



## SHEFFIELD CITY COUNCIL

### Planning & Highways Committee Report

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**Report of:** Director of City Growth Service

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**Date:** 30<sup>th</sup> May 2017

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**Subject:** Tree Preservation Order No. 413  
5 to 9 Hallamshire View, Sheffield, S10 5ST

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**Author of Report:** Andrew Conwill, Urban and Environmental Design Team

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**Summary:** To report objections to Tree Preservation Order No. 413

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**Reasons for Recommendation**

To protect trees of visual amenity value to the locality

**Recommendation** Tree Preservation Order No. 413 should be confirmed unmodified.

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**Background Papers:** A) Tree Preservation Order No. 413 and map attached.  
B) Tree Evaluation Method for Preservation Orders (TEMPO) assessment attached.  
C) Objection letters attached.

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**Category of Report:** OPEN

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## CITY GROWTH SERVICE

### REPORT TO PLANNING & HIGHWAYS COMMITTEE 30<sup>th</sup> MAY 2017

#### TREE PRESERVATION ORDER NO. 413 5 to 9 HALLAMSHIRE VIEW, SHEFFIELD, S10 5ST

#### 1.0 PURPOSE

1.1 To seek confirmation of Tree Preservation Order No. 413.

#### 2.0 BACKGROUND

2.1 Tree Preservation Order (TPO) No.413 was made on 8<sup>th</sup> December 2016 to protect three sycamore trees and two pine trees in the rear gardens of 5 to 9 Hallamshire View. A copy of the order with its accompanying map is attached as Appendix A.

2.2 On the 10<sup>th</sup> October 2016 this Service received an email from Mr J H Lofthouse the owner of 8 Hallamshire View on behalf of the residents of Hallamshire View which refers to the removal, pollarding and pruning of trees at 5 to 9 Hallamshire View.

2.3 The reasons given in Mr J H Lofthouse's email for the above tree work include lack of light to the houses and the absence of sunlight to gardens for a large part of the day due to the trees large size and foliage.

2.4 On the 1<sup>st</sup> December 2016 the trees were inspected by a Sheffield City Council, Landscape Planning Officer and Community Tree Officer in the presence of Mr J H Lofthouse and Mrs J M Sutherland of 9 Hallamshire View.

2.5 The visual amenity value of the trees was assessed by the landscape planning officer and the three sycamore trees and two pine trees included in the order were found to be visually prominent when viewed from Sandygate Road and Redmires Road and were considered suitable for protection because they contribute to the visual amenity value of the locality and the built form of the Hallamshire View housing development.

2.6 A condition inspection of the trees was carried out by the Community Tree Officer who confirmed that the trees included in the order were of suitable condition for protection. The trees included are considered to have a useful life expectancy and no obvious health and safety reasons requiring major intervention were found.

2.7 A Tree Evaluation Method for Preservation Orders (TEMPO) assessment was carried out by the landscape planning officer and community tree officer and is attached as Appendix B. The assessment produced a clear recommendation to protect the trees included in the order.

2.8 One mature sycamore tree in the rear garden of 9 Hallamshire View has been omitted from the order because of its impaired condition and low vitality. Two medium stature maple species trees in the rear garden of 6 and located on the boundary of 5 and 6 Hallamshire View have been omitted from the order because of their indifferent condition and limited amenity value.

### 3.0 OBJECTIONS TO TREE PRESERVATION ORDER NO.413

3.1 Seven objections to the tree preservation order have been received from the residents of 1, 2, 4, 5, 6, 8 & 9 Hallamshire View. A copy of the objection letters is attached as Appendix C.

3.2 The objections received relate to a number of matters as follows and have been grouped and summarised as follows.

### 4.0 SUMMARY OF OBJECTORS WRITTEN REPRESENTATIONS FOLLOWED BY OFFICER RESPONSE

4.1 *The trees were not under possible threat of felling or pollarding as referred to in Legal Services tree preservation order written notifications. A TPO is unnecessary as residents have always approached the Council for permission prior to carrying out works to the trees.*

4.2 Officer response:

The email received from Mr J H Lofthouse on 10<sup>th</sup> October 2016 refers to the removal and pollarding of trees. The planning condition imposed to protect the existing trees as part of the original planning permission for the Hallamshire View residential development (04/01888 /FUL) is limited in its powers and it was considered expedient to serve TPO NO.413 to safeguard the trees because of their amenity value.

4.3 *The trees are forest type species, are very large, are near to houses are growing quickly and are outgrowing their location.*

4.4 Officer response:

The Hallamshire View residential development was granted planning consent in 2004 subject to existing trees within the development site being retained. The distance of the trees from the rear house elevations is considered acceptable for the species type and is comparable to other trees in residential locations. It is acknowledged that trees in residential locations require management and pruning in accordance with "BS 3998:2010 Tree work-Recommendations" (produced by the British Standards Institution) to contain growth may be permissible subject to the necessary approvals being granted to alleviate the concerns raised.

4.5 *The trees seriously obstruct natural light and sunshine to house rooms and gardens to the considerable detriment of residents. The order does not take*

*account of our needs and perhaps rights to have light and sunshine to our properties.*

4.6 The Council made the TPO on the basis of the trees contribution or value to the amenity of the locality. In choosing whether to confirm a TPO, the Council must assess this material consideration against other relevant factors presented such as a right to light. A person may acquire a right to light if they have had 20 years of uninterrupted benefit of that light. Sheffield City Council has not been provided with evidence that this right exists. If the TPO is confirmed, property owners remain free to assert their rights (including any right to light they are able to evidence) and seek an appropriate legal remedy in the event that the Council decides to retain the TPO.

4.7 *The amenity value of the trees is marginal in comparison to the direct detrimental affect the trees have on residents' daily lives. Sycamore trees T1 and T2 are set back from the highway and are screened by buildings and other trees and are not visually prominent.*

4.8 Officer response:

TEMPO is a nationally accepted method for assessing trees that are under potential threat. The TEMPO assessment undertaken found the trees suitable for protection and the order was served to maintain the visual amenity value the trees provide to the local environment by softening and adding character to the residential development's built form and street scene for the enjoyment of the public. Whilst sycamore trees T1 and T2 are set back from the highway boundary they are visible when viewed from the highway and are considered integral to the group value the trees provide. The direct detrimental affect the trees have upon residents, as referred to in the written representations, is considered insufficient reason to revoke the order and is considered comparable to other residential occupancies with trees of similar size and species growing nearby and can be alleviated by the management and pruning of the trees as referred to in item 4.4 above.

4.9 *Concerns regarding various trees safety have been raised.*

4.10 Officer response:

A condition inspection of the trees was carried out by the Community Tree Officer who confirmed that the trees included in the order are of suitable condition for protection. No obvious health and safety reasons requiring major intervention were found when inspected which would negate the trees contribution to the amenity of the locality.

4.11 *The pine trees drop huge quantities of needles into the gardens, drain pipes and guttering of all the properties which is very time consuming to deal with. The pine trees drop needles over gardens and the Sandygate Road highway footpath making an unsightly mess. Plants and grass cannot survive in parts of the gardens.*

4.12 Officer response:

These are considered to be normal acceptable maintenance issues with regard to pine trees growing within the built environment and to plants and grass growing under trees.

4.13 *Sycamore T3 is too close to sycamore T2 and too close to the highway boundary wall and highway footpath and will damage the wall and newly surfaced highway footpath.*

4.14 Officer response:

There is adequate space for sycamore tree T2 and T3 to grow unhindered and no compelling evidence has been provided to officers to suggest sycamore T2 will damage the wall and newly surfaced highway footpath.

4.15 *The written representations refer to two residents having low vitamin D levels. Concerns have been raised that the lack of sunlight to gardens and properties is a factor.*

4.16 Officer response:

Whilst these concerns are noted the contribution which the trees make to the visual amenity value of the locality is sufficient for the Council to consider it expedient to safeguard the long term future of the trees by making a TPO.

## 5.0 EQUAL OPPORTUNITIES IMPLICATIONS

5.1 There are no equal opportunities implications.

## 6.0 ENVIRONMENTAL AND PROPERTY IMPLICATIONS

6.1 There are no property implications.

## 7.0 FINANCIAL IMPLICATIONS

7.1 There are no financial implications.

## 8.0 LEGAL IMPLICATIONS

8.1 A local authority may make a TPO where it appears that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area (section 198, Town and Country Planning Act 1990).

8.2 A TPO may prohibit the cutting, topping, lopping or uprooting of the trees which are the subject of the order. It may also prohibit the wilful damage or destruction of those trees. Any person who contravenes a TPO shall be guilty of an offence and liable to receive a fine of up to £20,000.

- 8.3 A local authority may choose to confirm a TPO it has made. If an order is confirmed, it will continue to have legal effect until such point as it is revoked. If an order is not confirmed, it will expire and cease to have effect 6 months after it was originally made.
- 8.4 A local authority may only confirm an order after considering any representations made in respect of that order. The making or confirmation of a TPO could interfere with the right of a property owner to peacefully enjoy their possessions. Said interference is capable of being justified under Article 1 of the First Protocol of the European Convention on Human Rights as being in the public interest (the amenity value which the tree brings), and subject to the conditions provided for by law (the Town and Country Planning Act 1990) and by the general principles of international law.
- 8.5 If a tree is on residential property, the making or confirmation of a TPO could interfere with a right of a person to respect for their family life and their home, but is capable of being justified as being necessary in a democratic society for the protection of the rights and freedom of others (Article 8 of the European Convention on Human Rights) and proportionate to the wider benefits it affords.
- 8.6 Seven representations have been received which object to the confirmation of Tree Preservation Order No.413. The objections are covered within this report.
- 9.0 RECOMMENDATION
- 9.1 Following consideration of the objections received from residents which refer to the negative impact the trees have upon their property it is considered that the trees condition when inspected and the contribution which the trees make to the visual amenity value of the locality is sufficient to outweigh the concerns of the objectors and for the Council to consider it expedient to safeguard the trees long term future by confirming the TPO.
- 9.2 Following consideration of the objections reported it is recommended Tree Preservation Order No. 413 at 5 to 9 Hallamshire View should be confirmed unmodified.

Rob Murfin  
Chief Planning Officer

30<sup>th</sup> May 2017