

| <b>Application Number</b> | <b>Date of Application</b> | <b>Committee Date</b>      | <b>Ward</b>  |
|---------------------------|----------------------------|----------------------------|--------------|
| N/a                       | N/a                        | 30 <sup>th</sup> June 2016 | Gorton North |

**Proposal** Request to confirm provisional Tree Preservation Order  
**Location** Land at Vale Cottage Inn, 1 Croft Bank, Gorton Manchester, M16 8FF  
**Applicant** N/a  
**Agent** N/a

## **Description**

Objection to Tree Preservation Order JK28/1/16 TPO, Land at Vale Cottage Inn, 1 Croft Bank, Gorton, M18 8WH

### **1.0 Introduction**

The committee is asked to consider 1 objection made to this order. This relates to a Tree Preservation Order (TPO) served at the above address on an Ash tree within the garden of the public house.

### **2.0 Background**

A notification was received for proposed tree works to remove an Ash tree from the garden of the Vale Cottage Inn, Gorton (Ref 110849/TCA/2015). The garden is situated on the northside of the public house, and lies within the Gorton Brook Conservation Area

The City Arborist visited the site and inspected the tree. In his opinion this tree is in a good condition and could be managed with pruning. Further negotiations were held with the manager of the public house and his agent to try and agree to pruning works. However agreement could not be reached within the statutory 6 week time period to make a decision. Consequently a provisional TPO was made on the 28<sup>th</sup> January 2016 and on 2<sup>nd</sup> February 2016 the City Council objected to the notification of proposed works to remove this Ash tree.

The Helliwell method of Visual Amenity Valuation of trees 2008 has been carried out and this assessment found the tree to be of high amenity value.



An objection from the manager was received via the City Solicitor. A written response has been sent to the owner to provide a further explanation of why a provisional TPO has been made on a tree at this property and an offer to further discuss this TPO or to meet on site to try and find a solution agreeable to both parties. To date no further response has been received.

This report requests that the Committee instruct the City Solicitor to confirm the TPO at the Vale Cottage Inn, 1 Croft Bank, Gorton.

### **3.0 Consultations**

Part 2, paragraph 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 states that before a provisional TPO is confirmed, any persons interested in land affected by the order should be served with a copy of the order. Local residents in the vicinity were consulted and objections and representations made with respect to the Order have been considered.

The following residents were served with a copy of the order or notified about the TPO, on the 11<sup>th</sup> November 2016.

The Owner(s) and/or any Occupier(s) of Vale Cottage Inn, 1 Croft Bank, Gorton Manchester, M16 8FF

I and B Pub Company Limited 415 Stockport Road, Hyde, SK14 5RY  
Local Residents

13 Peel Square, Gorton, Manchester, M18 8WE,  
14 - 18, 29, Chapman Mews M18 8WF ,  
3 Croft Bank , Gorton, M18 8WH  
21- 25 Brookfield Grove, Gorton, M18 7FD,

#### **4.0 Summary of objections**

An objection has been received from the owner/manager of the Vale Cottage Inn stating that the tree is dangerous and it has dropped branches which are a danger to his customers.

#### **5.0 Arboricultural Officer comments**

The City Arborist has made a request that this Ash tree should be considered for a TPO. He has objected to a recent application proposing to fell the tree, as following his site survey he considers the tree to be a dominant feature within this location and worthy of a TPO. To alleviate the concerns of the applicant he recommends that it could be managed with regular pruning works. Advice on level and type of appropriate pruning works has been given.

#### **6.0 Issues**

**Concerns about the health of the tree** - the City Arborist has advised that this tree appears to be in good health and recommended pruning works would manage tree.

#### **7.0 Conclusion**

It is considered that the Ash tree, as shown on the attached plan, should be protected by the Tree Preservation Order. It is of high amenity value, located in a prominent position adjacent to the highway. This tree is highly visible to nearby residential properties and passers by on adjacent highways. It is considered that it is enjoyed by local residents and to forms part of the special character of the Gore Brook Valley Conservation Area. The City Arborist tree survey found the tree to be in good condition.

The Order has been properly made in the interests of securing the contribution this tree makes to the public amenity value in the area. The tree in question is an important element of the local landscape and contributes to the local environment.

Whilst it is acknowledged that the reason for objecting to the TPO, in particular concerns about the health of the tree are factors which requires due consideration, it is not felt that they outweigh the contribution this tree of high amenity value make to the area.

It is therefore expedient in the interests of amenity to make provision for the preservation of this tree.

#### **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.

### **8.0 Recommendation.**

The Head of Planning recommends that the Planning and Highways Committee instruct the City Solicitor to confirm the Tree Preservation Order at , The Vale Cottage Inn, 1 Croft Bank, Gorton, under Section 199 of the Town and Country Planning Act 1990, that the Order should cover the trees as plotted on the plan attached to this report.

**Human Rights Act 1998 considerations** – This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those 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.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Head of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the of the application is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

### **Article 35 Declaration**

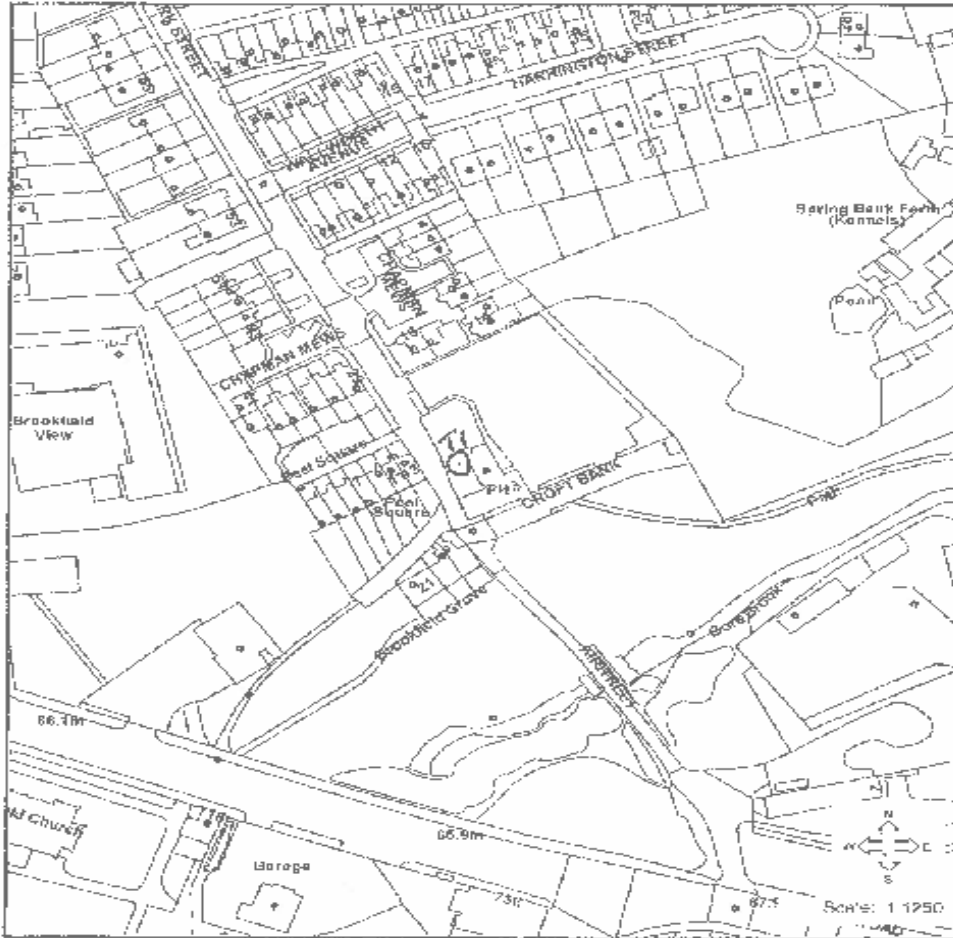
#### **Local Government (Access to Information) Act 1985**

Correspondence regarding the Tree Preservation Order is held on file, which is available from the case officer.

**Relevant Contact Officer :** John Kelsey

Telephone number : 0161 234 4597  
Email : [j.kelsey@manchester.gov.uk](mailto:j.kelsey@manchester.gov.uk)

Julie Roscoe  
Head of Planning, Building Control & Licensing  
HEADER



USERTXT

*TPO - Land at Vale Cottage Inn, 1 Croft Bank  
Gorton, Manchester M18 2LH.*

© Crown copyright, and database rights 2012. Ordnance Survey 100019550

Data part produced 27 Jan 10