

WIRRAL COUNCIL

PLANNING COMMITTEE

14 FEBRUARY 2019

SUBJECT:	Tree Preservation Order No WR0390 Land to the South East of Stanley Avenue & the Mountwood Conservation Area
WARD/S AFFECTED:	Bebington
REPORT OF:	STRATEGIC DIRECTOR REGENERATION AND ENVIRONMENT
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR PAT HACKET, ECONOMY
KEY DECISION? <i>(Defined in paragraph 13.3 of Article 13 'Decision Making' in the Council's Constitution.)</i>	NO

1. EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to inform the Committee of an objection to Wirral Borough Council Tree Preservation Order No WR0390 and to recommend that the order shall be confirmed.

2.0 BACKGROUND

- 2.1 Tree preservation orders can be issued under the terms of planning legislation where the Local Planning Authority considers it necessary to provide special protection in the interests of amenity. An order can make provision to prohibit cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the Local Planning Authority.

Notice of the making of the order has been given to the owners and occupiers of land to be affected and objections have been duly made in accordance with the regulations, which need to be considered before the order is confirmed by the Local Planning Authority.

Policy GR7 in the Wirral Unitary Development Plan and Supplementary Planning Guidance SPG 17 explain how the statutory powers are to be applied. A preservation order does not mean that any future planning application would automatically be refused, but the Local Planning Authority would be required to consider the risk to the protected tree and ensure issues related to the health, size, visual significance and value to wildlife are properly assessed before deciding if permission should be granted.

Policy GR7 forms part of the Local Planning Authority's wider responsibility to conserve the natural beauty of the area and to provide for physical improvements to the environment. It also reflects the statutory duty to, wherever appropriate, specifically provide for the preservation and planting of trees when granting planning consent.

3.0 THE OBJECTION AS SUBMITTED

- 3.1 TPOs are made under Section 198 of the Town and Country Planning Act 1990, which is

supported by guidance issued by the Department for Communities and Local Government on 6 March 2014. In relation to amenity value, the guidance states that:

- Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public.
- When assessing amenity value, the authority might take the following into consideration:

Visibility: The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Individual, collective and wider impact: Public visibility alone will not be sufficient to warrant an Order.

In serving the TPO, WBC have not clearly specified how the amenity value of the trees was assessed and the objector questions whether this was done in a consistent and structured way.

Despite WBC claiming that the trees are prominent in long distance views from local public spaces, the trees within G1 are not highly viewable due to there being existing screens into the site in the form of avenue trees, hedgerows and scrub areas along the field boundaries. A Public Right of Way exists approximately 700m west of the site, from which it would not be possible to view G1 due to the mature hedgerows and trees along field boundaries restricting the view.

There are no Public Rights of Way or concessionary footpaths within the site that would bolster the justification of the TPO on the grounds on public visibility. In addition, the trees are limited in their value as they consist mainly of low-quality trees which are not rare, do not have any cultural or historical value, are outside of the conservation area, and do not make a significant contribution to the wider landscape. Furthermore, on the site walkover on 26th October, several dead trees were noted in G2. As such, the objector considers that the implementation of the TPO at this location is unjustified and conflicts with the guidance set out above.

Concern regarding potential changes to Green Belt designations is not an adequate reason to serve a TPO, particularly as none of the trees are under threat. In any case, where any removal required in the future, any such issues would be dealt with formally by the LPA as part of the planning process to ensure an attractive feature was retained and that no undue harm was caused to the landscape.

In summary, the objector has reviewed the TPO and has sought the advice of an experienced Arboricultural Consultant to assess the trees in relation to the reasons given by WBC for serving the order. In conclusion, it is considered that the tree groups in question are of limited amenity value and that WBC have provided inadequate justification to warrant their protection.

4.0 COMMENTS ON THE OBJECTION

4.1 The current government guidance from 2014 in terms of amenity and visibility states;

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

The trees are indeed visible from an area to which the public have access (the road). The group G2 is located directly adjacent to the B5151 at the junction with Lever Causeway and Thornton Road. Any dead trees within the group are exempt from the TPO, and the presence of the dead trees is not a reason to forgo protection of the far greater number of living trees that contribute significantly to the amenity of the local area.

The group G1 is situated at the edge of a conservation area the boundary of which runs along the rear boundaries of Stanley Avenue, so does therefore have an bearing on the character of the conservation area. The copse is visible from a number of habitable dwellings along Stanley Avenue and is clearly visible in autumn and winter from Lever Causeway. It is also visible through gaps in the hedge along this road at other times of the year.

There is clearly shown a copse of trees at this location on maps from 1875. Whilst these are not original trees from that time there is historical precedence of trees being present there for a long time. Marsh Hey Covert is also shown on this map. The Historic copses in question were/are tributaries from the woodland which cocoons Mountwood Conservation Area and one of the main reasons for its designation and final boundary clarification in 2006.

Conservation Area status was created in order to prevent any erosion of the historic qualities of the area, the intrinsic charm and character of the area, with views over open countryside across Wirral to the hills of Wales. The sites are also important in their habitat value as wildlife corridors. Local wildlife groups assert that badger activity has been noted in the area of G1.

The current guidance in terms of expedience states;

It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.

As there is an interest in the land from a major house building company, development proposals at a future date may be forthcoming, in which case it is considered expedient to serve a TPO to prevent pre-emptive felling of trees.

Building houses constitutes development and conditions alone are not sufficient to protect trees on development sites. The interest of a major House building company and a planning consultancy does indicate a future risk as a result of development pressures and reinforces the fact that the trees are a material consideration to any future planning application and should be considered at such a time as part of the planning process (Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree

Preservation) (England) Regulations 2012) to ensure an attractive feature is retained and that no undue harm is caused to the landscape, and that they are not removed before any planning application is submitted if the land is given over to housing.

As such, it is considered that a Tree preservation order is expedient on the grounds of amenity commend that the Planning Committee approve the Order.

5.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

5.1 There are no direct impacts for voluntary, community and faith groups.

6.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

6.1 There are no direct Resource Implications arising out of this report.

7.0 LEGAL IMPLICATIONS

7.1 The principal effect of a TPO is to prohibit the, cutting down, uprooting, topping, lopping, wilful damage, or wilful destruction of trees without the LPA's consent.

8.0 EQUALITIES IMPLICATIONS

8.1 There are no direct implications arising from these proposals which adversely affect equality and diversity.

9.0 CARBON REDUCTION IMPLICATIONS

9.1 Trees store carbon within their tissues and continually absorb carbon, helping to offset carbon emissions produced by other urban activities.

10.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

10.1 The planning implications arising from this report are outlined above and there are no direct Community Safety implications arising from this report.

11.0 RECOMMENDATION/S

11.1 That the Planning Committee confirm the tree preservation order.

12.0 REASON/S FOR RECOMMENDATION/S

12.1 The trees are prominent in long distance views from local public spaces. For example Lever Causeway and Storeton Hill.

The trees in Group 2 provide a visually important boundary adjacent to Mount Road.

Trees form a prominent part of the Wirral landscape and comprise an essential feature in the special character of many of Wirral's residential areas. Indeed, even where tree cover is not a distinctive characteristic of a neighbourhood, a single large tree or group of trees can have a significant visual impact within the surrounding area.

Policy GR7 in the Wirral Unitary Development Plan forms part of the Local Planning Authority's wider responsibility to conserve the natural beauty of the area and to provide for physical improvements to the environment. It also reflects the statutory duty to, wherever appropriate, specifically provide for the preservation and planting of trees when granting planning consent.

In addition to the powers and duties outlined above, the Local Planning Authority also has the power to issue Tree Preservation Orders where it is "expedient in the interests of amenity". Such an Order provides additional protection to selected trees and woodlands

where their removal or cutting would have a significant impact on the environment. While Policy GR7 does not represent a definitive strategy for Tree Preservation Orders, the criteria related to health, size, visual value and nature conservation value will form primary considerations in the issue of new or revised Orders.

After taking account of the submitted objections, it is considered expedient in the interests of amenity to serve an order to protect the trees, given both present and future threats, including the possibility of future changes of property ownership or management and general development pressure.

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APPENDICES

REFERENCE MATERIAL

The following background papers have been used in the preparation of this report:
Wirral Borough Council Tree Preservation Order No.WR0390

SUBJECT HISTORY (last 3 years)

Council Meeting	Date

SITE PLAN:

