

CARLISLE CITY COUNCIL

Report to:- **Development Control Committee**

Date of Meeting:- 29th January 2010

Agenda Item No:-
DS.03/10

Public

Operational

Delegated: No

Accompanying Comments and Statements

Required

Included

Environmental Impact Statement:

No

No

Corporate Management Team Comments:

No

No

Financial Comments:

No

No

Legal Comments:

Yes

Yes

Personnel Comments:

No

No

Title:-

**REVOCATION OF TREE PRESERVATION ORDERS 14,
18, 26, & 29.**

Report of:-

Local Plans and Conservation Manager

Report reference:-

DS.03/10

Summary:-

Department of Environment Transport and the Regions document "*Tree Preservation Orders: A Guide to the Law and Good Practice*", paragraph 4.2 advises that Local Planning Authorities should keep their Tree Preservation Orders under review. This should be accomplished by making full use of their variation and revocation powers. This report considers the reasons for the revocation of the unconfirmed Tree Preservation Orders 14, 18, 26, & 29

Recommendation:-

The unconfirmed Tree Preservation Orders 14, 18, 26, & 29 be revoked.

Christopher Hardman

Local Plans and Conservation Manager

Contact Officer: Charles Bennett

Ext: 7535

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: Tree Preservation Orders: A Guide to the Law and Good Practice

1.0 Background

- 1.1 Government guidance contained within the document *Tree Preservation Orders: A Guide to the Law and Good Practice*, paragraph 4.2 states “Local Planning Authorities are advised to keep their Tree Preservation Order records under review. By making full use of their variation and revocation powers Local Planning Authorities can ensure their TPOs are brought up to date when the time is right to do so. There are a number of reasons why, over time, it may become desirable to vary or revoke a Tree Preservation Order.”
- 1.2 A review of all the City Councils Tree Preservation Orders is being carried out to ensure that they are fit for purpose and enforceable. The first step in this process was a file audit of all Carlisle City Council Tree Preservation Orders which has enabled the priorities of the review to be established.
- 1.3 Examples of reasons to vary or revoke Tree Preservation Orders are:
 - (i) Changes to legislation. The Town and Country Planning Act 1990, and The Town and Country Planning (Trees) Regulations 1999 are the current legislative instruments relating to Tree Preservation Orders;
 - (ii) Geographical changes. Some Tree Preservation Orders may be on land that has been developed, and trees standing at that time may not now merit protection. However, trees that have been planted or risen since may merit protection; and
 - (iii) Errors within the Tree Preservation Order may come to light after the Tree Preservation Order has been confirmed. When an error comes to light the Local Planning Authority should consider using its variation and revocation powers to put it right.
- 1.4 Tree Preservation Orders 14, 18, 26, & 29 were identified as having a high priority following the review process, as no record of confirmation is available resulting in Tree Preservation Orders which could not be enforced.
- 1.6 Tree Preservation Orders, even those that remain unconfirmed are registered Land Charges and will show up on a Land Charge search. A file of the unconfirmed Order is also held with the other Tree Preservation Order files.

2.0 Assessment of Tree Preservation Orders

- 2.1 Site visits were carried out and the existing trees and woodlands were assessed in accordance with the tests of amenity and expediency set out in The Town and Country Planning Act 1990 s198(1) using the Tree Evaluation Method for Preservation Orders (TEMPO) which gives a score to the trees indicating whether or not they are suitable for inclusion within a Tree Preservation Order.
- 2.2 Tree Preservation Orders 18 and 26 are Woodland Orders. Whilst both woodlands are visible from the public realm neither is considered under threat so the expediency test is not met, and therefore they did not merit inclusion within a Tree Preservation Order.
- 2.3 Furthermore, should the owners of the woodlands wish to carry out any felling they are required to obtain a felling licence from the Forestry Commission. Officers check the register of felling licence applications weekly to ascertain if any relate to local woodlands.
- 2.4 Officers comment on, and liaise directly with the Forestry Commission Officers on felling licence applications where problems are identified to achieve a satisfactory resolution.
- 2.5 Tree Preservation Order 14 was intended to protect 3 Beech trees to the rear of St Andrews Close and Tilbury Road, Carlisle. However, a site visit revealed that only one of the trees remains.
- 2.6 Due to the lack of public visibility the tree did not achieve a score that indicated that it merited protection by means of a Tree Preservation Order.
- 2.7 Tree Preservation Order 29 was intended to protect 4 Beech trees, 1 lime and 1 Horse Chestnut during the development of land at Buckabank, Dalston. A site visit revealed that all the Beech trees and the Horse Chestnut tree had been removed, and the Lime tree had been heavily lopped.
- 2.8 Due to the management practice of lopping the remaining Lime tree did not achieve a score that indicated that it merited protection by means of a Tree Preservation Order.

3.0 Conclusion

3.1 The unconfirmed Tree Preservation Orders 14, 18, 26 and 29 are not enforceable and their retention as Land Charges and within the Councils Tree Preservation Order files is not appropriate.

3.2 For the reasons set out above the woodlands and remaining individual trees do not merit the protection afforded by a new Tree Preservation Order

4.0 Recommendation

4.1 That the unconfirmed Tree Preservation Orders 14, 18, 26, and 29 are revoked.

Christopher Hardman
Local Plans and Conservation Manager

Contact Officer: Charles Bennett

Ext: 7535