

Item no.

Report to: **District Council of Easington**

Date: **6 October 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 endorse the resolution of the Development Control and Regulatory Panel by confirming a Tree Preservation Order in respect to land at Ladywood, Durham Lane, Easington Village.

2. Consultation

2.1 It has not been necessary to undertake consultations in respect of this particular report. Appropriate consultations were, however, carried out in respect of the original notification of works to trees, and the subsequent Tree Preservation Order. Details were included in previous reports on this matter.

3. Background

3.1 The Tree Preservation Order on Ladywood was previously agreed by the Council on 4 November 2004. However, the landowner was not properly advised at the time, and was unable to make representations. As a result the matter was referred back to the District Council of Easington meeting held on 7 July 2005.

3.2 Having considered verbal representations from the landowner, the District Council resolved to refer the matter to the Development Control and Regulatory Panel for a site visit, with the Panel's decision submitted back to the District Council for endorsement. That site visit took place on 26 July 2005 as part of the Panel's consideration of the matter.

4. Position Statement and Option Appraisal

4.1 The Development Control and Regulatory Panel considered the proposed Tree Preservation Order at Ladywood on 26 July 2005. A site visit had been undertaken, and verbal representations from the landowner were considered.

4.2 The Panel supported the Tree Preservation Order in general, but acknowledged the landowner's concerns about the adverse effects on his property of one particular tree, identified as T1 on the submitted plans. The Panel also noted that Easington Village Parish Council had withdrawn their previous objection to the felling of this tree. On this basis, the Panel resolved to confirm the Tree Preservation Order, subject to endorsement by a full Council meeting. The Panel also indicated that they would support a request for the removal of tree T1. The applicant subsequently submitted a request for the felling of tree T1, and this request is being considered as a separate matter at the time of preparing this report.

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

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

5.6 Corporate

5.6.1 Corporate Planning Priorities

No implications.

5.6.2 Equality and Diversity

No implications.

5.6.3 E-government

No implications.

5.6.4 Procurement

No implications.

6. Conclusion

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- 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 The Development Control and Regulatory Panel considered that the subject trees, with the exception of tree T1, provide significant visual amenity within the surrounding area. This is of particular importance within a Conservation Area.
- 6.3 The Panel considered it 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. Tree T1 would be given a separate consent for felling under Conservation Area legislation.

7. Recommendations

- 7.1 It is recommended that Members endorse the resolution of the Development Control and Regulatory Panel by confirming the District of Easington (Ladywood, Durham Lane, Easington Village) Tree Preservation Order 2004.

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