

North Tyneside Council Report to Planning Committee Date: 31 January 2017

ITEM 6

Title: The Council of the Borough of North Tyneside (LAND TO THE REAR OF NICHOLSON TERRACE, FOREST HALL, TREE PRESERVATION ORDER 2016)

Report from Directorate: Environment, Housing and Leisure

Report Author: Phil Scott Head of Environment, Housing and Leisure (Tel: 643 7295)

Wards affected: Killingworth

1.1 Purpose:

To consider the above Tree Preservation Order (TPO) taking into account any representations received in respect of the Order.

1.2 Recommendation

Members are requested to consider the representations to The Council of the Borough of North Tyneside (Land to the rear of Nicholson Terrace, Forest Hall) Tree Preservation Order 2016 and confirm the Order without modification.

1.3 Information

1.3.1 In August 2016 the Council was notified by a resident that trees had been felled on land to the rear of Nicholson Terrace/Woodlands Grange, Forest Hall. The resident requested that a TPO be placed on the trees. The Landscape Architect undertook a site visit and considered that the trees were worth of a TPO. The TPO was served on 13th October 2016.

1.3.2 4 representations has been received objecting to the confirmation of the Tree Preservation Order:

Objection from occupier of 39 Woodlands Grange

- I understand that the trees create a screen between the residents of Woodlands Grange and Nicholson Terrace however the height of these trees is ridiculous. The trees block a considerable amount of natural light for us. However, they do not have the same effect for Nicholson Terrace as their properties are further from the trees.

- The height of the trees is a big concern. They are very close to our houses and conservatory and the roots of the trees may cause damage.

- North Tyneside Council and the builder of Woodlands Grange have refused to maintain the trees. The answer is a compromise. North Tyneside Council take the responsibility to prune/upkeep these trees on a regular basis, to maintain an acceptable height of the trees but to maintain a screen between Woodlands Grange and Nicholson Terrace in the form of hawthorn bushes.

- With all respect to the residents of Nicholson Terrace, their concerns differ from the residents of Woodlands Grange. The trees do not block natural light for them or the roots are of no danger as the properties are located well enough from the trees.

- Since the trees have been lopped, the light has been flooding into my kitchen and conservatory.

Objection from 35 Woodlands Grange

On moving to 35 Woodlands Grange in May this year, one of our first tasks was to ascertain just who owned, and was therefore responsible, for the trees and other overgrown vegetation that grew in the tract of land between our western fence boundary and another parallel fenced boundary on the Nicholson Terrace side. Our solicitor had tried to answer this question prior to our moving in but found it difficult to come up with a definitive answer.

The main reason for determining ownership was largely related to the totally overgrown and unattended nature of the vegetation. Many branches encroached onto the side of our property, soffits and gutters were being damaged and windy conditions really made matters worse. In addition, the lack of natural light being allowed to penetrate our back garden was extremely significant. Our initial course of action was to contact North Tyneside Council. The Council were extremely helpful and understanding and stated that two of their representatives would call to discuss and evaluate the matter. This occurred but we were assured by the Council representatives that the land in question was not owned by the Council and therefore the Council had no part to play in the management of the offending vegetation. They also pointed out that no preservation order existed on the trees.

Our next course of action was to contact National Power Grid, mainly because there is a small sub station situated just over the fence adjoining Nicholson Terrace. They also claimed that the land in question had nothing to do with them.

From talking to neighbours, we knew that in the early 2000s the original builders of Woodlands Grange – Leach Homes- sold to Persimmon Homes. We contacted Persimmon, but they did not think that the land had anything to do with themselves.

They suggested we contact the land registry and if it turned out that the land was their responsibility we could go ahead with whatever management we wanted but at our own expense.

At this stage and at our own expense we contacted a local tree management company who did a wonderful job professionally cutting everything back to manageable proportions. We were thanked in person by the residents of Nicholson Terrace – for the first time in twenty years they saw the morning sunshine and in the darkness at night the street lights on their terrace were effective.

We believe that any environmentalist viewing the state of things now would be supportive and impressed with the changes. Wildlife is abundant and flourishes and the aesthetics have improved.

Why does the Council want to now have a say in the management of this whole tract of land, even to the extent of imposing a tree preservation order? Is the Council now stating that the control of this vegetation is their responsibility? If so, are we due a refund for the work we have had carried out? Surely there is an anomaly if the Council claim the vegetation in this tract has nothing to do with them yet seemingly have the power to control and impose legislation relating to the independent management of this area?

73 Woodlands Grange

We agree that the removal of the trees at the rear of Nicholson Terrace was excessive. However we have lived in our property since 1994 and with the exception of the sycamore tree all the trees/roses at the rear of our property have been kept tidy and to a manageable height. They have been trimmed back to maintain the overall look of a high hedge. This has retained privacy to our property and that of the facing properties in Nicholson Terrace and to date this has never been objected to by the residents of Nicholson Terrace.

Keeping the trees and roses to this height has kept a safe nesting area for birds as well as providing a food source in autumn and winter.

We would like to object to not being able to maintain this hedge as we always have done. We would like to have the trees and roses cut to a maximum 12 feet no more than twice a year and keep them tidy.

Objection from resident of Nicholson Terrace

As a resident of Nicholson Terrace for 43 years I and many others are delighted the trees have been cut down the result is I now have light in my kitchen and bathroom I can now park my car at the rear we now have a lamppost that lights the back lane apart from birds the only other wildlife I have seen are rats.

1.4 Officers comments

1.4.1 The trees are ash, hawthorn, oak, hazel and sycamore. The Landscape Architect advises that the trees have reasonable/good shape and form and are semi mature specimens. Although the rear lane to Nicholson Terrace is private, the trees form a valuable screen between Nicholson Terrace and Woodlands Grange and are an important habitat for wildlife. The trees are considered an asset to the local environment.

1.4.2 In response to the objections, the Landscape Architect has advised:

- **Responsibility and ownership**

The land on which the trees are growing is privately owned. A TPO can be served on trees in private ownership, however it does not mean that they become the responsibility of the Council. However, anyone can make an application to the Council seeking consent to work on a protected tree even if they are not the owner of the tree. The TPO will ensure any works undertaken are carried out in accordance with good arboricultural practices and it does not prevent future works from being undertaken but approval from the local authority would need to be sought beforehand.

- **Light**

The TPO would prevent the wholesale removal of the trees for light purposes unless it is demonstrated that a severe restriction has resulted. The trees are located on the western boundary of Woodlands Grange and therefore cast shade onto the gardens for part of the day. Approved pruning works, as required under the TPO, would help relieve such issues whilst maintaining tree cover.

- **Damage**

If there is damage to the structure of the property by the roots of the tree, a structural engineers report must be submitted to prove actual damage. Quite often damage to property can be caused by cracked drainage and/or inadequate foundations, so clear evidence is required that the damage caused is due to the trees in order to require their removal. This information required will be in line with TPO guidance (addendum 2009) to ensure trees are not unnecessarily removed.

- **Height of trees and overhanging branches**

This can be managed by pruning. The TPO will ensure that any pruning works are not detrimental to the trees and in accordance with approved standards.

1.4.3 In accordance with the Town and Country Planning Act 1990 (as amended) the Authority considers it necessary to issue a Tree Preservation Order to maintain and safeguard the contribution made by these trees to the site. The Tree Preservation Order was served on the owners and other relevant parties on 15.10.16. A copy of this original Order is attached as Appendix 1.

1.4.4 The Order must be confirmed by 13.04.17 otherwise the Order will lapse and there will be nothing to prevent the removal of these trees.

1.4.5 A copy of the representations are included as Appendix 2 to this report.

1.5 Decision options:

1. To confirm the Tree Preservation Order with no modifications.
2. To confirm the Tree Preservation Order with modifications.
3. To not confirm the Tree Preservation Order.

1.6 Reasons for recommended option:

Option 1 is recommended. A Tree Preservation Order does not prevent the felling or pruning of trees, but it gives the Council control in order to protect trees which contribute to the general amenity of the surrounding area. If the Order was confirmed then the occupier(s) could apply to fell or carry out any pruning works to the trees.

1.7 Appendices:

Appendix 1 – The Council of the Borough of North Tyneside (Land to the rear of Nicholson Terrace, Forest Hall) Tree Preservation Order 2016

Appendix 2 – Letters of objection

1.8 Contact officers:

Julie Lawson (Tel: 643 6337)

1.9 Background information:

The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author:

1. Town and Country Planning Act 1990
2. Planning Practice Guidance Website (NPPG)

Report author Julie Lawson