

**Manchester City Council  
Report for Resolution**

**Report to** Planning and Highways Committee – 18 March 2021

**Subject:** Objection to Tree Preservation Order JK/4/12/2020 – 7  
Brunswick Rd, Manchester, M20 4GA

**Report of:** Director of Planning, Building Regulations and Licensing

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**Summary**

To inform the committee about the background and issues involved in the making of a Tree Preservation Order (TPO) on 4th December 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 7 Brunswick Rd, Manchester M20 4GA, 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** Withington

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**Financial Consequences – Revenue** None

**Financial Consequences – Capital** None

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**Background Documents**

None

## Executive Summary

The committee is asked to consider 4 objections made to this order and 14 representations in support of the TPO. This relates to a Tree Preservation Order (TPO) served at the above address on a mature Oak tree (T1) within the rear garden of 7 Brunswick Road, Manchester, M20 4GA.



*Mature Oak tree in rear garden of 7 Brunswick Road*

## Key Issues

Is the tree worthy of a TPO - This mature Oak tree is a long lived species in good condition, positioned within a rear garden. The tree has a large crown which is clearly visible from adjacent public highways and surrounding residential properties. As such, this mature Oak tree is considered to have high visual amenity value and meets the criteria to be protected by a Tree Preservation Order.

Is making a TPO valid in the circumstances - The making of a TPO allows for applications for tree works to be made to the City Council and these can be submitted by the homeowner or any other interested party. This can allow for a period of negotiation and discussion before submission. The City Arborist will carry out a site visit and assess the proposed tree works making recommendations including works to be carried out to British Standards for tree works.

Tree size/Impact of trees on loss of light – The Oak tree canopy is large and will cast some shade across the residential gardens to the north on Burlington Road. Some future pruning works to incorporate a crown reduction would alleviate the shading issues being experienced by the occupiers of affected neighbouring properties.

A full report is attached below for Members consideration

## **Background**

This property is situated on the east side of Brunswick Road and the mature Oak tree positioned within its rear garden. The tree has a large canopy which extends across the rear boundary of neighbouring properties at 14 and 16 Burlington Road. A request was made by the owner for the tree to be surveyed and assessed if it was worthy of a TPO. This followed a change in ownership to a neighbouring property and concerns that works could be carried out to the tree without mutual agreement and not in the interests of the form or health of the tree.

Following a site survey and assessment, the City Arborist considered this mature Oak tree offered visual amenity to local residents, the tree to be healthy with the crown in full leaf, visible from public areas and recommended a TPO to be made.

This mature Oak is approximately 14m in height with an average crown diameter of approximately 10m. Its large canopy is clearly visible to both occupiers of surrounding residential properties as well as public areas, principally from the public highway of Brunswick Road, Parsonage Road, Burlington Road and Alan Road. 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.



*Oak tree canopy over roofline of property at 7 Brunswick Road*

Following the making of a provisional TPO, 4 objections and 17 emails supporting the TPO have been received. A site meeting has been held with some of the objectors and the City Arborist to give advice on appropriate level of pruning works that could be supported.

### **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,

The Owner(s) and/or any Occupier(s) of 7 Brunswick Rd, Manchester, M20 4GA  
47, 49 Parsonage Rd, Manchester, M20 4NG  
14 – 20 (evens only) Burlington Road, Manchester, M20 4QA

## **Summary of objections**

The concerns raised by residents can be summarised as follows:

- Not anti-tree but trees in residential locations have to be appropriate species and size for their location and this tree does not satisfy this basic criterion.
- Tree is not of high visual amenity value to the surrounding residential area being in a backland location and can only be fleetingly glimpsed through gaps between properties from the street scene. Any visual amenity value mainly benefits occupiers of surrounding residential properties the majority of whom are opposed to this TPO.
- Tree does not form an important element of the street scene, the wider urban character of the area, nor make any contribution to the visual amenity of vehicular and pedestrian passers by.
- Tree is wrong species in the wrong location.
- Immediate area is well served with mature tree cover and recent project with the City Council provided 24 new street trees.
- Historically this tree has been well maintained to keep its size in check and prevent disamenity to neighbouring properties. A TPO could hinder and prevent the ability to keep this tree within reasonably manageable proportions
- Tree has grown significantly in last 20 years and has been unmanaged since 2008. Concerned that the tree presents safety concerns if it drops limbs.
- TPO is an unduly onerous and unnecessary mechanism to employ in this instance as tree is under no threat. Wish to negotiate and agree works with owner.
- Due to its size and position, tree preventing sun and daylight for a significant proportion of the day, detrimental to enjoyment of garden, health and wellbeing.
- Tree presents a structural risk to some properties and is so overgrown it is interfering with telephone lines.
- Tree severely restricts the growth and sustainability of ground level flora and fauna that can grow and flourish in our garden.
- The proposed TPO adds nothing to the local strategy framework for the neighbourhood and is not in keeping with the exclusively residential and urban



surroundings. It has far outgrown a size which would be amenable and appropriate and needs to be significantly pruned and lopped.

- Tree is not presenting any danger to present owner of No. 7 Brunswick and the neighbours along Burlington Road.
- Request City Arborist carries out site visit to advise on appropriate level of pruning works to manage tree and reduce significant nuisance

Councillor Moore shared concerns of the objectors around the issues of loss of sunlight and requested the City Arborist carried out a site meeting with them and advise on appropriate level of pruning works. Councillor Moore concerned about the process of considering TPOs, as recently in Withington it would appear to be unfairly used on owners who wish to undertake work on their properties or whose properties are being impacted by other trees.

### **Summary of support**

- Tree is of high visual amenity to surrounding area, in danger of losing too many mature trees in the locality with consequent loss of both local wildlife carbon capture
- Permanent TPO on this slow growing oak should ensure any pruning works agreed between the neighbours concerned would be carried out by an experience arborist/tree surgeon in accordance with regulations and to protect the tree and visual impact
- Trees are quickly disappearing and new smaller trees do not have the same wildlife benefits. TPOs are key to protecting wildlife
- The mature oak is an important and well looked after tree
- Proposed pruning works by neighbours to cut back to the border would probably compromise the health of the tree and eventually kill it
- Mature oak is beautifully sited, benefits both residents and visitors to the area and generally enhances the street scene
- Very few mature oak trees and this tree is a fine specimen, makes a substantial contribution and is part of the historic sylvan character of the area
- Neighbouring owners objecting the tree would have been aware of the tree when recently purchasing the property
- There has been very little growth on the tree since 2008 as evidenced in aerial images.
- Request TPO is confirmed and then this will allow negotiations and agreement on sympathetic tree works to alleviate neighbours concerns

South East Fallowfield Group (SEFRG) - There are few trees of this maturity and quality providing much needed haven for wildlife and help in reducing air pollution

Withington Civic Society – The tree is an historic feature and of great environmental importance to our community. Hope that when the TPO is confirmed any necessary sensitive and appropriate pruning of the tree can be carried out by a qualified tree surgeon with the permission of Manchester City Council and the agreement of owner and neighbours

### **Arboricultural officer comments**

The City Arborist report states the tree offers visual amenity value, was visible from the road and many different positions with the public arena and recommended it was worthy of a TPO.

### **Issues**

#### TPO potential to hinder/prevent agreement on pruning works

The making of a TPO does not prevent works being carried out to a protected tree. It requires an application is made to the City Council (there is no fee attached) with the City Arborist carrying out a site assessment of the proposed tree works. All permitted tree works will include a recommendation that they are carried out to British Standards by a professional arborist.

#### TPO unnecessary mechanism to protect this tree

This Oak tree has been assessed as being worthy of a TPO but without the protection given by a TPO, works could be carried out to the tree which may have a significant impact on its form and health. Making a TPO application is a relatively simple process and can be submitted by the homeowner or any other interested party. This should facilitate agreement in the future by all interested parties for the appropriate level of works to the tree.

#### Tree/visual amenity value

This mature Oak tree is a long lived species in good condition, positioned within the rear garden. The tree has a large crown which is clearly visible from Brunswick Road and adjacent highways and to the occupiers of numerous properties. It is visible from short range views along Brunswick Road and longer range views between residential properties on Burlington Rd, Parsonage Road and Alan Road. As such, this mature Oak tree is considered to have high visual amenity value and meets the criteria to be protected by a Tree Preservation Order.

#### Impact of tree on street scene

This mature Oak tree is situated within the rear garden of the property. There were no street trees present, until the street tree planting carried out in February 2021, which allows for open views within Brunswick Road across residential gardens. The large crown of this Oak tree makes a significant impact and is clearly visible from a number of vantage points on Brunswick Road.

#### Size of the tree, loss of sunlight to neighbouring gardens

The tree canopy is large and will cast some shade across the residential gardens to the north on Burlington Road. This will change during the day as the sun moves across its path. Some pruning works to incorporate a crown reduction would be acceptable to alleviate the shading issues being experienced by the occupiers of some of the neighbouring properties, allow further sunlight to ground floor flora and fauna and would also clear away from telephone lines. The recent removal of a mature Horse Chestnut on rear boundary of 18/20 Burlington Road should further improve the levels of sunlight within the rear gardens of properties on Burlington Road

#### Tree has grown significantly in recent years

Oaks are a slow growing species and an assessment of aerial satellite and historical street imagery shows there has only been very minimal growth in the crown since 2008.

#### Tree is wrong species in the wrong location, not in character with the area

The City Arborist has carried out an assessment and a Helliwell Assessment of the amenity value of this Oak tree has also been carried out. This tree is considered to be an appropriate native deciduous species, well located and an important element in the urban landscape character of the area.

#### Recent street tree planting/immediate area well served with mature tree cover

A street tree replanting programme carried out in February 2021 has been completed and in time these trees will make a large impact on the local environment. The mature Oak tree is providing many social and environmental benefits acquired with age and size. It would be generations before the new trees achieved the same size and would be able to provide the same multiple benefits to the community and the environment in general.

#### Potential structural issues from the tree

No evidence has been provided to support this allegation. The closest neighbouring properties are approximately 15m from the main stem of this Oak tree, which would be beyond the rootzone area.

#### Other issues

Oak trees are native to the British Isles and are considered to make a valuable contribution to the City's urban environment. Mature Oak trees provide a biodiverse rich environment and habitat. Its loss would be considered to have a detrimental impact on local biodiversity. This mature tree also provides valuable screening benefits and supports improvements in local air quality.

### **Conclusion**

It is considered that the mature Oak tree 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, prominent and visible to occupiers of neighbouring properties, visitors and both passing traffic and pedestrians on Brunswick Road in particular. This Oak tree is an important element of the local urban landscape character and its biodiversity.



The objections are principally around the size of the tree and its impact on neighbouring residents enjoyment of the gardens of their properties. It is considered that the making of the TPO is overly onerous, will prevent agreement of pruning works to the trees and wish instead to come to an informal agreement with the owner over future tree works.

Works can be carried out on a tree protected by a TPO following an assessment by the City Arborist and granting of permission from the City Council. The City Arborist has provided advice to local residents who are objecting to this TPO on an acceptable level of pruning works which could be supported following submission of an application.

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 objectors have been considered and balanced against the contribution this mature Oak tree makes to the local environment. Whilst it is acknowledged that the reason for objecting to the TPO, in particular the trees size and impact on loss of sunlight to neighbouring gardens, its minimal visibility from public areas and being an inappropriate species in the wrong location, all require due consideration it is not felt that they outweigh the significant contribution this prominent tree of high amenity value makes to the area and the wider urban landscape. It is considered that the visual public benefits of retaining this tree 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.

#### **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 7 Brunswick Rd, Manchester, M20 4GA, under Section 199 of the Town and Country Planning Act 1990, and that the Order should cover the mature Oak tree (T1) as plotted on the plan attached to this report.



**Land at 7 Brunswick Road, Withington Tree Preservation Order 2020**

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