

**Manchester City Council
Report for Resolution**

Report to: Planning and Highways Committee - 11 January 2018

Subject: OBJECTION TO TREE PRESERVATION ORDER JK 7/08/17
TPO 249 Ryebank Road, Chorlton, Manchester M21 9LX

Report of: Head of Planning

Purpose of report

To inform the committee about the background and issues involved in the making of a Tree Preservation Order (TPO) on 7 August 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 249 Ryebank Road, Chorlton, Manchester M21 9LX, 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.

Wards Affected Chorlton

Financial Consequences for the Revenue Budget /Capital Budget

Implications for:

Anti-poverty	Equal Opportunities	Environment	Employment
No	No	Yes	No

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 Silver Birch tree within the rear garden of 249 Ryebank Road, Chorlton, Manchester M21 9LX.

2.0 Background

On the 2nd August 2017 a concerned local resident reported that works were to commence to fell a mature Silver Birch tree within the rear garden of 249 Ryebank Road, Manchester and asked for a TPO to be made on the tree. Cllr Sheila Newman and the City Arborist visited the site later the same morning and on the advice of the City Arborist, an emergency TPO was made on the tree.



Silver birch tree canopy and position within common boundary

The City Arborist considered the tree to be a mature Silver Birch worthy of a TPO due to its high visibility, with a magnificent crown spread and is a prominent feature within the street scene. This tree is approximately 17m in height and with an average crown diameter of 10m. The Helliwell System 2008 of visual amenity valuation has

been carried out and this assessment found the tree to be of high visual amenity value.



Silver Birch in rear of 249 Ryebank Road, Chorlton - tree form, canopy and visibility from Ryebank Road

Following the making of a provisional TPO a letter of objection has been received stating reasons why the tree should be felled. Email correspondence has been sent to provide a further explanation of why a provisional TPO has been made on a tree at this property.

This property is situated on the east side of Ryebank Road. It is a 2 storey residential block of flats with mature front garden trees.

This report requests that the Committee instruct the City Solicitor to confirm the TPO at 249 Ryebank Road, Chorlton, Manchester M21 9LX.

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 owner/residents were served with a copy of the order or notified about the TPO, on the 7 August 2017

The Owner(s) and/or any Occupier(s) of 249 Ryebank Road, Chorlton, Manchester M21 9LX

251, 247, Ryebank Road, Chorlton, M21 9LX
256, Ryebank Road, Chorlton, M21 9LU

4.0 Summary of objections

An objection has been received from the regional landscape manager of the landowner/ management company.

In summary it states:

- No evidence has been provided or referenced to justify this provisional TPO has undergone an objective amenity assessment
- Tree is situated in the rear of a small confined communal garden area and only top part of canopy is visible from the street. Government guidance states that in cases where a tree is barely visible from a public place there must be exceptional circumstances to support the making of a TPO. In this case they do not exist
- This tree has particularly poor form with a very wide low fork that has led to incongruous form that detracts from the visual amenity of the area.
- The tree is overly mature and now showing early stages of decline. As it is situated in a small garden its natural shedding of limbs is likely to cause damage to the property and is a significant concern to residents of Jackson Court.
- This Silver Birch tree is a common species, situated in a leafy suburb and has no particular cultural or historic interest, poorly positioned. Therefore the tree has minimal wider impact.

5.0 Summary of support

Local Councillors – Cllr Sheila Newman has written in support of this TPO.

6.0 Arboricultural officer comments

The City Arborist carried out a site survey and states this mature Silver Birch tree to be one of a number of large trees growing in gardens along this road and is positioned across the highway from the entrance to Longford Park. He considers the tree to be in good health, with a large portion of the crown visible from the road and a number of neighbouring properties, is a prominent feature in the street and offers high visual amenity.

He notes the tree has a large well formed fork at its base and appears to have no defects. While this tree overhangs the flats he states these limbs could be pruned back to good growing points to reduce the end weight and risk of structural failure. He notes that the tree probably predates the construction of the flats on the site.

7.0 Issues

No evidence provided of an objective visual amenity assessment – this TPO was provisionally made on the advice and receipt of a site report from the City Arborist. Subsequently a Visual Amenity Valuation of Trees and Woodlands using The Helliwell System 2008 was carried out and this objective assessment found the tree to be of high visual amenity value. This process is common accepted practice in the making of a provisional tree preservation order.

Visibility/tree canopy is barely visible – while this mature Silver Birch tree is situated within the rear garden, it's approximately 17m high with a large canopy which is clearly visible from both short and long range views, from both occupiers of surrounding residential properties as well as public areas, principally from the public highway of Ryebank Road.

Individual Impact/tree with poor form and in decline situated in small rear garden and likely to cause damage to the property – the City Arborist advises that the tree is in good health with a well formed fork and no obvious signs of decline and has very good form.

The rear garden of the property is approximately 28m wide and on average 9m in length and this Silver Birch tree is situated adjacent to the side common boundary with 251 Ryebank Road. The tree is approximately 6m from the rear elevation of the property and it is not considered to be an overly onerous burden on the landowner or visually disproportionate to the size of the garden. A significant proportion of the garden remains for the future use by the occupiers and careful pruning management of the tree should reduce any health and safety concerns in relation to the shedding of branches from the tree.

It is considered that the visual public benefits of retaining this tree outweigh any harm caused.

Wider Impact / tree is common species – The Silver Birch is native to the British Isles and is considered to make a valuable contribution to the City's urban environment. This mature Silver Birch tree is considered to be in good health, well positioned adjacent to the common boundary, a prominent feature within the Ryebank Road street scene. Its position within the rear garden, together with several mature trees in neighbouring gardens, provides a highly valued part of the local urban landscape character.

Other issues – Silver Birch trees support more species than most other British trees, providing a biodiverse rich environment and habitat. Its loss would be considered to have a detrimental impact on local biodiversity. This mature tree provides valuable screening benefits across the rear gardens of neighbouring properties and supports improvements in local air quality

8.0 Conclusion

It is considered that the Silver Birch (T1) as shown on the attached plan, should be protected by a Tree Preservation Order. The City Arborist considers the tree to be in

good condition, healthy with no major defects. It is of high amenity value, located in a prominent position within the rear garden, highly visible to and enjoyed by a significant number of occupiers of neighbouring residential properties and from vehicular traffic and pedestrians on Ryebank Road, in particular. The tree in question is an important element of the local landscape and its biodiversity and provides important screening across the rear gardens of neighbouring properties.

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 concerns of the homeowner have been fully considered and balanced against the contribution this Silver Birch tree makes to the local environment. Whilst it is acknowledged that the reason for objecting to the TPO, in particular concerns about its visibility, individual impact and wider impact require due consideration, it is not felt that they outweigh the significant 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.

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 249 Ryebank Road, Chorlton, Manchester M21 9LX, 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 - 249 Ryebank Road



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