

Application Number	Date of Application	Committee Date	Ward
N/a	N/a	25 th August 2016	Burnage

Proposal Request to confirm provisional Tree Preservation Order
Location Land at 621 Burnage Lane, Burnage, Manchester M19 1WB
Applicant N/a
Agent N/a

Description

Objection to Tree Preservation Order JK1/03/16 TPO, Land at 621 Burnage Lane, Burnage, Manchester M19 1WB

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 London Plane tree.

2.0 Background

On the 18th February 2016 a request was received from the City Arborist to place a provisional Tree Preservation Order on a London Plane tree situated within the front garden of a residential semi detached property at 621 Burnage Lane, Burnage. The property is situated on the eastern side of Burnage Lane, facing The Sun In September public house.

The City Arborist visited the site and inspected the tree. In his opinion this tree is in good condition, of high visual amenity value and is an important feature on Burnage Lane. It was recognised in his site report that there was some minor damage to flags abutting the tree but this could be easily remedied. He states the removal of the tree would be a great loss to the neighbourhood. 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 homeowner of 621 Burnage Lane 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 explain that the making of a TPO does not prevent agreed pruning works being carried out on the tree to alleviate the impact of the tree on the enjoyment of their property. An offer was made to further discuss this provisional TPO and/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 621 Burnage Lane, Burnage, Manchester M19 1WB.

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 1st March 2016.

The Owner(s) and/or any Occupier(s) of 621 Burnage Lane, M19 1WB

Iftikhar Khalid Masud, 621 Burnage Lane, Burnage, Manchester M19 1WB

Salma Masud, 621 Burnage Lane, Burnage, Manchester M19 1WB

Local Residents

609 - 627 Burnage Lane, Burnage, Manchester M19 1WB

The Sun In September PH, 586 - 588 Burnage Lane, Manchester M19 2HZ

4.0 Summary of objections

An objection has been received from the owner of the property at 621 Burnage Lane stating that the tree

- blocks gutters, causes water overflows, causing damp in the wall costing £330 - £400 to be cleaned each year.
- creates a slippery drive way from leaves – both parents are OAP and guests and have slipped many times when entering the property.
- flag stones have been raised caused by tree roots, public pavement has also risen
- branches have broken off and damaged cars, weak branches breaking off and on windy days falling onto cars. Father is 'paranoid' to walk outside the property for fear of being hit by a falling branch.
- blocked sunlight
- damp in the front bedroom causing health issues.

5.0 Arboricultural Officer comments

The City Arborist has made a request that this London Plane should be considered for a TPO, following concerns expressed that the tree was imminently about to be felled. He states that there are no defects or major issues with the tree and it forms an important part of the treescape on the road and offers high visual amenity being easily viewable from the highway. Any damage caused by the roots to paving stones is considered to be minor and easily remedied. If the tree was allowed to be felled it would be a great loss to the neighbourhood.

6.0 Issues

- applicants concerns should be met or greatly alleviated by carrying out regular tree management works and external property maintenance that includes removal of leaves from gutters and drive.

7.0 Conclusion

It is considered that the London Plane 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 vehicular and pedestrian passers by. 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 problems arising from leaves blocking gutters, leaf and branch fall into the front garden and onto adjacent cars, are reasonable concerns and have been considered, it is not felt that they outweigh the contribution this tree of high amenity value makes to the area. Furthermore these impacts can be greatly alleviated by regular maintenance works being carried out on the tree and property.

Therefore it is felt to be 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.

9.0 Recommendation.

The Head of Planning recommends that the Planning and Highways Committee instruct the City Solicitor to confirm the Tree Preservation Order at , 621 Burnage Lane, Burnage, M19 1WB, 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 polices 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.

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