

SOUTH PLANNING COMMITTEE

Date of meeting: 3 June 2009
Report of: Anne Donkin, Heritage and Design, Senior Landscape and Tree Officer
Title: Confirmation of the Manchester Metropolitan University, Alsager Campus, Interim Tree Preservation Order 2008

1.0 Purpose of Report

- 1.1 To give consideration to objections and representations to a Tree Preservation Order before a decision is made on the confirmation of the order.

2.0 Decision Required

- 2.1 That the Manchester Metropolitan University, Alsager Campus, Interim Tree Preservation Order 2008 is confirmed subject to the modification to the plan to exclude land at Grove House, Sunnyside, Alsager.

3.0 Financial Implications for Transition Costs

- 3.1 None

4.0 Financial Implications 2009/10 and beyond

- 4.1 None apparent

5.0 Legal Implications

- 5.1 The validity of a TPO maybe challenged in the High Court if the Council exceeds its powers or does not follow the proper procedure. When a TPO is in place, the Council's consent is necessary for felling and other works, unless the works fall within certain exemptions eg: to avoid danger. It is an offence to breach a TPO. Refusal of consent to fell or to undertake work to protected trees may justify a compensation claim.

6.0 Risk Assessment

- 6.1 The loss/threat to trees could have a significant impact on the amenity /landscape character of the area. The confirmation of this Tree Preservation Order will ensure that the Council maintains adequate controls over trees of amenity value within the site.

7.0 Background and Options

- 7.1 The Alsager Campus of the Manchester Metropolitan University (MMU) is subject of a divestment programme. With a view to phased redevelopment of the site, the University and its agents had discussions with Congleton Borough Council and a Development Brief was prepared outlining a mixed use development. Discussions have continued under Cheshire East Council and a planning application is expected.
- 7.2 There are a significant number of trees in the vicinity, many of which are visible from outside the site boundaries although others within the site make a contribution to the setting of the campus.
- 7.3 Telephone requests and a letter dated 26/8/08 were received by Congleton Borough Council requesting that consideration be given to the protection of certain trees on the site. In anticipation of the redevelopment, a preliminary assessment of the trees was undertaken using an amenity evaluation checklist. Taking into account the findings of the assessment, and as a mechanism to ensure that due consideration is given to the retention and protection of trees on the site, under powers delegated to the Development Control Manager a TPO was made on 17th December 2008.
- 7.4 Congleton Borough Council was fully supportive of the redevelopment of the site, and the TPO is not intended to be obstructive. It was recognised that in due course, a more specific Order would be required, identifying individual trees and groups of trees suitable for retention within the context of the redeveloped site. This is reflected in the fact that the term 'interim' is included in the title. Using an "Area" designation, which protects all trees standing within a defined boundary, the Order covers the majority of the campus and some additional parcels in the immediate vicinity containing trees which could be affected by redevelopment.

CONSULTATION REPONSES

- 7.5 The Order was served on persons with an interest in the land and a number of representations have been received. A letter dated 5/1/09 supporting the Order was sent by the local resident who made the initial written request. Alsager Town Council, by letter dated 7/1/09, has no objections to the Order.
- 7.6 The occupier of 37 Dunnocksfold Road, by letter dated 7/1/09, has made representation to the effect that the boundary of the protected Area, as represented on the TPO plan, indicates trees within the curtilage of his property to be within the ownership of the College. Whilst seeking to ensure his boundary is clearly defined, the writer has no objection to the protection of the trees.
- 7.7 On behalf of the owner of Grove House, Sunnyside, by letter dated 29/1/09, Beswicks Solicitors make representations against the Order. The objections can be summarised as follows:

- i. The TPO includes the property and land at Grove House and all trees, bushes and shrubbery therein.
- ii. The TPO will cause the owner inconvenience and costs and affects no other residential properties on the periphery of the MMU site.
- iii. The TPO will devalue the property and land. Estate agents value the land with planning permission at £500,000. With the TPO made and development impossible, the value will be reduced to £50,000. The owner has been in contact with several developers concerning development of the land in the recent past.
- iv. Should the TPO be made, the owner will seek compensation for loss of property value and for future costs incurred for maintenance of the trees.
- v. An amended plan identifying the land to be excluded is submitted.

7.8 In correspondence with Lady Winterton, copied to the Chief Executive of Congleton Borough Council, the owner of the property has raised the above issues and his general concerns regarding the Order.

7.9 On behalf of Manchester Metropolitan University, by letter dated 29/1/09, Drivers Jonas make representations concerning the Order as summarised below:

- i. Drivers Jonas has been working closely with Congleton Borough Council in preparing a Development Brief for the MMU Alsager site and is preparing to submit an outline planning application. The emerging masterplan recognises the importance of a robust landscape structure and the siting and safeguarding of the trees is important to the planning and development of the site.
- ii. The illustrative master plan would require the removal of trees on the Hassall Road frontage of the site in order to provide a new access. Tree removal would also be necessary to provide for a new rugby pitch. Given the need to remove trees, using the findings of a detailed tree survey (submitted with the representation), it is suggested that individual Tree Preservation Orders are applied where appropriate rather than the area designation. The view is expressed that an area TPO will severely limit the implementation of the illustrative master plan and prevent creation of the new access point off Hassall Road, an essential part of the redevelopment.
- iii. To compensate for the loss of trees, it is proposed that a detailed landscape strategy be submitted at Reserved matters stage.
- iv. The sale of surplus land to the north of the site will generate capital receipt to be reinvested in new facilities for MMU, Cheshire. The

University will be the largest investor in Cheshire with £35 m of investment in new facilities at Crewe. Failure to implement redevelopment of the surplus land will jeopardise the University's continued presence in Cheshire.

OBSERVATIONS

- 7.10 Taking into account the circumstances at the MMU Alsager Campus, it is considered that it was expedient for Congleton Borough Council to make the TPO in question.
- 7.11 In relation to the comments raised by the occupier of 37 Dunnocksfold Road, where a boundary is used to delineate a protected area of trees in a TPO there is no legal requirement for it to follow land ownership boundaries. The boundary in a TPO is used to identify the area within which trees are protected. In this particular case, whilst the TPO has a title which associated it with the MMU site, the area protected includes land in several ownerships, including Cheshire East Council. The boundary in this location has been checked and is considered appropriate.
- 7.12 With regard to the representations made on behalf of the owner of Grove House, a detailed inspection has been undertaken of the property and the trees therein and a meeting held with the landowner. The house and formal garden to Grove House was excluded from the Order although an adjoining parcel of land to the north was included. The parcel comprises a grassed area with scattered trees, located mainly around the periphery although there is a group of trees (mainly ornamental) in the centre. At the time the initial tree survey was undertaken, the ownership of the trees and parcel of land now known to be associated with Grove House was not known. On detailed inspection, the majority of the trees in this particular parcel of land are not of exceptional value. Certain specimens stand beneath overhead utility cables and will require significant pruning to achieve statutory clearances, others have structural defects which were not apparent on initial inspection. Overall, the view is taken that the individual trees may not be suitable for long-term protection. Whilst the issues raised relating to land value are noted, the legislation relating to TPOs provides only for the payment by the LPA of compensation for loss or damage caused or incurred as a result of a) their refusal of any consent under the TPO or b) their grant of a consent subject to conditions. Under such provisions, no compensation is payable for loss of development value. In this case, no consent for tree works at the property in question has been sought from the LPA. Nonetheless, taking into account the condition of the trees and the fact that the land is outside the wider MMU development site, the view is now taken that it would be expedient to exclude this parcel of land from the Order.
- 7.13 The representations submitted on behalf of the MMU are noted and in principle it is agreed that the long-term protection of trees on the site would best be achieved by a TPO which identifies specific trees or groups of trees as opposed to the blanket "Area" designation. Development proposals for the site have not, however, progressed as rapidly as was anticipated at the time the Order was made and the circumstances which led to the making of the

Order effectively remain unchanged. In the absence of planning approval, and more particularly a detailed planning approval, the weight which can be afforded to an illustrative master plan submitted must be limited.

- 7.14 The economic benefits of redevelopment of the MMU site are acknowledged and it is accepted that redevelopment may necessitate the removal of some trees on the site with further specimens being potentially unsuitable for long-term retention. The view is taken however, that it may be premature to afford protection to individual trees until discussions concerning development proposals are further advanced. It would not be appropriate at this stage, as suggested in the MMU representation, to make a detailed order excluding trees in the location of a proposed new access or in the position of a proposed rugby pitch as such elements do not have the benefit of planning approval. The arboricultural survey submitted by the MMU does not cover the whole MMU site and the retention of an Area Order at this time ensures that all trees are afforded protection. (With the exception of trees which are dying or dangerous which are exempt from the protection of the TPO). Once the Council considers the making of a detailed order is appropriate, it can revoke the existing order at the same time a new order is made. It is also important to bear in mind that with over 700 trees on the site and notwithstanding the submitted survey, there are significant resource implications for the Council in the preparation of a new order. In the meantime, applications for tree works can be considered on a case by case basis (one application has already been determined). Any proposed tree removal associated with a full planning application would be given due consideration as part of the determination of that application. The existence of any TPO, whether an Area designation or individual trees, is a material consideration in the determination of a planning application but does not necessarily preclude tree removal. The redevelopment of the MMU site, is not therefore, disadvantaged by the existence of the Area Order.

CONCLUSION

- 7.15 If the TPO is not confirmed the protection it affords trees will lapse on 16th June 2009. Whilst minor modifications can be made at confirmation stage, and trees /land can be excluded from an order, significant changes such as re-specifying trees within an 'Area' as individual specimens is not permitted. Taking into account the issues cited above, the view is taken that at the present time it would be expedient to confirm the order substantially in its present form, with the exclusion of the land at Grove House as indicated on the attached plan. When the Council is satisfied that the timing is appropriate, the TPO can be revoked and superceded by a further order identifying trees in a more specific manner.

8.0 Reasons for Recommendation

- 8.1 The confirmation of this Tree Preservation Order will ensure that the Council maintains adequate controls over trees of amenity value whilst acknowledging and supporting the potential for redevelopment of the MMU campus in Alsager.

For further information:

Portfolio Holder: Councillor J Macrae

Officer: Anne Donkin, Senior Landscape and Tree Officer

Tel No: 01270 529655

Email: anne.donkin@cheshireeast.gov.uk

Background Documents:

The Manchester Metropolitan University, Alsager Campus Interim Tree Preservation Order 2008.

Letters as detailed in the report.

Documents are available for inspection at: Westfields, Middlewich Road , Sandbach.

TREE PRESERVATION ORDER

The Manchester Metropolitan University, Alsager Campus Interim TPO.



CONGLETON BOROUGH COUNCIL
 'WESTFIELDS'
 MIDDLEWICH ROAD, SANDBACH,
 CHESHIRE. CW11 1HZ

O.S. SHEET SJ7855

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DATE: DECEMBER 2008

