

Manchester City Council Report for Resolution

Report to Planning and Highways Committee – 31 August 2023

Subject: Objection to Tree Preservation Order JK18/04/23 - TPO Land at Wynnstay Grove/Sherwood Street

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 18 April 2023 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 Order on land at Wynnstay Grove/Sherwood Street, under Section 199 of the Town and Country Planning Act 1990, and that the Order should cover the woodland as plotted T1 on the plan attached to this report.

Wards Affected Fallowfield

Financial Consequences for the Revenue Budget /Capital Budget

Implications for:

Anti-poverty	Equal Opportunities	Environment	Employment
No	No	Yes	No

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Background Documents No

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 woodland bounded by Wynnstay Grove, Wellington Road and Sherwood Street, Fallowfield.

Introduction

This application was placed before the Planning and Highways Committee on 27th July 2023 and at that meeting the Committee deferred deliberation in order to allow for further consultation with the landowner. A meeting has taken place earlier this month with the owner and options discussed including an explanation of the reasons why it was considered necessary to pursue the TPO. Further to this meeting a rebuttal statement has been received drafted jointly by Railway Paths Limited as landowner and their preferred partner in the potential development of this site, Wiggett Construction. In summary the rebuttal states:

- The TPO designation will place an onerous administrative burden and harm the development potential of the site
- Ash die back may affect some of the trees within the woodland in the future
- The TPO would result in a protracted process in gaining approval for works to address some concerns around the structural safety of some trees close to Sherwood Street. Proposed extensive programme of tree works over next 5 years
- The surface water culvert is being damaged by the tree root systems and they believe if trees continue to grow over this culvert, eventually it will collapse. Repair and improvements to the culvert will require tree felling and root pruning works. Also state that the presence of the culvert may be affecting the trees from 'naturally' establishing and could become unstable.
- Site is suitable for affordable housing
- Reiterate issues raised in earlier objection letter that their arboricultural survey identified while most of the trees are category B and one as class A, 20 were found to be class C and 12 category U. Also, site is subject to anti-social behaviour and fly tipping.

These issues are considered in the report below.

Key Issues

Is the woodland worthy of a TPO – The City Arborist states that whilst this woodland contains several individual trees worthy of TPO status, it is the woodlands collective value which provides its greatest amenity value. The woodland is prominent and highly visible within the surrounding street scene and is considered to be of high visual amenity value meeting the criteria to be protected by a Tree Preservation Order. It is considered that the woodland value is collective and not individual and that the confirmation of the TPO should be for the woodland, not only on specific trees.

Is making a TPO valid in the circumstances - The woodland is not within a conservation area and has been subject to recent enquiries for pre application advice for the proposed redevelopment of the site. Given that there is potential for significant tree loss to unprotected trees, and the City Arborist recommends that the trees are worthy of a woodland TPO, it was considered expedient to make a TPO in this case. If the TPO is confirmed, this would form an integral element in any future discussion and any future proposed works to trees would allow for the City Arborist to carry out a site visit and assess the proposed tree works, making recommendations in the best interests of the tree(s) and ensure any tree works to be carried out to British Standards.

Confirmation of TPO would be an obstacle to future tree management works and Sustrans creating new exit point – If this provisional woodland TPO is confirmed any future tree management works or selective felling, for example to allow for a new exit point for Fallowfield Loop Cycleway, would be considered through an application for works to trees protected by a TPO. The City Arborist would be consulted, and it is anticipated there would not be any objections to any reasonable tree works.

A full report is attached below for Members consideration

Background

This site is a pocket urban woodland bounded by Wynnstay Grove, Sherwood Street and Wellington Road, with a species selection made up of a mix of native deciduous trees including Beech, Oak, Lime, Elm, Sycamore and Poplar. Following approaches for pre planning application advice for a proposed residential scheme concerns were raised about the potential for the future loss of a significant number of trees. The City Arborist carried out a site based tree survey and following receipt of their TPO assessment report, a provisional TPO was made on the 18 April 2023. The Helliwell System (2008) of visual amenity valuation has been carried out and this assessment found the woodland to be of high visual amenity value.

This woodland is prominent and highly visible to both occupiers, visitors to properties on Wynnstay Grove, Sherwood Street and Wellington Road and passers by.



Woodland viewed from Wynnstay Grove, July 2023



Woodland viewed from Sherwood Street, July 2023



Woodland viewed from Wellington Road

This report requests that the Committee instruct the City Solicitor to confirm the TPO at Sherwood Street/Wynnstay Grove.

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 18 April 2023

The Owner(s) of the area of woodland bounded by Sherwood Street and Wynnstay Grove, Wellington Road, Fallowfield, Manchester (area bounded by solid black line marked W1 in plan at end of the report).

A site notice was put placed on site on 18 April 2023 informing local residents and passers – by that a provisional TPO had been made on this woodland.

Summary of objections

An objection has been received from the landowner with an arboricultural survey by BWB consultants.

In summary it states:

- The City Council have not demonstrated how, before confirming the Order, that the protection would bring a reasonable degree of public benefit in the present or the future.
- The Order seems to have been made in response to request for planning pre-application advice for proposals to develop the site to provide affordable housing. The principal reason given for making the provisional TPO is to protect visual amenity when viewed from adjacent residential streets. However, the proposed scheme would result in only limited tree loss along Wynnstay Grove and new proposed landscaping along Sherwood Street would retain visual amenity for probably longer than the anticipated lifespan of the existing trees.
- Government guidance states that trees or at least part of them should normally be visible to the public. The trees growing in the centre of the woodland are largely screened from view to the public and should therefore not be included in the Order.
- The Council has no reason to believe the trees are in imminent danger. The landowner could have removed the trees if they wished before the TPO was made but didn't as a responsible landowner and we are now in bird nesting season which would prevent such an action.
- Consider the Order unnecessary and any public benefits could be better achieved through planning conditions, as part of a redevelopment proposal.
- Trees not considered to be of high amenity value. BWB arboricultural survey found 1 tree to be of category A, 4 individual trees to be Category B, 4 groups of trees to be category B, 4 individual trees classified as category C and 5 tree groups and a tree hedgerow were classified as Category C. The remainder were classified as Category U. Given that only 1 tree is classified as Category A it cannot therefore be concluded that the trees are of high amenity value. The arboricultural survey recognises that trees within the woodland are classified as category B2, but this is only a moderate not high value assessment, and the justification for the Order is flawed.
- The reasoning for the order is that the trees are in 'good/fair' condition and this appears to be at odds with an assessment of "high amenity value"
- The woodland is not an amenity to residents as it has been the subject of antisocial behaviour, vermin infestation and fly tipping and resulting complaints from neighbours.
- The subject land has no value for recreational purposes and there is no intention to extend the existing Fallowfield loop cycle path through the woodland. The woodland therefore cannot be said to have amenity value as a potential future recreational route.
- Sustrans would like to relocate the exit point to a nearby location and this could require the removal of one or more trees. The TPO if confirmed would be an obstacle to allowing the relocation of the exit point.
- It is considered that the woodland will need considerable management over the next few years and the imposition of a TPO will hinder the effective management of the land.

- Only trees along the highway boundary contribute to the visual amenity of the surrounding area and if confirmed the Order should be modified to only apply to them.
- The subject trees are not visible from Fallowfield shopping centre, being mainly concealed behind buildings or other trees and where they are visible, they are too distant to make a significant contribution to the visual amenity or landscape character of the Fallowfield shopping centre.

5.0 Arboricultural officer comments

The City Arborist tree survey and the TPO assessment report noted several trees worthy of TPO status, which offer high visual amenity value to the surrounding area. The species selection was made up of Beech, Oak, Lime, Elm, Sycamore and Poplar.

The City Arborist notes however that it is important to look at this site collectively as a local amenity and not to focus on individual tree categorisation. Trees within the woodland that do not meet Cat A or B status, should be considered in their collective setting. Trees which have grown on the slope of the site have a role to play within their setting, some stabilising the banking, others providing an under storey and natural habitat for local wildlife.

The report notes that this pocket of woodland provides a local amenity to residents and the population of students within the area, and the many properties adjacent on Sherwood Street and Wynnstay Grove, evident by the well-worn paths running through the site. Any development within the woodland would inevitably mean extensive level changes which in turn would impact the water table and natural balance currently present. This would manifest itself over a period of years and would lead to the loss of trees originally proposed for retention.

In addition, the need to deliver utilities to the site and access roads would render the retained trees isolated and it is anticipated that they will be the subject of significant pressure for further felling from future occupiers of residential properties requiring natural light into the gardens and living areas, given the conflict of the presence of large mature trees and newly built properties in close proximity.

Achieving Bio-diversity Net Gain on this site with a development positioned through the central section would prove difficult and given the constraints of the surrounding area it is difficult to see where this could be achieved.

The report concludes that the woodland TPO on this site should be retained to prevent any development within it as its value is collective and not individual.

6.0 Issues

Is this woodland of high amenity value? – When assessing amenity value the key criteria is the trees visibility (the extent the trees or woodland can be seen by the public) and its individual, collective and wider impact, including and size, future

potential, contribution to the landscape. Other factors such as importance in nature conservation and response to climate change, while not carrying the same weight, can be taken into account.

The woodland is positioned within a high density residential area and is a prominent feature within Wynnstay Grove, Wellington Road and Sherwood Street. Many of the mature trees have large canopies and are clearly visible from both short and long range views, from both occupiers of surrounding residential properties as well as public areas, including from a longer distance in Fallowfield district centre/ on Wilmslow Road, making a positive contribution of the local urban landscape character. The woodland provides cumulative amenity value and enhances the bio diversity of this area.



Woodland viewed from Wilmslow Road footpath down Wynnstay Grove, Fallowfield

The submitted arboricultural survey recognised that while trees within the centre of the woodland were generally considered to be either Category B or C they presented a significant area of canopy cover, valuable to wildlife and carbon sequestration and providing green space in an otherwise dense urban environment. The report recognises that the overall woodland would be Category B2 owing to the large area of mature tree canopy cover and the impact that this area of shelterbelt has on the surrounding urban area. This position is supported by the City Arborist recognising the collective value of the trees within the woodland and their high visual amenity value.

Public benefit - Central Government advises that a TPO should be used to protect selected trees or woodlands if its removal would have a significant negative impact on the local environment and its enjoyment by the public.

This woodland is highly visible and is enjoyed by local residents and visitors with a section of the Fallowfield cycle route running through the woodland as noted by the

City Arborist, there are well worn pathways within the woodland. The woodland is made of a mix of deciduous trees native to the British Isles and is considered to make a valuable contribution to the City's urban environment. The Beech, Oak, Lime, Elm, trees in particular 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 support improvements in local air quality. The woodland is considered to be providing significant public benefits both presently and into the future.

Are all the trees worthy of a TPO? – Within this pocket woodland some trees are clearly more visible than others and the condition of the trees has been assessed as being predominately good to fair. As noted by the City Arborist, while some trees are of high value, recognised by their Category A or B status, trees within the woodland that do not meet this status should be considered in their collective setting. Internal trees which have grown on the slope of the site have a role to play within their setting, some stabilising the banking, others providing an under storey and natural habitat for local wildlife. It is the woodlands collective value which provides its greatest amenity value.

Is it 'expedient' to make confirm a TPO? – While the landowner considers the TPO unnecessary and that a planning condition will provide any public benefits, this in the first instance, relies on a planning application being granted consent. Trees are under threat from known potential redevelopment of the site and the supporting Arborist Consultants report recognises that any development of the site will result in significant tree loss. It is considered expedient to make and confirm this Tree Preservation Order as there is a risk of trees being felled which would have a significant detrimental impact on the amenity of the area. This is a very difficult site to develop without significant tree removal, but the approval of the Tree Preservation Order would not prevent planning permission from being granted, and the grant of permission would allow the removal of those trees identified for removal to facilitate any approved development. This site is publicly accessible and as with any publicly accessible site, there is always a risk that a potential developer could enter a site and remove trees, without the land- owners knowledge. On that basis the approval of the Order would provide an additional layer of necessary protection for these important trees.

Visibility of woodland – the woodland is highly visible from different public viewpoints in the surrounding area. It is prominent within the Wynnstay Grove, Sherwood Street and Wellington Road street scene and clearly visible from Wilmslow Road within the Fallowfield District shopping centre. Trees more centrally positioned within the woodland are not prominently visible however as noted it is the contribution that the trees make within their collective setting that gives the woodland its cumulative high amenity value.



Woodland viewed from Wilmslow Road footpath down Sherwood Street, Fallowfield centre

TPO would be an obstacle to carrying out future tree management works/relocation of cycle pathway exit - The making of a TPO does not prevent works being carried out to a protected tree(s). It requires an application to be made to the City Council (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 designation will place an onerous administrative burden and harm the development potential of the site for affordable housing – the process for applying to carry out works to protected trees is relatively simple and straightforward. The confirmation of this TPO would not prevent future applications to develop this site but would provide an additional level of protection.

Ash die back may affect some of the trees within the woodland in the future – while the impact of Ash die back on future tree stock is unknown, there are very few Ash trees present. If the TPO is confirmed the requirement for an application to fell would allow the City Arborist to fully consider the reasons for removal and accompanying evidence.

The TPO would result in protracted process to in gaining approval for works to address some concerns around structural safety of some trees close to Sherwood Street tree safety concerns and future programme of identified works – as stated the process for applying to carry out works to a tree(s) protected by a TPO is relatively simple and any safety works required to remove any identified imminent danger to the public or property, can be carried following agreement under a 5 day notice.

The surface water culvert is being damaged by the tree root systems and they believe if trees continue to grow over this culvert eventually it will collapse – The City Arborist has commented that while no evidence has been presented to show the presence of

tree roots within the culvert, in the unlikely event that the roots have entered the culvert, the roots would be water up-taking fibrous roots and not anchorage roots. Pruning of these roots would not destabilise the tree as they are not critical for their stability. The presence of trees on or around these culverts is commonplace and the City Arborist would not prescribe tree removal as a workable or necessary action. City Arborist states that trees are essential in slowing down the flow of rainwater run off - attenuation, and as such removal of tracts of trees will increase the potential for flash flooding in localised areas.

Other issues – Concerns raised around anti – social behaviour, fly tipping, vermin infestation, limited value of the land for recreational purposes or no future proposals for the cycle path extension are not relevant when considering the ‘amenity value’ of the woodland; some of these issues can be addressed through higher levels of management of the woodland.

7.0 Conclusion

It is considered that the woodland (W1) as shown on the attached plan, should be protected by a Tree Preservation Order.

The woodland is positioned within a high density residential area and is a prominent feature within Wynnstay Grove, Wellington Road and Sherwood Street. Many of the mature trees large canopies are clearly publicly visible from both short and long range views and to both occupiers of surrounding residential properties, making a positive contribution of the local urban landscape character. The trees position within a woodland provides increased cumulative value and the enhanced bio diversity of this area, resulting in their collective high amenity value.

The City Arborist considers while some trees are of high value, recognised by their Category A or B status, trees within the woodland that do not meet this status should be considered in their collective setting. Internal trees which have grown on the slope of the site have a role to play within their setting, some stabilising the banking, others providing an under storey and natural habitat for local wildlife. It is the woodlands collective value which provides its greatest amenity value

The Order has been properly made in the interests of securing the contribution this woodland makes to the public amenity value in the area. The concerns of the landowner have been fully considered and balanced against the contribution this woodland makes to the local environment. Whilst it is acknowledged that the reason for objecting to the TPO, in particular concerns that the trees within the centre of the woodland are not visible and shouldn't be included in a TPO; no reason to believe trees are in imminent danger; TPO unnecessary as planning conditions would provide necessary protection, most of trees are not of high amenity value and of good/fair condition; woodland is not an amenity to residents as it attracts anti social behaviour and has no recreational value; TPO will be an obstacle to future tree management works including relocation of Sustrans; it is not felt that they outweigh the significant contribution these trees of collective high amenity value make to the

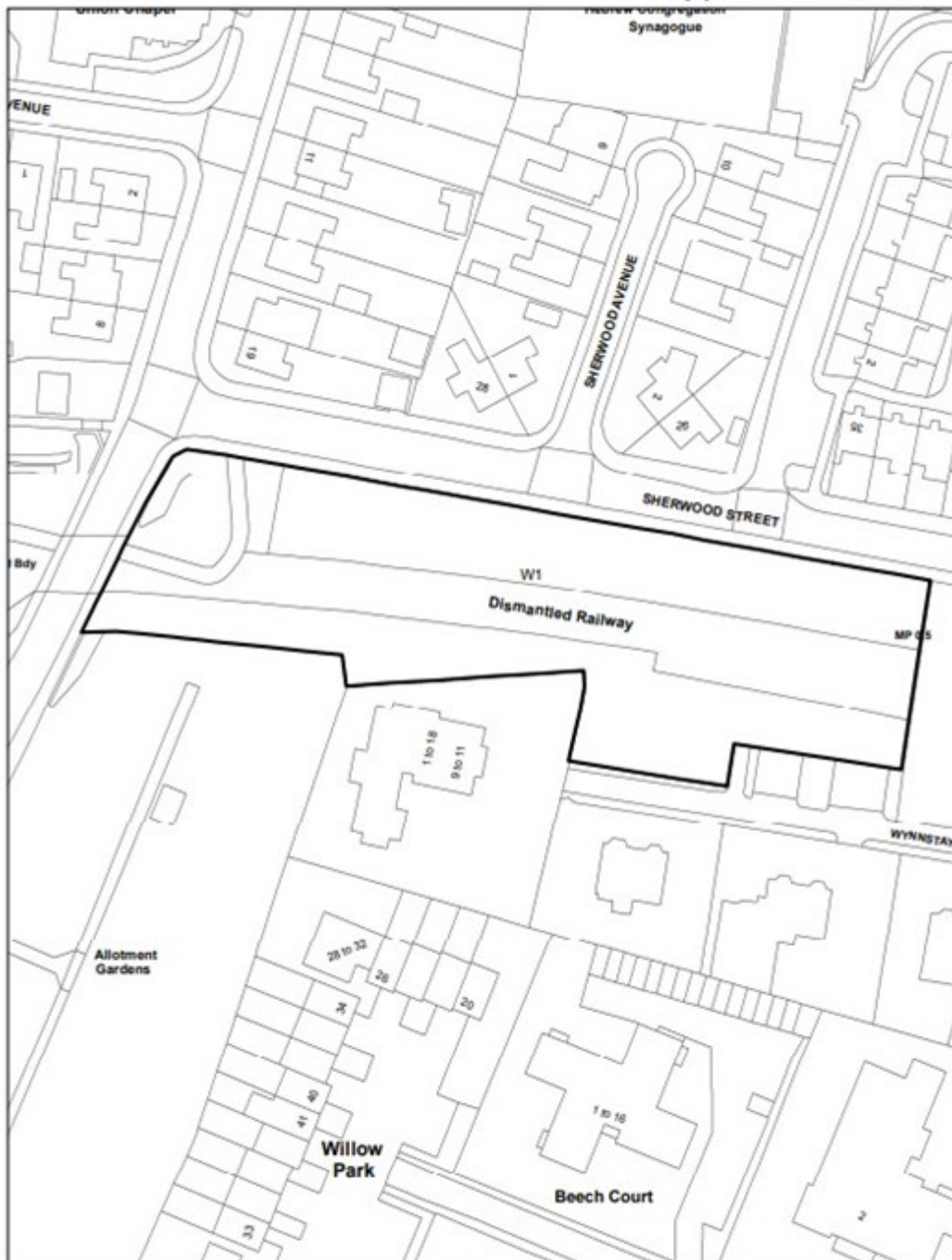
area and some of these concerns can be alleviated through agreed appropriate pruning works.

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 land at Wynnstay Grove/Sherwood Street, under Section 199 of the Town and Country Planning Act 1990, and that the Order should cover the trees within the woodland (W1) as plotted on the plan attached to this report.



Land at Sherwood Street/Wynnstay Grove Tree Preservation Order 2023

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