

Confirmation of Tree Preservation Order

LAND AT LYNN AVENUE/WALTON WAY, TALKE .

Tree Preservation Order No.197 (2018)

Town & Country Planning Act 1990

Town & Country Planning (Tree Protection) (England) Regulations 2012

The Order protects trees situated to adjacent to Rockhouse Lane and to the rear of Lynn Avenue and Walton Way, Talke. The Order was made to safeguard the longer term visual amenity that the trees provide after your officers were made aware that parts of the land were being fenced off as domestic gardens resulting in some tree loss, with the likelihood of further loss in the future.

The Order was made using delegated powers on 5th October 2018. Approval is sought for the Order to be confirmed as modified.

The 6 month period for this Order expires on 5th April 2019

RECOMMENDATION

That Tree Preservation Order No 197 (2018), Land at Lynn Avenue/Walton Way, Talke, be confirmed as modified and that the owners of the site be informed accordingly.

Reasons for Recommendation

Your officers are of the opinion that the longer-term visual amenity of the trees is best secured by the making of a Tree Preservation Order. Your officers are of the opinion that the trees are generally healthy at present and are of sufficient amenity value to merit the making of a Tree Preservation Order. They are considered to be appropriate species for the locality and provide public amenity value due to their form and visibility from public locations. The making of the Order will not prevent the owner from carrying out good management of the trees and it will give the Council the opportunity to control the works and prevent unnecessary cutting down, lopping, topping, uprooting, wilful damage or wilful destruction. The owner will be able to apply for permission to carry out maintenance work to the trees which is necessary to safely and appropriately manage them.

Representations

Three representations have been received, one in favour and two objecting to the TPO. Correspondence relating to these representations is included in Appendix A of this report.

The owners of the woodland part of the Order, whilst agreeing that some of the trees are becoming pleasing from a visual point of view, consider that the Order would be detrimental to their objectives and to the build-up of wildlife habitat that has been created. They contend that the predominant sycamore is an invasive species. Their aim is to protect the area from fly tipping and the indiscriminate felling, cutting and lopping of trees and shrubs, but this work has now been stopped as a result of the Order. They have on occasion refused permission to residents of adjacent properties for tree work despite the trees having grown

since the houses were built in the 1970's. The owners list issues relating to the history and ownership of the land which are not relevant to the making of the TPO. They consider that the Order will hamper them in managing the land and prohibit maintenance, resulting in loss of wildlife habitat. They consider that there are too many sycamore trees and that these are growing to the detriment of all other vegetation. Their concern is that if left uncoppiced these trees will destroy valuable wildlife habitat. Information was provided to support this.

On request your officers met with the owners of the woodland with a view to finding a way forward. The reasons for and procedures of tree preservation orders were given and a management plan and other options were discussed. Subsequent to this the owners submitted a further representation. They consider that there is not case for a TPO on the land and that the invasive sycamore are in a poor condition and that there are no specimen trees. They believe that better trees have been lost from other development sites in the area. The site has no vehicular access and the area can only be managed by manual means, and there is only a limited footpath accessing a small part of the land. They consider that the TPO frustrates their plans to tidy up the land and have ceased all work, considering that applying for tree works is not feasible from a time, pecuniary and working perspective. They dare not enter the land for fear of damaging protected trees and suggest that they should dispose of it.

The second objection comes from a couple that have lived in a property backing onto the site since 1972. They cannot expand their garden due to the public footpath running to the rear of their property, and have been informed of the presence of a mine shaft also. They raise issues relating to the development of the area of housing in the 1970's which are not relevant to the making of the TPO. No one has maintained the land for the last 40 years which has resulted in residents enclosing land into their gardens without permission and uncontrolled tree growth. The objectors live at the bottom of the slope and fear that the trees are tall, of poor quality and in need of management, and if they fall they would cause damage to property and possible injury to footpath users. They consider that Newcastle Borough Council should request that the owners should carry out tree maintenance. Their objections are:

1) The map sent to us and posted on Public Display can be dated to around 1980. It does not accurately reflect the boundaries of properties that have enclosed land into them. It is important to avoid future disputes that the map be updated to the current situation.

2) With respect to T1, T2 and T3 the map shows Rockhouse. Rockhouse was demolished years ago and replaced by a new dwelling. Its likely these trees belong to the former Rockhouse.

3) We have Google mapped the area and wonder why the T.P.O does not cover the trees bounded by the land owner No 2? Lynn Avenue and also 20 to 4 Lynn Avenue, 48 to 66 Walton Way. Are they a special case?

4) We are of the opinion that successive land owners of WI have failed to maintain the land and trees. That the trees are of poor quality and in need of serious maintenance to avoid damage to property or injury to footpath users. The T. P.O. does not remove this concern.

5) We have no faith in the Land Owner to undertake serious management of the trees to the rear of our property. In the absence of a responsible land owner we wish to retain our right to remove branches overhanging our property and footpath without having to seek permission from the Council.

6) We believe the T.P.O. is not needed and that Newcastle Borough Council have the conditions in place to control land grab and to impose conditions on residents who do not

follow the correct procedure for enclosure. If granting permission is given then a tree protection clause can be part of approval.

7) It is the responsibility of Newcastle Council to ensure that all owners in Walton Way and Lynn Avenue backing onto the open space are made aware of condition and the need to obtain Planning Permission before enclosure takes place. Consent from the landowner does give the right to enclose.

Your officers do not consider that the TPO should hinder maintenance of the trees or the objective of improving wildlife habitats. Appropriate management of the woodland so as to encourage more diverse tree species and to considerably reduce the number of sycamore trees would be supported, including coppicing. The TPO would strengthen the ability to prevent indiscriminate encroachment and cutting of trees by surrounding residents, however appropriate tree work for their benefit would not be prevented. The assessment and serving of the TPO has been carried out according to standard procedures, and your officers are prepared to work with the owners to enable them to manage the land to their requirements. A longer term plan can be agreed to eliminate the need for frequent applications for tree work.

If the trees cause a nuisance to any adjacent resident or if they feel threatened by the trees, they will be able to make an application for tree works, including trimming back overhanging branches. The TPO plan utilises the councils current GIS mapping and has been updated using information from the Land Registry. All known owners and occupiers of the land and adjacent properties have been notified. Some trees in the area that have low visual amenity have not been included in the TPO. The owners of the trees covered by the TPO remain responsible for them, their condition and any damage they may cause. The object of the TPO is to protect the trees and has no direct concern with ownership issues.

Issues

The trees are situated between Lynn Avenue and Walton Way. They are listed as two individual trees and one area of woodland. The two individual trees are large mature single stemmed deciduous trees located behind Rock House, and the woodland is early mature predominantly sycamore. The trees are clearly visible from Lynn Avenue, Walton Way, Walton Grove, Swallowmore View, Barrie Gardens and the public footpath that goes through the site. They are important skyline trees viewed from Linley Road and Coppice Road.

The trees are an important feature to the locality and provide a significant contribution to the area. Their loss would have a detrimental effect on the visual amenity, not only of the site but also to the locality. In recent years a number of gardens backing on to the site have been extended into it with the resultant loss of trees. Concern that further trees would be likely to be removed was brought to your officers' attention by local residents.

Your officers inspected the trees on 3rd October 2018 and carried out a TPO assessment, and found three trees and an area of woodland worthy of an Order. They are considered to be in reasonable health (with the exception of T1 – see amendments below), visually significant and an amenity to the locality, with the prospect of continuing to provide this for many years. The Order was made and served on 5th October 2018 in order to protect the long term well-being of the trees.

Amendments

Three individual trees were included in the Provisional Order. Since the Order was made, as a result of hidden decay in the crown of tree number T1, a large part of its crown fell in early October 2018, and the tree has now been omitted from the Order.

Tree number T3 is an oak tree but was listed as a sycamore in the Provisional Order. This has been corrected.

Date report prepared

5 March 2019