

# Item no.

**Report to:** District Council of Easington  
**Date:** 6<sup>th</sup> November 1008  
**Report of:** Head of Planning and Building Control Services  
**Subject:** Tree Preservation Order at Dairy Farm, Littlethorpe  
**Ward:** Easington Village and South Hetton

## 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 at their meeting on 14<sup>th</sup> October 2008 by confirmation of a Tree Preservation Order in respect of land at Dairy Farm, Littlethorpe, The District Council of Easington (Dairy Farm, Littlethorpe) Tree Preservation Order 2008.

## 2. Consultation

In preparing this report the views of the Council's Countryside Officer and the views of landowners and surrounding occupiers of residential property have also been sought in accordance with statutory procedures.

The Countryside Officer responded with the following comments:

There had been several requests from occupants of adjacent properties with regard to the amenity value that the trees offered to the local community of Littlethorpe and that there are a number of semi-mature/mature specimens along the main access road.

It is known that there is bat roost within Littlethorpe Village and that bats will utilise the tree canopies for foraging, especially from the Sycamore trees and their associated important insect population.

There are several public footpaths in this area of Littlethorpe that are used by the local population where the trees contribute significantly to the amenity value of the local landscape with the range of species and wildlife with a habitat that enhances the locality.

## 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

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

## **4. Position Statement and Option Appraisal**

Over the last three years planning permissions have been granted for the development of land at the former Dairy Farm, for 6 no. detached houses with access road and landscaping. These permissions refer initially to an outline approval under application no. 05/359 on 7.07.2005 followed by PLAN/2007/0054, which received approval of detail for the siting of 6 detached dwellings, together with the design and external appearance thereof plus means of access and landscaping for the site on 26.03.2007.

To date, the detailed approval has not been implemented and thus it is considered that a TPO should be in place to ensure the protection of trees within and around the application site.

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 but in the event this publicity did not elicit any responses.

## **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.

### **5.3 Policy**

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

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## **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 (Trees) Regulations 1999 have not been met.

## **5.5 Communications**

The appropriate Parish Councils, 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**

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.

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

It is considered expedient to make this Order having regard to the amenity value of the trees, and having regard to the potential threat of felling which the trees could be under.

## **7. Recommendations**

It is recommended that Members resolve to confirm the District of Easington (Dairy Farm, Littlethorpe) Tree Preservation Order 2008.

## **8. 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)  
Plan of the area relating to the subject trees.