

Ref: SB/5383/01/NTDC(15Jan2021) TPO Objection

Rebecca Andison
North Tyneside District Council
Quadrant
The Silverlink
North Cobalt Business Park
North Tyneside
NE27 0BY



15 January 2021

Dear Rebecca

PROVISIONAL TREE PRESERVATION ORDER, ELTON STREET EAST, WALLSEND

Further to our recent discussions, I am writing on behalf on my client, Assura Aspire Ltd, to object to the proposed Tree Preservation order on the site.

Assura Aspire currently have a planning application submitted on the site (LPA Ref 20/01582/FUL). It is this planning application which has led to the issue of these trees being considered. They are an interested person in terms of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

This objection seek to raise concerns in regard to the following aspects:

- That due process has not been followed by North Tyneside DC;
- The tress are not of a suitable quality to warrant retention;
- Impact on redevelopment which will have a negative impact on Wallsend Town Centre.

Due Process

The process to confirm a Tree Preservation Order is set out in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Regulation 5 outlines that as soon as practicable after making an order and before confirming it, the authority should serve notice on person's interest in the land affected by the order with a copy of the Order and a Notice. For the purposes of the regulations, this means every owner or occupier of the land affected by the order and every other person whom the authority knows to be entitled to undertaken works on the trees.

By virtue of the live planning application which had been submitted on 12th October and on which landscape services had been consulted, the authority knew that this would include Assura Aspire Limited. However, no such notice has been served to date on either Assura Aspire, or ourselves as planning agents for Assura. Therefore, due process has not been undertaken.

It is only by virtue of process of the planning application and chasing by ourselves that we were finally informed that an Order has been issued on 17th December with a copy provided on 13th January. Following receipt of this information and background, we have been advised by Democratic Services that the consultation period will close on 15th January.

Furthermore, the TPO was not uploaded on the LPA website –Provisional TPO section where other such documents have been uploaded and remain in situ:

<https://my.northtyneside.gov.uk/category/1154/tree-preservation-orders>

Paragraph 035 (Reference ID: 36-035-20140306) outlines that the authority should ensure all notified parties are given at least 28 days from the date of the notice to submit their representations. From the date of providing the notice, the authority has provided a Consultation period of 2 days, significantly below the legal obligation to provide a 28 day period as outlined in the Regulations. My clients' position has subsequently been prejudiced.

Due to the process undertaken, there is scope that other relevant persons with an interest in the site may not have been consulted. Furthermore, the consultation period should be extended.

Trees not of a Suitable Quality

As part of the submitted planning application, we submitted an Arboricultural Impact Assessment by Woodman Arboricultural. This is re-provided with this response. In the absence of any alternative source of tree survey as part of the Regulation 5, this appears to be unchallenged.

The Local Authority information supporting the TPO does not appear to provide any view as to the quality of the trees. However, it should be noted that as part of the planning application process, a pre-application discussions were held. The LPA formal response (attached) does not indicate that the trees of a high quality, and that their retention is essential. Instead, the response outlines that

“The proposal should be accompanied by a landscaping plan ideally showing the retention of the existing trees and showing areas of proposed soft landscaping. The landscaping shall need to incorporate native species rather than ornamental species.”

The Town and Country Planning (Tree Preservation) (England) Regulations 2012 outline that when assessing trees, the Order must specify the trees or woodlands as being within 4 categories –individual, area, group and woodland. Effectively, this is a sliding scale where individual trees should be considered to merit protection in their own right. The group category should be used to protect groups of trees where the individual category would not be appropriate and the group's overall impact and quality merits protection.

The Order confirms potential individual TPOs for trees T1 and T2, with a wider Group covering trees referred to in our AIA as trees T3 to T11. The AIA considers the merits of trees against BS: 5837 (2012) Trees in Relation to Construction Sites.

The BS: 5837 Categories are described as:

Category A Trees - Those of high quality and value: in such a condition, as to be able to make a substantial contribution for a minimum of forty years. Site design should seek to retain these trees wherever it is practicable to do so.

Category B Trees - Those of moderate quality and value: those in such a condition as to make a significant contribution for a minimum of twenty years. Site design should where practicable retain these specimens.

Category C Trees - Those of low quality and value: Currently in adequate condition to remain until new planting could be established or young trees with a stem diameter below 150mm. These trees although of some value should not be allowed to affect the design of the site layout as they can easily be replaced.

Category U Trees - Those which are dead or dying

Tree T1 in the Regulation 5 notice appears to tally with the AIA T1. The Woodsman AIA outlines that Tree T1 is a Category C tree –of low quality and value. The TPO Order seems to suggest that this is for an individual TPO. In accordance with the Regulations, this would suggest it is of the highest quality worthy of retention. This does not appear to be the case and it does not appear to be suitable for a TPO.

All other trees are identified as category B trees –i.e. worthy of retention where practicable subject to site layout. Tree T8 is also identified as having ‘major deadwood in crown’. It is considered that the trees are not of a suitable quality and value to be suitable to be protected permanently by a Tree Preservation Order.

Impact on Adopted Development Plan Strategy and Wallsend Masterplan (Policies AS8.2 and 8.3)

The planning application under consideration at present seeks to deliver a new medical centre facility including the relocation of two substandard practices in the form of Portugal Place and Park Road along with wider NHS services. It will be a larger facility which can serve the catchment size more appropriately. It will be operated by the NHS.

The site is allocated in the Statutory Development Plan formed by the North Tyneside Local Plan (adopted in July 2017) under Policy AS8.2. This is an Area Specific Policy which relates to The Forum Shopping Centre. The policy seeks to:

“To improve the overall quality of retail provision in Wallsend and contribute to identified requirements for the provision of comparison retail floorspace, the Council will continue to provide support for main town centre uses at The Forum Shopping Centre, as shown on the Policies Map, including the extension to the west, that:

- a) Enhance the role of The Forum Shopping Centre at the heart of the primary shopping area in Wallsend;*
- b) Provide a new retail floorspace to serve the town and wider community;*
- c) Enhance the internal and external appearance of the shopping centre making the area attractive to shoppers and visitors;*
- d) Would deliver enhanced community facilities and services for the whole of Wallsend, alongside the existing improved library services;*
- e) Provide improved and accessible parking provision that is available for use by shoppers at the supermarket, The Forum and the town centre as a whole.”*

The site has been cleared for development. The proposed development would fully accord with the ambitions of the Local Plan and will deliver a significant uplift to the social, community and health of local residents. The proposed application scheme represents the ‘final piece of the jigsaw’ to complete the redevelopment and expansion of Wallsend town centre.

The application scheme has been sensitively designed seeking to provide a building which delivers the correct quantum of floorspace to meet the requirements of the medical centre, whilst respecting the scale and mass of the wider area. The scheme has been subject to negotiation with officers for a period of time. At present, the applicant has confirmed that the scheme needs to see the removal of some of these trees. It has been confirmed in discussions that trees T9, T10 and T11 can be retained. We are currently investigating the potential retention of other trees with the involvement of our arboricultural consultant. Furthermore, the applicant has proposed replacement planting to mitigate the loss of these trees.

Should the trees be subject to a Tree Preservation Order, then it would fundamentally restrict the ability of Assura to deliver the significant benefits arising as a result of the proposed development. The local area would miss out on:

- The replacement of the existing sub-standard facilities at Portugal Place and Park Road with a larger facility which can serve the catchment size more appropriately;
- A transformative healthcare development bringing NHCT community services together with primary care to improve both pathways and patient outcomes;
- The development of a vacant, under-used site;
- The delivery of additional employment and training opportunities within the local area;
- The delivery of a well-designed building, utilising local vernacular and materials in an accessible location;
- The provision of a vital, modern healthcare service to local residents; and
- Completing the form of development anticipated in Local Plan allocations by helping to deliver Area Specific Policy AS8.2
- Furthermore, the inability to allow the Portugal Place surgery to move would prevent the freeing of that site (Local Plan allocation AS8.3) for development in accordance with that allocation.

Therefore, the issuing of a TPO would undermine the comprehensive masterplanning of Wallsend Town Centre.

Conclusion

In conclusion, the grounds for objection are set out in detail above. These are that:

Due Process

- Due process has not been undertaken and it is possible that other persons interested may not have been notified of the issuing of a provisional Tree Preservation Order;
- The Consultation period should be extended;

Quality of trees

- It is considered that the trees are not of a suitable quality to warrant protection.
- Notably proposed individual TPO T1 appears to be a Category C tree of low value

Impact on Adopted Development Plan Strategy and Wallsend Masterplan (Policies AS8.2 + 8.3)

- The proposed development on the site is the 'final piece of the jigsaw' on the Wallsend town centre redevelopment (adopted Local Plan policy AS8.2)
- A TPO would render the scheme undeliverable. This would prevent the key social, community and health benefits arising from the scheme which is to be entirely occupied by the NHS.
- The failure to deliver this medical centre would miss out on other key benefits including
 - o The replacement of the existing sub-standard facilities at Portugal Place and Park Road with a larger facility which can serve the catchment size more appropriately;
 - o The development of a vacant, under-used site;
 - o The delivery of additional employment opportunities within the local area;
 - o The delivery of a well-designed building, utilising local vernacular and materials in an accessible location;
 - o The provision of a vital, modern healthcare service to local residents; and
 - o Completing the form of development anticipated in Local Plan allocations by helping to deliver Area Specific Policy AS8.2
 - o Furthermore, the inability to allow the Portugal Place surgery to move would prevent the freeing of that site (Local Plan allocation AS8.3) for development in accordance with that allocation.

We would request that the TPO is not be confirmed. Should the TPO be sought to be confirmed however, and should planning permission be granted in the meantime, we would request that the TPO is modified in any event to account for the proposed development.

Should you wish to discuss this matter in further detail, please do not hesitate to contact me.

Yours sincerely

