. There are two Oak trees within the rear garden area, and one oak tree on the grass verge to the west. All 3 Oak trees were protected by TPO AB 5/1961 until it was superseded by TPO 12/1979. However, this new TPO only protected the tree on the grass verge and not the trees within the property. As these 3 trees have grown together in a small group, and have influenced each others shape and form, it is prudent to protect all 3 trees to maintain the support and stability they provide to each other.
 - 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 22nd December 2011. One letter of representation has been received from a near neighbour. He makes comments as follows:
 - I totally agree with making the preservation order on these trees.
 - However, I hope the Council gives favourable consideration to future requests to prune the trees to ensure overhanging branches are safe and the trees do not deprive surrounding properties of daylight.

12. Officers' responses to these comments are as follows;

- The Tree Preservation Order was made as a result of a change in ownership of 2 Moat Farm Way and several anomalies in the current TPO.
- The current TPO (12/1979) protects only the Oak tree on the grass verge, which is under Council management. However, this tree is severely one-sided as a result of the proximity of the two trees in the rear of 2 Moat Farm Way, which have also been influenced by the presence of this tree although not to the same degree. Trees that have grown in a group situation rely on each other for support and protection and management of those trees must be given careful consideration so as not to alter this significantly. In general, trees in groups should be managed as a whole and not as individual trees within the group. In this case, it is considered that the tree on the grass verge could not be retained on its own due to its shape, form and shelter from the other two trees and it is for these aforementioned reasons that all 3 trees were included in the new TPO.
- The trees are semi mature to maturing Oak trees. They are highly prominent in the locality being situated on the junction of Moat Farm Way and Norton Road. They appear in good condition although major and minor deadwood is evident in all 3 trees. However, the removal of deadwood is exempt from the need to obtain formal consent from the Local Authority and can be removed at any time.
- At the time the TPO was being considered, the prospective owners of 2 Moat Farm Way contacted the Council to discuss the implications of the TPO. They were advised why the TPO was being made and the fact that any proposed pruning or felling of the trees would require formal consent from the Council. To date, no representations have been received from the prospective owners or other party in relation to the sale of this property.
- It is a property owner's right to request permission to prune a TPO tree as and when desired. In assessing an application for proposed tree works, the Council would inspect the tree to ascertain its current health, any potential future health issues, and if there are any structural concerns that may pose an unacceptable risk to persons or property. These are at the forefront of any tree inspection although other issues such as light, proximity to properties, nuisance, existing and future damage, etc are also considered in an effort to address the applicants concerns whilst still retaining a tree, or trees that contribute to the amenity, aesthetic and landscape value of the area. The Council aims to allow sufficient tree work so that a property owner has reasonable enjoyment of their property but each application must be judged on its own merit with no two situations being identical.

13. This Tree Preservation Order was made in response to a change in ownership and several anomalies with the current TPO. Assessment by officers showed that protection of all 3 trees was justified. If the owner wishes to prune or remove any of the trees, the merits of any application will be considered by the council. If the Tree Preservation Order is not confirmed, the property owner would be able to remove two of the trees in the group and any replacement would be at his sole discretion.

In addition to this, the tree on the grass verge could not be retained as an individual and its removal would follow shortly afterwards. The Committee is therefore recommended to confirm Tree Preservation Order No 14 of 2011 in an unmodified form.

16. **CONTACT OFFICER**

Cameron Gibson - Extension: 2453.

17. **BACKGROUND PAPERS**

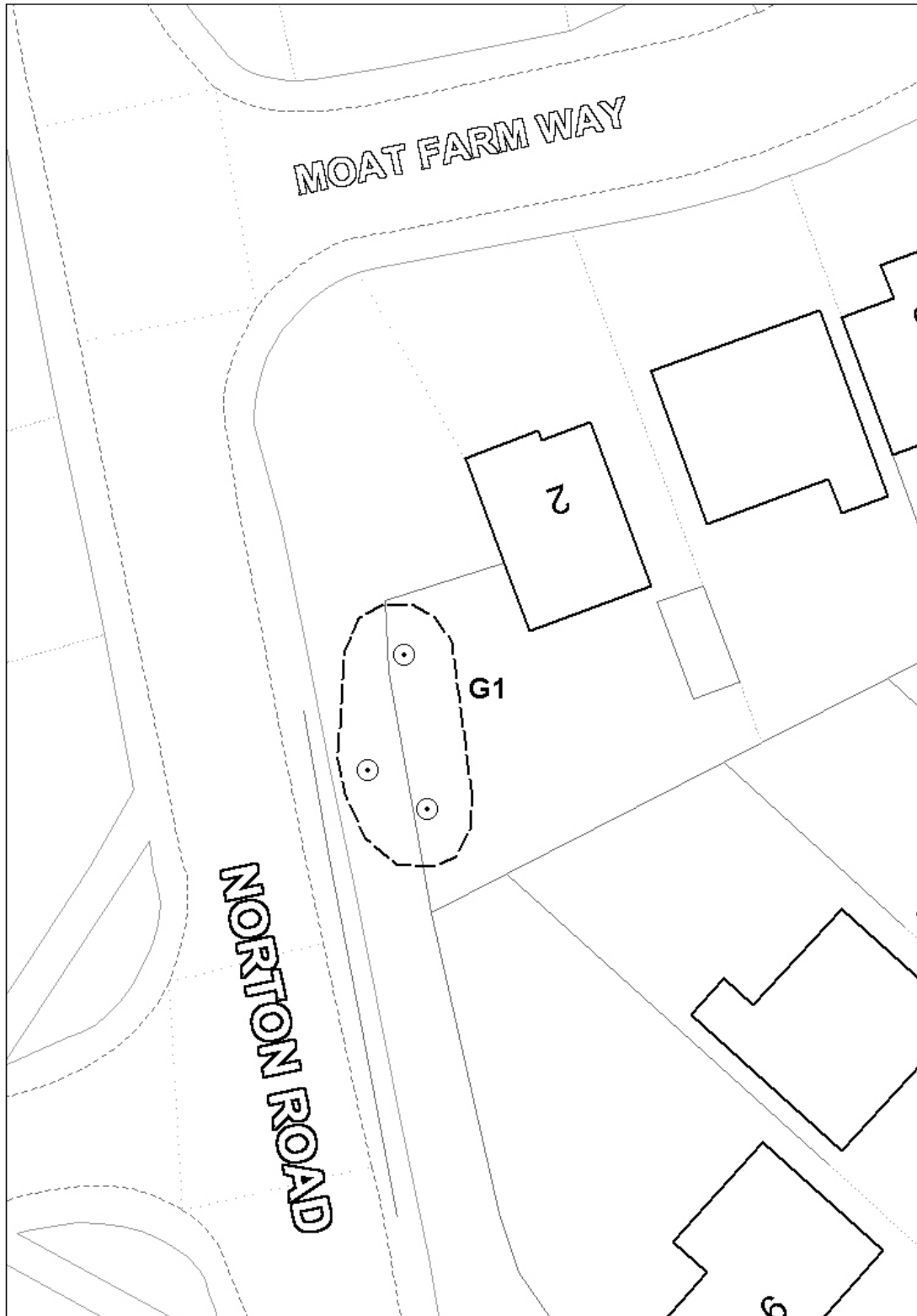
File PD1/17/933 relating to Tree Preservation Order 14 of 2011.

Simon Tranter,
HEAD OF DEVELOPMENT AND DELIVERY



TPO 14 of 2011

Land at, and adjacent to, 2 Moat Farm Way, Pelsall.



Not to Scale Date 09 November 2011 Centre 402292E 304285N Cameron Gibson

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SCHEDULE 1

TPO 14 of 2011 SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map Description Situation

None		
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Trees specified by reference to an area (within a dotted black line on the map)

Reference on map Description Situation

None		
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Groups of trees (within a broken black line on the map)

Reference on map Description Situation

G1	3 Oak	To the south west of 2 Moat Farm Way.
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Woodlands (within a continuous black line on the map)

Reference on map Description Situation

None		
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