



Report to:	SPEAKERS PANEL (PLANNING)
Date:	26 May 2021
Reporting Officer:	Martyn Leigh, Development Manager
Subject:	THE PROVISIONAL COACH HOUSE / CHARLOTTE HOUSE, HYDE TREE PRESERVATION ORDER (2021)
Report Summary:	The report outlines representations received and the circumstances in connection with the provisional Coach House / Charlotte House Tree Preservation Order, Hyde (2021).
Recommendations:	It is recommended the panel review the representations and circumstances which have transpired since service of the Provisional Order and that authority is given to not confirm the Coach House / Charlotte House Tree Preservation Order (2021).
Corporate Plan:	The proper implementation of planning decisions and the preservation of trees where appropriate support the Council in delivering all 8 priorities of the Corporate Plan.
Policy Implications:	None arising from the report.
Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer)	There are no financial implications arising from the report.
Legal Implications: (Authorised by the Borough Solicitor)	As officers are no longer able to support the Provisional Decision to create a Tree Preservation Order for the reasons set out in the report, advice has been sought from Counsel to clarify the correct legal basis on which to make the recommendation not to confirm the TPO and procedure for doing so. The report reflects the advice given.
Risk Management:	Counsel advice has been sought to minimise the risk of challenge.
Access to Information:	Appendix A - Coach House / Charlotte House, Hyde Tree Preservation Order (2021) Appendix B – Schedule Plan (showing the location of the tree and site) Appendix C – Approved Site Plan (planning application 19/00614/FUL) Appendix D – Approved Elevations (planning application 19/00614/FUL)
Background Information:	The background papers relating to this report can be inspected by contacting Martyn Leigh, Development Manager:  Telephone: 0161 342 3456  e-mail: martyn.leigh@tameside.gov.uk

1. BACKGROUND INFORMATION

- 1.1 A planning application (15/01038/FUL) was submitted for development of the site at Charlotte House Residential Home in March 2016. It proposed the demolition of the (now demolished) fire-damaged care home to facilitate the redevelopment of the site to form a new build block of 16no. 2-bed self-contained apartments. The application was considered and approved by the Speakers' Panel (Planning) on 25 May 2016 subject to conditions and a Section 106 agreement requiring a contribution of £6,400 for Green Space. The application was determined on 23 June 2016.
- 1.2 Subsequently, on 10 July 2019, a planning application (19/00614/FUL) was submitted under Section 73 of the Town and Country Planning Act 1990 proposing Minor Material Amendments to the planning permission granted under 15/01038/FUL. This sought planning permission for alterations to the approved elevations and was approved by the Speakers Panel (Planning) on 13 November 2019. The planning permission has been implemented on site and development is nearing completion.
- 1.3 On 23 March 2021, the Council was contacted by the owner/occupier of the adjoining property known as The Coach House, Chapel Street, Hyde that shares a boundary with the development site. They considered an Elm Tree, claimed to be within their boundary (although this appears to be in dispute) of high amenity value was at risk of being felled by the contractors working on the application site. The Council's Arboricultural and Countryside Estates officer carried out a Tree Evaluation Method for Preservation Orders (TEMPO) assessment and requested a Tree Preservation Order to be urgently made given the tree was under imminent threat of removal.
- 1.4 A Provisional Tree Preservation Order was made on 30 March 2021 to afford the tree temporary protection from works until such a time that the situation could be fully investigated. The TPO was served in accordance with Regulation 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.
- 1.5 The owner of Charlotte House objects to the provisional TPO on the basis that the tree is identified for removal on the approved plans associated with planning application 19/00614/FUL. This has since been confirmed to be the case as the tree is in a location where its removal is required to facilitate the construction of the car park serving the development and the associated boundary treatment.
- 1.6 Regulation 13 (Prohibited Activities) within the Town and Country Planning (Tree Preservation) (England) Regulation 2012 prohibits the cutting down, topping, lopping, uprooting, wilful damage, or destruction of any tree to which a TPO relates except with the written consent of the of the Authority and in accordance with any conditions attached. However, Regulation 14(1)(a)(vii) provides an exception. It sets out that the Prohibited Activities in Regulation 13 would not apply to the cutting down, topping, lopping or uprooting of a tree, so far as such work is necessary to implement a planning permission granted on an application under Part III of the Town and Country Planning Act or which is deemed to have been granted.
- 1.7 Given the removal of the tree formed part of and is necessary to implement the extant planning application for the development of the site (granted under application reference 19/00614/FUL) there is no utility in confirming the Provisional Order since it would be ineffective in preventing the tree from being felled under the Tree Preservation Regulations. On this basis, it is recommended that the provisional Tree Preservation Order is not confirmed. Furthermore, the removal of the tree is required to enable compliance with Condition 15 attached to the planning permission which requires that the car parking on the approved Proposed Site Plan (ref M4570 (PL) 01 C) shall be provided and thereafter kept unobstructed and available for its intended purpose at all times.

- 1.8 Separately, it is understood that there is a neighbour dispute regarding the boundary line and legal rights concerning the tree, but this is a private matter between the concerned parties. As such, Members should note that it cannot influence the local planning authority's decision in connection with the provisional TPO.

2. RECOMMENDATIONS

- 2.1 As set out at the front of the report.