

### Report for Resolution

**COMMITTEE**            **PLANNING AND HIGHWAYS COMMITTEE**

**DATE**                    **11<sup>th</sup> February 2010**

**SUBJECT:**              **CONFIRMATION OF TREE PRESERVATION ORDER -  
12 ALAN ROAD, WITHINGTON**

**REPORT OF**            **HEAD OF PLANNING**

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#### **PURPOSE OF REPORT**

To inform the committee about the background and issues involved in the making of a Tree Preservation Order on 28<sup>th</sup> October 2009 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 12 Alan Road, Withington, Manchester, M20 4WG, 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 4206

#### **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:**

<b>Anti-poverty</b>	<b>Equal Opportunities</b>	<b>Environment</b>	<b>Employment</b>
<b>No</b>	<b>No</b>	<b>Yes</b>	<b>No</b>

## **INTRODUCTION**

On 26<sup>th</sup> October 2009 an e-mail was received from a local resident asking for a Tree Preservation Order to be placed on the young mature Cedar tree in the rear garden of 12 Alan Road. The reason given for requesting the Tree Preservation Order was the property was due to be sold and the new owner has expressed an intention to fell the tree. The occupants have stated that the tree is large and disproportionate to the other trees in the area and it will get larger and unmanageable.

Following a site visit by the City Council's Arboriculturalist a Provisional Tree Preservation Order was placed on the Cedar tree on 28<sup>th</sup> October 2009.

Subsequently the site was visited and the tree inspected. The tree is of good amenity value having had regard to the Helliwell method of Visual Amenity Valuation of trees 2008. Therefore, the tree is worthy of protection.

## **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 28<sup>th</sup> October 2009.

The owner/occupiers,

10 Alan Road, Withington, Manchester, M20 4WG  
14 Alan Road, Withington, Manchester, M20 4WG  
13 Brunswick Road, Withington, Manchester, M20 4QB  
15 Brunswick Road, Withington, Manchester, M20 4QB  
17 Brunswick Road, Withington, Manchester, M20 4QB

Owner of the site – Marilyn and Alan Roseman, 12 Alan Road, Withington, Manchester, M20 4WG

**Local Residents** - One letter of objection has been received from Dr and Mrs Roseman of 12 Alan Road, the main points of which are outlined below:

1. Loss of light – The tree is an evergreen and blocks light to the garden all year round.
2. Size – The tree is large and takes up a disproportionate area of the garden because the area beneath and around it is not suitable for a lawned area.
3. Screening – There are a number of other large trees in the area which perform the function of screening the same views of the cedar.

**Arboricultural Officer comments** - The young mature Cedar is in good condition and is worthy of a Tree Preservation Order.

The tree is of considerable importance within the garden, it is fairly well placed and an asset to the Landscape.

### **ISSUES**

**Size and Loss of Light** – The size of the tree is appropriate to the area which hosts a variety of tree types of varying sizes. It is considered that the height and spread of the tree is appropriate to its setting. Pruning the tree would improve light to the garden.

**Screening** - The tree is central to the collection of trees at the rear of the properties. It is of considerable importance within the garden, fairly well placed and an asset to the Landscape.

### **CONCLUSION**

It is considered that the Cedar tree shown on the attached plan should be protected by the Tree Preservation Order. This is because the City Council's Arboriculturalist and Head of Planning believe that the tree is in good condition, of good amenity value and is an appropriate size for its setting. 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 12 Alan Road, Withington, under Section 199 of the town and Country Planning Act 1990, and that the Order should cover the trees 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.