

Application Number	Date of Appln	Committee Date	Ward
N/A	N/A	30th June 2016	Brooklands

Proposal Request to confirm provisional Tree Preservation Order

Location 297 Brooklands Rd, Brooklands, Manchester, M23 9HE

Applicant N/A

Agent N/A

Description

Objection to Tree Preservation Order JK11/02/2016 TPO, 297 Brooklands Rd, Brooklands, Manchester, M23 9HE

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 a mature Lime and Pine tree in the front garden adjacent to the highway and a group of four large mature Beech trees in the rear garden.

2.0 Background

The property is situated on the eastern side of Brooklands Road, to the south of the Brooklands Road Conservation Area. The majority of Brooklands Road is covered by existing Tree Preservation Orders. However, as many of these trees are protected by TPO's that were made in 1976 it was considered expedient to review existing TPO's along Brooklands Road, including resurveying all trees. This TPO confirmation request is part of this wider TPO work programme on Brooklands Rd.

The City Arborist has visited the site and inspected the trees. In his opinion these trees are in good condition, of high visual amenity value and an important feature on Brooklands Road. These trees can be viewed from several surrounding residential properties and both vehicular and pedestrian passers by along Brooklands Rd in particular. A predominant characteristic feature of Brooklands Rd is its almost continuous canopy of trees in front gardens.



Image above shows distance view down Brooklands Rd including Pine and Lime tree in front garden of 297 Brooklands Rd

The group of Beech trees in the rear garden are planted in a row along the rear boundary and form prominent green screen visible from several properties and the City Arborist considers these trees to be worthy of a TPO.



Image above shows in background of property on New Forest Road group of Beech trees in rear garden of 297 Brooklands Road

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

Following these assessments a provisional TPO was made on the 11th February 2016.

A written objection to the TPO has been received from the owner of the neighbouring property at 299 Brooklands Rd. A letter has been sent to the owner/objector to provide a further explanation of why a provisional TPO has been made on these trees, providing further background to the current programme of reviewing and remaking TPO's along the length of Brooklands Rd where appropriate and an offer to further discuss this TPO. To date no further response has been received.

This report requests that the Committee instruct the City Solicitor to confirm the TPO at 297, Brooklands Road, Brooklands, Manchester.

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 11th February 2016.

The Owner(s) and/or any Occupier(s) of 297 Brooklands Rd, Brooklands, Manchester, M23 9HE

295, 299 Brooklands Rd, Manchester, M23 9HE
296, 298, 300 Brooklands Rd, Manchester, M23 9HB
1,3,5 New Forest Road, Manchester, M23 9JT

Allen Maunder, Brooklands Road Action Group, 204 Brooklands Road, Manchester, M33 3PH

4.0 Summary of objections

An objection has been received from the owner of 299 Brooklands Rd, Manchester. In summary it states:

- The trees reduce sunlight into the dwelling meaning lights and heaters have to be kept on longer, using up more energy. Also prevents the use of solar panels which reduces ability to save energy to help meet Governments EU targets.

5.0 Arboricultural Officer comments

The City Arborist advises that these trees are worthy of a TPO. He carried out a site survey and considers this tree of high amenity value and clearly visible from adjoining highways.

6.0 Issues

Loss of sunlight to neighbouring property – while not materially relevant to the consideration of confirmation of a TPO, it should be noted that the making of a TPO for these trees does not prevent any future pruning or in some cases felling works, only the requirement that the owner or neighbour make an application to carry out these works to the City Council.

7.0 Conclusion

It is considered that the identified trees at this property should be protected by the Tree Preservation Order. They are of high amenity value, located in a prominent position within the front garden, adjacent to the highway and forms part of the intrinsic character of Brooklands Road and its Conservation Area, to the north.

The City Arborist site survey found the trees to be in good condition. These trees are considered to be enjoyed by local residents and are highly visible to passing vehicular and pedestrian traffic along Brooklands Road and New Forest Road, in particular.

The Order has been properly made in the interests of securing the contribution these trees make to the public amenity value in the area. The trees in question are an important element of the local landscape and contribute to the local environment.

Whilst the reasons for objection to the making of a TPO are acknowledged, in particular concerns about the loss of sunlight require due consideration, it is not felt that they outweigh the contribution these trees of high amenity value make to the area.

It is therefore expedient in the interests of amenity to make provision for the preservation of these trees.

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 297 Brooklands Road, Whalley Range, 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

Julie Roscoe
Head of Planning, Building Control & Licensing



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Date plan produced: 11-Feb-16

TPO - 297 Brooklands Road, Manchester M23 9HE