

Report

Report to:	Planning Committee
Date of Meeting:	14 May 2019
Report by:	Executive Director (Community and Enterprise Resources)

Subject:	South Lanarkshire Council Tree Preservation Order No. SL53 (2018) Blairbeth Terrace, Rutherglen
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ Seek approval to confirm the South Lanarkshire Council Tree Preservation Order No. SL53 (2018) Blairbeth Terrace, Rutherglen.

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that Committee confirm the South Lanarkshire Council Tree Preservation Order No. SL53 (2018) Blairbeth Terrace, Rutherglen.

3. Background

3.1 Approval was given by Committee on 25 September 2018 in relation to Blairbeth Terrace, Rutherglen to promote a Tree Preservation Order (TPO).

3.2 The Order to protect the two mature trees at Blairbeth Terrace was imposed in order to protect the trees from being removed or harmed by inappropriate tree works. The trees are considered to make a positive contribution to the sense of place, character and amenity in the local area as a result of their size, form and siting. Following an assessment of the site by the Councils Arboricultural Manager, it was recommended that the two trees were protected by the promotion of a TPO and this was agreed to by the Planning Committee at its meeting held on 25 September 2018.

4 Current

4.1 Following the period of consultation carried out by the Council's Legal Service, four letters of objection have been received by the Council in respect of this matter. These were all submitted by neighbours of the site at Blairbeth Terrace.

4.2 The grounds of objection can be summarised as follows:

Bird droppings and nests

- a) Residents advise that due to the size and span of the tree (T1) there are parking spaces adjacent to the tree that cannot be used due to the volume of bird droppings from birds using the tree. This results in cars having to be washed often which is an additional cost to residents. In addition,

droppings accumulate on the pavement which is then walked through by residents and their pets.

Response: Whilst it is acknowledged that bird droppings can be a nuisance for local residents, it is noted that, generally, felling a tree will not alleviate this problem as they tend to relocate to another tree in the vicinity. Similarly, pruning does not resolve this problem as the birds tend to relocate to other branches. For this reason, the Council does not allow the felling or pruning of trees purely on the basis that there are birds using the trees. In addition, it is noted that many birds are protected and advice requires to be undertaken prior to the consideration of any works.

Non consultation of residents prior to serving TPO

- b) **Resident expresses disappointment of the lack of consultation prior to the implementation of the TPO.**

Response: In serving the order, the Council perceived the tree was immediately at risk as a result of pending works which may have resulted in disfiguring pruning. As such, the Planning Committee gave authorisation for the implementation of the temporary TPO. The Planning Service then instructed the Council's Legal Service to undertake the relevant legal proceedings. This included protection of the trees for a period of 6 months while Legal Services advertised and intimated the implementation of the Order and a full assessment of the proposed TPO could take place. This then gave a period where representations could be made in respect of the proposed TPO. The Order itself was also made available to view at local Council offices. As such, 4 objections were received.

Health and safety

- c) **Resident notes that the tree (T1) is overextended both vertically and horizontally and is in need of being maintained or removed. Allowing it to overgrow presents a safety risk of branches falling particularly in adverse weather conditions.**

Response: A visual assessment of the tree (T1) was undertaken and the tree is healthy and stable with no signs of immediate tree failure or damage to the soil retaining wall along the Crawford Road boundary. It is noted that the tree has been extensively crown lifted in the past to its detriment. Whilst, as with all trees, there is no absolute guarantee that exceptionally strong winds would not cause structural damage, the current assessment has indicated that failure is unlikely and the tree does not pose an unacceptable level of risk. It is further noted that a tree is not dangerous purely because it may be considered too big for its surroundings. It should be noted that the granting of a TPO does not stop maintenance work being undertaken to the tree, however any such work would require the prior approval of the Council. No legal rights are removed by this Order.

Natural Light (direct and indirect)

- d) **Resident advises during certain times of the year, the tree (T1) blocks natural light to the adjacent properties which is unacceptable.**

Response: The Council will not authorise or carry out pruning of a tree that will have insignificant effect on light levels. However, consideration may be given where it can be demonstrated that the tree is blocking daylight from a habitable room to a severe and unreasonable degree. The Council would also have to be satisfied that any works were not detrimental to public amenity or in conflict with established good arboricultural practice. As such, all applications for proposed tree work are considered and assessed on their own merits.

As noted above, the making of this Order will not stop maintenance being undertaken to the trees. The TPO is designed to avoid the felling of the trees or any inappropriate maintenance being undertaken that would harm them. An application for tree works requires to be submitted to the Council for consideration before any works to protected trees can take place.

- 4.3 The grounds of objection detailed above are noted, however, it is considered that they do not merit the withdrawal, alteration or modification of the Tree Preservation Order, all factors considered. As such, it is recommended that the South Lanarkshire Council Tree Preservation Order No. SL53 (2018) Blairbeth Terrace, Rutherglen is confirmed.

5 Employee Implications

- 5.1 None.

6 Financial Implications

- 6.1 None.

7 Other Implications

- 7.1 None.

8 Equality Impact and Consultation Arrangement

- 8.1 The Order has been advertised in the local press, and made available at the Cambuslang Q&A Office and at the office of the Executive Director, Montrose House, for public inspection.
- 8.2 Consultations have taken place with the Council's Arboricultural Manager. There is no requirement to carry out an impact assessment in terms of the proposals contained within this report.

Michael McGlynn

Executive Director (Community and Enterprise Resources)

26 April 2019

Link(s) to Council Values/Ambitions/Objectives

- Work with communities and partners to promote high quality, thriving and sustainable communities

Previous References

- Report of Planning Committee – 25 September 2018

List of Background Papers

- Newspaper Advert, Rutherglen Reformer, dated 19 December 2018
- Objection – Mrs J F Cleland, 4b Blairbeth Terrace, Rutherglen, G73 4JB, dated 08 January 2019
- Objection – Josephine Mcsporrان & Karen Cunningham, 5 Blairbeth Terrace (1st Floor), Rutherglen, G73 4JB, dated 11 January 2019
- Objection – Lee Bruce, 5 Blairbeth Terrace (Ground Floor), Rutherglen, G73 4JB, dated 02 January 2019
- Objection – Neil & Nikki McNeill, 5 Blairbeth Terrace (Garden Flat), Rutherglen, G73 4JB, dated 15 January 2019
- South Lanarkshire Council Tree Preservation Order No. SL53 (2018) Blairbeth Terrace, Rutherglen

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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