

Report to Development Control Committee

Agenda
Item:
A.2

Meeting Date: 29 August 2014
Portfolio: Economy, Enterprise and Housing
Key Decision: Not Applicable:
Within Policy and
Budget Framework YES
Public / Private Public

Title: REVOCATION OF TREE PRESERVATION ORDERS 33
HALLBANKGATE, 86 LYNDURST, 90 LOW CROSBY, & 97 THE
GREEN.
Report of: Director of Economic Development
Report Number: ED. 31/14

Purpose / Summary:

This report proposes the revocation of Tree Preservation Orders 33 Hallbankgate; 86 Lyndurst, Westlinton; 90 Low Crosby; and 97 The Green, Dalston as part of the ongoing Tree Preservation Order Review

Recommendations:

Tree preservation Orders 33 Hallbankgate; 86 Lyndurst, Westlinton; 90 Low Crosby; and 97 The Green, Dalston be revoked.

Tracking

Executive:	
Overview and Scrutiny:	
Council:	

1. BACKGROUND

- 1.1** Planning Practice Guidance “Tree Preservation Orders and trees in conservation areas” advises Local Authorities to keep their Tree Preservation Orders under review, and where appropriate vary or revoke the Order.
- 1.2** Examples of reasons to vary or revoke Tree Preservation Orders include:
- (i) Land has been developed;
 - (ii) Trees, for whatever reason, no longer merit protection by an Order;
 - (iii) Trees standing when the Order was made have been removed; or
 - (iv) Errors within the Tree Preservation Order may come to light. When an error comes to light the Local Planning Authority should consider using its variation and revocation powers set out in the Town and Country Planning Act 1990 SCHEDULE 1 Section 13 to put it right.
- 1.3** Trees should be protected where it is expedient in the interests of amenity (s198 Town and Country Planning Act 1990). Neither expedient nor amenity is defined in the Act. However, expedient is considered to mean a threat to the tree such as loss or inappropriate pruning. Amenity is largely considered to be visual amenity meaning the trees should be visible from a public place.
- 1.4** Tree Preservation Order 33 Hallbankgate was made in 1979 in response to the possible development of the area. However, no development took place. It is unlikely that proposals to develop the site would be considered appropriate. Only one application to prune the trees, to clear a heating oil tank, has been made since 1979. When making tree preservation orders consideration of the threat to the trees is an important factor. The trees are not considered at risk of inappropriate management. The site is agricultural therefore the trees are protected by the Forestry Act, and should not be removed without a felling licence from the Forestry Commission. Therefore the continuation of the tree preservation order is considered unnecessary.
- 1.5** Tree Preservation Order 86 Lyndhurst was made to protect trees during development at Westlinton. The Order protected two trees, one of which has since died. The other tree is screened by the new dwellings, and as a result has very limited public visibility. Public visibility is one of the prime criteria for protecting trees. Due to the lack of public visibility the tree does not make a significant

contribution to the amenity of the area and the Tree Preservation order is now considered inappropriate.

1.6 Tree Preservation Order 90 Low Crosby protected two trees. Neither tree remains. Tree 2 was removed with consent. It is not known what happened to Tree 1. No evidence of the tree was visible during the tree preservation order review site visit. As none of the trees that the Tree Preservation Order protected remains it is inappropriate to retain the Order.

1.7 Tree Preservation Order 97 The Green, Dalston protects a beech tree. The tree is also protected by its location within the Dalston Conservation Area. Having a Tree Preservation Order on trees in a conservation area, unless circumstances dictate otherwise, duplicates the regulatory system relating to trees and represents an unnecessary level of bureaucracy and management.

2. PROPOSALS

2.1 Tree preservation Orders 33 Hallbankgate; 86 Lyndurst, Westlinton; 90 Low Crosby; and 97 The Green, Dalston; and be revoked.

3. CONSULTATION

3.1 Consultation was carried out with the property and land owners affected by the Tree Preservation Orders.

3.2 One response in respect of Tree Preservation Order 90 Low Crosby was received. This was to draw to Officers attention to the fact that Tree 2 had been removed with consent.

4. CONCLUSION AND REASONS FOR RECOMMENDATIONS

4.1 Government guidance requires local planning authorities to review their tree preservation orders ensuring they are accurate, up-to-date and enforceable.

4.2 The trees within Tree Preservation Order 33 Hallbankgate are not considered under threat as there have been no applications to fell or inappropriately prune the trees. The trees are protected by the Forestry Act and a felling licence would be required if the landowner intended to remove them.

- 4.3** Only one tree protected by Tree Preservation Order 86 Lyndhurst, Westlinton remains. Views of this tree are severely restricted and it does not therefore make a significant contribution to the visual amenity of the area.
- 4.4** None of the trees protected by Tree Preservation Order 90 Low Crosby remain.
- 4.5** The tree protected by Tree Preservation Order 97 The Green, Dalston continues to benefit from the protection afforded by the conservation area.

5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES

- 5.1** Helps create a pleasant environment in which to live and work and engendering a pride in place.

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Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- **Note:** in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: Planning Practice Guidance: Tree Preservation Orders and trees in conservation areas.

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's – None

Community Engagement – None

Economic Development – None

Governance – None

Local Environment – None

Resources - Financial penalties could be incurred if a maladministration complaint regarding the management of Tree Preservation Orders is upheld.