

Manchester City Council

Report for Resolution

COMMITTEE	PLANNING AND HIGHWAYS COMMITTEE
DATE	23rd October 2008
SUBJECT	CONFIRMATION OF TREE PRESERVATION ORDER
LOCATION	54 SOUTH DRIVE, CHORLTON
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 10th July 2008 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 54 South Drive, Chorlton, 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

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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

Chorlton

Implications for:

Anti-poverty
No

Equal Opportunities
No

Environment
Yes

Employment
No

INTRODUCTION

On 3rd June 2008, an application was received to fell the mature Beech tree in the rear garden of 54 South Drive, Chorlton, which falls within the Chorltonville Conservation Area. The reason stated for felling the tree was that the tree presented a danger to users of adjacent gardens as a branch had recently fallen off the tree.

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 3rd June 2008.

The owner/occupiers,

52 South Drive, Chorlton-cum-Hardy, Manchester, M21 8FB
56 South Drive, Chorlton-cum-Hardy, Manchester, M21 8FB
60 South Drive, Chorlton-cum-Hardy, Manchester, M21 8FB
16 South Meade, Chorlton-cum-Hardy, Manchester, M21 8EB
58 South Drive, Chorlton-cum-Hardy, Manchester, M21 8FB
50 South Drive, Chorlton-cum-Hardy, Manchester, M21 8FB
67 South Drive, Chorlton-cum-Hardy, Manchester, M21 8ED
69 South Drive, Chorlton-cum-Hardy, Manchester, M21 8ED

Owner of the site – Mr and Mrs G Yeadon, 54 South Drive, Chorlton-cum-Hardy, Manchester, M21 8FB

Local Residents - Six letters of objection have been received from local residents, 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 Beech tree, as it can not be seen other than from the back gardens of the island of houses subtended by South Meade, South Drive and Meadow Bank and limited vantage points along these roads.
2. Size – The Beech tree is of excessive size in relation to its surroundings, there is no tree as big as this in any comparable back garden in Chorltonville.
3. Loss of light – The tree blocks the sun from the garden of 16 South Meade for 4 hours a day.
4. Tree presents a danger to those under it – The Beech tree has recently shed a large branch which has led the objectors to believe that the tree is dangerous.
5. Damage to property – There are concerns regarding the root structure. The paved area to the rear of 60 South Drive has become severely raised and uneven.

Arboricultural Officer comments - The 18m mature Beech is in good condition and is worthy of a Tree Preservation Order. The tree would benefit from crown reduction from adjacent properties and in height by a maximum of 3 metres and crown thinning by 20%.

Landscape Architects comments - Landscape Practice recommend that the tree be covered by a Tree Preservation Order. The tree has good form and previous pruning has currently reduced its crown spread to a manageable size, although it is a large tree for the size of garden in which it grows. Unless the City Council's Arboriculturalist considers its structural condition to be a risk, we do not agree with its removal and consider it worthy of Tree Preservation Order protection.

ISSUES

Visual amenity – It is the City Council's opinion that the Beech tree is visually an important tree, especially due to its impact on the rear gardens of quite a large number of properties and it can be seen above the roofs of 54/56 South Drive and between 52 & 54 and 58 & 60 South Drive. If the suggested remedial pruning is carried out the tree will still be visible from these locations.

Size and Loss of Light – The tree is large for the size of garden in which it grows, however, this would not be a reason to have the tree removed. A solution to the problems of the size of the tree would be to allow its pruning which would consist of crown reduction from adjacent properties by a maximum of 3 metres, crown thinning and the possible removal of a low limb. It is acknowledged that the tree may cause loss of light at 16 South Meade however, it is not considered that this is of a sufficient level to warrant felling the tree.

The tree presents a danger – The Beech tree has recently shed a large limb leading the objectors to believe that the tree is unsafe. The tree has been assessed twice by the City Council's Arboriculturalist and it was found to be in good condition. All trees, even ones in good condition can drop branches, however, this is not normally a reason to have a healthy tree removed. If the suggested pruning is carried out the risk of falling branches will be reduced. The tree does not have any weak forks at present; however, it should be monitored every 5 years.

Damage to property - Structural damage occurs when the roots of the tree take moisture out of clay based sub soils. As far as we are aware there have been no claims of structural damage with clay based sub soils in the area. It has been reported that the flags have been lifted at 60 South Drive due to the tree roots, however, 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. Pruning the tree can restrict the root growth.

CONCLUSION

It is considered that the Beech tree shown on the attached plan should be protected by the Tree Preservation Order. This is because the City Council's Arboriculturalist believes the tree is in good condition and is not dangerous and pruning the tree will alleviate the problems caused by the size of the tree. After pruning the tree will still contribute to the level of visual amenity experienced along South Drive and South Meade. 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 54 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.