

Item no.

Report to: **Development Control and Regulatory Panel**

Date: **26 July 2005**

Report of: **Head of Planning and Building Control Services**

Subject: **Tree Preservation Order at Ladywood, Durham Lane, Easington Village**

Ward: **Easington Village & South Hetton**

1. Purpose of the report

- 1.1 The purpose of this report is to enable Members to consider whether or not to confirm a Tree Preservation Order in respect to land at Ladywood, Durham Lane, Easington Village. This TPO has previously been agreed with Members on 4th November 2004. However, the land owner was not properly advised at the time and was unable to make representations, hence this matter is being reported again for further consideration.
- 1.2 This matter was recently reported to the District Council of Easington meeting on 7 July 2005. Having considered verbal representations from the landowner, the Council resolved to refer the matter to the Development Control and Regulatory Panel for a site visit. The Panel's decision is to be submitted to District Council for endorsement.

2. Consultation

- 2.1 In preparing this report the views of the Council's Countryside Officer and the County Council's Landscape Officer have been sought. The views of appropriate Parish Council's, landowners and surrounding landowners have also been sought in accordance with statutory procedures.
- 2.2 Easington Village Parish Council responded on 18th February 2004 and stated their support for the Tree Preservation Order. They went on to state that the removal of the trees would be detrimental to the amenity and character of the conservation area generally, and to this part of the village in particular. However, more recently the Parish Council have withdrawn an objection to one of the trees being removed, a large mature sycamore to the front of the property named T1 on the applicants plans.
- 2.3 The Countryside Officer responded with the following comments:

Seven of the trees within the curtilage of Ladywood are mature Sycamores, one is a mature Beech and one a young Lime tree. It was considered that the trees were in good to reasonable condition and that they significantly contribute to the amenity of the Conservation Area. The opinion of the County Council Landscape Officer was also sought, again it was considered that all the trees were in good to reasonable condition, and contributed to the general amenity of the Conservation Area. Both officers concluded that removal of any trees, including T1 would not be appropriate because of the adverse impact on the appearance of the area.

3. Background

- 3.1 The relevant legislation in relation to TPO's is principally contained in Sections 198, 200 and 203 of the Town and Country Planning Act 1990.

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- 3.2 A period of six weeks notice must be given to a local authority when works are proposed to trees within conservation areas. During this period the authority must decide whether the works are appropriate, if not a TPO should be made in order to protect the tree(s). This is because the submission is a notice of intention to undertake work, rather than a request. In these circumstances, the Council cannot 'refuse' consent but can only decide to make a Tree Preservation Order.
- 3.3 The legislation permits the Council, as Local Planning Authority, to make T.P.O's to preserve trees or woodlands in their area if it is considered expedient to do so in the interests of the amenity of the area. The effect of a T.P.O makes it an offence for any person to cut down, top, lop, uproot or wilfully damage any tree subject to an Order.
- 3.4 Government advice in relation to the making of T.P.O's generally advises that they should be used to protect trees or woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. The subject tree(s) should normally be visible from a public space, such as a road or footpath. It is also reasonable to have regard to the future benefit which trees may bring, when allowed to mature.
- 3.5 It is also relevant to assess whether or not it is expedient to make an Order. For example, even if a tree(s) was deemed worthy of an Order on amenity value, if they were under good arboricultural management then it would not normally be expedient to make an Order. Conversely if the Council considered the subject trees were under risk, possibly from development pressure, then it would be expedient to pursue an Order.

4. Position Statement and Option Appraisal

- 4.1 On 22nd December 2003 a letter was received which notified the Council of a proposal to remove two sycamore trees, and which also outlined a management plan that would eventually see the removal of a further five sycamore trees.
- 4.2 After carrying out consultations and assessing the proposal on site, it was considered that one of the Sycamores to the front of 'Ladywood' was damaged and causing a significant adverse impact on the property. It was agreed that this tree should be removed and replaced with a native species; these works have since been carried out. However, it was considered that the remainder of the proposed works were unacceptable. The Council's Countryside Officer considers that sycamores have wildlife benefits and are valuable trees in their own right. On 2nd February 2004 the Principal Planning Services Officer acting under delegated authority, issued a TPO Order on a temporary basis known as the District Council of Easington (Ladywood, Durham Lane, Easington Village) Tree Preservation Order 2004. This Order covered all remaining trees within the curtilage of the property.
- 4.3 During the temporary period representations from interested parties were invited (see above) to assist the Council in making a decision as to whether or not the Order should be confirmed.

5. Implications

5.1 Financial

There are no direct financial implications for the Council arising from a decision on whether to confirm the Tree Preservation Order. Financial implications may result if the decision is challenged in the High Court.

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5.2 Legal

The proposals have been duly considered in the context of planning legislation, government advice and the Human Rights Act.

5.3 Policy

Policies in the District of Easington Local Plan (Policy 11, Tree Preservation Orders and Policy 22, preservation and enhancement of Conservation Areas) have been taken into account when preparing this report. The confirmation of this particular Tree Preservation Order is considered to be in accord with these policies.

5.4 Risk

A risk assessment has been carried out. It is considered that the potential for risk arises from a challenge to the decision, with a risk of associated costs. This risk is thought to be minimal. Challenges can only be made where it is considered that the Order is not within the powers of the Town and Country Planning Act 1990; or the requirements of the 1990 Act or Town and Country (Trees) Regulations 1999 have not met.

5.5 Communications

The appropriate Parish Council's, land owners and adjoining land owners will be notified of the Council's decision by issuing a decision notice.

5.6 Corporate

There are no corporate implications.

6. Conclusion

6.1 It should be noted that a TPO does not stipulate that no works to trees can ever be carried out. It does, however, require persons wishing to carry out any works to the trees, to submit a formal application. This gives the Council greater control over trees that are considered to provide significant visual amenity.

6.2 In conclusion it is considered that the subject trees provide significant visual amenity within the surrounding area. This is of particular importance within a Conservation Area. Furthermore, this amenity value tends to increase over time as trees become more mature.

6.3 It is considered expedient to make this Order having regard to the amenity value of the trees, and having regard to the threat of felling which the trees are under by virtue of the notice to undertake works.

7. Recommendations

7.1 It is recommended that Members resolve to confirm the District of Easington (Ladywood, Durham Lane, Easington Village) Tree Preservation Order 2004, subject to endorsement by Full Council.

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Background Papers

The following background papers have been used in the compilation of this report.

District of Easington Local Plan

Town and Country (Trees) Regulations 1999

Tree Preservation Orders – A Guide to the Law and Good Practice (DETR, 2000)

Individual letters of notification, plans and consultation responses