

**Manchester City Council
Report for Resolution**

Report to: Planning and Highways Committee – 16 February 2023

Subject: OBJECTION TO TREE PRESERVATION ORDER JK6/09/22
TPO 52 Didsbury Park, Didsbury, Manchester, M20 5LJ

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 6 September 2022 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 52 Didsbury Park, Didsbury, Manchester, M20 5LJ, 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: Didsbury East

Financial Consequences for the Revenue Budget /Capital Budget: None

Implications for:

Anti-poverty	Equal Opportunities	Environment	Employment
No	No	Yes	No

Contact Officer: John Kelsey

Background Documents: None

1.0 Executive Summary

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 copper beech tree within the front garden of 52 Didsbury Park, Didsbury, Manchester, M20 5LJ.

2.0 Key Issues

Is the tree worthy of a TPO - This mature copper beech tree is a long lived species in good condition, positioned within a front garden, adjacent to the front boundary wall. The tree has a large crown which is clearly visible from adjacent public highways and surrounding residential properties. As such, this mature copper beech 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 property is not within a conservation area and before this provisional TPO was made, this copper beech was not protected. The homeowners have submitted details of proposed pruning works which are considered to be harmful to this tree of high visual amenity. 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. The City Arborist will carry out a site visit and assess the proposed tree works making recommendations in the best interests of the tree taking account of the impact of the tree on the homeowner/occupier and include tree works to be carried out to British Standards.

Tree size/Impact of trees on loss of light and quality of life – This copper beech tree canopy will cast some shade across the property later in the afternoon and evening. Some future pruning works to incorporate a crown reduction would alleviate the shading and quality of life issues being experienced by the homeowner.

A full report is attached below for Members consideration

3.0 Background

On the 29 July 2022 a concerned local resident reported to the City Arborist that they understood a mature copper beech was proposed to be felled within the front garden of 52 Didsbury Park and asked for a TPO to be made on the tree. On the advice of the City Arborist, following a site visit and receipt of their TPO assessment report, a provisional TPO was made on the 6th September 2022. 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.



Mature Beech in front garden of 52 Didsbury Park, Manchester - tree form, canopy, and visibility from Didsbury Park

This property is situated on the east side of Didsbury Park, within a predominately residential area. The copper beech tree is positioned within the front garden, immediately adjacent to the front boundary wall and is prominently visible from both Didsbury Park and Ruabon Road.



Copper beech tree viewed from Didsbury Park and Ruabon Rd, February 2023

This report requests that the Committee instruct the City Solicitor to confirm the TPO at 52 Didsbury Park, Didsbury, Manchester, M20 5LJ.

4.0 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 6 September

The Owner(s) and/or any Occupier(s) of 52 Didsbury Park, Didsbury, Manchester, M20 5LJ
50, 56, 58 Didsbury Park, Manchester, M20 5LJ
13-19 (odds only) Didsbury Park, Manchester M20 5LH

5.0 Summary of objections

An objection has been received

In summary it states:

- There is no intention to cut down the tree and agree it complements the road and surrounding greenery.
- House bought in March 2022 and concerned this TPO will impact the ability to sell the property in the future.
- Tree has become dangerous with branches falling onto the drive and nearby parked cars which puts people and personal property at risk of being damaged.
- The tree has also begun to encroach onto windows and the house is plagued by insects and flies when the windows are open, this is not a safe living environment.
- The tree roots continue to raise parts of the drive which is a future concern with regards to the surrounding foundations.
- The tree hangs so low that it creates a dark shadow on due to its size, which puts a number of rooms in darkness throughout the day. Whilst our neighbouring houses enjoy the stream of light coming through the front of their homes.
- The tree has also started to rest on nearby telephone wires and had complaints from the neighbouring property regarding the tree and the impact on their lives.
- Proposed tree works is for a crown lift by 10m and a sympathetic 3m crown reduction so that the house is not shaded and the branches of the trees no longer encroach on the windows of the property, neighbouring houses and also down to the road/ nearby parked cars. Homeowner has been advised that doing such works will mean the tree does not need additional maintenance for a further 5-10 years.

A response was sent to the owner which sought to address their stated concerns. In summary the email stated that the making of a TPO should not affect the ability to sell a house in the future. The purpose of the TPO is to allow any proposed works to a tree to be considered by the City Council's arborist and agreed with the City Council. Advice given that there is no fee for an application to carry out works to a tree protected by a TPO, that a site visit and free assessment of the tree will be carried out by the City Arborist and in most circumstances, there would be no additional costs to the homeowner. Further advice was given that while it was unlikely the proposed pruning works would be supported, as it would result in a remaining total canopy height of approximately only 4m, some more moderate pruning works if submitted would be acceptable. No further response has been received from the homeowner.

6.0 Summary of support

1 letter of support to confirm the TPO has been received stating the tree's large canopy and aesthetic natural appearance makes a significant contribution to the local environment. Its removal would diminish the visual appeal of Didsbury Park for both local residents and visitors.

7.0 Arboricultural officer comments

The City Arborist carried out tree survey and the TPO assessment report found that while tree bifurcates at 2m with evidence of fused union, this is not considered a major structural defect as it has fused successfully and the overall condition is considered to be good. The tree is considered to have very high visual amenity and is in keeping with similar trees on the road of the same species and age. The City Arborist considered this mature copper beech worthy of a TPO.

8.0 Issues

Impact on future sale of the property – there should be no significant impact on the sale of the property which has a TPO on a tree(s) within its curtilage. In many cases the presence of mature trees of high amenity value within the frontage can increase a property's value and the application process to carry out works to trees with a TPO is relatively straightforward, does not attract a fee, and in most cases reasonable pruning works can be agreed.

Tree is dangerous, dropping limbs onto the drive and adjacent parked cars - this mature copper beech tree is in good condition but an agreed application for reasonable pruning works and removal of deadwood should alleviate problems being experienced from limb/branch fall.

Tree is encroaching on property front windows with insect infestation creating an unsafe living environment – the tree is situated within the front garden and while its trunk is approximately 10m from the front elevation, the tree has a large prominent tree canopy and the branch tips on the property side are approximately 2m from nearest window in the front elevation. Reasonable pruning works would help alleviate this current problem being experienced by the homeowner.

Tree roots lifting parts of the drive/potential risk to foundations – while there is limited evidence of root lifting, if necessary, root lifting can be easily rectified through some minimal root pruning works. No evidence has been presented of damage to foundations to the property but this can be considered at any future date with the submission of structural survey report.

Tree is blocking light into the windows within front elevation – the tree is located to the west of the property and will be experiencing some loss of sunlight later in the afternoon and evening. Agreed pruning works would increase the amount of the daylight and sunlight coming into the property.

Tree limbs/branches are resting on overhead telephone lines – some branches are growing in close proximity to telephone lines. The making of a TPO will not prevent an application being approved for reasonable pruning works, including reduction away from telephone lines.

Other issues - The beech tree is native to the British Isles and is considered to make a valuable contribution to the City's urban environment. This mature copper beech tree is considered to be in good health, well positioned adjacent to the front boundary, a prominent feature within the Didsbury Park and Ruabon Road street scene. Its large canopy 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 Didsbury Park and Ruabon Road. Its position within the front garden, together with several mature trees in neighbouring front gardens, provides a highly valued part of the local urban landscape character and its biodiversity.

The making of a TPO would place a requirement on the landowner to make applications for proposed works to the tree. However there is no fee attached to this type of application and the making of a TPO provides the City Council with an opportunity to ensure that any proposed future tree works are considered by the City Councils arborist and conditions attached that the works carried out meet British standards for tree works.

9.0 Conclusion

It is considered that the copper beech (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 known major defects. This copper beech tree is of high amenity value, located in a prominent position within the front garden, highly visible to and enjoyed by a significant number of occupiers of neighbouring residential properties and from vehicular traffic and pedestrians on Didsbury Park and Ruabon Road, in particular. This tree is an important element of the local landscape character and its biodiversity.

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 copper beech tree makes to the local environment. Whilst it is acknowledged that the reason for objecting to the TPO, in particular concerns that the tree is dropping limbs,

encroaching and blocking light into the property, affecting overhead telephone lines and causing damage are a concern for the homeowner, it is not felt that they outweigh the significant contribution this tree of high amenity value makes to the area, and these concerns can be alleviated through agreed appropriate pruning works.

10 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.

11 Recommendation.

The Head of Planning recommends that the Planning and Highways Committee instruct the City Solicitor to confirm the Tree Preservation Order at 52 Didsbury Park, Didsbury, Manchester, M20 5LJ, 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 52 Didsbury Park, Didsbury Tree Preservation Order 2022

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