

Report to Planning applications committee

Item

14 April 2016

Report of Head of planning services

Subject Tree Preservation Order [TPO], 2015. City of Norwich Number 493; north-east corner of the former playground adjoining the rear of 17, 19, 21 and 23 Rose Valley NR2 2PX

4(f)

Reason for referral Representations for and objections to confirmation of Tree Preservation Order 493

Ward:	Nelson
Case officer	Stephen Hayden – tree consultant for Norwich City Council t: 07850 167400

Proposal		
To confirm Tree Preservation Order 2014, City of Norwich Number 493, In the north-east corner of the former playground adjoining the rear of 17, 19, 21 & 23 Rose Valley NR2 2PX without modifications		
Representations		
Object	Comment	Support
2		2

Main issues:	Key considerations:
1 Amenity	Impact on local residents Level of amenity for future occupiers
2 Climate change	Trees increase resilience to climate change
3 Air quality	Trees improve air quality
3 Biodiversity & wildlife	Trees aid biodiversity and wildlife
4 Development of the site	Impact of proposed development and the associated visual amenity of the site and surrounding area
TPO Expiry date	29 July 2016
Recommendation	Confirm TPO 493 without modifications

Introduction

1. The mature Red Oak tree is situated in the north-east corner of the former playground adjoining the rear of 17, 19, 21 & 23 Rose Valley NR2 2PX. The tree is visible from Unthank Road and Rose Valley.
2. The location of the trees is shown on the attached plan
3. The tree is owned by Norwich City Council
4. Tree Preservation Order No 476 was served on the tree on 6 August 2015. This Order was revoked and replaced by Tree Preservation Order No 493 on the 29 January 2016

The site, surroundings and content

5. A local resident contacted the council in June 2015 requesting the tree be protected because of concerns about its retention with the proposal for housing development on the adjacent car park. The Chair of the Rose Valley Residents Association also telephoned to express concerns about the impact of the proposed development on the tree.
6. The council's tree consultant assessed the tree using the Tree Evaluation Method for Preservation Orders (TEMPO). The assessment has the following classifications:

TEMPO score:	TEMPO Decision guide
0 – 11	Does not merit a TPO
12 -15	TPO defensible
16 – 25	Merits a TPO

The assessment resulted in a score of 17 for T1 the Red Oak which indicated that a Tree Preservation Order was defensible.

7. Tree Preservation Order 2015. City of Norwich Number 476: Immediately to the East of the entrance to the Norwich City Council play area, Rose Valley, NR2 2PX was served on the Red Oak (T1 of the Order) on 6 August 2015. The Order was provisionally in effect for 6 months from the date on which it was served.
8. On 18 September 2015 an application (15/01411/TPO) was registered from DN Grady and Sons Ltd the owners of the adjacent car park, to fell the tree. The application was for:

Non-native Red Oak(T1) - fell due to the development of adjacent land and replace it with 2 No trees, either alnus glutinosa, or broad cocksbur thorn. The tree displays signs of structural instability on its major limbs and would require significant pruning in the future. The tree is of limited ecological value.

The application included an arboricultural impact assessment that formed part of an associated planning application (15/01410/F) for the erection of 3 dwellings

on the car park. The application also included a copy of the response of the senior planner (development) to an informal planning enquiry (13/00569/I) on the development of the car park which had been submitted by Hudsons Architects on 30 April 2013 and made reference to the tree protection officer's comments:

"I inspected the two main trees that are potentially impacted by the proposal. I have to concur with Tony Sorenson's findings at 2.2 of his Arb. feasibility study. In regard to T2 Red Oak I think the option of factoring in its removal, but with allowance on site to provide a significant replacement, may be the best and most sustainable way forward. The tree looks fine now from an amenity perspective but its existing physiological problems can only store up potential failure problems for the future. Better to gain a substantial replacement that will attain the same sort of significance in the landscape. *Alnus rubra* or *Alnus glutinosa* 'laciniata' would be quick to grow but the provision of adequate root soil volume will need to be factored in to any planting scheme and the scheme should account for its mature spread and height in the overall layout (the designers should take arboricultural or landscape advise on this aspect).

This potentially provides greater scope for adaptation of the layout of the site, however in order to provide a similar level of amenity value it is likely that any replacement would need to be location to the northern side."

9. Subsequently a report was submitted by Ravencroft Arboricultural Services on behalf of Adnams PLC dated 07.03.2015 with a drawing showing the removal of the tree and the planting of 2 12-14cm girth Broad Cockspur Thorn (Drawing No 070314/01) tight up against the northern aspect of the proposed dwelling.
10. The application to fell the tree was refused on 8 October 2015. The reasons for refusal were:

"Early mature tree with considerable visual amenity as local landscape feature, whilst there are some minor defects these are not sufficient to necessitate its removal. The tree has been categorised as a BS5837:2012 Category B2 as part of the submitted tree survey and therefore should be considered a constraint to planning

Remedial tree works such as crown lifting may be necessary to manage the tree to prevent conflict with access and parking."

The tree consultant's site notes included alternative options considered:

"Removal and replanting was proposed, however the proposed planting of two smaller trees in a cramped space at the end of a proposed dwelling, with limited space for growth, is not considered an appropriate replacement for this significant landscape feature."

11. On 11 November planning application 15/01410/F for the erection of 3 dwellings on the car park was withdrawn.

12. Tree Preservation Order No 476 was provisionally in effect from 6th August 2015 until the 5 February 2016, 6 months from the date on which it was served.

During this period the council gives consideration as to whether the Order should be confirmed that is to say, whether it should take effect formally. Before this decision is made, the people affected by the Order have a right to make objections or other representations about any trees covered by the Order. The Council received two objections to TPO 476

The council's standing orders require that when an objection to an Order is received a report must be presented to planning applications committee before the Order is confirmed. Due to an administrative oversight the submission deadline for the January 2016 Planning Committee was missed. When this omission was noted TPO 476 was revoked and a replacement Order was served on 29 January 2016:

Tree Preservation Order 2016. City of Norwich Number 493: In the north-east corner of the former playground adjoining the rear of 17, 19, 21 & 23 Rose Valley NR2 2PX

This Order was served to ensure that the matter could be presented to planning committee in the correct manner.

13. Notice of the new Order (along with a letter of explanation) was served on the owner of the property, on the neighbouring properties and on interested parties.

Representations

14. Four letters of representation have been received in response to the serving of Order No 493:

- Two letters object to the Order; one from Jenny Harvey of Hudson Architects representing Adnams PLC and one from Justin Grady of DN Grady & Sons the owners of the car park adjacent to the tree and the adjoining property 107 & 109 Unthank Road, Norwich.
- Two letters of support for the Order have been received from the Rose Valley Residents' Association which represents the 42 local residents who are members of the Association.

Full details of these letters are available on request. The issues set out in the letters and the responses from the tree consultant are summarised below:

Representation	Response
<p>The tree is a poor quality tree with a limited lifespan. It is a non-native Red Oak which displays signs of structural instability on the major limbs and is of insignificant ecological value. Ravenscroft Arboricultural Services have advised that in order to prevent major branch failure, the tree will require significant pruning and will reach the end of its useful life within the next couple of decades.</p>	<p>It is the councils opinion that the tree is a semi-mature specimen that has minor defects but nothing that will compromise the long-term health or visual amenity of the tree. The tree has outstanding public visual amenity. Whilst some minor remedial tree works may be necessary in the future, this will not necessitate the removal of the tree.</p> <p>The tree has been categorised as a BS5837:2012 Category B2 tree by Ravenscroft Arboricultural Services</p> <p><i>A tree of moderate quality with an estimated remaining life expectancy of at least 20 years.</i></p> <p>Within the British Standard for Trees in relation to design, demolition & construction (BS5837:2012) Category B trees are deemed to be of sufficient quality to be considered a constraint on any prospective development and should be retained where possible.</p>
<p>Ravenscroft Arboricultural Services have suggested that it is reasonable to consider the removal of the tree as part of any future development provided that a replacement tree to reach similar size at maturity is planted</p>	<p>It has been suggested previously by the council's tree protection officer, that it is reasonable to consider the removal of the tree as part of future development, provided that a replacement tree is planted that can reach a similar size at maturity. This is something that was considered and reiterated by the tree protection officer during the pre-application discussions with the Lee Cook and the applicant. This is correct and it is reasonable to consider it. However the submitted plans (Ravenscroft Drawing No 070314/01 dated 07.03.2014) showed the trees being removed and replaced with 2 12-14cm girth Broad Cockspur Thorns planted in a small planting bed, tight against the northern aspect of the proposed dwellings. It is the councils opinion that the trees proposed are not suitable for the position proposed. They will, almost immediately, be in conflict with the dwelling and there is not enough room for the trees to grow to maturity. Given the limited space given for the</p>

Representation	Response
	<p>proposed replacement trees and their limited size at maturity the proposed replacement cannot replace the visual amenity provided by the Oak. Therefore it is clearly contrary to the previous advice given by the council's tree protection officer which requested "<i>allowance on site to provide a significant replacement...</i>" and "<i>Better to gain a substantial replacement that will attain the same sort of significance in the landscape</i>", neither of which are or will be achieved by the proposed. I would suggest that if consideration were to be given to the removal of the tree a similar amount of space already used by the tree needs to be allocated to allow any new tree to grow to maturity and maintain the present visual amenity provided by the Red Oak.</p>
<p>Comments from senior planner (development) pre-application comments support the potential removal of the tree as long as an allowance is made for a significant replacement</p>	<p>See above</p>
<p>The removal and replacement of the Red Oak with a native tree of equal size at maturity will better enhance the local amenity.</p>	<p>This is considered a rather unusual notion, as the existing tree provides outstanding amenity for the site and surrounding area. No benefit would be achieved by the removal of a tree of such standing just to replace with another smaller tree of, at best, similar amenity that may never reach the size of the existing. Especially if it is in close proximity to new dwellings.</p>
<p>The council has received considerable support from numerous residents surrounding the site and The Rose Valley Residents Association whose support can be summarised as follows</p> <ul style="list-style-type: none"> • The tree affords an exceptional amenity to the local community 	<p>All the points raised are considered pertinent and relevant to the preservation of the tree.</p>

Representation	Response
<ul style="list-style-type: none">• The removal of the tree would have a significant negative impact on the local environment and its enjoyment by the public, and a significantly impact on the amenity of the area(as defined by the Planning Practice Guidelines)• The tree is an important landscape feature• The tree cannot be adequately replaced• The fact that the tree is non native is irrelevant• Previous pruning has already been undertaken reduce likelihood of failure• The retention of the tree is not an absolute bar to development of the adjacent property• The tree is an aid to environmental air quality	

Main issues

Issue 1

15. The loss of a large, mature tree which is in good condition and visible from Rose Valley and the Unthank Road would impact on the amenity of the area for local residents and for future occupiers. Considerable concern has been raised by Rose Valley Residents Association, all detailed in their written representation supporting the Preservation of the tree.

Issue 2

16. The loss of this tree would also contribute to the impacts of climate change. Through photosynthesis trees naturally absorb CO₂ a key greenhouse gas and act as a carbon sink by sequestering it. Also, by a combination of reflecting sunlight, providing shade and evaporating water through transpiration trees moderate the local microclimate and temperature.

Issue 3

17. The tree has a positive effect on air quality by cutting levels of airborne particulates and removing air pollutants.

Issue 4

18. The tree enhances biodiversity by providing habitats for a variety of species and thereby contributes to providing a healthy food chain that is of benefit to birds and mammals.

Issue 4

19. The loss of the tree due to proposed development. Previous pre-application consultation with the council's tree preservation officer with regard to the proposed development on the site recommended the following:

“ I inspected the two main trees that are potentially impacted by the proposal. I have to concur with Tony Sorenson's findings at 2.2 of his Arb. feasibility study. In regard to T2 Red Oak I think the option of factoring in its removal, but with allowance on site to provide a significant replacement, may be the best and most sustainable way forward. The tree looks fine now from an amenity perspective but its existing physiological problems can only store up potential failure problems for the future. Better to gain a substantial replacement that will attain the same sort of significance in the landscape. *Alnus rubra* or *Alnus glutinosa* 'laciniata' would be quick to grow but the provision of adequate root soil volume will need to be factored in to any planting scheme and the scheme should account for its mature spread and height in the overall layout (the designers should take arboricultural or landscape advise on this aspect).

This potentially provides greater scope for adaptation of the layout of the site, however in order to provide a similar level of amenity value it is likely that any replacement would need to be location to the northern side.”

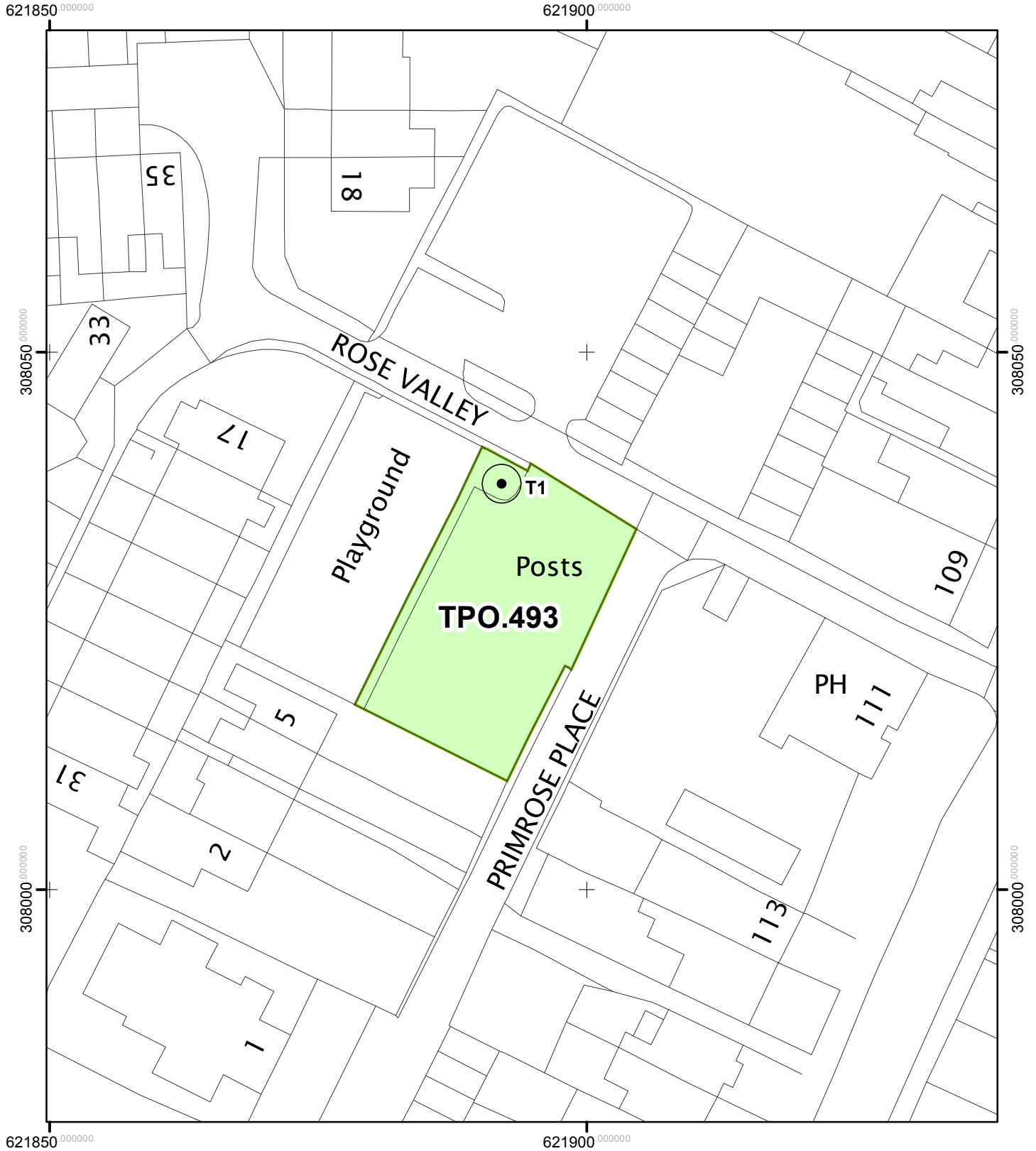
20. Having subsequently received a report from Ravenscroft Arboricultural Services (drawing No.070314/01 dated 07.03.2014) showing the removal and replacement of the Red Oak with 2 , 12-14cm girth, Broad Cockspur thorns, it is clear that the proposed tree replacement does not in any way provide “substantial replacement that will attain the same sort of significance in the landscape” as recommended in the pre-application advice. The proposed trees, Broad Cockspur Thorns, are medium sized species with a broad crowns planted in a small planting bed, tight up against the northern aspect of the proposed dwelling. This will create immediate conflict between the trees and dwelling and will prevent the trees growing to maturity. The size and position of the trees is such that they will never be able to provide the level of visual amenity provided by the existing tree and therefore it was the council’s opinion that the existing Red Oak should be protected.

Conclusion

21. Objections to the Order have been noted and whilst officers appreciate the concerns raised, it is their opinion that the tree in question makes a positive environmental contribution and has sufficient amenity value to validate its continued protection by the confirming of the Tree Preservation Order. However officers do appreciate the wish to develop the adjacent site and are willing to work with the owner of the site to secure an appropriate solution to the development of the site while retaining the tree.

Recommendation

22. To confirm Tree Preservation Order [TPO], 2015. City of Norwich Number 493; In the north-east corner of the former playground adjoining the rear of 17, 19, 21 and 23 Rose Valley NR2 2PX without modifications.



PLANNING SERVICES

Norwich City Council, City Hall,
Norwich, NR2 1NH
Telephone 0344 980 3333

Date : 26 January 2016

Scale : 1:500

Drawn by : SRB



THE CITY COUNCIL OF NORWICH

FORM OF TREE PRESERVATION ORDER

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

THE CITY OF NORWICH TREE PRESERVATION ORDER NUMBER 493, 2016

The City Council of Norwich, in exercise of the powers conferred on them by Section 198 of the Town and Country Planning Act 1990 hereby make the following Order –

Citation

1. This Order may be cited as **Tree Preservation Order, 2016 City of Norwich Number 493. In the north-east corner of the former playground adjoining the rear of 17, 19, 21 & 23 Rose Valley NR2 2PX**

Interpretation

2. 1. In this Order “the authority” means the City Council of Norwich

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—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, 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.

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

TREE PRESERVATION ORDER 2016

THE CITY COUNCIL OF NORWICH NUMBER 493

**ADDRESS: In the north-east corner of the former playground adjoining the rear of 17, 19, 21 & 23
Rose Valley NR2 2PX**

DATED this 29th day of January
two thousand and sixteen.

THE CORPORATE SEAL of THE)
CITY COUNCIL of NORWICH)
Was hereunto affixed in the)
Presence of)

.....

Authorised by the Council

SCHEDULE

Article 3

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on Maps	Description	Situation
T1.	Oak	In the north-east corner of the former playground adjoining the rear of 17, 19, 21 & 23 Rose Valley NR2 2PX Grid Ref – 621895 : 308042

Groups of Trees
(within a broken black line on the map)

Reference on Map	Description	Situation
None.		

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

Reference on Map	Description	Situation
None.		

Woodlands
(within a continuous black line on the map)

Reference on Map	Description	Situation
None		

**IMPORTANT – THIS COMMUNICATION MAY AFFECT YOUR PROPERTY
TOWN AND COUNTRY PLANNING ACT 1990**

The Town and Country Planning (Tree Preservation)(England) Regulations 2012

TREE PRESERVATION ORDER 2016

THE CITY COUNCIL OF NORWICH NUMBER 493

**ADDRESS: In the north-east corner of the former playground adjoining the rear of 17, 19, 21 & 23
Rose Valley NR2 2PX**

THIS IS A FORMAL NOTICE to let you know that on **29 January 2016**, the Council made the above Tree Preservation Order.

A copy of the Order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the Schedule and shown on the map without the Council's consent. Some explanatory guidance on tree preservation orders is given in the enclosed leaflet, **Protected Trees: A Guide to Tree Preservation Orders**, produced by the Department of Communities & Local Government.

The Council has made the Order *in order to secure the retention and future preservation of the tree as there may be the threat of its removal once the property is sold on. The tree is an amenity to the Rose Valley area*

[The Order took effect, on a provisional basis, on **29 January 2016**. It will continue in force on this basis for a further 6 months until the Order is confirmed by the Council, or if the Council decide not to confirm the order, the date on which the Council decide not to confirm the order, whichever occurs first.] The Council will consider whether the Order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the Order have a right to make objections or other representations about any of the trees, groups of trees or woodlands covered by the Order.

If you would like to make any objections or other comments, we must receive them in writing by **2nd March 2016**. Your comments must comply with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, a copy of which is provided overleaf. Send your comments to the **Tree Protection Officer, Norwich City Council, City Hall, St Peter's Street, Norwich NR2 1NH**. All valid objections or representations are carefully considered before a decision on whether to confirm the Order is made. The Council will write to you again when that decision has been made. In the meantime, if you would like any further information or have any questions about this letter, please contact: **The Tree Protection Officer, Norwich City Council, St Peter's Street, Norwich, NR2 1NH (Tel: 01603 212546)**.

DATED this **29 January 2016**.

Signed



Stephen Hayden
Acting Tree Protection Officer
On behalf of Norwich City Council, City Hall, Norwich, NR2 1NH

COPY OF REGULATION 6 OF The Town and Country Planning (Tree Preservation)(England) Regulations 2012

Objections and representations

6.—(1) Subject to paragraph (2), objections and representations—

(a) shall be made in writing and—

(i) delivered to the authority not later than the date specified by them under regulation 5(2)(c); or

(ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which such objections and representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 2/3/15 Surveyor: [REDACTED]

Tree details
 TPO Ref (if applicable): Tree/Group No: TT Species: Lod Oak
 Owner (if known): Location: TT

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair/satisfactory Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous* Unsuitable

Score & Notes

5

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

Score & Notes

2

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Score & Notes

4

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes

1

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes

5

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 Does not merit TPO
- 12-15 TPO defensible
- 16+ Definitely merits TPO

Add Scores for Total:

17

Decision:

TPO.

12