

Item no.



District of **easington.**

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

Date: **17th March 2009**

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

Subject: **Tree Preservation Order at Peterlee Memorial Methodist Church,
Bede Way, Peterlee.**

Ward: **Dene House**

1. Purpose of the report

The purpose of this report is to enable Members to consider whether or not to progress a Tree Preservation Order in respect of land at the above Methodist Church, Bede Way, Peterlee, where it is proposed to form a car park to serve the church.

2. Consultation

In preparing this report the views of the Council's Countryside Officer have been sought, together with the views of appropriate landowners in accordance with statutory procedures.

The Countryside Officer responded with the following comments:

There are two semi-mature Sycamore trees situated in the application site for a proposed car parking area adjacent to the church; the two trees concerned would need to be felled to allow the car park to proceed as envisaged, however it is considered that their removal will be detrimental to the amenity value of the local area.

The Parish Council had been made aware of the proposal through a planning application but had not responded with any comment. This application (PLAN/2008/0262) was subsequently withdrawn.

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.

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).

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

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

4. Position Statement and Option Appraisal

On 21st April 2008 a planning application was received for the construction of a car park for the church, which had implications for the survival of the subject trees and consultation with the Tree Officer indicated that the trees should be protected by a Tree Preservation Order

On 22nd December 2008 the Principal Planning Services Officer acting under delegated authority, issued a TPO Order on a temporary basis known as the District Council of Easington (Peterlee Memorial Methodist Church) Tree Preservation Order 2009. This Order covers the two Common Sycamores within the withdrawn application site.j

During the temporary period representations from interested parties were invited 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.

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

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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 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

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 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 threat of felling which the trees are under because of the incipient car park proposals.

7. Recommendations

It is recommended that Members resolve to confirm that the District of Easington (Peterlee Memorial Methodist Church) Tree Preservation Order 2009, should be progressed.

8. Background Papers

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

Town & country Planning Act 1990

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