

Manchester City Council

Report for Resolution

COMMITTEE	PLANNING AND HIGHWAYS COMMITTEE
DATE	12th FEBRUARY 2009
SUBJECT	CONFIRMATION OF TREE PRESERVATION ORDER
LOCATION	10 CLIFTON AVENUE, FALLOWFIELD
REPORT OF	HEAD OF PLANNING

PURPOSE OF REPORT

To inform the committee about the background and issues involved in the making of a Tree Preservation Order on 5th August 2008 and to recommend the confirmation of the Tree Preservation Order.

RECOMMENDATION

The Head of Planning recommends that the Planning and Highways Committee instruct the City Solicitor to confirm the Tree Preservation at 10 Clifton Avenue, Fallowfield, Baguley, under Section 199 of the Town and Country Planning Act 1990, and that the Order should cover the tree as plotted T1 on the plan attached to this report.

Financial Consequences for the Revenue Budget

None

Financial Consequences for the Capital Budget

None

Contact Officer

Lisa Holland 0161 234 4543

Background Documents

Correspondence regarding the Tree Preservation Order is held on a file, which is available from the case officer.

Wards Affected

Withington

Implications for:

Anti-poverty
No

Equal Opportunities
No

Environment
Yes

Employment
No

INTRODUCTION

On 1st July 2008 an e-mail was received from the City Councils Arboriculturalist asking for a Tree Preservation Order to be placed on the mature Beech tree in the front garden of 10 Clifton Avenue. The reason given for requesting the Tree Preservation Order was that the tree had been unsympathetically pruned and concerns were raised that more branches may be removed.

Following a site visit by the City Council's Landscape Architect a Provisional Tree Preservation Order was placed on the Beech tree on 5th August 2008.

CONSULTATIONS

Section 3 of the Town and Country Planning (Trees) Regulations 1999 states that before a provisional Tree Preservation Order is confirmed any persons interested in the land affected by the order should be served with a copy of the order. Local residents in the vicinity were also consulted and objections and representations made with respect to the Order were considered.

The following residents were served with a copy of the order or notified about the TPO on 5th August 2008.

The owner/occupiers,

10 Clifton Avenue, Fallowfield, Manchester, M14 6UB.

8 Clifton Avenue, Fallowfield, Manchester, M14 6UB.

12 Clifton Avenue, Fallowfield, Manchester, M14 6UB.

19 Clifton Avenue, Fallowfield, Manchester, M14 6UD.

21 Clifton Avenue, Fallowfield, Manchester, M14 6UD.

Flats 1-18, The Alexandra, 1 Whiteoak Road, Fallowfield, Manchester, M14 6WT

Owner of the site – Mr and Mrs P Keaveney, 11 Clothorn Road, Didsbury, Manchester, M20 6BF

Local Residents - One letter of objection has been received from Mr M Ashton, the owner of 21 Clifton Avenue, the main points of which are outlined below:

1. The tree has been pruned to an acceptable standard – the recent pruning was overdue as the branches were obstructing people using the pavement

2. The tree is a forest tree which should be in a forest or large park, not a suburban front garden. The Tree Preservation Order would prevent this inappropriate planting from ever being rectified if it were to be confirmed.
3. There are plenty of trees in the area and this one, though undoubtedly attractive, is not particularly special.

Seven letters of support have been received including one letter from Withington Ward Members, the main points of which are outlined below:

The tree is a familiar and welcome part of the streetscape on Clifton Avenue, softening and enhancing the appearance of the houses. It is a healthy, big tree which helps to give the Avenue its lovely character of a street lined with mature trees. It has a lovely shape and colour despite the fact that it has recently been badly. Its foliage is a habitat for birds and it provides a small green lung for Clifton Avenue.

Arboricultural Officer comments - The tree has been unsympathetically pruned recently, however the tree remains in good condition and is of high amenity value.

Landscape Architects comments – The tree has a high amenity value. It is highly visible from the public realm and contributes to the character of the neighbourhood.

ISSUES

It is the opinion of the City Council's Arboriculturalist and the local residents in support of the Tree Preservation Order that the tree was not pruned to an acceptable standard and the Tree Preservation Order would prevent further unsympathetic pruning.

The tree is a welcome sight to many local residents and can be seen from their windows and gardens. There are other trees in Clifton Avenue and together they contribute to the perspective of an actual avenue of trees. Retention of this tree would be in line with the aspirations of the City Council's Tree Strategy (2006-10).

The Tree Preservation Order would not prevent any future work to the tree. It would however, ensure that the appropriate amount of pruning is undertaken in accordance with British Standards.

CONCLUSION

It is considered that the Beech tree shown on the attached plan should be protected by the Tree Preservation Order. This is because it is a good specimen, and it is highly visible and has an important impact on the street scene and local environment. Its presence is enjoyed by the public and it makes a considerable contribution to residential amenity.

Human Rights Act 1998 considerations

This Tree Preservation Order needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the third parties, including local residents, who have made representations, have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Article 8 and Protocol 1 Article 1 confer(s) a right of respect for a person's home and a right to peaceful enjoyment of one's possessions, which could include a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Unitary Development Plan, the Head of Planning has concluded that some rights conferred by these Articles on the residents/objectors and other occupiers and owners of nearby land that might be affected may be interfered with but that interference is in accordance with the law and justified by being in the public interest and on the basis of the restriction on these rights posed by confirmation of the Tree Preservation Order is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation.

The Head of Planning, recommends that the Planning and Highways Committee instruct the City Solicitor to confirm the Tree Preservation at 10 Clifton Avenue, Fallowfield, under Section 199 of the town and Country Planning Act 1990, and that the Order should cover the tree as plotted on the plan attached to this report.

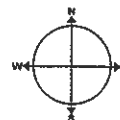
Environmental Implications

The confirmation of the above Tree Preservation Order will enhance the area in which they are located and would be of benefit to the environment of the City.



MANCHESTER
CITY COUNCIL

Tree Preservation Order
10 Clifton Avenue, Withington, Manchester, M14 6UB
29th July 2008



Scale: 1:1250