

To the Chairman and Members of the
PLANNING REGULATORY BOARD
Report of the Director of Planning, Regeneration and Transport Service

Date 10th October 2019

ITEM NO. SUBJECT

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Proposed Tree Preservation Order No 2, 2019 – 10 Sandygate, Wath upon Dearne, Rotherham S63 7LW

RECOMMENDATION:

That Members confirm the serving of Tree Preservation Order No. 2 2019 without modification with regard to the trees which are the subject of this report, situated on land adjacent to 10 Sandygate, Wath-Upon-Dearne, Rotherham under Section 198 and 201 of the Town and Country Planning Act 1990.



Background

The two cherry trees are protected by Wath-upon-Dearne Conservation Area.

A section 211 notice to prune the cherry trees was submitted under application reference RB2019/0393. The intended work was to crown reduce the trees to around their previous points to leave more frith and create balanced crowns and alleviate issues of obstruction to the business premises

It was considered the proposed work would adversely affect their appearance and result in a loss of amenity to the conservation area. As such, a Tree

Preservation Order was placed on the trees under a new TPO No. 2 2019 on 17 April 2019 and all interested parties notified.

The purpose of this report is to assess the objections received and determine whether the TPO should be confirmed or not.

The government's advice in the National Planning Practice Guidance (NPPG) states that,

“When deciding whether an Order is appropriate, authorities are advised to take into consideration,

- *what ‘amenity’ means in practice*
- *what to take into account when assessing amenity value*
- *what ‘expedient’ means in practice*
- *what trees can be protected and*
- *how they can be identified*

When granting planning permission authorities have a duty to ensure, whenever appropriate, that planning conditions are used to provide for tree preservation and planting. Orders should be made in respect of trees where it appears necessary in connection with the grant of permission”.

Objections

A representation has been received from the applicant objecting on the following grounds –

- The trees stand on the applicants land and should be maintained by the Council
- Obstructing public view of the business
- Safe planting distance
- Commercial and criminal affect the trees have created

One Right to Speak request has been received.

Comments from Tree Service Manager

The Tree Service Manager has considered the objection raised and has commented as follows:

The trees stand on the applicants land and should be maintained by the Council

The creation of the TPO is not based on who owns or who is responsible for the management of the trees but rather that a scheme of work has been provided via a section 211 notice to Rotherham Council detailing the intent to carry out tree works that would significantly diminish the trees' good structure,

their good health and the excellent level of amenity that the trees provide the conservation area.

The creation of the TPO is not intended to stop all works from happening to the tree (and nor is it possible under the TPO legislation to stop all works) but just to stop poor works that would affect the tree's long-term health and safety and its ability to provide good amenity to the local area.

Therefore should works be applied for that is deemed appropriate good management of the trees then consent will be granted.

An example works specification that would likely be granted consent that would maintain the tree's good amenity is:

Selectively prune branches to provide a maximum of 2.4m metres clearance above ground-level and a maximum clearance of 2 metres from adjacent buildings.

Safe Planting Distance

There is no legal requirement to plant trees or to allow trees to grow at set distances from properties. Such guidance as mentioned in the objection is merely that, guidance. If such guidance was to be followed across the borough, many thousands of trees would be removed unnecessarily.

Such guidance is designed to reduce the incidence of subsidence damage occurring in buildings. This is such a complicated area of soil and tree science that, despite years of research into the matter, no scheme intended to provide a solution has been shown to be successful. This is due to the large amount of variables that are involved in a tree causing subsidence damage.

What we do know at a local level is that subsidence in Rotherham occurs extremely rarely. If however it was to occur as a result of a tree protected by a Tree Preservation Order then upon receipt of the appropriate evidence proving this to be the case then the offending tree(s) would be allowed to be removed.

Obstructing public view of the business

There is no legal right for the business to be in full view from the public from all angles.

Commercial and Criminal affect the trees have created

There has been no evidence provided to suggest that any anti-social or criminal behaviour has occurred due to the presence of the trees and that it would not have occurred without the trees.

Urban trees bring a wide range of environmental, social and economic benefits to urban areas. Just some of the benefits of urban trees, such as those positioned adjacent to 10 Sandygate are:

- Cooling local air temperatures,
- Intercepting rainfall
- Reducing air pollution, producing oxygen and intake of carbon
- Provision of habitat
- Associations with improved mental and physical well-being.
- Associations with increased property values
- Flood protection

The above points could be said to actually increase the commercial impact the trees have on the business and possibly lower criminal activity, not only making the town centre a nicer place to be, bringing custom into the town centre, but also a healthier place to live. CCTV cameras are positioned throughout the town centre providing adequate surveillance.

Studies back this view up and have shown that shopping and commercial districts with good levels of tree cover increase the amount of time and money spent by shoppers in that area.

Conclusion

The trees are good quality trees that provide an excellent level of amenity to the local area. They are likely to be capable of providing at least this level of amenity for the next 40 years, possibly more.

It is therefore considered that the objections to the Order have been carefully considered and that the Order has been made in accordance with Government guidelines. In this instance, it is recommended that the Order is confirmed without modification.