

**Manchester City Council
Report for Resolution**

Report to Planning and Highways Committee – 18 February 2021

Subject: Objection to Tree Preservation Order - JK/20/11/2020 – 109 Parsonage Road, Manchester, M20 4WZ

Report of: Director 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 20th November 2020 and to recommend the confirmation of this Tree Preservation Order.

Recommendation

The Director of Planning recommends that the Planning and Highways Committee instruct the City Solicitor to confirm the Tree Preservation at 109 Parsonage Road, Manchester, M20 4WZ, 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.

Ward Affected - Withington

Financial Consequences for the Revenue Budget /Capital Budget

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Background Documents No

Executive Summary

The committee is asked to consider 12 objections made to this order and 10 representations in support of the TPO. This relates to a Tree Preservation Order (TPO) served at the above address on 2 Copper Beech trees (T1, T2) and a Lime tree (T3) within the front and side garden 109 Parsonage Road, Manchester, M20 4WZ



2 mature Copper Beech and Lime on junction of Parsonage Rd and Shireoak Rd

Key Issues

TPO worthiness - City Arborist assessed the trees to be of high visual amenity value, making a significant contribution to the street scene and worthy of a TPO.

Impact of trees on house/foundation structure – small out of plane movement present within the main dwellinghouse which may be caused by the trees but is uncommon in Manchester to be the principle cause for this species of trees and type of soil.

Loss of trees – the mature 2 Copper Beech and Lime trees are an important element in street scene and the local urban landscape character and would be a significant loss.

Trees impact on drainage system, boundary walls – any damage can be repaired through relatively minor building repair works being carried out.

A full report is attached below for Members consideration

Background

This property is situated on the north side of Parsonage Road on its junction with Shireoak Road.

An initial request was made by a local resident to look at a number of trees in the area. Following a site survey and assessment the City Arborist considered the 3 trees to offer high visual amenity to local residents and the general public, to be in keeping with the street scene and make a very significant contribution to the local area. He noted that the trees have had historic height pruning work carried out on them and this appears to have been done professionally with no negative impact on the tree's health. The City Arborist recommended all 3 trees were worthy of TPO status.

The Copper Beech and Lime trees are approximately 13m in height with an average crown diameter of approximately 7 - 8m. Their large canopies are clearly visible from both short and long range views and to both occupiers of surrounding residential properties as well as public areas, principally from the public highway of Parsonage Lane and Shireoak Rd. The Helliwell System 2008 of visual amenity valuation has been carried out and this assessment found the trees to be of high visual amenity value.

Following the making of a provisional TPO, the homeowner and a further 9 local residents have objected in writing to the confirmation of this TPO and support the felling of the 3 trees. 2 objections have also been received from Councillors Rebecca Moore and Councillor Chris Wills. 10 emails supporting the TPO have been received. 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 report requests that the Committee instruct the City Solicitor to confirm the TPO at 109 Parsonage Road, Manchester, M20 4WZ

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 27 November 2020. The Owner(s) and/or any Occupier(s) of 109 Parsonage Road, Manchester, M20 4WZ

Summary of objections

In summary they state:

- The trees are causing and will continue to cause substantial damage to the foundation and structure of the house and also have caused damage to drain connected to the property. This is supported by a structural survey report and drainage survey.
- Homeowner carried out a local search and the City Council confirmed at the time, there wasn't a TPO on trees at 109 Parsonage Rd; this influenced their decision to purchase the property. The making of the TPO has caused great distress to the family
- Manchester City Council did not make the homeowner aware a TPO was being made on the trees at the property.
- Local residents concerned that the trees are damaging the structure of the property and potentially neighbouring property.
- Trees are dangerous to both the homeowners and their family and to passers by from potentially falling branches and collapsing boundary wall.
- Flagstone(s) lifted within the curtilage of the property causing a young child to trip and injure herself.
- Owner intends to apply for permission to build a side extension in area currently occupied by the trees.

Councillor Moore and Councillor Wills share the concerns of the homeowner and local residents objecting to this TPO and have requested that the TPO is not confirmed.

Structural Survey Report

Following a home buyers report which found some cracking and movement in the property a structural survey was carried out, The structural investigation report states the property has suffered from some differential foundation movement most significantly to the front porch and single storey side bay due to inadequate foundations and would need underpinning.

The report notes that the house main elevations have had some slight out of plane movement and that the 3 large mature trees in close proximity to the left hand side of the property are causing on-going subsidence and desiccation of the clay subsoils. The report states that there is a risk of ongoing seasonal foundation movement to the property which would be eliminated by underpinning.

If the trees are removed as suggested, the report notes that there is a risk of some damage to the property in the short to medium term as a result of heave as the clay subsoil rehydrate and recover which may require some ongoing repair of cracking from time to time.

In its conclusion the report states that the movement of the main house seems to be downwards towards the rear left hand corner of the property and that this could

possibly be the result of subsidence related to the mature trees to this side of the house.

Drainage Survey

States there was a large displaced joint after the trap with some root ingress present.

Summary of support

- The trees are fantastic examples and contribute hugely to the visual impact of the street and also to the wildlife of the area. The temporary TPO is protecting them but the objection would leave them vulnerable to being felled if the TPO is not confirmed.
- The trees are vulnerable to being felled as has happened to many of the mature trees in the area lately.
- Support City Council recent tree planting in the area in particular on Parsonage Road and Burlington road, which will make great improvements in the area. Wish to preserve the efforts of those who did the same some 100 years ago when they planted these now mature trees.
- During lockdown the road has been quiet and nature has returned in the form of many different species of birds. These trees provide a valuable amenity to the area and provide a habitat for urban wildlife and improved air quality. If we are to maintain this calmness and preserve the areas wildlife, the trees need to remain.
- These trees are historic, part of the character of the area and losing them would have a detrimental impact on the neighbourhood.

Arboricultural officer comments

The City Arborist initial survey found the trees to be of high visual amenity value, making a significant contribution to the street scene and were worthy of a TPO.

The City Arborist provided a further response to the Structural Engineers and Drainage Surveys provided by the homeowner. The City Arborist notes that the report seems to indicate that the main structure of the house is in good condition but has some historical external cracking and increasing the existing foundations by underpinning to NHBC standards should prevent any possibility of future subsidence caused by trees

The City Arborist advises in relation to the key issue that the existing 3 mature trees are causing subsidence damage, both the mature copper beech and lime trees have a 'moderate' water demand. He states that the soil beneath foundation level on this site was found to be in 'low shrinkage' category and in practice, it would be very uncommon for moderate water demand trees to cause subsidence damage on low shrinkage soils in Manchester.

The City Arborist advises that when subsidence damage occurs it is caused by tree roots drying the soil below foundation level and subsequent shrinkage of the clay soil. The soil shrinks away from the foundations in hot dry weather and rehydrates and swells again over winter. This happens over long periods of time and is always repairable. With its usually mild and damp climate it is not common on the types of

soil present in Manchester. They advise that this type of damage is only really determined and recorded by accurate level monitoring / crack monitoring over an 18 month period by a structural engineer.

The City Arborist advises the report conclusion only finds that the trees have the potential to be the cause of foundation movement, with no real proof given, such as longer term monitoring. The City Arborist also notes that a TPO on a tree does not prevent an owner having his trees pruned in the future. It does prevent poor pruning and removal without good reasons.

The Planning Service has sought further advice in relation to the structural engineers report and agree with advice from the City Arborist that low shrinkage soils and medium water demand trees at these distances should not usually present a subsidence issue in Manchester.

From the descriptions and observation in the structural engineer's report, the slight settlements seem more likely to have been long term as a result of shallow foundations on clay soils and typical seasonal changes in the ground. To determine whether there are any movements caused by the proximity of the trees would, as City Arborist advise, need long term monitoring.

Issues

TPO worthiness

All three trees are mature specimens, are long lived species in good condition and are growing in a highly prominent location easily visible to the public. As such, they have high visual amenity value and meet the criteria to be protected by having a Tree Preservation Order placed on them.

Damage to the structure/foundations of the property

The structural survey states that there has been some movement in the property and that while it is more significant in the front porch and single storey side bay there is slight out of plane movement in the main property. The proximity of 3 mature may have some influence on the foundations of the property but without longer term monitoring it is not conclusive. The structural survey report advises that underpinning of the property would eliminate any further movement.

Damage to drains.

Tree roots will seek a water source and where a drain is cracked, some tree roots will seek out this hydrated soil area and enter the drain at this point. Repairing/replacing the damaged drain will in most cases resolve this issue.

Potential danger to boundary walls, lifting of paving flags, falling branches

The red brick dwarf boundary wall which runs along the front and side of the property is approximately 0.5m high. While there are some areas of missing mortar and movement in the wall it is not considered to present a demonstrable danger to the public using the adjacent footpath and any repairs should involve relatively minor building works.

The issue of raised flagstones within the curtilage of the property is a matter of maintenance for the homeowner and if necessary, some minor root pruning works could be agreed with City Council.

Regular maintenance and management of trees, including removal of deadwood will help minimise any falling branches onto the public highway and private garden. The making of a TPO does not prevent any works being carried out to protected trees but does ensure that the City Council can ensure the proposed works are appropriate for the tree.

Homeowner not made aware of a TPO on the trees purchasing the property

The timings of the local searches to establish if there was a TPO at the property were carried out at the same time as the TPO was being processed. The TPO would not show on the City Councils systems until it had been provisionally made by the City Solicitor, which was following the date of the local search and confirmation at the time that there wasn't a TPO made on the trees.

Homeowner not made aware by City Council that a TPO was being made

Before a TPO has been provisionally made it is not common practice for the City Council to contact the landowner. The landowner will be contacted to make them aware a TPO has just been made and that there is a right to raise issues and object.

Proposed future side extension

If the TPO is confirmed this would be a consideration in future negotiations and discussions during the planning application process.

Other issues

The 2 Copper Beech and Lime trees are native to the British Isles and are considered to make a valuable contribution to the City's urban environment. Both Copper Beech and Lime trees provide a biodiverse rich environment and habitat. Their loss would be considered to have a detrimental impact on local biodiversity. These mature trees provide valuable screening benefits and supports improvements in local air quality.

Conclusion

It is considered that the 2 Copper Beech (T1, T2) and Lime (T3) trees 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 are of high amenity value, located in a prominent position within the front and side garden, highly visible to occupiers of neighbouring properties, visitors and both passing traffic and pedestrians on Parsonage Road and Shireoak Road in particular. The trees in question are an important element of the local urban landscape character and its biodiversity.

The homeowners are concerned about these trees and the movement found in their property. While the structural survey would indicate that there this is some differential

movement, this is more significant in the front porch and side bay window where there are no foundations, Long term monitoring would help determine whether there is any movement to the property caused by the proximity of the trees.

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 homeowner have been fully considered and balanced against the contribution these 2 Copper Beech and Lime tree make to the local environment. Whilst it is acknowledged that the reason for objecting to the TPO, in particular the trees impact on structure of the property, boundary wall and drainage system, and impact on the timing and process of making this TPO, require due consideration it is not felt that they outweigh the significant contribution these prominent trees of high amenity value make to the area and the wider urban landscape. It is considered that the visual public benefits of retaining these trees outweigh any harm caused.

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.

Recommendation.

The Head of Planning, recommends that the Planning and Highways Committee instruct the City Solicitor to confirm the Tree Preservation Order at 109 Parsonage Road, Manchester, M20 4WZ, 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 109 Parsonage Road, Withington Tree Preservation Order 2020

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