

**Manchester City Council
Report for Resolution**

Report to Planning and Highways Committee – 28 June 2018

Subject: OBJECTION TO TREE PRESERVATION ORDER JK 19/01/18
TPO Land at the former Old House at Home, Burton Road,
Manchester M20 1HB

Report of: Head of Planning, Building Control and Licensing

Purpose of report

To inform the committee about the background and issues involved in the making of a Tree Preservation Order (TPO) on 19th January 2018 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 the former Old House at Home public house, Burton Road, Manchester M20 1HB, under Section 199 of the Town and Country Planning Act 1990, and that the Order should cover the tree as plotted T1 and T2 on the plan attached to this report.

Wards Affected

Old Moat Ward

Financial Consequences for the Revenue Budget /Capital Budget

None

Contact Officer

John Kelsey
Senior Planner, Urban Design and Conservation,
Growth and Neighbourhoods Directorate,
Tel: 0161 234 4597
Email j.kelsey@manchester.gov.uk

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 two Lime trees adjacent to the junction of Burton Road and Darlington Road.

2.0 Background

On the 7th November 2017 a concerned local resident and member of the Withington Civic Society requested that following the recent closure of the Old House at Home public house a survey was carried out of the trees on site.

The City Arborist considered that there were 2 mature Lime trees in good health, of high visual amenity value making a valuable contribution to the character of the area and are worthy of a TPO. The trees are approximately 15m and 12m in height with an average crown diameter of 8m – 9m. 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.



2 mature Limes in prominent position on corner junction

Further to the making of a provisional TPO a planning application has been submitted for the residential redevelopment of the site and a letter of objection has been received stating reasons why this provisional TPO should not be confirmed.

This site is situated on the eastern side of Burton Road. The public house is positioned at the northern end of the site with an adjacent area of car parking and several mature and semi mature trees.

This report requests that the Committee instruct the City Solicitor to confirm the TPO at the former Old House at Home, Burton Road, Manchester M20 1HB.

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 Land at the former Old House at Home, Burton Road, Manchester M20 1HB
- 85 Burton Road, Manchester M20 1HZ
- 1 – 10 Newton Ave, Manchester M20 1JJ
- 74, 76 Burton Road, Manchester M20 1HN

4.0 Summary of objections

An objection has been received.

In summary it states;

- The site was bought in good faith with no TPO's on it and based the purchase on the density that could be achieved.
- Site could have been immediately cleared of trees after purchase but this would have been against the ethics of the company and instead a detailed arboricultural survey was carried out, including investigating root spread.
- The redevelopment of the site shows that 11 of the existing trees are to be retained and an additional 10 trees are to be planted on the Burton Road frontage.
- The retention of mature trees on the site will mean the modest loss of a TPO'd tree is not significant
- A planning application is imminent
- The confirmation of the TPO would result in the proposed scheme having to reduce the number of houses by one, or possibly two. On a development of this scale it will severely undermine its viability.

5.0 Summary of support

A letter of general support has been received from the owner/occupiers of 3 neighbouring properties. In summary;

- recognises that the trees contribute the pleasant ambience of the neighbourhood while also raising general issues around trees nearby highway trees.

6.0 Arboricultural officer comments

The City Arborist carried out a site survey of all trees across the site and found that the 2 mature Lime trees were the only trees of high visual amenity value.

7.0 Issues

Imminent planning application – a planning application for the residential re - development of this site is currently being considered. This application is subject to ongoing discussions and if confirmed this TPO would protect both Lime trees and should provide additional protection during any future on site construction works

Site was bought with no TPO's present – a provisional TPO can be made on land at any time irrespective of the redevelopment process. The TPO was provisionally made following a request from a local resident to survey the site and on following receipt of the site report from the City Arborist. This process is a common accepted practice in the making of a provisional tree preservation order.

Site could have been cleared of trees at purchase but were retained and survey carried out/ the redevelopment of the site retains 11 trees and includes an additional 10 to be replanted – the City Council recognise that the landowner appreciates the value mature tree planting brings to a development site. While the City Council would like to see as many trees retained as possible in any future redevelopment, it has only made a TPO on the 2 trees that are considered to be of high amenity value.

The retention of trees will result in an overall only modest loss – the proposed scheme is currently being negotiated including whether the two TPO'd trees can be retained in any agreed proposal.

The confirmation of the TPO will have an impact on the viability of the scheme - While no evidence has been provided by the landowner to support this position, as stated above, negotiations on a revised scheme are ongoing and this will include consideration of TPO'd trees and viability.

8.0 Conclusion

It is considered that the 2 Lime trees (T1, T2) as shown on the attached plan, should be protected by a Tree Preservation Order. The City Arborist considers the trees to be in good condition, healthy with no major defects. They of high amenity value, located in a prominent position adjacent to a road junction and highly visible to and

enjoyed by a significant number of occupiers of neighbouring residential properties and from vehicular traffic and pedestrians on Burton Road and Darlington Road in particular and also are an important element of the local landscape character and its biodiversity.

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 concerns of the landowner have been fully considered and balanced against the contribution these two Lime trees make to the local environment. Whilst it is acknowledged that the reason for objecting to the TPO, in particular concerns about the process making the TPO and the only modest impact of their loss, 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 the former Old House at Home public house, Burton Road, Manchester M20 1HB, 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.



**Land at the Former Old House at Home PH, Burton Road, Old Moat
Tree Preservation Order 2018**

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