



SHEFFIELD CITY COUNCIL Planning & Highways Committee Report

Report of: Director of City Growth Service

Date: 12th March 2019

Subject: Tree Preservation Order No. 427
Land at Bridle Stile Close, Sheffield S20

Author of Report: Jack Foxall, Urban and Environmental Design Team

Summary: To report objections and to seek confirmation of Tree Preservation Order Nr. 427

Reasons for Recommendation

To protect trees of visual amenity value to the locality

Recommendation Tree Preservation Order Nr. 427 should be confirmed

Background Papers: A) Tree Preservation Order Nr. 427 and map attached
B) TEMPO assessment attached
C) Objection received 26th November 2018
D) Response to objection sent 6th December 2018
E) Objection received 10th December 2018

Category of Report: OPEN

REGENERATION & DEVELOPMENT SERVICES

REPORT TO PLANNING & HIGHWAYS COMMITTEE 12th MARCH 2019

TREE PRESERVATION ORDER NR.427 LAND AT BRIDLE STILE CLOSE, SHEFFIELD S20

1.0 PURPOSE

1.1 To seek confirmation of Tree Preservation Order Nr. 427.

2.0 BACKGROUND

2.1 Tree Preservation Order Nr. 427 was made on 8th November 2018, on trees on land adjacent to Bridle Stile Close, Sheffield S20. A copy of the order with its accompanying map is attached as Appendix A.

2.2 Trees at this site are considered to be under possible threat because of potential future development works.

2.3 A Tree Evaluation Method for Preservation Orders (TEMPO) assessment was carried out prior to serving the Order, and trees were inspected by an Arboriculturist from the Parks and Countryside Trees and Woodlands service for general condition and suitability for protection. A copy of the TEMPO assessment is attached as Appendix B. These trees were found to be in good order, of significant amenity value to the local area and consequently suitable for protection according to the TEMPO criteria. Officers therefore considered it expedient in the interests of amenity to make the Tree Preservation Order.

3.0 OBJECTIONS

3.1 An objection to the TPO dated 16th November 2018 was received by email from Mr Bill Anderson on 26th November 2018. The Council's Legal Services Officer responded to Mr Anderson's objection by email on 6th December 2018. The full text of this objection is attached as Appendix C, and the full text of the response is attached as Appendix D.

3.2 The conclusions of the objection and the Council's response are summarised in the following paragraphs:

3.3 Objection

Government guidance states that visibility alone is not sufficient to warrant an order.

Response

Visibility is one aspect of assessing visual amenity and this was included within the Council's assessment of the tree according to the TEMPO methodology, which is the recognised arboriculture industry standard. A copy of this assessment is attached.

3.4 Objection

These trees do not generate sufficient amenity value to justify TPO protection. They are poor specimens with numerous structural faults, none of which are easily remedied.

Response

The TEMPO assessment undertaken by officers was clear that the protected trees are 'fair' to 'good' specimens with few minor faults and 40-100 years life expectancy. The assessment supported the making of a TPO, which the Council considered expedient in the circumstances.

3.5 Objection

The trees are not in a prominent position, certainly not sufficiently prominent to justify overlooking their poor quality.

Response

Officers disagree with this assessment. Their view is that the trees are very prominent, being adjacent to, and the dominant feature of, the public road. The trees are also an important landscape feature from surrounding public roads. They would also assert that the trees, as a minimum, fall within the 'fair' category rather than 'poor' as defined by the TEMPO methodology and as stated within the guidance notes for the TPO process produced by the Forbes-Laird Arboricultural Consultancy.

3.6 Objection

This TPO appears to be an attempt to control a planning application, in other words a "tool of development control." This is not a proper use of the TPO system.

Response

The Council made this TPO because it considers that it is expedient in the interests of amenity. The power to do this is detailed in section 198 of the Town And Country Planning Act 1990.

When granting planning permission for any development the local planning authority has a duty to ensure that adequate provision (if appropriate) is made for the preservation or planting of trees by the imposition of conditions, and to make any TPOs deemed necessary by the Council. This duty relating to development control and TPOs is detailed in section 197 of the Town and Country Planning Act.

If a TPO had not been made under the power contained in section 198, any future grant of planning permission may have resulted in the local planning authority seeking the making of a TPO under the duty contained section 197.

3.7 Objection

If the trees do have some hidden amenity value, some historic association for example, of which we are not aware, then this should be included in the amenity valuation, which ought to be placed in the public domain.

Response

Officers inform me that they are not aware of any additional considerations other than the age and stature of the trees adding greatly to the amenity value and character of the local area.

3.8 Objection

It occurs to me that no details of this TPO or any supporting or objecting comments, are published on the Town Hall's website. This appears contrary to current preoccupations with "openness."

Response

The Council ordinarily publishes copies of its TEMPO assessments along with representations received where a TPO is referred to the Planning and Highways Committee for confirmation and can provide copies of supporting documentation upon request.

3.9 Mr Anderson responded to the email from Legal Services on 10th December 2018, raising further objections. The full text of this objection is attached as Appendix E, with the main points summarised below:

- The TEMPO method of tree assessment used by the Council as part of the process of assessing the suitability of trees for TPO protection is not a recognised industry standard and is not suitable for assessing amenity value.
- The allocation of a minimum 40 year life expectancy for Swedish Whitebeam tree T1 in the Council's TEMPO assessment is incorrect, because this tree is likely to require major work within 20 years.
- The amenity value of trees has been assessed on visibility alone, which is not sufficient to justify TPO protection. Mr Anderson queries what else is adding to their amenity value.
- These trees are not prominent because they are adjacent to a cul-de-sac.
- A TPO was not expedient because the trees were not under threat and are poor specimens unworthy of protection.
- Unworthy trees were protected by the TPO because Council Planning Officers wanted to refuse a planning application.
- Serving a TPO on trees that do not merit protection may increase the potential for pre-emptive tree felling prior to a planning application on

prospective development sites. Mr Anderson states he 'will be obliged to make potential clients aware of Sheffield's likely approach'.

4.0 RESPONSE TO FURTHER OBJECTIONS

- 4.1 In response to Mr Anderson's comments about the suitability of the TEMPO method of tree assessment (Tree Evaluation Method for Preservation Orders), it is a systematised assessment tool for TPO suitability prepared by the Forbes-Laird Arboricultural Consultancy. The TEMPO system was designed by qualified professional arboriculturists to offer a reliable system for assessing suitability in a structured and consistent way as recommended in government planning practice guidance (paragraph 8 of 'Tree Preservation Orders and trees in conservation areas'). Since its public release, TEMPO has consistently gained popularity and according to its designer was in use with over 50 local authorities as of March 2007.
- 4.2 In response to Mr Anderson's objection to the assessment of a minimum 40 year life expectancy for the Swedish Whitebeam tree T1 because major work is likely to be required within 20 years, the tree was assessed to be in good condition, with no obvious defects foreseeably requiring major work.
- 4.3 Guidance for the TEMPO method states that for the purposes of an assessment it should be assumed that trees will be maintained in accordance with good practice. A requirement for routine maintenance does not compromise the assessment of life expectancy. Said guidance also states that the possibility of work being required does not preclude a tree from being assessed as 'Fair' within the TEMPO process and as such a tree may be "*retained for the time being without disproportionate expenditure of resources or foreseeable risk of collapse*".
- 4.4 In response to Mr Anderson's objection that trees have been assessed on visibility alone, this is not the case. While it is true that public visibility is a significant component of the amenity value of these trees, it was not the only factor which officers took into account when undertaking their assessment.
- 4.5 In accordance with the TEMPO method and as recommended by its accompanying guidance, additional factors have been considered in the assessment of amenity. As well as tree condition, retention span and visibility, other factors were taken into account such as the importance of tree group cohesion and relationship to the wider landscape, cultural or historic value, and particularly good form or rarity.
- 4.6 Trees protected by TPO 427 were assessed as being in good or fair condition, with a retention span of between 40 to 100 years. Tree T1 was assessed as being of particularly good form. Trees T3 and T4 were considered to be members of a group forming an important local landscape feature.
- 4.7 Taking into account public visibility and other factors contributing to amenity value, officers concluded that removal of these trees would have a significant negative impact on the local environment and its enjoyment by the public.

- 4.8 Mr Anderson states that the trees are not prominent because of their position adjacent to a cul-de-sac. Bridle Stile Close is a public road, with the trees being visually prominent to highway users and neighbouring residents. The trees are also visible from public roads and housing in the surrounding neighbourhood, an area of new housing with new public roads under construction on an adjacent site, and the neighbouring Mosborough Primary School.
- 4.9 In response to Mr Anderson's objection that a TPO was not expedient because trees are poor specimens, officers refer to their own contrary assessment which, as explained above, supports a TPO.
- 4.10 In response to Mr Anderson's objection that a TPO was not expedient because the trees were not under threat, enquiries had been received by the Planning Service proposing removal of the trees to enable development.
- 4.11 In response to Mr Anderson's objection that the TPO was served because officers wanted to refuse a planning application, the TPO was made to prevent trees being removed because it was expedient to do so taking into account the combination of their amenity value and the foreseeable threat.
- 4.12 Where a planning application is submitted for this site, the amenity value of the trees would be a material consideration. The Council is under a legal duty to make a TPO where it appears necessary that trees should be protected when granting planning permission. The protection of trees may be a factor in rendering a proposal acceptable such that permission may be granted. In the event that a planning application which necessitated the removal of trees was approved, this would take precedence and would enable the lawful removal of trees even if they benefitted from the protection of a TPO.
- 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 Nr. 427 will benefit the visual amenity of the local environment.
- 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. In addition, where it

appears to the local authority to be necessary in connection with granting planning permission, it shall be its duty to make a TPO to either give effect to those conditions or otherwise (sections 197 and 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 representations received in respect of Tree Preservation Order No.427 are detailed in this report, alongside an officer response to the points raised.
- 9.0 RECOMMENDATION
- 9.1 Recommend Tree Preservation Order Nr. 427 be confirmed.

Colin Walker
Chief Planning Officer

12th March 2019

This page is intentionally left blank