

<b>Application Number</b>	<b>Date of Application</b>	<b>Committee Date</b>	<b>Ward</b>
N/A	N/A	17 November 2016	Didsbury East

**Proposal** Request to confirm provisional Tree Preservation Order

**Location** Land at junction of Clothorn Road and Clayton Avenue, Didsbury

## **Description**

Objection to Tree Preservation Order JK14/06/16 TPO, Land at Clothorn Road and Clayton Avenue, Didsbury.

### **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 group of 12 mature trees incorporating 6 x Beech, 2 Sycamore and a Holly, Horse Chestnut, Ailanthus and Lime.

### **2.0 Background**

In April 2016, a group of local residents requested details of a TPO across the site, as they were concerned about rumours that the remainder of the site, containing the Christian Science Church and surrounding land, was to be redeveloped.

The City of Manchester (Clothorn Road, Didsbury) 1977 TPO was already in place providing protection for trees across the site. However, the site had been partially redeveloped following the making of the order and several trees that were included in this TPO were no longer present. In order to update the current position with trees on site the original order has been revoked and a replacement provisional Tree Preservation Order made. It is this provisional TPO that the committee is being asked to consider.

The above group of trees are located within the grounds of the Second Church of Christ Scientist Manchester the Church Court, a block of apartments and on land at the junction of Clothorn Road and Clayton Avenue, Didsbury.

The City Arborist visited the site and inspected the trees. In his opinion the trees are in good condition and of high visual amenity value. It was recognised in his site report that some of the trees would benefit from some routine management and remedial pruning works. These trees are located in a prominent position and enjoyed by occupiers of neighbouring residential properties, visitors and both pedestrian and vehicular passers by. 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.

An objection from the owner /occupier of adjacent residential property 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 the trees at this

location and explains that the making of a TPO does not prevent agreed pruning works being carried out on the trees to alleviate the impact of the trees on the enjoyment of their property.

This report requests that the Committee instruct the City Solicitor to confirm the TPO at land at the junction of Clothorn Road and Clayton Avenue, Didsbury



### 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 14<sup>th</sup> June 2016.

The Owner(s) and/or any Occupier(s) of Church Court, Clayton Avenue and The Trustees of the Second Church of Christ Scientist Manchester, Clothorn Road, Didsbury, Manchester

#### Local Residents

1 - 9 (odds only) Priory Gardens, Clothorn Road, M20 6BG  
18 - 20 Clothorn Road, M20 6BQ  
22 Clothorn Road, M20 6BP  
6 - 8 Clayton Avenue, M20 6BN  
16 - 20 (evens only) Clayton Avenue, M20 6BN  
40 - 50 (evens only) Fog Lane, Didsbury, M20 6AL  
52 - 54 (evens only) Fog Lane, Didsbury, M20 6AY

#### **4.0 Summary of objections/support**

An objection has been received from the owner/occupier of an apartment within Church Court, stating that the trees

- have not been pruned for 20 years and now tower over the apartment making it very dark, with a significant loss of sunlight
- disagrees that the trees are considered to be of high visual amenity
- concerned that the trees could fall down
- trees such as these are more suitable in a park or open spaces
- one of the trees is considered to have a dangerous lean and should be investigated
- the Sycamore trees are considered to be weeds and not appropriate for a TPO
- squirrels can access roof of the adjacent apartment building from the trees branch system

A letter of support has also been received, written on behalf of the 8 leaseholders of the neighbouring apartment building, Priory Gardens. This states that the trees;

- provide significant amenity benefit to Priory Gardens and other members of the public using Clothorn Rd.
- provide a very important wildlife haven, helping to provide educational value for local residents and young children.
- enhance the air quality in a congested urban area
- provide valuable landscape screening to/from adjacent residential properties.

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

The City Arborist has carried out a full tree survey and his report states that these trees are of high visual amenity value and should be considered for a TPO. In carrying out the survey of trees across the site, the City Arborist will consider health and safety issues associated with trees in close proximity to residential buildings. The survey found no defects or major issues with the trees and 9 of the trees have been given a category A rating with the remaining 3 trees category B. The survey recognises that these trees are of high visual amenity.

#### **6.0 Issues**

It is felt that the objectors concerns could be met or greatly alleviated by the carrying out of regular tree management works to prune back and away from adjacent properties. The making of a TPO for these trees does not prevent any future pruning works, only the requirement that the owner or neighbour make an application for these works.

The making of the TPO would allow future pruning works to be considered by the City Arborist, taking into account both the best interests of the tree and those of the objector.

## 7.0 Conclusion

It is considered that this group of mature trees, as shown on the attached plan, should be protected by the Tree Preservation Order. They are of high amenity value, in very good condition and located in a prominent position adjacent to the highway. The trees are highly visible to nearby residential properties and considered to be enjoyed by local residents and vehicular and pedestrian passers by. The City Arborist tree survey found the trees to be in good condition.

The Order has been properly made in the interests of securing the contribution these trees makes 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 objecting to the TPO are acknowledged, in particular concerns around health and safety of the trees, lack of any recent maintenance/management work on them and impact of reduced sunlight, it is not felt that they outweigh the contribution these trees of high amenity value makes to the area. Furthermore these impacts can be greatly alleviated by regular maintenance works being carried out on the trees in this location. The making of this TPO would not prevent any reasonable works being carried out on these trees but would help ensure that these works are carried out to agreed British Standards.

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

## 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 Land at Clothorn Road and Clayton Avenue, Didsbury, 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.

**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  
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**TPO - Clothorn Road**

