

PLANNING AND HIGHWAYS COMMITTEE – 10TH OCTOBER, 2018

REPORT OF THE CHIEF EXECUTIVE

TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 198 AND 201

THE CITY OF SUNDERLAND TREE PRESERVATION (NO.172) ORDER 2018 AT LAND BETWEEN 20 WOODSIDE GROVE AND 1 CRANBORNE, EAST HERRINGTON, SUNDERLAND.

1. PURPOSE

To advise the Committee regarding two objections that have been received in response to the making of a Provisional Tree Preservation Order in respect of trees at the site between Woodside Grove and Cranborne, East Herrington and to ask that the Committee consider both the objection received and the contents of this report, and indicate its support (or otherwise) to the view of the Chief Executive that Tree Preservation (No. 172) Order, 2018 at land between 20 Woodside Grove and 1 Cranborne, East Herrington, Sunderland, be confirmed, without modifications.

2. BACKGROUND

2.1 A local planning authority may make a Tree Preservation Order (TPO) when it is believed that:

2.1.1 the preservation of particular trees or woodlands is desirable in the interests of amenity, and

2.1.2 It is expedient to preserve the trees or woodland by making a TPO.

2.2 Policy CN17 of the Council's Unitary Development Plan states that "The City Council will encourage the retention of trees which make a valuable contribution to the character of an area, by the making of tree preservation orders and replacing trees in highways and other public areas, with species which help maintain the character of the locality. The retention of trees, hedges and landscape features in all new development will be required where possible".

2.3 The draft TPO, which is the subject of this report, was created in direct response to development interest in the land upon which the trees are situated. In the City Council's view, such development could serve to threaten the future of the trees and increase the risk of the trees subsequently being felled, in order to maximise the developable area. It is considered that the removal or indiscriminate pruning of the subject trees would have a significant adverse impact on the local environment and its enjoyment by the public and residents. Since it was considered that these trees could be under threat, TPO 172 was initiated to secure the trees'

long-term protection. A TPO allows the Authority to strictly control any removal or pruning of trees on the site.

- 2.3 The subject site on which the trees are located takes the form of an area of grassed open amenity space which is located within an established residential estate. The land is flanked by residential curtilages on three sides and the street of Woodside Grove/Cranborne on its fourth side. Collectively, the subject trees are considered to provide a high level of amenity to the area, given that they include mature specimens of notable size, which are prominently visible within the prevailing street scene and from surrounding properties, and all appear to be in good health. The individual ash tree is considered to be a particularly good specimen, given its excellent form.

The trees provisionally protected by the Order comprise an individual Ash tree, encircled in black dots and marked as T1 on the submitted site plan, together with a group of three trees (2 Maple and 1 Elder), within the broken black line and marked as G1 on the said plan.

An amenity assessment (TEMPO) of these trees has been commissioned by the Local Planning Authority, which concludes that the trees are in good condition, and the age of the trees suggests that they have the potential to benefit the amenity of the area for a significant period of time to come (see Appendix 3).

3. MAKING OF THE TREE PRESERVATION ORDER

- 3.1 A Provisional Tree Preservation Order No. 172, was made on 23rd August, 2018 under the provisions of Sections 198 and 201 of the Town and Country Planning Act 1990.
- 3.2 The statutory objection period to the Provisional Order has now expired, and two objections have been received (and not withdrawn) in respect thereof.
- 3.3 A copy of the plan showing the location of the area of trees is attached marked as **Appendix 1**.
- 3.4 A copy of the Tree Preservation Order (No.172) Order 2018, at Land Between 20 Woodside Grove and 1 Cranborne East Herrington Sunderland, is attached marked as **Appendix 2**.
- 3.5 A Copy of the Tree Evaluation Method for Tree Preservation Orders (TEMPO) is attached marked as **Appendix 3**.

4. OBJECTION ONE

Objection one to the proposed Order was received from Mr. Andrew Jones, Head of Property for Gentoo Group Limited of Emperor House, 2 Emperor Way, Doxford International Business Park, Sunderland, SR3 3XR. Gentoo Group Limited own the land upon which, the subject trees are situated.

5. REASONS FOR OBJECTION ONE

5.1. A copy of the letter from Mr. Jones of Gentoo is attached, and marked as **Appendix 4**. The letter makes a number of points relating to the size and 'quality' of the trees in question, as follows:

- *"....the trees on the site are of no particular merit, being semi mature and of poor quality with no ecological value."*
- *"Gentoo, as landowner will happily work with the developer and Local Authority, in order to provide replacement trees in a more appropriate location, either on this site or on Gentoo land elsewhere".*

6. COUNCIL COMMENTS ON OBJECTION ONE

6.1 A copy of the letter of reply to the objection from Peter McIntyre, Executive Director of Economy and Place, is attached, and marked as **Appendix 5**. The Council's response to those specific objections set out above, are as follows:

- ***'Of No Particular Merit'***

"The value of the trees has been thoroughly assessed by the Council, with input from an independent Arboriculturalist and it is considered that the trees are of very good form and quality and make a significant positive contribution to the amenity of the locality. The age of the trees also means that they have the potential to benefit the amenity of the area for a significant period of time. Whilst the 'ecological' value of the trees may not be 'considerable', the Council considers that the quality and amenity value of the trees is such that the making of a Tree Preservation Order is justified".

- ***'..We are happy to plant replacement trees in in a more appropriate location'***

"The Council is of the view that such a procedure would only result in the amenity of the area being diminished by virtue of the existing trees being lost, particularly as any 'replacement trees' would take a significant amount of time to reach a condition whereby their quality and value equalled that of the existing specimens.

7. OBJECTION 2

- 7.1 A second objection was received from Mrs Beverley Steele, Director of Highcrest Homes NE Ltd., of Highfields, Hillcrest, Middle Herrington, Sunderland, and a copy of the letter is attached and marked as **Appendix 6**. A plan included with the letter of objection is marked as **Appendix 6a**.

7.2 REASONS FOR OBJECTION 2

Highcrest Homes NE Ltd. advise that they are at present negotiating with Gentoo Group Ltd. to purchase the land in question, for development. The letter makes a number of points relating to the trees in question, as follows:

- *“During a recent site visit to conduct a general survey of the land, we were approached by a disgruntled resident of whose property abuts the site.”*
“The resident made it very clear that he was not happy about any development and stated that he would do everything in his power to stop any development going ahead. Since this incident we have been advised that Tree Preservation Orders were placed upon the trees. It is clear that this has been instigated by the resident. It is apparent that the residents are using this (TPO) as an instrument to avoid any further development on this land”
- *“From a developers perspective, If the orders were to remain in place, the site would be rendered useless for potential development and due to this we would request that the orders be removed”.*

7. COUNCIL COMMENTS ON OBJECTION 2

- 7.1 A copy of the letter of reply from Peter McIntyre, Executive Director of Economy and Place, addressing the points made in the objection, is attached, and marked as **Appendix 5**. The Council's response to those specific objections set out above, are as follows:

- **“It is apparent that the residents are using this (TPO) as an instrument to avoid any further development on this land.”**

“Whilst the Council cannot reveal the identity of any persons responsible for requesting the making of the TPO, I can confirm that the potential development interest in the land was taken into consideration in deciding whether to make the TPO. In this regard, the Government's National Planning Practice Guidance (NPPG) website advises (at paragraph 10, reference ID: 36-010-20140306) that ‘in some cases, the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order’.

- **“From a developers perspective, If the Orders were to remain in place, the site would be rendered useless for potential development and due to this we would request that the orders be removed.”**

“With reference to the implications of making the TPO, in respect of your proposals for the site, I must advise that the potential merits of any prospective development cannot be taken into account in determining whether to make the TPO, particularly given that the Council, in its capacity as Local Planning Authority, has not yet been approached to formally consider a scheme via either a pre-application enquiry or a full planning application.”

“In the event you do proceed with a pre-application enquiry or formal planning application in respect of a proposed development of the site, the protected status and amenity value of the trees would, of course, represent a material consideration in respect of determining the merits of any proposal. Any potential harm to the amenity value of the trees would then have to be weighed against all other material considerations, including the potential benefits the proposed development of the land would bring in terms of the supply of affordable housing.”

7.2 In conclusion, it is considered that all of the objections have been fully and properly considered and addressed, and that the Council is in a position to confirm the TPO without modification, in accordance with regulation 7 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

8. RECOMMENDATIONS

It is recommended that the Committee considers the contents of this report and the objections received and indicates its support (or otherwise) to the view of the Chief Executive that Tree Preservation (No.172) Order, 2018 at Land Between 20 Woodside Grove and 1 Cranborne East Herrington, Sunderland, be confirmed without modification.

BACKGROUND PAPERS

The Plan (Appendix 1)

Provisional Tree Preservation Order (No. 172) (Appendix 2)

Tree Evaluation Method for Preservation Orders (TEMPO) Score-sheet (Appendix 3).

Letter of objection from Mr. Jones of Gentoo (Appendix 4),

Letter from Planning and Environment to Mr Jones of Gentoo addressing the objection (Appendix 5)

Letter of objection from Mrs Beverley Steele of Highcrest Homes NE Ltd, of Highfields, Hillcrest, Middle Herrington, Sunderland, SR3 3TN (Appendix 6)
A plan enclosed with the objection shows the trees in terms of the desired development (appendix 6a)

Letter from Planning and Environment to Mrs Beverley Steele, addressing the objection (Appendix 7)

Patrick Melia
Chief Executive