

## **Manchester City Council**

### **Report for Resolution**

<b>COMMITTEE</b>	<b>PLANNING AND HIGHWAYS COMMITTEE</b>
<b>DATE</b>	<b>20<sup>TH</sup> DECEMBER 2007</b>
<b>SUBJECT</b>	<b>CONFIRMATION OF TREE PRESERVATION ORDER</b>
<b>LOCATION</b>	<b>11 PETERSFIELD DRIVE, BAGULEY</b>
<b>REPORT OF</b>	<b>HEAD OF PLANNING</b>

### **PURPOSE OF REPORT**

To inform the Planning and Highways Committee about the background and issues involved in the making of a Provisional Tree Preservation Order on 27<sup>th</sup> June 2007 and to recommend the confirmation of the Tree Preservation Order, following the resolution of the Wythenshawe Area Committee on the 22<sup>nd</sup> November 2007, to support 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 11 Petersfield Drive, 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**

Brooklands

## **Implications for:**

**Anti-poverty**  
**No**

**Equal Opportunities**  
**No**

**Environment**  
**Yes**

**Employment**  
**No**

## **INTRODUCTION**

On 21<sup>st</sup> May 2007, a letter was received from the owner of 11 Petersfield Drive asking for a Tree Preservation Order to be placed on the young mature Cedar tree, which is very close to the boundary between 11 and 15 Petersfield Drive in the front garden. The reason given for requesting the Tree Preservation Order was that the next door neighbour at 15 Petersfield Drive wanted the tree to be felled and had already removed a large number of branches from the tree which were on his side of the boundary.

Following a site visit by the City Council's Arboriculturalist a Provisional Tree Preservation Order was placed on the Cedar tree on 27<sup>th</sup> June 2007.

This report was previously referred to Wythenshawe Area Committee on 22<sup>nd</sup> November 2007 for information and they recommended the Planning and Highways Committee should confirm the Tree Preservation Order.

## **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 27<sup>th</sup> June 2007.

The owner/occupiers,

15 Petersfield Drive, Baguley, Manchester M23 9PS.

9 Petersfield Drive, Baguley, Manchester M23 9PS.

14 Petersfield Drive, Baguley, Manchester M23 9PS.

16 Petersfield Drive, Baguley, Manchester M23 9PS.

18 Petersfield Drive, Baguley, Manchester M23 9PS.

20 Petersfield Drive, Baguley, Manchester M23 9PS.

22 Petersfield Drive, Baguley, Manchester M23 9PS.

24 Petersfield Drive, Baguley, Manchester M23 9PS.

Owner of the site – Mrs P Shaw, 11 Petersfield Drive, Baguley, Manchester M23 9PS.

**Local Residents** - One letter of objection has been received from Mr and Mrs Yarwood, the owners of 15 Petersfield Drive, the main points of which are outlined below:

1. Loss of light – the new street light has had to be re-positioned over the road and being as tall as the tree it's light is being blocked by the bulk of the tree resulting in number 15 Petersfield Drive being in shadow.
2. Shedding of cones and needles – The needles drop all year round resulting in damage to vehicles parked on the driveway of 15 Petersfield Drive. Large cones have fallen from the tree, there are fears that the cones may fall on vehicles and damage paintwork, or fall onto passers by.
3. Impact upon foundations – As the tree is higher than the house there are concerns that it may affect the house foundations.
4. There are 21 substantial trees in existence in Petersfield Drive, 6 of which are almost directly opposite 11 and 15 Petersfield Drive.
5. Regarding the Human Rights Act, in respect of the right of respect for a person's home and possessions, does this not apply to this tree for the damage that it has caused and is continuing to cause to vehicles.

**Arboricultural Officer comments** - The tree has been pruned recently which has resulted in the removal of a large number of branches on one side of the tree, however, this is not a cause for concern and the tree is still a fine specimen.

**Landscape Architects comments** - Tree appears to have been planted directly on the boundary of no. 15 Petersfield Drive. It is very close to the driveway and as a consequence the lower branches overhanging no. 15 have been removed to allow free passage of vehicles. Unfortunately, most of the other overhanging branches have also been removed, so its crown is very one-sided, looking very peculiar from this aspect. Also the tree seems to have no leading branch at the top, possibly removed to prevent it attaining any greater height. The normal habit of these trees is to spread to 5 metres and therefore this is not really suitable so close to a neighbouring property.

There is another tree in the front garden of no. 11 (weeping birch), and another establishing Deodar Cedar occupying virtually all the front garden of no. 9. There are not many other trees of the size of T1 in Petersfield Drive but given its position and shape I consider that it is not worthy of a TPO.

## **ISSUES**

**Loss of Light** - The City Council's Arboriculturalist has advised that the tree should not block out too much light as the owners of 15 Petersfield Drive have already removed a number of branches from their side of the tree. Given this, it is not felt that the retention of the tree will have an impact upon the level of light experienced by the occupants of no. 15 Petersfield Drive. With regards to the lack of light from the street light at night, it is acknowledged that the tree may cause shadowing to no. 15 Petersfield Drive, however, it is not considered that this is of a sufficient level to warrant refusal.

**The Shedding of Cones and Needles** - The owners of 11 Petersfield Drive have stated that the cones only appeared for the first time this June. The City Council's Arboriculturalist has stated that it is not normal for cones to fall from the tree so soon as they normally shed their scales and become soft before falling after 3 to 4 years. In the light of this it is not felt that the shedding of the cones should occur regularly for another couple of years.

Though it is acknowledged that the tree will regularly shed needles, which could involve regular sweeping of the drive, the tree should not produce sticky sap.

**Impact upon Foundations** - The tree is considered to be an adequate distance away from the adjoining properties to prevent damage to any foundations. Notwithstanding this, should any evidence be presented in the future that damage to foundations has occurred then consent to remove the tree may be forthcoming.

**Visual Amenity** - Despite the pruning that has already been undertaken on the tree, it is still felt that the tree contributes to the level of visual amenity experienced along this section of Petersfield Drive. There are other trees in Petersfield Drive, but as Landscape Practice and the City Council's Arboriculturalists have confirmed, there are not many the size of T1.

## **CONCLUSION**

It is acknowledged that heavy pruning has been undertaken on this Cedar tree, resulting in the different opinions held by the Arboricultural Officer and Landscape Architect about its merits for a Tree Preservation Order. Notwithstanding this, the Head of Planning feels that in its current condition the tree still contributes to the level of visual amenity experienced along Petersfield Drive. Retention of this tree would be in line with the aspirations of the City Council's Tree Strategy (2006-10).

## **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.**

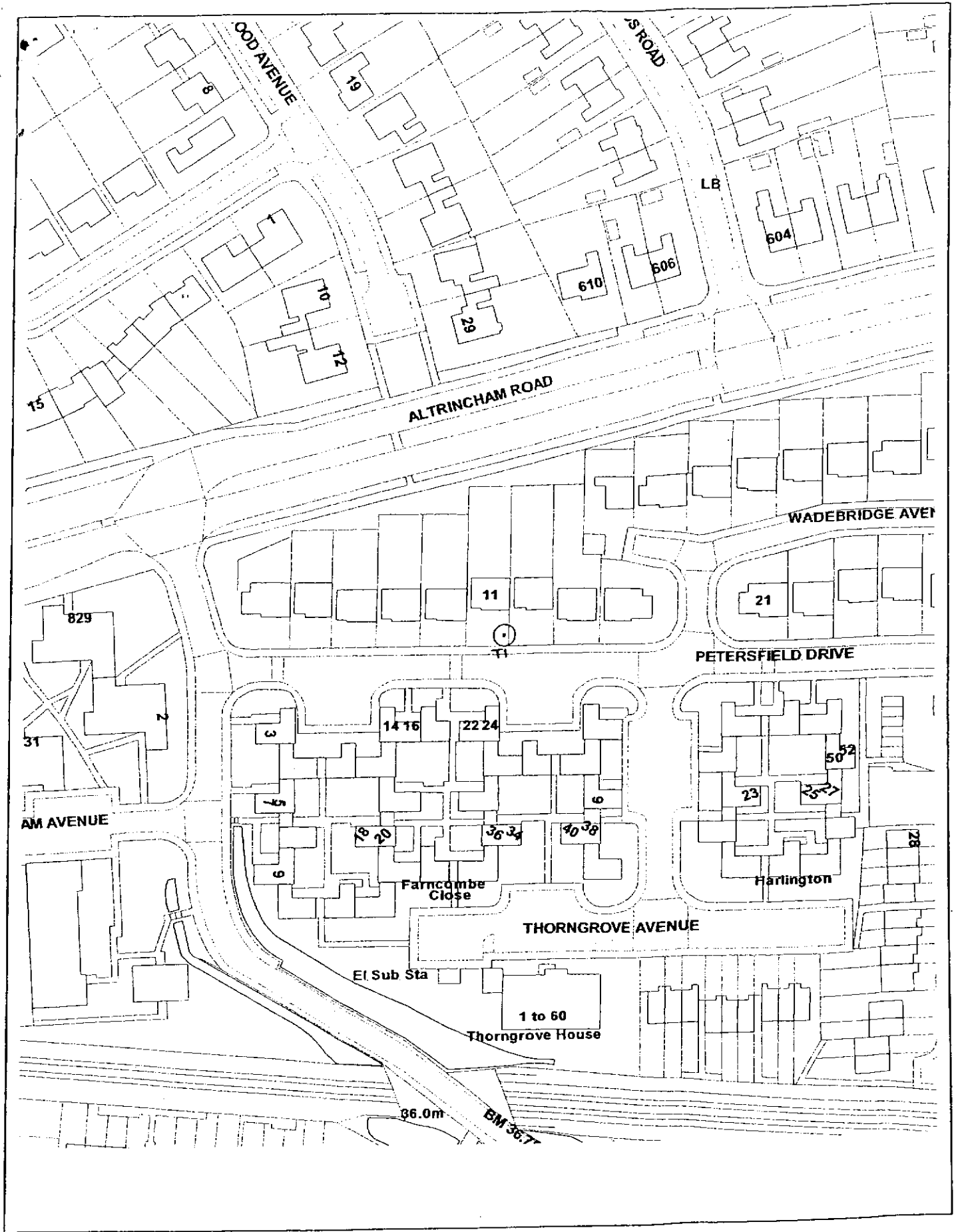
The Head of Planning, recommends that the Planning and Highways Committee instruct the City Solicitor to confirm the Tree Preservation at 11 Petersfield Drive,

Baguley, 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.

The Wythenshawe Area Committee agree the recommendation.

### **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.



Tree Preservation Order

11 Petersfield Drive, Baguley, Manchester, M23 9PS

18<sup>th</sup> June 2007

