



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of Regeneration & Development Services

Date: 11th October 2016

Subject: Tree Preservation Order No. 411
33 Holyrood Avenue, Sheffield, S10 4ND

Author of Report: Andrew Conwill, Urban and Environmental Design Team

Summary: To report objection to Tree Preservation Order No. 411

Reasons for Recommendation

To protect trees of visual amenity value to the locality

Recommendation Tree Preservation Order No. 411 should be confirmed unmodified.

Background Papers: A) Tree Preservation Order No. 411 and map attached.
B) Tree Evaluation Method for Preservation Orders (TEMPO) assessment attached.
C) Objection letter attached.

Category of Report: OPEN

REGENERATION & DEVELOPMENT SERVICES

REPORT TO PLANNING & HIGHWAYS COMMITTEE

11th OCTOBER 2016

TREE PRESERVATION ORDER NO. 411

33 HOLYROOD AVENUE, SHEFFIELD, S10 4ND

1.0 PURPOSE

1.1 To seek confirmation of Tree Preservation Order No. 411.

2.0 BACKGROUND

2.1 Tree Preservation Order (TPO) No.411 was made on 6th May 2016 to protect three lime trees in the garden of 33 Holyrood Avenue. A copy of the order with its accompanying map is attached as Appendix A.

2.2 On the 4th March 2016 this Service received an email from Mr N Pix the owner of 33 Holyrood Avenue referring to the removal of one tree and the possible removal of another tree growing in the garden.

2.3 The reason given for the removal of one tree and the possible removal of another was because Mr N Pix had noticed the appearance of a crack at the base of the side elevation wall of his house near to the front porch. A hump was noticed in the lawn and Mr N Pix presumes the hump to be a tree root growing in a direct line between the tree referred to for removal and the crack in the wall.

2.4 The crack referred to in Mr N Pix email has been inspected by a Building Surveyor from Sheffield City Council's Structural and Public Safety Team and no compelling evidence to suggest the damage has been caused by the trees could be found.

2.5 The visual amenity value of the trees was assessed by a landscape planning officer. The two lime trees referred to for removal as well as another lime tree growing in the garden were found to be visually prominent when viewed from Holyrood Avenue, Sandringham Place and the entrance to the adjacent open space and were considered suitable for protection because they contribute to the visual amenity value of the locality.

2.6 A condition inspection of the three lime trees has been carried out by a Sheffield City Council, Community Tree Officer who confirmed the trees were of suitably good condition for protection. The trees are considered to have a long useful life expectancy and no obvious health and safety reasons for removing the trees could be found.

2.7 A Tree Evaluation Method for Preservation Orders (TEMPO) assessment was carried out by the landscape planning officer and community tree

officer and is attached as Appendix B. The assessment produced a clear recommendation for protection.

3.0 OBJECTIONS TO TREE PRESERVATION ORDER NO. 411

3.1 An objection to the tree preservation order has been received from Mr N Pix the owner of the trees. A copy of the objection letter is attached as Appendix C.

4.0 MR N PIX'S GROUNDS FOR OBJECTION AND OFFICER RESPONSE

4.1 *“According to Planning Practice Guidance on the Government website: “Amenity is not defined in law, so authorities need to exercise judgement when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public.”*

Whilst I agree that the trees are visually prominent, I do not agree that were the trees to be removed, it would have significant negative impact on the local environment and its enjoyment by the public. This development is home to over 200 trees, many of which are on the public open spaces adjacent to Redmires Road and Lodge Moor Road and as well as being more prominent, they also play a much more significant role in the visual amenity of the locality.”

4.2 Officer response:

TEMPO is a nationally accepted method for assessing trees that are under potential threat of removal. The TEMPO assessment undertaken found the trees suitable for protection and the order was served to maintain the visual amenity value the trees provide to the local environment by softening and adding character to the housing development's built form and street scene for the enjoyment of the public.

4.3 *“Another key point in my objection to this order is that the 3 trees in question are already protected by a planning condition. Out of respect for this I realise that it is not possible for any work to be undertaken on the trees without first obtaining consent.*

In March of this year I enquired to the Planning Department if it would be possible to remove 2 of the 3 trees due to their close proximity to my house and the fact that the wall of my front porch had developed a crack near to the base, which I thought one of the trees might be responsible for. Subsequently this crack has been inspected by a Building Surveyor from Sheffield City Council's Structural and Public Safety Team and no compelling evidence to suggest the damage has been caused by the trees could be found. On that

basis I am happy to leave the trees in situ and believe that the protection afforded to them by the planning condition is sufficient to protect them.”

4.4 Officer response:

The planning condition imposed to protect existing trees as part of the planning permission for residential development at the former Lodge Moor Hospital site (Ref 00/00537/FUL) is limited in its powers and it was considered expedient to serve TPO NO.411 to safeguard the trees.

4.5 *“The aforementioned communications of 6th May (2016) state that the other reason for the order is: “Two of the three trees are believed to be under possible threat of removal”. As per my comments above this is no longer the case and I would also object to the language used in that I have not threatened to do anything. I merely made polite request through the appropriate channels.”*

4.6 Officer response:

The term ‘*threat*’, qualified in this instance by ‘*potential*’, is taken directly from the TEMPO format for assessing the suitability of trees as candidates for a Tree Preservation Order. This is an industry standard tool, the application of the terminology is established and considered appropriate. The assessment uses ‘*threat*’ simply to describe the risk status of the tree rather than the behaviour of an individual.

5.0 EQUAL OPPORTUNITIES IMPLICATIONS

5.1 There are no equal opportunities implications.

6.0 ENVIRONMENTAL AND PROPERTY IMPLICATIONS

6.1 There are no property implications.

6.2 Protection of the trees detailed in Tree Preservation Order No. 411 will benefit the visual amenity of the local environment and its enjoyment by the public.

7.0 FINANCIAL IMPLICATIONS

7.1 There are no financial implications.

8.0 LEGAL IMPLICATIONS

8.1 A local authority may make a Tree Preservation Order (TPO) where it appears that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area (section 198, Town and Country Planning Act 1990).

8.2 A TPO may prohibit the cutting, topping, lopping or uprooting of the trees which are the subject of the order. It may also prohibit the wilful damage or

destruction of those trees. Any person who contravenes a TPO shall be guilty of an offence and liable to receive a fine of up to £20,000.

- 8.3 A local authority may choose to confirm a TPO it has made. If an order is confirmed, it will continue to have legal effect until such point as it is revoked. If an order is not confirmed, it will expire and cease to have effect 6 months after it was originally made.
- 8.4 A local authority may only confirm an order after considering any representations made in respect of that order. The making or confirmation of a TPO could interfere with the right of a property owner to peacefully enjoy their possessions. Said interference is capable of being justified under Article 1 of the First Protocol of the European Convention on Human Rights as being in the public interest (the amenity value which the tree brings), and subject to the conditions provided for by law (the Town and Country Planning Act 1990) and by the general principles of international law.
- 8.5 If a tree is on residential property, the making or confirmation of a TPO could interfere with a right of a person to respect for their family life and their home, but is capable of being justified as being necessary in a democratic society for the protection of the rights and freedom of others (Article 8 of the European Convention on Human Rights) and proportionate to the wider benefits it affords.
- 8.6 A local authority may only confirm an order after considering any representations made in respect of that order. One representation has been received which objects to the confirmation of Tree Preservation Order No.411. The objection is covered within this report.
- 9.0 RECOMMENDATION
- 9.1 Following consideration of the objection reported it is recommended Tree Preservation Order No. 411 at 33 Holyrood Avenue, S10 4ND should be confirmed unmodified.

Flo Churchill
Interim Head of Planning

11th October 2016

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