

**Manchester City Council  
Report for Resolution**

**Report to** Planning and Highways Committee – 29 June 2017

**Subject:** Objection to tree preservation order jk 15/03/17  
TPO 2 Oriel Road, Didsbury, Manchester M20 6XF

**Report of:** Head of Planning

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**Purpose of report**

To inform the committee about the background and issues involved in the making of a Tree Preservation Order on 15<sup>th</sup> March 2017 and to recommend the confirmation of this 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 TPO 2 Oriel Road, Didsbury, Manchester M20 6XF, 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.

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**Wards Affected** Didsbury West

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**Financial Consequences for the Revenue Budget /Capital Budget**

**Implications for:**

Anti-poverty	Equal Opportunities	Environment	Employment
No	No	Yes	No

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**Contact Officer**

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**Background Documents**

None

## 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 Monkey Puzzle within the front garden of 2 Oriel Road, Didsbury.

## 2.0 Background

On the 9<sup>th</sup> January 2017 permission was refused (Application ref 114893/TCA/2017) for the felling of a Monkey Puzzle tree within the front garden of the 2 Oriel Road, Didsbury and as required a TPO was made on the tree. The property is situated on the west side of Oriel Road, and within the Blackburn Park Conservation Area.

The City Arborist had visited the site and inspected the tree. In his opinion this Monkey Puzzle tree was in good condition with no major defects, is a significant feature in street-scape and is a visual amenity to both the general public and the occupiers of surrounding residential properties. 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.



*Monkey puzzle tree form, canopy and relationship to property*



*Monkey puzzle on right, relationship to wider landscape within the street scene*

Following these assessments a provisional TPO was made on the 15<sup>th</sup> March 2017.

Further to discussions with the agent (arboricultural contractor) it was agreed to carry out a site meeting to discuss the effect of the TPO and discuss potential options. Advice was given at the meeting on pruning works necessary to alleviate the problems being experienced by the homeowner. Subsequent to this meeting a letter of objection has been received from the owner stating reasons why the tree should be felled.

A letter has been sent to the owner of 2 Oriel Rd to provide a further explanation of why a provisional TPO has been made on a tree at this property.

This report requests that the Committee instruct the City Solicitor to confirm the TPO at 2 Oriel Road, Didsbury, Manchester M20 6XF

### **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 15<sup>th</sup> March 2017.

The Owner(s) and/or any Occupier(s) of 2 Oriel Road, Didsbury, Manchester M20 6XF

12 Parkfield Rd South, Didsbury, M20 6DB  
6 Ash Grove, Oriel Rd, Didsbury, M20 6XF  
20, 22, 24 Pine Road, Didsbury M20 6XA

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

An objection has been received from the owner of 2 Oriel Road, Didsbury. In summary it states:

- Tree is in the front drive and 1.85m from the main front wall of the front dining room. Tree has grown significantly since the owner bought the property and now has a substantial canopy.
- The branches of the tree sit on the roof of the house, damaging the roof and potential risk from falling roof tiles
- Branches are needle sharp and if handled with bare hands could lead to serious injuries.
- Tree is leading to excessive shading and is severely blocking sunlight into front dining room, and first and second floor bedroom.
- Drive resurfaced recently due to tree root system cracking previous tarmaced drive. Tree is now starting to affect drive again and this will only become worse.
- Concerned that tree root system could affect house foundations

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

The City Arborist carried out a site survey and considers this tree to be of high amenity value which adds to the diverse tree type and size across the neighbourhood. It is considered to be an important and prominent feature in Oriel Road and the Blackburn Park conservation area. Further to site meeting he further commented that the fibrous root system of the Monkey Puzzle is not considered to be invasive or disruptive to the house foundations, particularly a property with cellars. He noted that the trees canopy, will eventually be above the window height and shading will reduced. Further advice is given on the type of pruning which would be appropriate for this tree.

#### **6.0 Issues**

**Concerns about damage from the tree branches/falling roof tiles and needle leaf fall** - the City Arborist has advised recommended pruning works which would take the canopy away from the roof and remove this risk. Leaf fall is natural process for healthy trees.

**Shading to rooms in the front of the property** – this tree's main stem is approximately 2m from the property frontage and there is some loss of natural daylight into the front dining rooms and adjacent upper floor bedroom. This will have

been the position for a number of years and a similar situation would have existed when the homeowner would have bought the property, in particular with regards the ground floor dining room. As the tree continues to grow, and with some appropriate pruning works, the canopy will clear the roof ridge and it is felt that the issues with shading will be greatly alleviated.

**Damage to the drive from tree roots** – currently there is little evidence that the tree roots are causing any discernible damage to drive. In the future if this is the case an application for root pruning works could be made.

**Potential damage to foundations of the property** – no evidence has been provided to support this claim and tree root system is not considered to be particularly invasive.

**Blackburn Park conservation area** – the Conservation Area appraisal states that both roadside trees and those in private gardens are a major element in maintaining the quality of Blackburn Park.

## **7.0 Conclusion**

It is considered that the Monkey Puzzle 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 within the front garden, adjacent to the highway and forms part of the special character of the Blackburn Park Conservation Area.

The City Arborists site survey found the tree to be in good condition. This tree is considered to be enjoyed by local residents and is highly visible to passing vehicular and pedestrian traffic along Oriel Road, in particular.

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 loss of daylight to some rooms within the front of the property and potential damage to the property and drive are factors which require due consideration, it is not felt that they outweigh the contribution this tree of high amenity value makes to the area.

## **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 2 Oriel Road, Didsbury, Manchester M20 6XF , 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.

### TPO - 2 Oriel Road, Didsbury



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