

Manchester City Council

Report for Resolution

COMMITTEE **PLANNING AND HIGHWAYS**

DATE **23rd NOVEMBER 2006**

SUBJECT **CONFIRMATION OF TREE PRESERVATION ORDER**

LOCATION **14 BROOK ROAD, WITHINGTON**

REPORT OF **HEAD OF PLANNING**

PURPOSE OF REPORT

To inform the committee about the background and issues involved in the making of a Provisional Tree Preservation Order on 15th September 2006 and to recommend the confirmation of the Tree Preservation Order with modifications.

RECOMMENDATION

The Head of Planning recommends that the Committee confirms the Manchester City Council (14 Brook Road, Withington, Manchester) Tree Preservation Order 2006 with the following modifications:

1. Delete the following wording in Schedule 1:

Trees specified by reference to an area
(within a dotted black line on the map)

Reference on map	Description	Situation
A1	Trees (of whatever species) within the area marked A1 on the map	Within the curtilage of 14 Brook Road, Withington, Manchester

2. Delete the attached plan numbered 1.
3. Insert the following wording in Schedule 1.

Trees specified individually
(encircled in black on the map)

Reference on map	Description	Situation
T1	Lime	On northern boundary within curtilage of 14 Brook Road, fronting property
T2	Sycamore	On north eastern boundary with Amherst Road
T3	Sycamore	On north eastern boundary with Amherst Road
T4	Lime	Rear of property, south/east side with Amherst Road
T5	Holly	Rear of property, south/east side with Amherst Road
T6	Lime	Rear of property, south/east side with Amherst Road

4. Insert the attached plan numbered 2

Financial Consequences for the Revenue Budget

None

Financial Consequences for the Capital Budget

None

Contact Officer

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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

A tree preservation order can be made if the Council consider it expedient to do so in the interests of amenity. The effect of an order is of requiring that any works to prune or fell a tree included within the order would need prior approval by the Head of Planning unless the tree were to die, become dangerous or diseased.

In September 2006, the Council was requested to make an order to protect trees at 14 Brook Road, which is at the junction with Amherst Road. The information received was that the site was to be redeveloped. The Head of Planning concluded that the site contained well established mature trees of high amenity value, the site was at a prominent location and that the trees were an established and important feature of the street scene. The Head of Planning also considered that the trees were under immediate threat and that it was not appropriate to await a full survey of the trees on site.

On 15th September the City Council therefore provisionally made the Manchester City Council (14 Brook Road, Withington, Manchester) Tree Preservation Order 2006. The order protects all of the trees within the curtilage of number 14 Brook Road as shown on the attached plan numbered 1.

After the order was made, the City Council Arboriculturalist and Landscape Architect both visited the site and inspected the trees. In their opinion there are 6 trees which are worthy of protection due to their high amenity value. They are shown on the attached plan numbered 2 as follows:

- T1 – mature Lime
- T2 – mature Sycamore
- T3 – mature Sycamore
- T4 – mature Lime
- T5 - mature Holly
- T6 – mature Lime

T7 is a multi stemmed Sycamore tree and is the only other tree on the site. It is currently protected by the provisional TPO. Following the survey, it is not

considered that T7 is worthy of protection due to inherent structural weaknesses, and its proximity to the out buildings on this site. It is therefore proposed to modify the order by no longer protecting all trees on the site, but limiting protection to the 6 trees listed above.

REPRESENTATIONS

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 notified 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 15th September 2005.

The owner/occupiers,

Flats 1 – 4, (Incl) - 1 Amherst Road, Withington Manchester
2, 4, 3, 5 and 7 - Amherst Road, Withington
8, 10, 14, 16 - Brook Road Withington
Flats 1 – 18, - 12 - Brook Road, Withington Manchester
27 Clifton Avenue Withington

Owner of the site – Ms. K. Beavis – 14 Brook Road Withington

Purchaser of the site – Bluetree Estates Limited, Market Court, 20-24 Church Street, Altrincham

One letter of objection has been received from the purchasers of the site who says that they would not expect the trees on site to be of sufficient quality or specification to warrant a blanket order on the whole of the site. They also state that there are a number of trees which are split stemmed and of no quality whatsoever.

6 letters of support have been received from local residents who urge the Council to confirm the order including one resident who expresses thanks to the Council for placing the provisional order.

ISSUES

Response to Objectors Comments

It is proposed to remove protection from all trees on the site and only protect the 6 trees specified. It is considered that only one tree (T7) is in such a condition that it does not warrant protection.

CONCLUSION

It is considered that the 6 trees shown on the attached plan numbered 2 should continue to be protected by the Tree Preservation Order. This is because they are good specimens, and provide an important habitat in supporting wildlife in the area.

They are highly visible and have an important impact on the street scene and local environment. Their presence is enjoyed by the public and they make a considerable contribution to residential amenity. It is further expedient to confirm the order due to the risk of the trees being felled.

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 persons 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 CONFIRM THE ORDER WITH MODIFICATIONS

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