

**Manchester City Council
Report for Resolution**

Report to Planning and Highways Committee – 31 May 2022

Subject: Objection To Tree Preservation Order (TPO) JK/21/05/2021 – Land adjacent to York Street, Didsbury, Manchester M20 6UE

Report of: Director of Planning

Purpose of report

Members will recall confirming a TPO on trees at this site at Planning Committee on 21 November 2021. Due to an administrative error this TPO was not confirmed before it expired and consequently a new TPO has been provisionally made on the affected trees. The purpose of this report is to inform the committee about the background and issues involved in the making of this Tree Preservation Order (TPO) on 7th December 2021 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 on Land adjacent to York Street, Manchester, M20 6UE, under Section 199 of the Town and Country Planning Act 1990, and that the Order should cover the trees as plotted T1, T3 – T8 on the plan attached to this report.

Wards Affected: Didsbury West

Financial Consequences for the Revenue Budget /Capital Budget

Implications for:

Anti-poverty	Equal Opportunities	Environment	Employment
No	No	Yes	No

Contact Officer John Kelsey

Background Documents

No

Executive Summary

The committee is asked to consider 1 objection made to this order relating to a Tree Preservation Order (TPO) served at the above address on 1 Birch tree (T1) and 6 Callery Pear trees (T3 – T8) immediately adjacent to a car park on York Street, Didsbury, Manchester, M20 6UE.



Birch (T1) within raised brick planter on Whitechapel St



Callery Pear trees (T3 – T8) within raised brick planter on York Street

Background

These trees are situated on the boundary of a car park adjacent to Didsbury District Centre, accessed from York Street and Whitechapel Street.

Following a complaint from local residents and Ward Members that several unprotected trees had been felled in an adjacent car park over a weekend in May 2021, a request was made to consider making a TPO on the remaining trees that bounded the car park on the northside of York Street. Following a site survey and assessment, the City Arborist considered that 7 trees offered high visual amenity to local residents and the general public, are a valuable asset to the area and were worthy of a TPO. He noted that the recently removed 9 trees from the adjacent car park had drastically changed the appearance of this location.

Tree T1, a Silver Birch is approximately 11m in height with an average crown diameter of approximately 7m. Its canopy is clearly visible from both short and longer

range views from public areas, principally from the public highway of York Street, Whitechapel Street and also Wilmslow Road, and to both occupiers of surrounding residential properties. The Callery Pear trees (T3 - T8) are currently smaller in stature, at approximately 6.5m in height with a crown diameter of approximately 3m but have excellent vigour and are considered to make a significant contribution to the street scene and wider area. 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 landowner has objected in a letter received from his solicitor to the confirmation of this TPO and provided a supporting tree assessment from Lally Tree Management.

This report requests that the Committee instruct the City Solicitor to confirm the TPO on land immediately adjacent to a car park on York Street, Didsbury, Manchester, M20 6UE.

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 Land adjacent to 26 – 32 (evens only) York Street, Manchester, M20 6UE; 762, 764, 766 Wilmslow Rd, M20 2DR ; 2a, 2b,10 Whitechapel Street, M20 6UB; 19 Whitechapel Street, M20 6UB.

Summary of objections

1 objection with supporting assessment from Lally Tree Management Consultants received. In summary the report states:

- While the 6 Callery Pear trees (T3 - T8) have high visibility from York St, they are moderately visible from Whitechapel Street and have limited visibility from Wilmslow Road.
- 4 Callery Pears, (T3, T5, T6, T8,) have good vitality but 2 Callery Pears (T4, T7) are not stable in the ground with reduced vitality. All trees are in brick planters of limited depth and likely to result in depleted soil nutrients over time and potentially limit root spread outside the planter resulting in the trees not reaching full growth and reducing their longevity.
- The Silver Birch (T1) has good visibility from Whitechapel St, moderate visibility from York Street but visibility is limited from Wilmslow Rd. The tree has good vitality, with no evidence of dieback or other significant risk features. The tree is located in a brick planter and this appears to be affecting the structural integrity of the retaining wall and potentially cause further issues to the retaining wall as the tree continues to grow. The confinement of roots

within limited soil volume could result in nutrient depletion over time and the brick planter will likely limit root spread.

- The size, location and nature of the Callery Pear trees will limit the contribution the trees make to both their amenity value nature and conservation
- Uncertain how the City Council came to the view that all of the trees had a high amenity value using The Helliwell System 2008. An alternative system to evaluate the suitability of a tree for a TPO known as TEMPO, was carried out and found that the TPO on T1 Birch was defensible (possibly merits a TPO) the 6 Callery Pear trees (T3 – T8) is not merited due to their size, location, future potential and also in the case of T4 and T7, their condition.

Arboricultural officer comments

The City Arborist recognises that the Lally Tree Management report makes some valid points around the infrastructure of the tree pits and condition of T4 and T7. He states that if the planters had a bottom there will potentially be a future issue with the trees and their growth but considers it unlikely that the planters will have a base.

If the trees are in decline in the future, the City Arborist would not object to the removal of those trees but considers the trees should be protected as they provide a greenery for residents and small business owners in the near vicinity.

A focus of making the TPO was lack of green infrastructure in the area and the importance of a future green screen provided by the trees. The obvious lack of trees in this location is due to narrow footpath widths and restricted parking and it is unlikely the City Council will be able to plant street trees in this location.

The City Arborist survey found the Silver Birch (T1) has grown into a very aesthetically pleasing specimen offering high visual amenity to local residents, general public and local business owners that have cafes and shops located along the side streets running west from the District Centre.

The City Arborist states the 6 Callery Pear trees have excellent vigour, and should they be given time to mature, will be a magnificent future green screen for the car park. The trees have an upright form and will not encroach onto the public footpath or carpark as they mature. Although these trees are young, they offer visual amenity to residents and pedestrians.

The recent removal of 9 trees from the immediately adjacent car park has dramatically changed the visual appearance of this location. The City Arborist argues that to ensure the future of these remaining extremely valuable assets, they should be protected by a TPO.

Issues

TPO worthiness

All trees included within this TPO are considered to be in good condition, growing in a highly prominent location easily visible from public areas and serve an important function in providing screening benefits from the adjacent car park. As such, they

have high visual amenity value and meet the criteria to be protected by having a Tree Preservation Order placed on them.

Trees are of limited visibility

While it is accepted the trees are not highly visible from Wilmslow Rd, There are some views of the trees available from Wilmslow Road and due to their prominent location within the frontage of Whitechapel and York Street, are highly visible to residents, visitors and passers-by. The City Arborist states that any limitation on the visibility of the trees from Wilmslow Road, does not diminish the visual amenity value these trees offer to the surrounding streets.

Form and condition of the trees

The City Arborist acknowledges that there is some basal movement in trees T4 and T7 but these trees remain in good health and vigour, are not likely to fall in a strong wind and provide an important green screen. The Callery Pear trees are young and will mature and grow with an upright form that will not encroach onto the public footpath or carpark as they mature The City Arborist states that comments regarding nutrient depletion within the soil of the raised planters are speculative and it is not known what makes up the base of the planters or whether there is any base. The City Arborist states there are no signs of nutrient depletion to the Silver Birch which the City Arborist states is thriving in its position and that all 6 Callery Pear trees have excellent vigour.

Movement within the retaining wall

The concerns raised only relate to the retaining wall of the Silver Birch tree in a raised soil bed, within an approximately 1m high brick planter adjacent to Whitechapel Street. While there is no evidence provided that it is the Silver Birch that's causing movement in the wall, the City Arborist notes that any movement in the wall is likely to be the result of insufficient foundations and the downward pressure of the tree. Currently the tree is not presenting any known danger to the health and safety of passing members of the public or vehicles. Given the size of the wall and its position, if in the future any repair or rebuilding works are necessary the wall could be rebuilt and tree retained as a relatively minor operation and small cost to the owner. The confirmation of a TPO on this tree would still allow, following agreement with the City Council, any works necessary to be carried out to the tree.

Contribution to and relationship to the landscape

The recent removal of trees from the adjacent car park has resulted in very limited remaining tree cover in the immediate surrounding area. This area of Didsbury is characterised by the rear of commercial buildings within Didsbury district centre adjacent to terraced predominately residential properties. The remaining trees provide important canopy cover and make a significant contribution to improving the immediate physical environment and the wider urban landscape setting.

Helliwell Assessment

The Helliwell Assessment 2008 is widely used by local authorities to assess the visual amenity value of trees to provide a supporting evidence base to justify the decision whether to make or confirm a TPO. In this case the Helliwell Assessment recognised that the 6 Callery Pear trees, when considered individually may not currently be of high amenity value, but when considered together as a group of trees

their cumulative visual amenity value is high, particularly given the very limited tree cover in the immediate surrounding area.

Other issues

Given the lack of tree cover in the area, these remaining trees on the car park to the north of York Street provide valuable green screening benefits and support improvements in local biodiversity and air quality.

Conclusion

It is considered that the Silver Birch (T1) and 6 Callery Pear trees (T3 – T8) 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 fronting a car park immediately adjacent to Didsbury district centre and are highly visible to occupiers of neighbouring properties, visitors and both passing traffic and pedestrians on York Street and Whitechapel Street. The trees in question are an important element of the local urban landscape character and its biodiversity and provide valuable screening benefits from a busy car park to surrounding properties.

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 this Silver Birch and 6 Callery Pears make to the local environment. Whilst it is acknowledged that the reason for objecting to the TPO, in particular the trees are of only limited visibility from Wilmslow Road, Silver Birch (T1) appears to be affecting the structural integrity of the retaining wall, brick planters will result in depleted nutrients over time and tree not reaching full maturity, 2 Callery Pears are not stable with lower vitality/in decline and their size, location and nature limits the contribution to their amenity value, 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.

8.0 Recommendation

The Director of Planning recommends that the Planning and Highways Committee instruct the City Solicitor to confirm the Tree Preservation Order at Land adjacent to York Street, Didsbury, Manchester, M20 6UE, 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 York Street Car Park, Didsbury Tree Preservation Order 2021

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