

**Manchester City Council  
Report for Resolution**

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

**DATE**                    **22<sup>nd</sup> October 2009**

**SUBJECT**                **CONFIRMATION OF TREE PRESERVATION ORDER  
50 SOUTH DRIVE, CHORLTON-CUM-HARDY**

**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 9<sup>th</sup> June 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 50 South Drive, Chorlton-cum-Hardy, 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**

Chorlton

## **Implications for:**

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

**Equal Opportunities**  
**No**

**Environment**  
**Yes**

**Employment**  
**No**

## **INTRODUCTION**

On 29<sup>th</sup> April 2009, an application was received to fell the mature Silver Birch tree at the boundary of 50 South Drive and 16 South Meade, which falls within the Chorltonville Conservation Area. The reason stated for felling the tree was that the tree was large and disproportionate to the other trees in the area and it will get larger and unmanageable.

The City Council Arboriculturalist and Landscape Architect visited the site and inspected the tree. In their opinion the tree is of high amenity value and is in good condition. 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 9<sup>th</sup> June 2009.

The owner/occupiers,

52 South Drive, Chorlton-cum-Hardy, Manchester, M21 8FB  
16 South Meade, Chorlton-cum-Hardy, Manchester, M21 8EB  
54 South Drive, Chorlton-cum-Hardy, Manchester, M21 8FB  
48 South Drive, Chorlton-cum-Hardy, Manchester, M21 8EG  
11 South Meade, Chorlton-cum-Hardy, Manchester, M21 8EB

Owner of the site – Jean Ruane and Paul Durkin, 50 South Drive, Chorlton-cum-Hardy, Manchester, M21 8FB

**Local Residents** - One letter of objection has been received from a local resident, the main points of which are outlined below:

1. Visual amenity – The amenity value of the trees in Chorltonville would not be reduced by the removal of the Silver Birch tree, as it does not run with the line of street trees and if felled would not affect the visual line.
2. Loss of light – The tree blocks the light from the front rooms and bedrooms of 16 South Meade.
3. Size – The tree does not fit its position and is not a tree that one would actively plant in a very small space.
4. Damage to property – The roots of the tree have lifted the drive of 16 South Meade severely and have meant that the paving stones have had to be re-laid

**Arboricultural Officer comments** - The large mature Silver Birch is in good condition and is worthy of a Tree Preservation Order.

**Landscape Architects comments** - Landscape Practice recommend that the tree be covered by a Tree Preservation Order. The tree has very good form and contributes significantly to the visual amenity of the area. The tree has a high bio-diversity value and will be a host to a large variety of native habitats.

## **ISSUES**

**Visual amenity** – It is the City Council’s opinion that the Silver Birch tree is visually an important tree which can be seen from a large number of properties. The tree has a prominent street presence which adds to the character of the area.

**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. We consider that the height and spread of the tree is appropriate to its setting. Birch trees have a relatively light foliage and do not cast a heavy shade on their surroundings.

**Damage to property** - Regarding concerns that the flags have been lifted at 16 South Meade due to the tree roots, this can be corrected without the removal of the tree. Any damage caused to property by the tree roots is a civil matter to be resolved between the tree owner and the claimant.

## **CONCLUSION**

It is considered that the Silver Birch tree shown on the attached plan should be protected by the Tree Preservation Order. This is because the City Council’s Arboriculturalist and Landscape Architect believe that the tree is in good condition, of high 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 50 South Drive, Chorlton, 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.