

**Manchester City Council
Report for Resolution**

Report to: Planning and Highways Committee – 30 May 2024

Subject: OBJECTION TO TREE PRESERVATION ORDER
JK/12/12/24/TPO Land at Ashfell Court, 35 Edge Lane, Chorlton
cum Hardy, M21 9HE

Report of: Director of Planning

Purpose of report

To inform the committee about the background and issues involved in the making of a Tree Preservation Order (TPO) on 12 December 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 at Ashfell Court, 35 Edge Lane, Chorlton cum Hardy, M21 9HE, under Section 199 of the Town and Country Planning Act 1990, and that the Order should cover the tree plotted as T1 on the plan attached to this report.

Wards Affected: Chorlton

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

1.0 Executive Summary

The committee is asked to consider 4 objections and 2 letters of support made to this order. This relates to a Tree Preservation Order (TPO) served on a Willow tree within the side/rear garden area of Ashfell Court, 35 Edge Lane, Chorlton cum Hardy, M21 9HE.

Key Issues

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

Is making a TPO valid in the circumstances – Ashfell Court is not within a conservation area and the Willow tree was consequently not protected. The City Council had been made aware of historical removal of unprotected good quality trees at Ashfell Court. The making of this TPO would require applications for tree works to be made to the City Council and the City Arborist would advise on an appropriate level of tree works carried out to British Standards, while taking into account any impacts this Willow tree has on residents of Ashfell Court.

Condition of the tree - This Willow has been considered by the City Arborist to be in good overall condition.

A full report is attached below for Members consideration.

2.0 Background

A TPO was made in 1994 on numerous trees at Ashfell Court, Edge Lane. A request was made for the City Council to consider a further TPO on an unprotected mature Willow 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 12th December 2024. 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 Willow tree on grassed lawn at Ashfell Court viewed from Edge Lane - tree public visibility, form, canopy area.



Longer range view across Edge Lane – tree canopy, form and size seen against landscaped boundary along rear boundary.

Ashfell Court is situated on the south side of Edge Lane, within a predominately residential area. The mature Willow tree is positioned within the side/rear garden. This Willow tree has an approximate height of 15m and crown diameter of 12m.

This report requests that the Committee instruct the City Solicitor to confirm the TPO at Ashfell Court, 35 Edge Lane, Chorlton cum Hardy, M21 9HE.

3.0 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 addresses of 1 – 39 Ashfell Court, 35 Edge Lane, Chorlton, M21 9HE

4.0 Summary of objections

4 objections have been received and can be summarised as follows:

In summary they state;

- The tree is dangerous, has dropped limbs in the past year blocking the driveway, narrowly missing a visitor. Tree looks like it is leaning and may uproot.
- Wish to manage the tree without having to apply for permission to the City Council.
- Tree does not make a significant contribution to the surrounding area or form an important element in the Edge Lane street scene and as part of the wider urban landscape character of the area, as it is in the rear garden and can be barely seen from Edge Lane.
- While love the shape and grandeur of the tree, concerned about its condition, dropping limbs and lives in close proximity to the tree. Wishes to continue to manage the tree but concerned the TPO would prevent the carrying out of necessary pruning.

5.0 Summary of support

2 letters of support to confirm the TPO have been received.

In summary they state;

- This tree was planted approximately 50 years ago when the site was built and is a beautiful tree visually and is an integral part of Ashell Court's landscape and an asset to the environment. It also appeals to much of the bird life, flora and fauna in the area and the site.

- The Willow tree forms a useful and attractive “screen” between Ashfell Court and the adjacent residential properties, also helps to screen the car park and electricity substation at the rear of the block and help to soften the border between the suburban street and Turn Moss immediately to the south.
- It contributes to the reduction of atmospheric pollution and carbon dioxide; it shelters part of the garden from the prevailing westerly winds; and, particularly in the context of accelerating climate change, it helps to regulate surface water.
- In recent times, there have been some tree removals within and immediately adjacent to Ashfell Court or have died or been significantly reduced. This has already detracted from the very long-standing distinctive character of the location and the development and the extent of wildlife habitat.
- While making of a TPO does not prevent the future carrying out of works to the tree, it should result in only works being carried out considered necessary or appropriate for the tree’s health, public safety or any other valid reason. The confirmation of the Order would help to strike an appropriate balance between the permanent visual, ecological and environmental amenities of future proposed tree works.
- Many owners take pride in the trees and they are considered by them and visitors to enhance the landscape character.

6.0 Arboricultural officer comments

The City Arborist carried out a tree survey and the TPO assessment report found that the tree to be in good overall condition with no obvious defects. The tree is visible from the public highway and is in keeping with the site. The report advises that the Willow tree is worthy of TPO status given its position on the site and its aesthetic contribution.

The City Arborist noted the snapped branch and found it was approximately 12 -15cm in diameter and considered it to have very minimal impact on the overall shape and symmetry of the tree.

7.0 Issues

Tree is dangerous, dropping limbs onto the drive and adjacent parked cars – This mature Willow tree has been assessed by the City Arborist to be in good condition. Minor pruning works have been identified which if carried out would help alleviate problems being experienced from limb/branch fall. This Willow tree, similar to the majority of tree species, would benefit from a regular maintenance regime to ensure its longer term health and safety

Tree does not contribute to the immediate and wider landscape character of the area – This Willow tree is set within the grounds of a residential apartment block, whose landscape character is principally formed

by the mature tree planting across the site, the majority of which are already the subject of a TPO. The Willow tree is considered to form an important element within the tree planting scheme and is important within the wider landscape, particularly when seen from Edge Lane, where it helps form a landscaped screen, including to an adjacent electricity substation.

Tree is barely visible from the public highway – The tree is situated within the side/rear garden and has a canopy of approximately 12m in diameter that is clearly visible from both long and short range views from Edge Lane. This mature Willow tree is considered to be prominently visible from public areas.

Requirement to make an application for tree works - The confirmation of a TPO would place a requirement on the landowner to make an application 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 owner the opportunity to have any proposed tree works fully considered by the City Arborist. The City Council will be able to ensure that any proposed future tree works are fully considered and conditions attached that these works meet British standards.

8.0 Conclusion

It is considered that the Willow tree (T1) as shown on the attached plan, should be protected by a TPO. The City Arborist considers the tree to be in good condition, prominent and in keeping with on site tree planting. It is clearly visible to and enjoyed by occupiers of adjacent residential properties and from both visitors and passers-by on Edge Lane.

The Willow tree is native to the British Isles and is considered to make a valuable contribution to the City's urban environment. This mature Willow tree is considered to be well positioned and a feature within the Edge Lane street scene, providing a highly valued part of the local urban landscape character and its biodiversity.

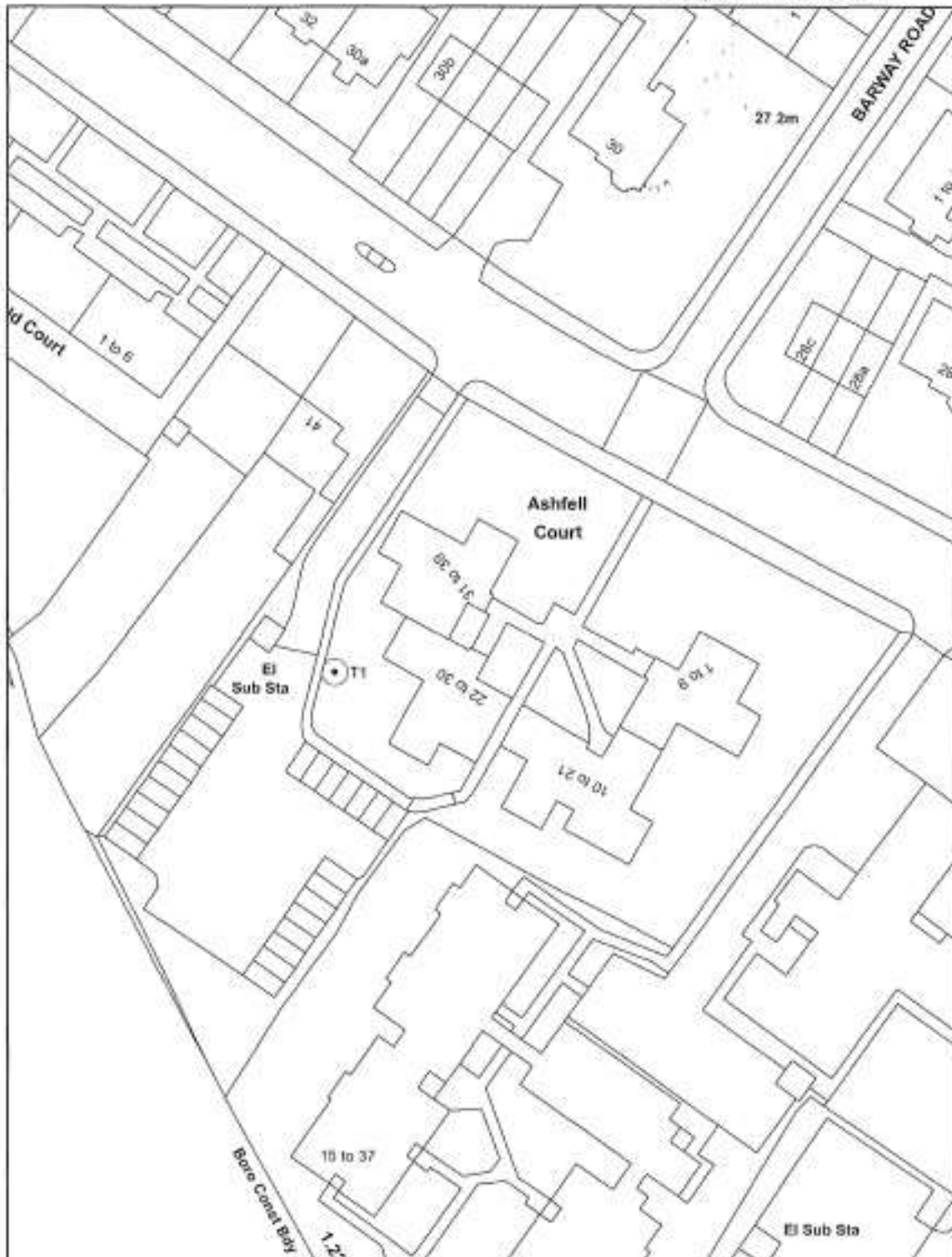
The Order has been properly made in the interests of securing the contribution this tree makes to the public amenity value in the area. The concerns of the homeowner/occupiers of Ashfell Court have been fully considered and balanced against the contribution this Willow tree makes to the local environment. Whilst it is acknowledged that the reason for objecting to the TPO, in particular concerns that the tree has snapped out a limb/branch and is considered to be dangerous; it's barely visible from the public highway and owners/occupiers of Ashfell Court should be able to carry out ongoing works to the tree without having to seek permission from the City Council, are all matters that have been given due consideration, for the reasons outlined including that some of these concerns can be alleviated through agreed appropriate pruning works, it is not felt that they outweigh the significant contribution this tree of high amenity value makes to the area,

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.

9.0 Recommendation.

The Head of Planning recommends that the Planning and Highways Committee instruct the City Solicitor to confirm the Tree Preservation Order at Ashfell Court, 35 Edge Lane, Chorlton cum Hardy, M21 9HE, 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 Ashfell Court, 35 Edge Lane, Chorlton Tree Preservation
Order 2022**

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