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TRAFFORD COUNCIL

AGENDA PAPERS FOR PLANNING DEVELOPMENT CONTROL (TREE PRESERVATION ORDER) SUB-COMMITTEE

Date: Thursday, 28 March 2013

Time: 3.30 pm

Place: Initially on-site then in Room 9, Quay West, Trafford Wharf Road,
Trafford Park, Manchester M17 1HH

AGENDA	PART I	ITEM
1. ATTENDANCES		
To note attendances, including Officers and any apologies for absence.		
2. MINUTES		
To receive and, if so determined, to approve as a correct record the Minutes of the meeting held on 12 th July, 2011.		
		2
3. TREE PRESERVATION ORDER NO. 387 - REAR GARDEN OF 18 WOODVILLE DRIVE, SALE		
To consider the attached report of the Chief Planning Officer.		
		3
4. URGENT BUSINESS (IF ANY)		
Any other item or items which by reason of special circumstances (to be specified) the Chairman of the meeting is of the opinion should be considered at this meeting as a matter of urgency.		

THERESA GRANT
Chief Executive

**Planning Development Control (Tree Preservation Order) Sub-Committee -
Thursday, 28 March 2013**

Membership of the Committee

Councillors Mrs. V. Ward (Chairman), D. Bunting (Vice-Chairman) and L. Walsh.

Further Information

For help, advice and information about this meeting please contact:

Michelle Cody, Democratic Services Officer

Tel: 0161 912 2775

Email: michelle.cody@trafford.gov.uk

This agenda was issued on **Wednesday 13th March 2013** by the Legal and Democratic Services Section, Trafford Council, Quay West, Trafford Wharf Road, Trafford Park, Manchester, M17 1HH.

Agenda Item 2

PLANNING DEVELOPMENT CONTROL (TREE PRESERVATION ORDER) SUB-COMMITTEE

12th JULY, 2011

PRESENT:

Councillor Mrs. Ward (In the Chair),
Councillors Bunting and Walsh.

In attendance: Senior Planner (Arboriculture) (Mr. D. Austin),
Solicitor (Ms. J. Cobern),
Democratic Services Officer (Miss M. Cody).

1. MINUTES

RESOLVED: That the Minutes of the meeting held on 13th August, 2009, be approved as a correct record and signed by the Chairman, subject to the following amendments:-

That the preamble of Minute number 2 be amended to read as follows:-

(2) TREE WORK APPLICATION NO. 1304 – GRANARY WAY, SALE

Consideration was given to both objections and letters of support which had been received to the application for consent to undertake works to protected trees at Granary Way, Sale. Prior to the meeting, the Sub-Committee had inspected the site referred to etc.

2. TREE PRESERVATION ORDER NO. 344 – LAND TO THE REAR OF THE WAR MEMORIAL, CHESTER ROAD, GORSE HILL, STRETFORD

Consideration was given to the letter of objection and the letter of support which had been received regarding the above Order. Prior to the meeting, the Sub-Committee had inspected the site referred to. The following documents were submitted to the Sub-Committee:-

- (a) Observations of the Chief Planning Officer.
- (b) Copy of Tree Preservation Order 344.
- (c) Copy of the letter of objection to the Order.
- (d) Copy of the letter of support for the Order.

RESOLVED: That the objections raised are not substantive and that the Order be confirmed without modification.

3. TREE PRESERVATION ORDER NO. 377 – NORTH GROVE/BEECH AVENUE, URMSTON

Consideration was given to the letters of objection which had been received regarding the above Order. Prior to the meeting, the Sub-Committee had inspected the site

Planning Development Control (Tree Preservation Order) Sub-Committee
12th July, 2011

referred to. The following documents were submitted to the Sub-Committee:-

- (a) Observations of the Chief Planning Officer.
- (b) Copy of Tree Preservation Order 377.
- (c) Copies of the letters of objection to the Order.
- (d) E-mail message from the resident instigating the Order.

RESOLVED: That the objections raised are not substantive and that the Order be confirmed without modification.

4. TREE PRESERVATION ORDER NO. 378 – BARTON ROAD/Ryecroft Road, STRETFORD

Consideration was given to the objections and correspondence in support of the above Order. Prior to the meeting, the Sub-Committee had inspected the site referred to. The following documents were submitted to the Sub-Committee:-

- (a) Observations of the Chief Planning Officer.
- (b) Copy of Tree Preservation Order 378.
- (c) Copies of the letter and e-mail message objecting to the Order.
- (d) Copies of the letter and e-mail messages supporting the Order.

RESOLVED: That the objections raised are not substantive and that the Order be confirmed without modification.

The meeting commenced at 4.21 p.m. and concluded at 4.25 p.m. following site visits which began at 3.00 p.m.

TRAFFORD METROPOLITAN BOROUGH COUNCIL

PLANNING (TREE PRESERVATION ORDER) SUB COMMITTEE

REPORT OF THE CHIEF PLANNING OFFICER ON OBJECTIONS TO TREE PRESERVATION ORDER NO. 387

1. A provisional Tree Preservation Order was made on the 8th November 2012 to protect a mature English Oak tree standing in the rear garden of 18 Woodville Drive, Sale, Cheshire M33 6NF. The Order was instigated by a resident of Whitefield Road, Sale who had been advised by the tree owner that he was desirous of felling the tree to make more room for his children to play in the garden and to enable him to erect a greenhouse and detached office building. The tree owner also expressed concern about any potential hazard to users of the garden that the tree might pose.

A provisional Tree Preservation Order was made to give the Local Planning Authority greater control over the fate of the Oak tree. The tree had been inspected by the Council's Senior Planner (Arboriculture) prior to the service of the provisional Tree Preservation Order and he noted that the tree was typical of the species and in good health and vigour at the time of the inspection.

2. The Council received one letter of objection to the Order, submitted by the owner of the Oak tree. The Council also received four items of correspondence in support of the Order.

3. The grounds for objection raised are:

a) Concern relating to safety and liability for injury or damage to property on account of falling aerial portions of the tree.

b) Falling leaves: the tree owner has received complaints from elderly neighbours about leaf litter from the tree accumulating in their garden and he also states that leaf litter is also a problem within his own garden.

c) The tree owner and his family would prefer to pay for the tree to be removed, in preference to meeting the ongoing cost of annual pruning.

d) The tree owner is of the view that the enforced retention of the tree, the need to manage the tree by pruning and the acceptance of liability for any damage caused by the tree would be in breach of his family's human rights.

I have the following comments to make to these objections:

a) Trees that are dead or dangerous are exempted from Tree Preservation Orders under Section 198(6a) of the Town and Country Planning Act 1990. Local Authorities have adequate powers to make dangerous trees safe, if the tree owner fails to do so, under The Local Government Act (Miscellaneous Provisions) 1976. Tree inspections are undertaken free of charge by the Council's Senior Planner (Arboriculture) upon request and the condition of the Oak tree at 18 Woodville Drive may therefore be monitored at no cost to the tree owner. The Oak tree appeared to be in good health and vigour at the time of the inspection made by the Council's arboriculturist prior to service of a Provisional Tree Preservation Order.

b) It is accepted in common law that all trees, of both deciduous and evergreen species, will produce debris in the form of leaves or needles, dead twigs, flowers, fruits and seeds. There is no liability on the part of a tree owner for the accumulation of this matter within nearby properties.

c) Annual pruning by a tree surgery contractor would be excessive and unnecessary for a species such as English Oak. A cyclic pruning regime involving the pruning back of regrowth every five years, if necessary, would be in accordance with good arboricultural practice.

d) The current Planning Act empowers Local Planning Authorities to make Tree Preservation Orders if it is 'expedient in the interests of amenity' to do so. Furthermore, Tree Preservation Order legislation was recently revised with the introduction of The Town and Country Planning (Tree Preservation)(England) Regulations 2012. The Human Rights Act 2000 does not affect the ability of Local Planning Authorities to make Tree Preservation Orders nor remove a tree owner's duties and responsibilities in relation to the management of their trees.

4. Messages of support for the Order received by the Council included the following comments:

- The tree provides an educational resource for local children.
- The tree provides a habitat for a diverse range of wildlife species.
- The tree provides shade from the sun and privacy for children at play.
- The tree improves the local landscape and its loss would be detrimental to the latter.

Conclusion

The objections raised are not substantive and it is recommended that the Order be confirmed without modification.

Accompanying Documents

1. Copy of Tree Preservation Order 387
2. Copy of the letter objecting to the Order.
3. Copies of the letters supporting the Order.

DC/DA/33387
12.03..2013

COPY

DATED 8th November 2012

TRAFFORD BOROUGH COUNCIL

TREE PRESERVATION ORDER (NO 387)
18 WOODVILLE DRIVE, SALE

Jane Le Fevre, Solicitor
Acting Director of Legal and
Democratic
Services
Trafford Borough Council,
Trafford Town Hall,
Talbot Road,
Stretford,
Manchester.
M32 0TH

Ref: 0913318

TOWN AND COUNTRY PLANNING ACT 1990

THE BOROUGH OF TRAFFORD TREE PRESERVATION ORDER
(NO. 387) 18 WOODVILLE DRIVE, SALE

TRAFFORD BOROUGH COUNCIL of Trafford Town Hall, Talbot Road, Stretford, Manchester, M32 0TH in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 make the following Order -

Citation

1. This Order may be cited as The Borough of Trafford Tree Preservation Order (No.387) 18 Woodville Drive Sale

Interpretation

2.

(1) In this Order "the Authority" means Trafford Borough Council and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

destroy; or .

(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of, .

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

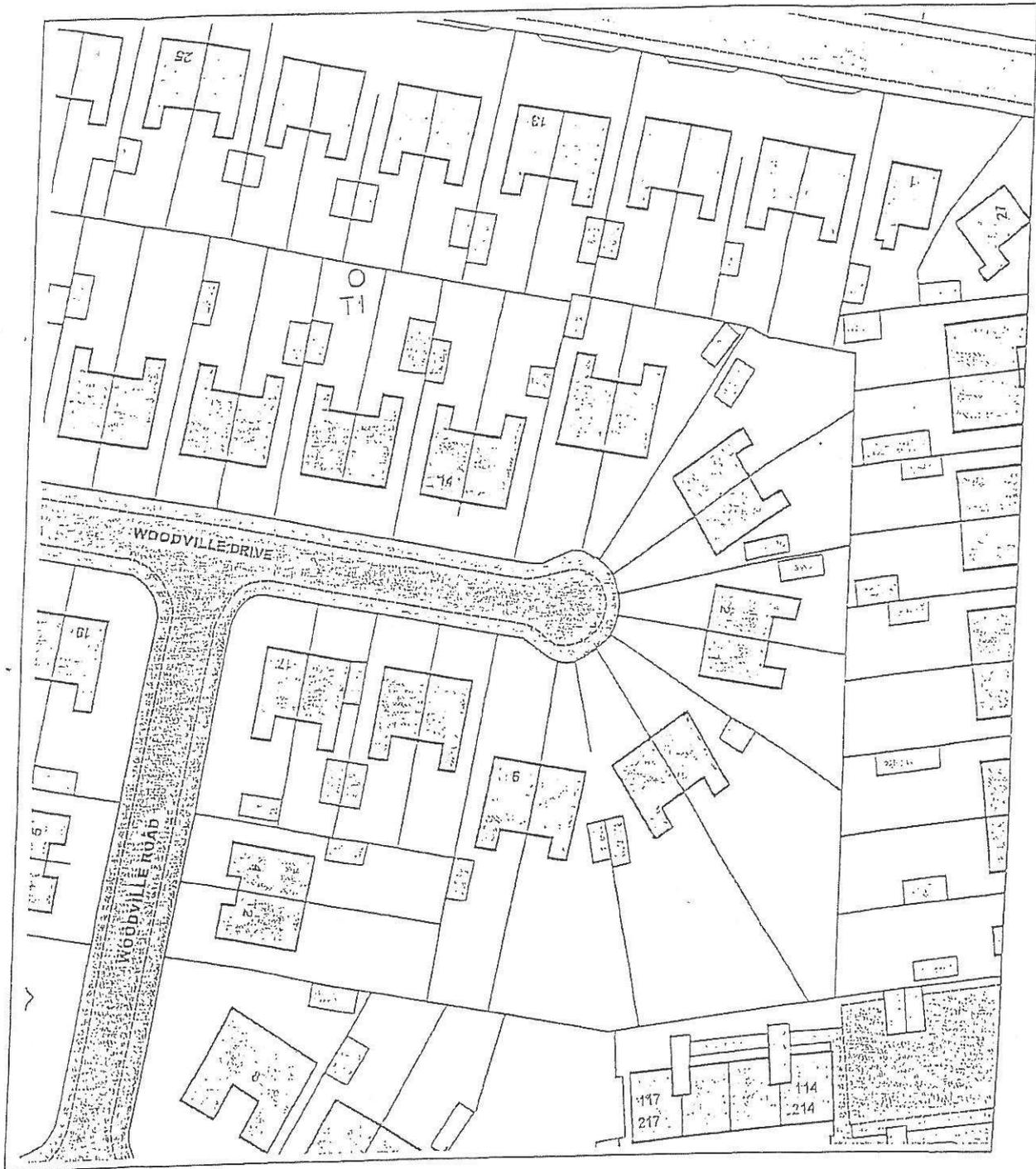
4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Borough of Trafford Tree Preservation Order No 387

18 Woodville Drive, Sale, Cheshire.

Grid Reference: 378169.392386 October 2012

Not to Scale



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SCHEDULE

Article 4

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation</u>
T1	English Oak	Rear garden of 18 Woodville Drive Sale

Trees specified by reference to an area (with a dotted black line on the map)

None

Groups of trees (with a broken black line on the map)

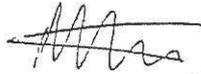
None

Woodlands (within a continuous black line on the map)

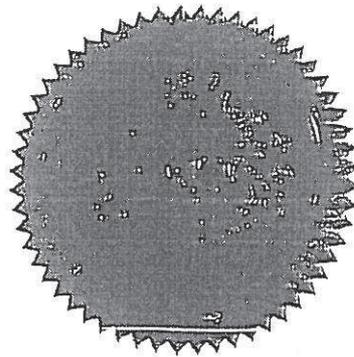
None

Dated this ^{9th} day of *November* 2012

THE COMMON SEAL of
TRAFFORD BOROUGH COUNCIL
was hereunto affixed in the presence of:-



Authorised Signatory



84890

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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