

Manchester City Council

Report for Resolution

COMMITTEE	PLANNING AND HIGHWAYS
DATE	26 JULY 2007
SUBJECT	CONFIRMATION OF TREE PRESERVATION ORDER
LOCATION	24 ELM ROAD, DIDSBURY
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 30th March 2007 and to recommend the confirmation of the Tree Preservation Order.

RECOMMENDATION

The Head of Planning recommends that the Committee instruct the City Solicitor to confirm the Tree Preservation at 24 Elm Road, Didsbury 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.

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

Didsbury West

Implications for:

Anti-poverty
No

Equal Opportunities
No

Environment
Yes

Employment
No

INTRODUCTION

On 21st February 2007, an application was received to fell the young, mature Spruce tree in the front garden of 24 Elm Road, Didsbury, which falls within the Blackburn Park Conservation Area. The reason stated for felling the tree was to enable a planting scheme and landscaping to the front garden.

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 could easily be incorporated into a new landscaping scheme. 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 30th March 2007.

The owner/occupiers,

22 Elm Road, Didsbury, Manchester, M20 6XD
22a Elm Road, Didsbury, Manchester, M20 6XD
26 Elm Road, Didsbury, Manchester, M20 6XD
2 Pine Road, Didsbury, Manchester, M20 6UY
25 Elm Road, Didsbury, Manchester, M20 6XD
27 Elm Road, Didsbury, Manchester, M20 6XD
27a Elm Road, Didsbury, Manchester, M20 6XD

Owner of the site – Mr and Mrs Sykes, 24 Elm Road, Didsbury.

One letter of objection has been received from the owners of the site who are of the opinion that the tree blocks out the view of the front of the house from the pavement and affects the security of the house, blocks out the majority of light to the front of the property and is an inconvenience due to the lower branches overhanging the pavement.

ISSUES

Response to Objectors Comments

The City Councils Arboriculturalist has advised that the lower branches of the tree could be removed to the required height to give clearance to the footpath, which would improve security, light and solve the problem of pedestrians having to step into the road to avoid overhanging branches. The objector was advised of this and was asked if he would like to withdraw his objection, however, he stated that he would like his objection to still stand and the matter be dealt with at planning and Highways Committee.

CONCLUSION

It is considered that the Spruce tree shown on the attached plan should be protected by the Tree Preservation Order. This is because the tree is of a species not commonly seen, which has an important impact on the street scene and on residential amenity. The continued protection of the tree is therefore considered important to retain this 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 Committee confirm the Tree Preservation Order. The tree recommended for confirmation is plotted on the plan attached to this report.

The proposed Tree Preservation Order would have the effect of requiring that any works to prune or fell the tree included within the Order would need prior approval by the Head of Planning unless the trees were to die, become dangerous or diseased.

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.