

Report of the Director of Regeneration and Enterprise

Confirmation of Tree Preservation Orders

Purpose of report

1. To consider whether the attached Tree Preservation Order(s) should be confirmed with or without modification in light of the objections that have been received.

Recommendations

2. It is recommended: -
 - The Tree Preservation Orders referred to in the Appendix to this report should be confirmed without modification.
 - The recommendation is subject to the approval of members of the Planning Committee

Background

3. Section 198 of the Town and Country Planning Act 1990, provides that, where it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an Order with respect to such trees, groups of trees or woodlands as may be specified in the order.
4. A Tree Preservation Order may, in particular, make provision –
 - (a)for prohibiting (subject to any exemptions for which provision may be made by the Order) the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions;

- (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the Order.
- (c) for applying, in relation to any consent under the Order, and to applications for such consent, any of the provisions of this Act mentioned in subsection (4), subject to such adaptations and modifications as may be specified in the order.
- (d) Section 4 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 allows the Council to make a direction that the order shall take effect immediately for a provisional period of no more than six months.
- (e) For a tree preservation order to become permanent, it must be confirmed by the local planning authority. At the time of confirmation, any objections that have been received must be taken into account. The Town and Country Planning (Tree Preservation) (England) Regulations 2012 sets out the procedure for confirming tree preservation orders and dealing with objections.
- (f) If the decision is made to confirm a tree preservation order the local planning authority may choose to confirm the order as it is presented or subject to modifications.
- (g) New tree preservation orders are served when trees are identified as having an amenity value that is of benefit to the wider area.
- (h) When determining whether a tree has sufficient amenity to warrant the service of a preservation order it is the council's procedure to use a systematic scoring system in order to ensure consistency across the borough. In considering the amenity value of a tree factors such as the size; age; condition; shape and form; rarity; prominence; screening value and the presence of other trees present in the area are considered.
- (i) As the council is currently undergoing a systematic review of the borough's tree preservation orders, orders will also be served where there is a logistical or procedural benefit for doing so. Often with the older orders throughout the borough, new orders are required to replace older orders to regularise the levels of protection afforded to trees.

- (j) Where new orders are served to replace older orders, the older orders will generally need to be revoked. Any proposed revocation of orders shall be brought before the committee under a separate report.

Finance

5. There are no direct financial consequences arising from this report, although the Committee may wish to bear in mind that the refusal or approval of applications for works to preserved trees subject to conditions, or any subsequent applications may entitle the applicant to compensation for any loss or damage resulting from the Council's decision (Section 203 of the Town and Country Planning Act 1990)

Law

6. The relevant statutory provisions have been referred to in paragraph 3, 4d, 4e and 4j.

Risk Management

7. There are no material risks arising from this report other than those identified in paragraph 5 above. Should the Order be confirmed, any works to the preserved trees subject to the order will be considered by future applications and determined on the basis of good tree husbandry and amenity considerations.

Equality Impact

8. The proposals take into account the Council's Equality and Diversity Policy, and it is not considered that there will be any impact upon persons of protected characteristics.

Human Resources/Organisational Development

9. There are no Human Resources/Organisational Development issues arising from this report.

Commercial/Procurement

10. There are no Commercial or Procurement implications arising from this report.

Environment/Climate Change

11. The proposals for the confirmation of the Tree Preservation Order are considered to align with the Council's decision to declare a Climate and Environmental Emergency, recognising that the value of the tree as a heat sink and its function as an efficient carbon store to buffer environmental implications which aligns with the carbon reduction strategy and the aim to reach net zero by 2041.

Council Priorities and Projects

12. The proposal for the confirmation of the Tree Preservation Order aligns with the Council's climate commitment of creating a sustainable borough on its way to net zero carbon emissions, improved air quality and reduced fuel poverty.



Director of Regeneration and Enterprise

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List of Background Documents

Appendix 1.1 - TPO/0301/HAS– Confirmation Report
Appendix 1.2 - TPO Plan and Schedule for confirmation

APPENDIX 1.1

Confirmation Report for:

***The Borough of Dudley 2 Ladies Walk Sedgley DY3 3UA (TPO/0308/SED) Tree
Preservation Order 2022***

Tree Preservation Order	TPO/0308/SED
Order Title	2 Ladies Walk, Sedgley
Case officer	John Fraser
Date Served	29/7/2022
Recommendation	Confirm without modifications

SITE AND SURROUNDINGS

1. The order, as served, protects 1 individual tree which stands in the rear garden of 2 Ladies Walk, Sedley.
2. The tree likely formed part of the original Vicarage gardens and is one of only two which remain.
3. The tree was identified as being worthy of protection following a request received from a local tree surgeon to fell the tree as it stands on the boundary of the All Saints Sedgley Conservation Area. The tree was found to score sufficient points on a TEMPO evaluation to warrant protection under the TPO regulations. The tree was considered worthy of preservation due to its contribution to the amenity of the area in terms of its public visibility and contribution to the landscape of the area and the valuable connection to nature that the tree provides for local residents.
4. The tree is clearly visible to the residents of Ladies Walk, Vicar Street and The Priory.

PUBLIC REPRESENTATIONS

5. Following the serving of the TPO, 4 letters of objection were received from occupants of Ladies Walk, Vicar Street and The Priory. The comments highlighted seasonal nuisance caused from leaf and seed litter, and a perception of danger in high winds.
6. 5 letters of support for the TPO, have been received. The letters of support were based on the following grounds:
 - The tree provides habitat to various species of wildlife, and the removal of the tree would reduce the available habitat for the wildlife to use.
 - The tree gives pleasure to the local residents and make the Conservation Area more appealing.

- Trees reduce the negative impacts of climate change.

The representations are considered below.

RESPONSE TO REPRESENTATIONS

7. With regard to the risk posed by the tree in adverse weather conditions, the movement of trees in high winds is a naturally occurring process as part of a structural dampening and adaptation process that distributes and reduces wind loading on the tree.
8. Reference is made to accumulations of leaf litter etc. Complaints about leaf fall are not uncommon and are seen as a normal maintenance obligation and are borne out of living in an area defined by a mature landscape of trees.
9. The submitted grounds for the support of the TPO are reasonable and where the fundamental amenity value of the tree is sufficient, it is considered that the Tree Preservation Order should be confirmed.

CONCLUSION

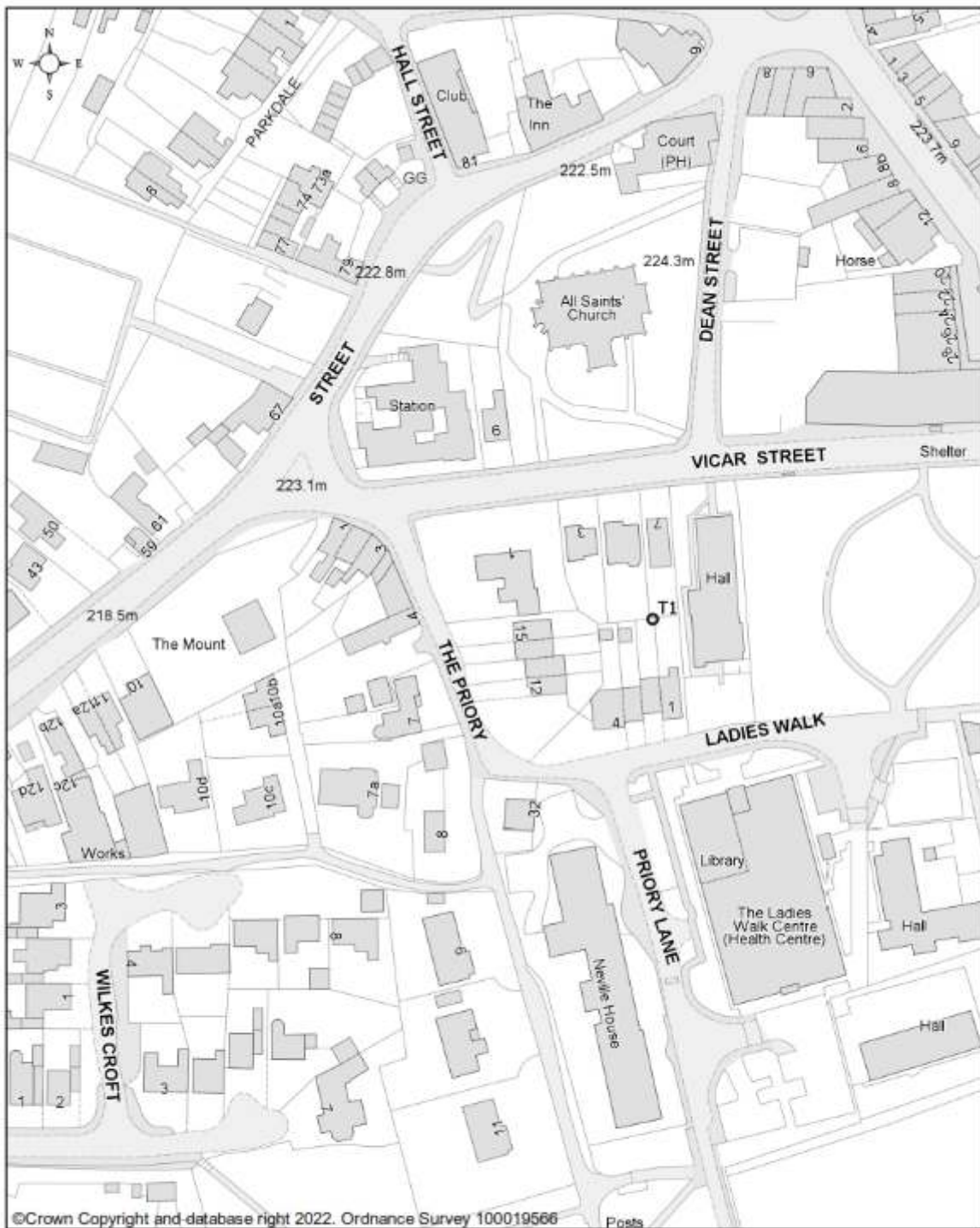
10. Having considered the comments submitted by both the objectors and the supporters of the TPO, it is considered that it is reasonable to confirm the TPO to ensure against any future inappropriate or unreasonable intervention and to preserve the tree for future generations.

RECOMMENDATION

11. It is recommended that the Tree Preservation Order be confirmed.

APPENDIX 1.2

Tree Preservation Order Plan and Schedule As Served



Map referred to in the Borough Council of Dudley

TPO Reference: TPO/0308/SED

2 Ladies Walk, Sedgely, DY3 3UA

Scale: 1:1,250

FIRST SCHEDULE

INDIVIDUAL TREES (Circled in black on the plan)

Reference on map	Description	Situation
T1	Sycamore	Rear garden of 2 Ladies Walk Sedgley DY3 3UA

GROUPS (Within the broken black line on the plan)

Reference on map	Description	Situation
	N/A	

AREAS (Within the dotted line on the plan)

Reference on map	Description	Situation
	N/A	

WOODLAND (Within the continuous line on the plan)

Reference on map	Description	Situation
	N/A	