

Item no.

Report to: **District Council of Easington**
Date: **6th March 2008**
Report of: **Head of Planning and Building Control Services**
Subject: **Tree Preservation Order at Peartree House, Seaton Village**
Ward: **Seaham North**

1. Purpose of the report

The purpose of this report is to enable Members to consider whether or not to endorse the resolution of the Development Control and Regulatory Panel by confirming a Tree Preservation Order in respect 1 no. Sycamore tree on land at Peartree House, Seaton Village. This TPO was previously agreed with Members on 16th October 2007.

2. Consultation

In preparing this report the views of the Council's Countryside Officer have been sought. The views of appropriate landowners have also been sought in accordance with statutory procedures, one of whom was the instigator for considerations leading to this Tree Preservation Order and another neighbour has written to endorse the Councils' action in this regard.

The Countryside Officer responded with the following comments:

The tree appears to be in reasonable condition and contributes to the mature tree cover around Seaton Village and is worthy of a TPO.

3. Background

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.

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.

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.

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

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were under risk, possibly from development pressure, then it would be expedient to pursue an Order.

4. Position Statement and Option Appraisal

On 2nd August 2004 a letter was received from a resident living near to the site which requested the Council to place a Tree Preservation Order on the subject tree.

After assessing the proposal on site, it was considered that the preservation order would be appropriate and thereafter an emergency tree preservation order was drafted and sent to local residents, together with a copy served on the new owner of Pear Tree House; This was subsequently supplanted by a further draft order to give wider publicity in the locality following the completion of development to the north of the site, this being known as [The District of Easington (Peartree House, The Village, Seaton No.2) Tree Preservation Order 2007] .

It is open to question whether the tree would be maintained by good arboricultural practice without the protection of a TPO.

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.

5.2 Legal

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

With regard to Local Government Review, it is considered that there will be no implications arising from this matter.

5.3 Policy

Members will be aware that the Local Plan expired on 27th September 2007 and that the previous relevant policy 11 (in relation to tree preservation orders) is not a saved policy.

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 been met.

5.5 Communications

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

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5.6 Corporate

There are no corporate implications.

6. Conclusion

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

In conclusion it is considered that the subject tree provides significant visual amenity within the surrounding area. Furthermore, this amenity value tends to increase over time as trees become more mature.

It is considered expedient to make this Order having regard to the amenity value of the tree, and to remove any threat of felling which the tree could otherwise be exposed to.

7. Recommendations

It is recommended that Members resolve to confirm the District of Easington (Peartree House, The Village, Seaton No.2) Tree Preservation Order 2007.

8. Background Papers

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

Town and Country (Trees) Regulations 1999

Town and Country Planning Act 1990

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

Individual letters of notification, plans and consultation responses