

Planning and Rights of Way Panel

Tuesday, 8th October,
2024
at 4.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 and 4 - Civic
Centre

This meeting is open to the public

Members

Councillor Windle (Chair)
Councillor Greenhalgh (Vice-Chair)
Councillor Beaurain
Councillor Cox
Councillor Mrs Blatchford
Councillor G Lambert
Councillor Wood

Contacts

Democratic Support Officer
Ed Grimshaw
Tel: 023 8083 2390
Email: ed.grimshaw@southampton.gov.uk

Head of Transport and Planning
Pete Boustred
Email: pete.boustred@southampton.gov.uk

PUBLIC INFORMATION

ROLE OF THE PLANNING AND RIGHTS OF WAY PANEL

The Panel deals with various planning and rights of way functions. It determines planning applications and is consulted on proposals for the draft development plan.

PUBLIC REPRESENTATIONS

Procedure / Public Representations

At the discretion of the Chair, members of the public may address the meeting on any report included on the agenda in which they have a relevant interest. Any member of the public wishing to address the meeting should advise the Democratic Support Officer (DSO) whose contact details are on the front sheet of the agenda.

Southampton: Corporate Plan 2022-2030

sets out the four key outcomes:

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time.

SMOKING POLICY – The Council operates a no-smoking policy in all civic buildings

MOBILE TELEPHONES:- Please switch your mobile telephones or other IT to silent whilst in the meeting.

USE OF SOCIAL MEDIA:- The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

FIRE PROCEDURE – In the event of a fire or other emergency a continuous alarm will sound, and you will be advised by Council officers what action to take.

ACCESS – Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Meetings: Municipal Year 2022/2023

2025	
4 June	25 June
9 July	6 August
27 August	17 September
8 October	12 November
10 December	

2025	
21 January	11 February
4 March	1 April
22 April	

CONDUCT OF MEETING

TERMS OF REFERENCE

The terms of reference of the Planning and Rights of Way Panel are contained in Part 3 (Schedule 2) of the Council's Constitution

BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

DISCLOSURE OF INTERESTS

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PECUNIARY INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:
Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (iii) Any contract which is made between you / your spouse etc (or a body in which you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.
- (iv) Any beneficial interest in land which is within the area of Southampton.
- (v) Any license (held alone or jointly with others) to occupy land in the area of

- Southampton for a month or longer.
- (vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council, and the tenant is a body in which you / your spouse etc has a beneficial interests.
- (vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:
- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
 - b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

OTHER INTERESTS

A Member must regard himself or herself as having an 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

PRINCIPLES OF DECISION MAKING

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability, and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

1 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

2 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

3 STATEMENT FROM THE CHAIR

4 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING) (Pages 1 - 6)

To approve and sign as a correct record the Minutes of the meetings held on 17 September 2024 and to deal with any matters arising.

CONSIDERATION OF TREE PRESERVATION ORDERS

5 OBJECTIONS TO THE SOUTHAMPTON (WESTON PARK SCHOOL) TREE PRESERVATION ORDER 2024 (Pages 7 - 44)

To consider the objections to The Southampton (Weston Park Primary School) Tree Preservation Order 2024 and decide whether to confirm the Order.

Monday, 30 September 2024

Director – Legal and Governance

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PLANNING AND RIGHTS OF WAY PANEL
MINUTES OF THE MEETING HELD ON 17 SEPTEMBER 2024

Present: Councillors Windle (Chair), Greenhalgh (Vice-Chair), Beaurain, Cox, Mrs Blatchford, G Lambert and Wood

17. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED: that the minutes for the Panel meeting on 27 August 2024 be approved and signed as a correct record.

18. **PLANNING APPLICATION - 24/00405/FUL - 348 WINCHESTER ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application be conditionally approved subject to the criteria listed in the report.

Change of use from C2 (residential care home) to 10 person house in multiple occupation (Sui Generis).

Paddy Kuun (local residents/ objecting), Mark James (agent), and Councillor Blackman (ward councillor) were present and with the consent of the Chair, addressed the meeting. In addition the Panel noted that a statement from Denis O'shea had been received, circulated, read and posted online.

The presenting officer advised the Panel that the report should have referred to the threshold tests from the Houses of Multiple Occupancy Supplementary Planning Document rather than Policy BAS6 of the Bassett Neighbourhood Plan. The Panel were also advised that the application no longer had a requirement for a contribution to the Community Infrastructure Levy following the removal of the additional floorspace. It was noted that the Habitats Regulation Assessment attached to the report as appendix 1 needed to be amended with the correct address and assessment and Panel were advised that an updated version had now been posted online.

The presenting officer also advised that a further condition is needed to application in order to address the removal of the fire escape at the rear of the building, as set out below.

The presenting officer also advised that a further condition needed to application in order to address the removal of the fire escape at the rear of the building, as set out below.

Upon being put to the vote the Panel confirmed the Habitats Regulation Assessment.

The Panel then considered recommendation (2) that [the application be conditionally approved subject to criteria listed in the report as amended.. Upon being put to the vote the recommendation as amended was carried.

RECORDED VOTE

FOR: Councillors Windle, Greenhalgh, Beaurain,
Blatchford, Cox, G Lambert
ABSTAINED: Councillor Wood

RESOLVED

- (i) The Panel confirmed the Habitats Regulation Assessment set out in Appendix 1 of the report.
- (ii) That planning permission be approved subject to the conditions set out within the report and any additional condition set out below

Additional condition

FIRE ESCAPE REMOVAL (PRE-OCCUPATION)

Prior to first occupation of the building as a HMO the fire escape and associated door on the first floor of the north elevation shall be removed and made good in accordance with a scheme of works that have first been submitted to and approved in writing by The Local Planning Authority.

REASON: In the interests of the privacy and amenity of the neighbouring residential occupiers

19. **PLANNING APPLICATION - 24/00132/FUL - 3-7 MACNAGHTEN ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Erection of 6 x semi-detached, 3-bedroom houses following demolition of existing buildings

Dan Roycroft (agent) was present and with the consent of the Chair, addressed the meeting. In addition the Panel noted that a statement had been received, circulated, read and posted online from a resident of Macanaghten Road.

Upon being put to the vote the Panel confirmed the Habitats Regulation Assessment.

The Panel then considered remaining recommendations that authority be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report. Upon being put to the vote the recommendations were carried unanimously.

RESOLVED

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. That authority be delegated to the Head of Transport and Planning to grant planning permission subject to the conditions in the report and the completion of a S.106 Legal Agreement to secure :
 - i. Either the developer enters into an agreement with the Council under s.278 of the Highways Act and/or undertakes a scheme of works or provides a financial contribution towards site specific transport contributions for highway improvements in the vicinity of the site including provision of a Traffic Regulation Order (TRO) to provide double yellow lines around the junction to protect sightlines and vehicle swept paths in line with Policy SDP4 of the City of Southampton Local Plan Review (as amended 2015), policies CS18 and CS25 of the adopted LDF Core Strategy (as amended 2015) and the adopted Developer Contributions SPD (April 2013);
 - ii. Submission of a highway condition survey (both prior to and following completion of the development) to ensure any damage to the adjacent highway network attributable to the build process is repaired by the developer.
 - iii. Either a scheme of measures or a financial contribution to mitigate against the pressure on European designated nature conservation sites in accordance with Policy CS22 of the Core Strategy and the Conservation of Habitats and Species Regulations 2010.
3. That the Head of Transport and Planning be given delegated powers to add, vary and/or delete relevant parts of the Section 106 agreement and/or conditions as necessary.
4. In the event that the legal agreement is not completed within a reasonable period following the Panel meeting, the Head of Transport and Planning be authorised to refuse permission on the ground of failure to secure the provisions of the Section 106 Legal Agreement.

20. **PLANNING APPLICATION - 24/00110/FUL - 40 ATHERLEY ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that the application that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Erection of a part two-storey, partly single-storey side & rear extension to facilitate conversion into 4 x dwellings (2 x 1-bedroom, 1 x 2-bedroom, 1 x 3-bedroom) with roof alterations and associated amenities.

Kate Drummond (local resident objecting) was present and with the consent of the Chair, addressed the meeting.

The presenting officer advised that plans had been received to amend the layout of the garden areas. Upon being put to the vote Members agreed unanimously that the application would have 2 garden areas one for each of the ground floor flats.

During discussion on the item, Members raised the need for an additional condition on biodiversity net gain and officers agreed to the addition on the additional condition as set out below.

Upon being put to the vote the Panel confirmed the Habitats Regulation Assessment.

The Panel then considered the remaining recommendation that the application be delegated to the Head of Transport and Planning to grant planning permission subject to criteria listed in the report as amended. Upon being put to the vote the recommendation as amended was carried unanimously.

RESOLVED

1. To confirm the Habitats Regulation Assessment set out in Appendix 1 of the report.
2. To Delegate authority to the Head of Transport and Planning to grant planning permission in accordance with the revised plan showing gardens for ground floor flats only and removal of fenced compartments following the securing of the appropriate Solent Disturbance Mitigation Project (SDMP) Mitigation. In the event that the SDMP contribution cannot be secured delegation is sought to refuse the application for failing to mitigate the impacts of the development on the relevant designated Special Protection Areas.

Additional Condition

18. Ecological Mitigation Statement

Within three months of the date of this consent the developer shall submit a programme of habitat and species mitigation and enhancement measures, which shall be implemented in accordance with the agreed programme. The agreed mitigation measures shall be thereafter retained as approved.

REASON: To safeguard protected species under the Wildlife and Countryside Act 1981 (as amended) in the interests of preserving and enhancing biodiversity.

21. **PLANNING APPLICATION - 24/00472/FUL - 38 CLAUSENTUM ROAD**

The Panel considered the report of the Head of Transport and Planning in respect of an application for planning permission for the proposed development at the above address recommending that authority be delegated to the Head of Transport and Planning to grant planning permission subject to the criteria listed in the report.

Temporary change of use to a MOT testing station together with facilities to carry out the repair and servicing of motor vehicles (part retrospective), (Departure from local plan).

Mr Rasooli (applicant) was present and with the consent of the Chair, addressed the meeting.

The presenting officer advised Panel that the reasons for granting permission set out in the report needed to be adjusted as set out below. In addition the Panel were advised that parking management condition needed to be adjusted, as set below.

The Panel then considered the recommendation that the application be conditionally approved subject to criteria listed in the report as amended. Upon being put to the vote the recommendation was carried unanimously.

RESOLVED that planning permission be approved subject to the conditions set out within the report and the amended conditions set out below

Amended reason for granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out below and based on a temporary 4 year permission. Other material considerations including highways safety; neighbouring amenity; housing need, supply & delivery; and employment & economic growth have been considered and are not judged to have sufficient weight to justify a refusal of the application, despite the housing allocation under saved policy H1, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted. In reaching this decision the Local Planning Authority offered a pre-application planning service and has sought to work with the applicant in a positive and proactive manner as required by paragraphs 39-42 and 46 of the National Planning Policy Framework (revised 2023). Policies – CS4, CS6 & CS19 of the of the Local Development Framework Core Strategy Development Plan Document (Amended 2015). Policies – SDP1, SDP5, SDP16, H1 & REI10 of the City of Southampton Local Plan Review (Amended 2015).

Changes to conditions

06. Parking Management & External Storage [Performance]

No more than 14 cars shall be parked on site at any one time.

Parking will be limited to the locations identified on the approved site layout plan only. The external space on site will be kept free for the manoeuvring and parking of vehicles only and shall not be obstructed or used for any other storage purposes. All MOTs, servicing and repairs will be managed and carried out by appointment only and from within the building. At no time shall light or heavy goods vehicles be MOT tested, serviced or repaired.

REASON: In the interests of highways safety and to limit on road parking pressure.

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Agenda Item 5

DECISION-MAKER:	The Planning and Rights of Way Panel
SUBJECT:	Objections received to the making of The Southampton (Weston Park Primary School) Tree Preservation Order 2024
DATE OF DECISION:	8 October 2024
REPORT OF:	Head of City Services: David Tyrie

<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director Resident Services	
	Name:	Debbie Ward	Tel: 023 8083 3005
	E-mail	Debbie.Ward@Southampton.gov.uk	
Author:	Title	Tree Officer	
	Name:	Maria Mushens	Tel: 023 8083 3005
	E-mail	Maria.Mushens@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

BRIEF SUMMARY

The Tree team is undertaking a review of school land that has or will be transferred from the ownership of the council into the ownerships of the trusts that maintain the schools.

The trees provide benefits to the environment, ecology and amenity of the area. The review consists of assessing trees on sites for their suitability for legal protection, to secure these benefits for future generations. This acts as a precaution against any pressure on the school to carry out inappropriate tree work and ensures that following the change in land ownership the trees are managed in a husband like manner.

The Hamwic Trust maintains several schools across Southampton and agreement was reached with the Trust that the council's tree teams would carry out assessments to their schools, with a view of protecting the trees. The Trust is in support of protecting the trees.

Following the making of the Tree Preservation Order (TPO) 3 objections were received from neighbouring properties, which the Council has been unable to overcome.

Members are requested to consider the objections and whether it is expedient to confirm, with modifications The Southampton (Weston Park Primary School) Tree Preservation Order 2024, in the interest of amenity to the area.

RECOMMENDATIONS:	
	(i) To confirm (with Modifications) The Southampton (Weston Park Primary School) Tree Preservation Order 2024.
REASONS FOR REPORT RECOMMENDATIONS	
1.	Ownership of the land on which Weston Park Primary School is situated, has been transferred from the Council to The Hamwic Trust. This means that the Council no longer has control over the trees on the site. The trees have amenity value to the area and have been protected as a precautionary measure to ensure that the benefits that they provide are secured for the future.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
	Not protecting the trees. The trees may be felled without prior notice to the council if they are not protected. This would have a negative impact to the visual amenity of the area. It would also negatively impact the ecological and environmental benefits that these trees provide to the area.
DETAIL (Including consultation carried out)	
1	<p>The council tree team is carrying out a review of schools where the land ownership is being transferred from the council to protect suitable trees with a Tree Preservation Order.</p> <p>Jan 24- A meeting took place with the Hamwic Trust as managers of the school and the tree team manager outlining the plan to protect trees across the trust's schools. The Hamwic trust confirmed their support of this.</p> <p>May 24- The Tree Officer visited the school to map out the trees suitable for a TPO and made the provisional Tree Preservation Order on the 15 May 24. (Appendix 1).</p> <p>3 objections were received during the 28 days consultation period. (which have been numbered for ease of reference)</p>
2	<p>30 May 24- Objection 1 received mainly in relation to T2, T3, T4 (Appendix 3)</p> <p>The main points were:</p> <ul style="list-style-type: none"> • The trees are a hazard to children. Falling branches and potential injury to children and substantial delays in obtaining permission to deal with these. • The trees block light from the garden • The trees have the potential to damage the fence. • Falling leaves and seedlings • Damage to school buildings from above and below ground as some of these trees are too close to the buildings.

3	The tree officer reviewed the details of the objections and does not believe that they provide sufficient grounds to remove the Tree Preservation Order.
4	<p>The Hamwic Trust as tree owners is responsible for the condition of the trees. The school will continue to survey the trees and raise remedial work where required. The standard time to determine an application is 8 weeks. However, there are exceptions to this requirement within part 14 of The Town and Country Planning (Tree Preservation) (England) 2012 regulations. One such exception is that dead trees can be removed after 5 days' notice has been given to the council.</p> <p>Another exception allows for any work required to remove an immediate risk of serious harm to be dealt with, with notice being provided to the council as soon as practicable after the works become necessary.</p> <p>Therefore, the presence of the TPO doesn't create an obstruction to work being carried out in an appropriate timescale.</p>
5	Shade calculations were undertaken, and they demonstrated that there would be very limited impact to the property and that any shadow would be transient and would amount a minimal percentage of the day.
6	Another exception to the requirement to obtain consent prior to carrying out work relates to the abating of a nuisance. If a tree is damaging a fence, then sufficient work to stop the damage from occurring can be carried out, without making an application.
7	The council cannot consider the fact that leaves and seedling fall from a tree as a reason not to protect it. If this were the case, then no trees would be protected.
8	<p>Trees can damage buildings. The school has not reported any such incidences. If such incidences could not be dealt with under the exception in point 6, then an application would be assessed against any supporting evidence. Regular tree surveys should identify any potential for future damage and an application can be submitted to ensure no damage occurs from direct damage.</p> <p>Indirect damage (subsidence) only occurs on shrinkable clay soil. The school is built on sandy, silt clayey soil and should trees be implicated in subsidence and application can be submitted together with the relevant engineering reports.</p>
9	27 Jun 24-The tree officer responded to the objections raised (Appendix 3). The objector was given the opportunity to withdraw their objections but chose not to and confirmed their decision to uphold the objections on 23. Jul 2024.
10	4 Jun 2024- Objection 2 was received, mainly in relation to G6. (Appendix 3).The main points are : Page 9

	<ul style="list-style-type: none"> The leaves and berries fall from the trees which could have a health risk for our pet dog and are damaging our patio and branches are damaging our roof.
11	<p>This objection is similar to the first one and points 6 of this report (in relation to damage to roof), and point 7 of this report (in relation to falling tree detritus) apply.</p> <p>27 Jun 24- A response to the objections was sent (Appendix 3) but this objection has not been withdrawn.</p>
12	<p>12 Jun 24- Objection 3(Appendix 3) was received in relation to W2 of the Order. The main points are:</p> <ul style="list-style-type: none"> Some of the trees are dangerously large, concerns that the two ash trees and a cherry may fall during high winds. The TPO be amended to enable dangerously large trees to be pruned. Following planning permission for 226a and 222a, It is logical to expect the Council intended to restrain the height of trees near these properties.
13	<p>The trees are within a regular inspection regime. At this time any health and safety issues will be identified so that the school can arrange remedial action. Again, there are exceptions to making a formal application which will allow for any safety concerns that arise to be dealt with promptly.</p> <p>Pruning the height of the tree to prevent it from becoming tall is not considered good arboriculture practice as it can create many wounds, which can be openings for decay pathogens. Resulting re growth would be weakly attached and vulnerable to breaking in winds.</p>
14	<p>The Tree Officer was unable to locate any evidence to support the statement that the council intended to restrain the height of any trees. Since the operation of reducing trees in height is not considered best arboriculture practice and would place a burden on the tree owner to carry out this on a regular basis it is the officer's opinion that it is not logical to expect the Council intended to restrain the height of the trees near the properties following development. There was no mention of trees on the planning application.</p>
15	<p>28 Jun 24- Tree Officer letter (Appendix 3) sent to objector 3 addressing the points raised. The objector has confirmed they wish to uphold their objection.</p>
16	<p>The Tree Officer had telephone conversations with Objector 2 and 3 and explained the exceptions to making an application to abate a nuisance and to deal with dead or dangerous trees. She also explained that they would have the opportunity to apply to carry out overhang pruning for a specific timescales EG 7 years.This would reduce the number of times an application would be required.</p>

17	The officer invites the members to consider the value that the trees provide to the local amenity and balance this against the objections supporting the removal of the Tree Preservation Order.
18	Given the amenity that the trees provide to the area the Officer requests that the members approve the confirmation (with modifications). The modifications are to replace 19 trees with 12 trees, this will remove the low quality trees from the group.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
	Costs will be those associated with the administration of confirming the Order and the administration of any subsequent applications made under the Order.
<u>Property/Other</u>	
	If the order is confirmed, compensation may be sought in respect of loss or damage caused or incurred in consequence of the refusal of any consent required under the TPO or of the grant of such consent which is subject to a condition. However, no compensation will be payable for any loss of development or other value of the land, neither will it be payable for any loss or damage which was not reasonably foreseeable.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
	In accordance with the Constitution, the officer has delegated power to make, modify or vary, revoke, and not confirm Tree Preservation Orders under Sections 198 and 201 of the Town and Country Planning Act 1990; and to confirm such orders except where valid objections are received. If objections are received, then the Planning and Rights of Way Panel are the appropriate decision-making panel to decide whether to confirm the order or not.
<u>Other Legal Implications:</u>	
	The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy their possessions but it can be justified under Article 1 of the First Protocol as being in the public interest (the amenity value of the trees, tree groups and woodlands) and subject to the conditions provided for by law (the Town and Country Planning Act 1990) and by the general principles of international law .
RISK MANAGEMENT IMPLICATIONS	
	None

POLICY FRAMEWORK IMPLICATIONS	
	None

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	Woolston

SUPPORTING DOCUMENTATION

Appendices	
1.	The Southampton (Weston Park Primary School) Tree Preservation Order 2024
2.	Photos of trees
3.	Objections and Responses

Documents In Members' Rooms

1.	
2.	

Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	
2.	



**Form of Tree Preservation Order
Town and Country Planning Act 1990
The Southampton(Weston Park Primary School) Tree Preservation
Order 2024**

Southampton City Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order -

Citation

1. This Order may be cited as The Southampton(Weston Park Primary School) Tree Preservation Order 2024

Interpretation

2. (1) In this Order “the authority” means the Southampton City Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order take effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall -
 - i. cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - ii. cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 15th May 2024

Signed on behalf of Southampton City Council

A handwritten signature in black ink, appearing to be 'D. King', written in a cursive style.

Authorised by the Council to sign in that behalf

SCHEDULE 1

The Southampton(Weston Park Primary School) Tree Preservation Order 2024

Individual Trees (encircled black on the map)

No. on Map	Description	Situation
T1	Whitebeam	Whitebeam at Weston Lane school entrance NE of no 214
T2	Norway Maple	Norway Maple W of school behind 214 Weston Lane
T3	Norway Maple	Norway Maple W of school behind 210 Weston Lane
T4	Silver Birch	Silver birch W of school behind 208 Weston Lane
T5	Silver Birch	Silver birch on W side inbetween 2 wings of building
T6	Silver Birch	Silver birch on W side inbetween 2 wings of building
T7	Norway Maple	Norway maple on W side inbetween 2 wings of building
T8	Whitebeam	Whitebeam SW of building
T9	Ash	Ash SW side inbetween 2 wings of building
T10	Whitebeam	Whitebeam SW side inbetween 2 wings of building
T11	Whitebeam	Whitebeam S of building inbetween 2 wings of school building

Groups of trees (within a broken black line on the map)

No. on Map	Description	Situation
G1	Mixed Deciduous Species	9 Trees on North side of driveway from Weston Lane Whitebeam x6 Silver birch x1 Norway maple x1 Ash x1
G2	Mixed Deciduous Species	Silver birch x 2 Hornbeam x1 in car park adjacent to school building
G3	Beech	Beech x 4 adj to playground on N of school building
G4	Mixed Deciduous Species	Row of trees along N boundary with rear of properties on Newtown Road Ash x5 Field maple x 7 Silver birch x1 Hawthorn x 1
G5	Mixed Deciduous Species	Silver birch x 5 Whitebeam x1 along driveway from Newtown Road entrance adj no 51 Newtown Road
G6	Mixed Deciduous Species	Whitebeam x3 Cherry x1 along

G7	Mixed Deciduous Species	driveway from Newtown Road entrance adj no 53 Newtown Road 19 Trees on path of grass inbetween two buildings on east section of school includes Hawthorn Rowan Apple Cherry and Silver birch
G8	Mixed Deciduous Species	24 Trees including Ash Birch Apple Rowan Cornus

Woodlands

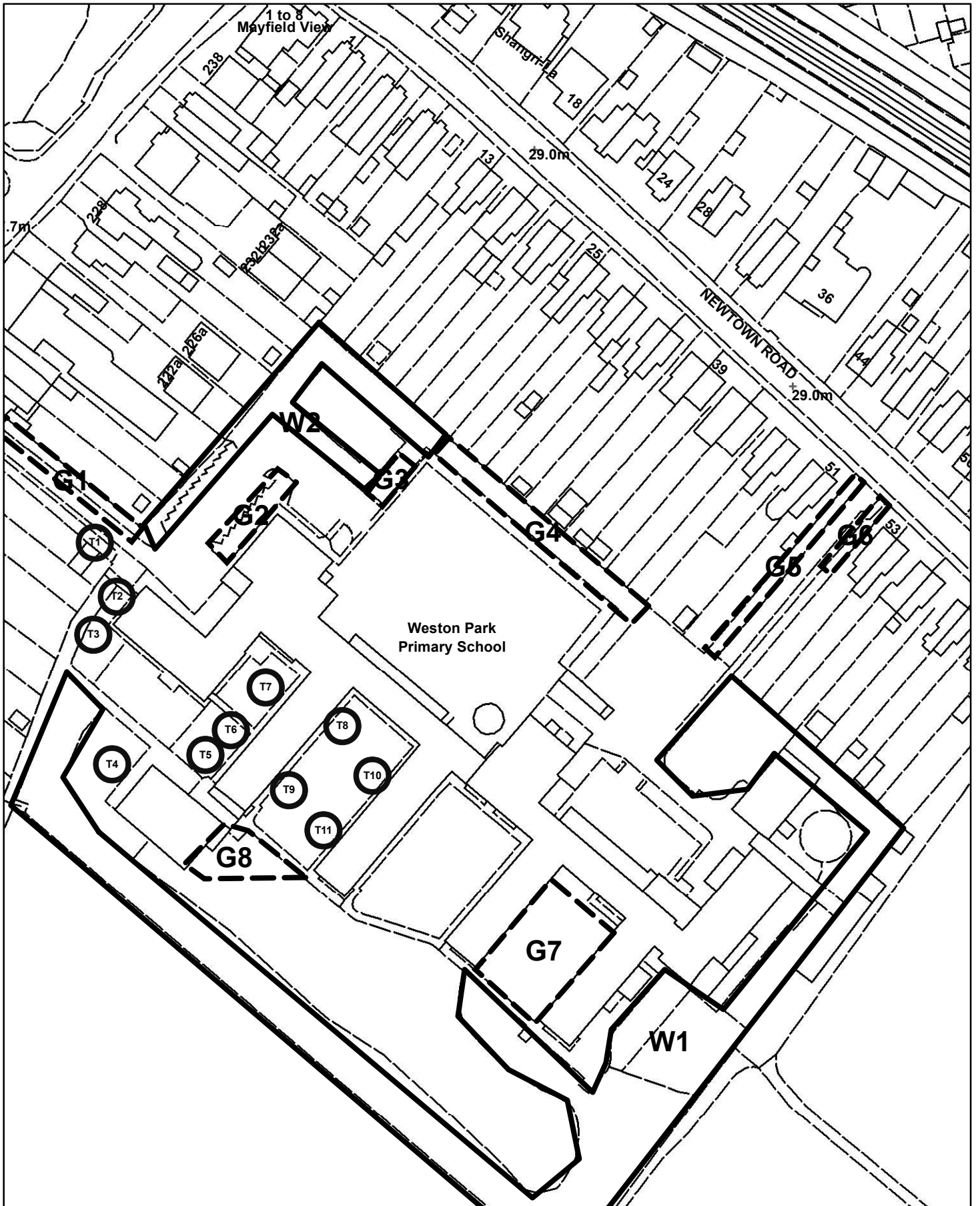
(within a continuous black line on the map)

No. on Map	Description	Situation
W1	Mixed Species	Trees running along east , south and west boundary
W2	Mixed Species	Trees along car park boundary on N aspect running behind 218 to 232 Weston Lane and 13 to 25 Newtown Road






Trees Specified by Reference to an Area

(within a dotted black line on the map)

No. on Map	Description	Situation
	None	



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- Key**
-  Individual Trees
 -  Group
 -  Woodland
 -  Area
 -  Not TPO'd

The Southampton ((Weston Park Primary School) Tree Preservation Order 2024	
TPO Ref: T2-792	Department: Trees team
Drawn: MM Page 17	Scale: Not to scale



David Tyrrie
 Head of City Services
 Transactions and Universal Services
 Southampton City Council
 Southampton SO14 7LY

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W2 Photos by MM 28.08.24

View from school car park



Overhang to rear gardens from school car park



Appendix 2 Photos of trees with objections

W2:View from Weston Lane

In between 232 and 230



In between 224 and 226



Appendix 2 Photos of trees with objections

In between 222 and 224



G6 Newtown Road Entrance view from end of school drive.



Appendix 2 Photos of trees with objections

T2 View from path behind 168 to 214 Weston Lane



T3 View from Weston Lane. View from path behind properties



Appendix 2 Photos of trees with objections

View between 204 and 206 Weston Lane

Shows W1, T4 is behind this



View along path behind 208 looking towards 214 Weston Lane showing level of overhang from trees in W1.



Appendix 2 Photos of trees with objections

View from Weston lane between 210 and 212 Weston Lane
And overhang to no 210 Weston Lane back garden.



Objection 1: Email received 30 May 2024

Dear Sirs,

I wish to register my objection to the provisional Tree Preservation order 2024 particularly trees T2, T3 and T4 all behind properties in Weston Lane SO19 9HL.

There exists to my knowledge a TPO on the oak tree located on the boundary of 212 and 214 Weston Lane.

I moved into*** Weston Lane in 1981, since then this oak has grown significantly such that it swamped and killed a mature eating apple tree in my garden. Now you wish to put TPO's on these three faster growing trees some of which must present a potential hazard to children using the school. These trees have been planted post 1981.

They are also blocking light from my garden and as such reducing the crops from my vegetable plot and will potentially in future damage the boundary fence you now insist belongs to me although you erected and maintained until recently. I also have an issue with falling leaves and seedlings from these trees.

I consider the most important objection relates to falling branches etc and the potential for injury to children using the school. If trimming or felling is required presumably there would be a substantial delay in obtaining permissions.

There is also the consideration of damage to school buildings from above and below ground as some of these trees are too close to the buildings.

Yours sincerely

** *! *****

*** Weston Lane

Southampton

SO19 9HL

Appendix 3 Objections and Responses

Response to Objection 1 by email on 27 Jul 2024

Dear ** * *****

Many thanks for taking time to contact the City Council tree team in relation to the new Tree Preservation Order (TPO) placed on trees within Weston Park Primary School. I hope that this email will explain the rationale behind the making of the order and to answer the points that you have raised.

Over recent years parcels of land which previously belonged to the Council under long leases to schools have been transferred to the trusts that manage the schools. Weston Park Primary School is one such school. The council reviews sites where land is being transferred out of their ownership for their suitability for a Tree Preservation Order. This is to ensure the trees continue to provide benefits such as purifying the air, carbon storage, rainfall attenuation and providing shade as well as beautifying areas, for future generations. These benefits are usually welcomed within communities. We have met with the Hamwic Trust (being the owners of the land, and responsible for managing the school) and they are in support of the trees being protected by a TPO.

I understand that you have several objections to the TPO and will address them as bullet points for ease of reference, as follows:

- **The trees are a hazard to children. Falling branches and potential injury to children and substantial delays in obtaining permission to deal with these.**

I am assured that the school takes its health and safety responsibilities seriously. The trees are surveyed every two years to identify any health and safety issues. The school then arranges any necessary work to remedy the issues identified, thus removing any known hazard to children. The presence of a Tree Preservation Order does not mean that no work can be carried out to the tree. Only that consent must be obtained prior to the work being carried out. This is a free process that involves the completion of a straightforward application which can be made online via the

Appendix 3 Objections and Responses

planning portal. The Council has 8 weeks from accepting an application to determine it.

There are some exceptions to the requirement to apply for consent. This includes working on trees that are dead, the removal of deadwood or carrying out work to trees that have become an immediate risk of causing serious harm. Please see below:

Paragraph 14(1)(a) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 states:

14.—(1) Nothing in regulation [13](#) shall prevent—

(a) the cutting down, topping, lopping or uprooting of a tree—

(i) which is dead;

(ii) in compliance with any obligation imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance;

(b) the removal of dead branches from a living tree.

(c) the cutting down, uprooting, topping or lopping of a tree, to the extent that such works are urgently necessary to remove an immediate risk of serious harm, or to such other extent as agreed in writing by the authority prior to the works being undertaken;

It further states

(2) Where paragraphs (1)(a)(i) or (1)(c) apply, notice in writing of the proposed activities shall be given to the authority—

(a) in the case of works urgently necessary to remove an immediate risk of serious harm, as soon as practicable after the works become necessary; and

(b) in any other case at least five working days prior to the date on which the works are to be commenced.

This means that work required to address a hazardous tree can be dealt with in a timely manner without any substantial delay.

- **The trees block light from your garden.**

I have made some calculations to demonstrate the impact of the trees to light in your garden. The calculations show the shadow cast by T2, T3 and T4 at various times of day for the longest and shortest day of the year. The black line represents the direction and length of the shadow based on the height of the tree (which has been over estimated). The yellow crescent is the arc that the sun will follow. The inner line is the highest in the sky and the outer line is the lowest which will be the shortest day on December the 21st 2024. The two orange lines in a 'V' shape are the point that the sun rises and sets. I will give examples of various times of the day to demonstrate the shadow position at various points through the day for both the longest and

Appendix 3 Objections and Responses

shortest day of the year.. You can see the outline of your property, which is above and to the left of the centre circle which represents the position of the tree.

Longest day 20June 2024

Sunrise 04.50 hrs

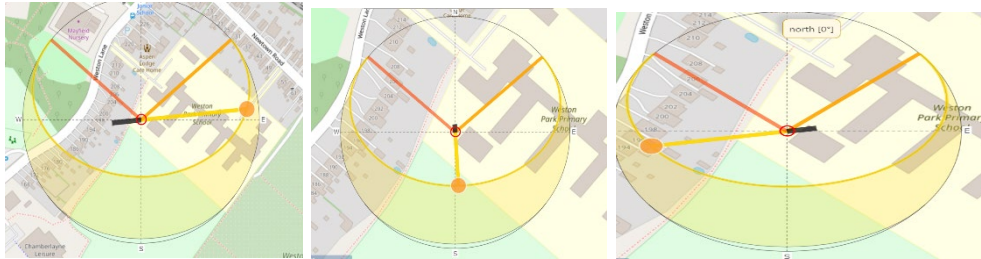
Sunset 21.23hrs

T4 Silver birch, overestimated height 20m

08.00 hrs

13.00 hrs

17.00 hrs



21.00hrs



T3 Norway maple over estimated height 20m

08.00 hrs

13.00 hrs

Appendix 3 Objections and Responses



21.00 hrs

17.00 hrs



T2 Norway maple overestimated height 20m

08.00hrs

13.00 hrs



Appendix 3 Objections and Responses

17.00 hrs

21.00 hrs



Shortest day 21 Dec 2024

Sunrise 8.05

Sunset 16.02

T4 Silver birch

9.00 hrs

13.00 hrs

Appendix 3 Objections and Responses



T3 Norway maple

9.00 hrs

13.00hrs

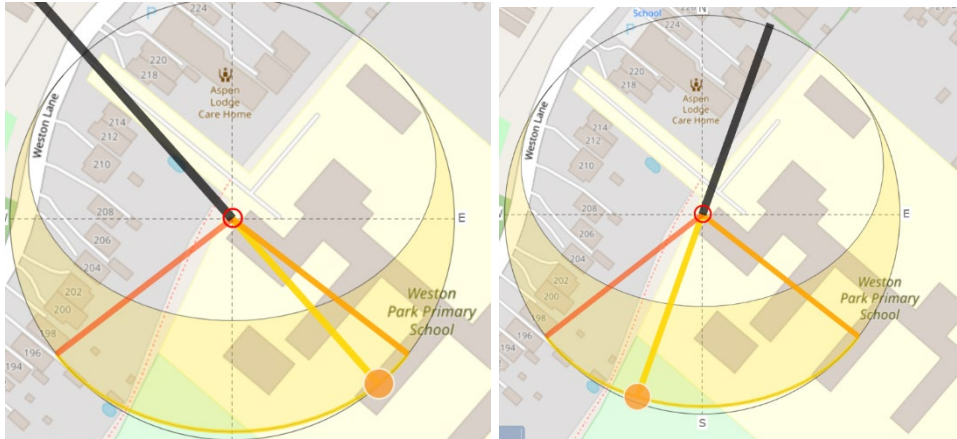


T2 Norway maple

09.00 hrs

13.00 hrs

Appendix 3 Objections and Responses



The calculations demonstrate that any loss of light to your garden is not from these trees.

- **The trees have the potential to damage your fence.**

If the trees are damaging your fence, then I would recommend that you contact the school in the first instance and ask them to remedy the issue.

If you would prefer to remedy the issue yourself then this could be dealt with under the exception 14.1(ii) to prevent or abate a nuisance (see above).

The government guidance explains the following.

‘What is the exception for work to prevent or abate a nuisance?’

The authority’s consent is not required for carrying out the minimum of work on a tree protected by an Order that is necessary to prevent or abate a nuisance. Here ‘nuisance’ is used in its legal sense, not its general sense. The courts have held that this means the nuisance must be actionable in law – where it is causing, or there is an immediate risk of it causing, actual damage.

When deciding what is necessary to prevent or abate a nuisance, tree owners and, where applicable, their neighbours and local authorities, should consider whether steps other than tree work might be taken. For example, there may be engineering solutions for structural damage to buildings.

- **Falling leaves and seedlings**

I appreciate that sometimes trees cause seasonal nuisance from falling leaves and seedlings, but this is temporary and can be dealt with quite easily with regular clearance. The removal of trees to prevent this type of seasonal nuisance would be a disproportionate response to the issue and not an action that the trust would consider in any event.

Appendix 3 Objections and Responses

- **Damage to school buildings from above and below ground as some of these trees are too close to the buildings.**

Any trees that are found to be damaging the school can be dealt with once consent has been sought from the council. The school is willing to carry out this process and the council have provided guidance on how to complete the application. Tree related subsidence only occurs on clay soil. The school site is on loamy soil; therefore the trees are highly unlikely to cause this type of damage.

Currently the Tree Preservation Order is temporary and cannot be made permanent (Confirmed) with an outstanding objection, therefore if you are not satisfied with my response and wish to uphold your objection, then the matter must be presented to a panel of elected member at the Planning & Rights of Way panel.

This is a publicly held meeting in which your objection would be presented along with my report that details the reasoning behind the making of the TPO along with my responses to objections received. You will be invited to this meeting and will be given an allotted time to put your objection across to the members of the panel. Once all representation has been heard, the members will vote on whether the council should confirm the order.

Please can you respond to me in relation to how you wish to proceed with this objection. If you are satisfied with my response, then you can withdraw your objection, however if you wish to take the objection to the Planning and Rights of Way Panel, then please state that you wish to uphold your objection.

If the objection is upheld, then I will start the process of writing my report, which you would receive a copy of along with the date of the meeting. This must be within 6 months of making of the order, so no later than 14 November 2024. Please would you let me know by return if you wish to uphold your objection or if you are willing to withdraw it.

If you have any questions regarding my response or wish to discuss any further points, please do not hesitate to contact me.

I look forward to hearing from you

City Tree Officer

City Services

Place Directorate

Appendix 3 Objections and Responses

Objection 2 : Email received 4 Jun 24

To whom it may concern

Thank you for your recent letter dated 15th May 2024. Your reference T2-792

We are the home owners of ** Newtown Road, adjacent to the group of trees detailed in your map G6.

Unfortunately we have continuous problems with the trees in this specific area as they overhang the boundary and therefore on to our property.

Please see below our objections.

The larger trees are touching our roof and as you would be aware when this happens, it's essential to address the issue promptly as the issue can become very problematic. Please find attached photographs of the branches currently touching the roof of our property.

In addition to trees touching the property, the trees severely overhang into our garden.

As naturally the leaves and berries fall from the trees, they directly fall into the garden of our property. As we have a dog, this is extremely concerning, as all year round the berries (whether old or new) drop into the garden. Our dog therefore eats the berries which I am sure cannot be good for our dogs health. Please find attached photographs of leaves and berries collected on a daily basis during the winter months. If these were not collected it would be to the detriment of our pets' health.

In 2023 we had our new patio laid, since then the collection of leaves, berries and sap from the trees have ruined the patio. Please find attached photographs of the current state of the patio compared to just 1 year ago.

We are in no way asking for these trees to be chopped down, we do however ask that they are not protected so they can be pruned by ourselves so they do not overhang into our garden or touch the roof of our property and cause any damage.

We really do hope you can take our concerns into consideration when making your decision.

Kind regards

Mr & Mrs ****

Appendix 3 Objections and Responses

Response to Objection 2 : Email sent 27 Jul 24

Dear Mr and Mrs ****

Many thanks for taking time to contact the City Council tree team in relation to the new Tree Preservation Order (TPO) placed on trees within Weston Park Primary School. I hope that this email will explain the rationale behind the making of the order and to answer the points that you have raised.

Over recent years parcels of land which previously belonged to the Council under long leases to schools has been transferred to the trusts that manage the schools. Weston Park Primary School is one such school. The council reviews sites where land is being transferred out of their ownership for their suitability for a Tree Preservation Order. This is to ensure the trees continue to provide benefits such as purifying the air, carbon storage, rainfall attenuation and providing shade as well as beautifying areas, for future generations. These benefits are usually welcomed within communities. We have met with the Hamwic Trust (being the owners of the land, and responsible for managing the school) and they are in support of the trees being protected by a TPO.

I understand that you have several objections to the TPO and will address them as bullet points for ease of reference, as follows:

- **The leaves and berries fall from the trees which could have a health risk for your pet dog and are damaging your patio and branches are damaging your roof.**

The presence of a Tree Preservation Order does not mean that no work can be carried out to the tree. Only that consent must be obtained prior to the work being carried out. This is a free process that involves the completion of a straightforward application which can be made online via the planning portal. The Council has 8 weeks from accepting an application to determine it.

There are some exceptions to the requirement to apply for consent. These include working on trees that are dead, the removal of deadwood, the prevention or abatement of a nuisance.

Appendix 3 Objections and Responses

Paragraph 14(1)(a) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 states:

14.—(1) Nothing in regulation 13 shall prevent—

(a) the cutting down, topping, lopping or uprooting of a tree—

(i) which is dead;

(ii) in compliance with any obligation imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance;

(b) the removal of dead branches from a living tree.

(c) the cutting down, uprooting, topping or lopping of a tree, to the extent that such works are urgently necessary to remove an immediate risk of serious harm, or to such other extent as agreed in writing by the authority prior to the works being undertaken;

Therefore under the exceptions you would be able to carry out enough work to ensure the branches are not causing damage to your roof without applying for consent, (under exception 14.1(ii) to prevent or abate a nuisance (see above and below for an explanation)).

Furthermore, the government guidance explains the following.

‘What is the exception for work to prevent or abate a nuisance?’

The authority’s consent is not required for carrying out the minimum of work on a tree protected by an Order that is necessary to prevent or abate a nuisance. Here ‘nuisance’ is used in its legal sense, not its general sense. The courts have held that this means the nuisance must be actionable in law – where it is causing, or there is an immediate risk of it causing, actual damage.

When deciding what is necessary to prevent or abate a nuisance, tree owners and, where applicable, their neighbours and local authorities, should consider whether steps other than tree work might be taken. For example, there may be engineering solutions for structural damage to buildings.

I appreciate that sometimes trees cause seasonal nuisance from falling leaves and berries and you would want to ensure your pet doesn’t eat any berries, but this is temporary and can be dealt with quite easily with ongoing clearance. I understand you do not want to remove the trees to prevent this type of seasonal nuisance, rather you would like to freely prune back overhang to reduce the amount of detritus falling into your garden. My suggestion would be to make an application to the council to prune back the branches by the amount required for say a 5-year rolling period. Any work that does not cause harm to the amenity or health of the tree would most likely be given consent. This way you would only have to apply for overhang pruning once every 5 years.

Appendix 3 Objections and Responses

Currently the Tree Preservation Order is temporary and cannot be made permanent (Confirmed) with outstanding objections, therefore if you are not satisfied with my response and wish to uphold your objection, then the matter must be presented to a panel of elected member at the Planning & Rights of Way panel.

This is a publicly held meeting in which your objection would be presented along with my report that details the reasoning behind the making of the TPO along with my responses to objections received. You will be invited to this meeting and will be given an allotted time to put your objection across to the members of the panel. Once all representation has been heard, the members will vote on whether the council should confirm the order.

Please can you respond to me in relation to how you wish to proceed with this objection. If you are satisfied with my response, then you can withdraw your objection, however if you wish to take the objection to the Planning and Rights of Way Panel, then please state that you wish to uphold your objection.

If the objection is upheld, then I will start the process of writing my report, which you would receive a copy of along with the date of the meeting. This must be within 6 months of making of the order, so no later than 14 November 2024. Please would you let me know by return if you wish to uphold your objection or if you are willing to withdraw it.

If you have any questions regarding my response or wish to discuss any further points, please do not hesitate to contact me.

I look forward to hearing from you

City Tree Officer



Trees Team
Southampton City Council
Civic Centre
Southampton SO14 7LY

11 June 2024

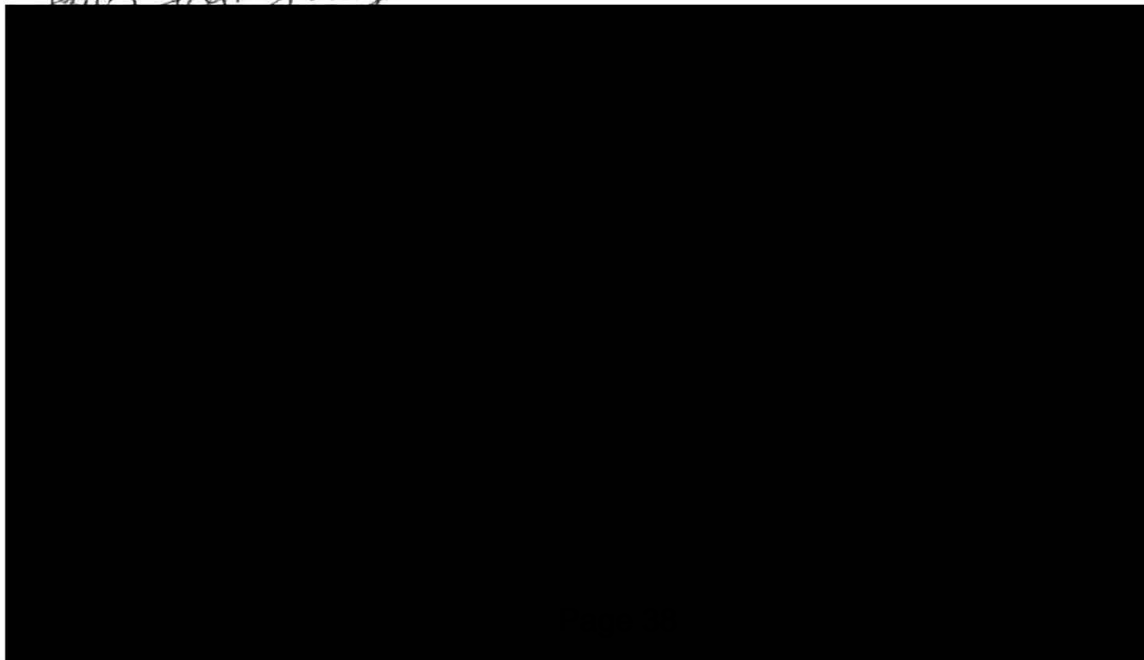
Dear Sirs

Tree Preservation England Regulations 2012
Southampton (Weston Park Primary School) TPO 2024

We attach our objections and representations
with regard to the above, specifically the
section headed:

Woodlands W2 Mixed species
Trees along car park boundary on N aspect
running behind 218 to 232 Weston Lane.

Yours faithfully



Re: The Southampton (Weston Park Primary School) Tree Preservation Order 2024

Woodlands

We greatly appreciate the 'green screen' provided by these woodlands. However some individual trees cause concern. To date the strongest winds have occurred after leaf fall. Climate change may alter this. The two bungalows (222A and 226A) benefit from the beauty of the woodland, but unfortunately are very near some extremely large trees.

We submit that the TPO be amended to enable dangerously large trees to be pruned.

Area W2

Trees behind 222A (bungalow)

Twin ash trees. These we estimate to be over 15m high and therefore if windblown will damage the **bungalow 226A** and could possibly **also damage 222A**.

Ash trees are known to have shallow roots and if, due to climate change, winds become severe when the trees are in leaf, the pressure may be beyond the ability of the roots to withstand.

Trees behind 226A

One ash exhibiting clear signs of Ash Die Back. It is submitted that this tree should be excluded from the TPO.

Potential sycamore tree saplings. It is submitted that no saplings (ie under 6 ft high) be covered by the TPO.

Tree behind 228

A very tall wild cherry (possibly 18m) may cause damage to the bungalow 226A if windblown.

PLANNING PERMISSION GRANTED BY SCC

Given that Southampton City Council granted permission for the two bungalows 226A and 222A to be built, it is logical to expect that the Council intended the trees beyond their boundaries, and within land held by the Council, to be restrained in height so as not to cause damage to the new properties.



TREES TEAM

Southampton City Council
City Services
Place Directorate
Southampton City Council
SO14 7LY



Direct dial: 023 8083 3005

Email: trees@southampton.gov.uk

Please ask for [REDACTED]

28 June 2024

[REDACTED]
Weston Lane
Southampton
SO19 9HL

Dear [REDACTED]

Objection to The Southampton (Weston Park Primary School) Tree Preservation Order 2024

Thank you for your letter dated 11 June 2024 and for taking time to contact the City Council tree team in relation to the new Tree Preservation Order (TPO) placed on trees within Weston Park Primary School. I hope that this letter will explain the rationale behind the making of the Order and to answer the points that you have raised.

Over recent years parcels of land which previously belonged to the Council under long leases to schools have been transferred to the trusts that manage the schools. This is the case with Weston Park Primary School. The council reviews sites where land is being transferred out of its ownership for its suitability for a Tree Preservation Order. This is to ensure the trees continue to provide benefits such as purifying the air, carbon storage, rainfall attenuation and providing shade as well as beautifying areas, for future generations. These benefits are usually welcomed within communities. We have met with the Hamwic Trust (being the owners of the land, and responsible for managing the school) and they are in support of the trees being protected by a TPO.

It is pleasing to read that you appreciate the green screen provided by the trees within W2 of the Order. I understand that you have several objections to the TPO and will address them as bullet points for ease of reference, as follows:

- **Some of the trees are dangerously large, concerns that the two ash trees and a cherry may fall during high winds. The TPO be amended to enable dangerously large trees to be pruned.**

I am assured that the school takes its health and safety responsibilities seriously. The trees are surveyed every two years to identify any health and safety issues. The school then arranges any necessary work to remedy the issues identified. The last survey was carried out in 2022 and the next one is due in 2024. Any remedial work required will be identified during the next survey. The presence of a Tree Preservation Order does not mean that no work can be carried out to the tree. Only that consent must be obtained first.

This is a free process that involves the completion of a straightforward application which can be made online via the planning portal. The Council has 8 weeks from accepting an application to determine it.

There are some exceptions to the requirement to apply for consent. This includes working on trees that are dead, the removal of deadwood or trees that have become at risk of causing serious harm. Please see below:

Paragraph 14(1)(a) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 states:

14.—(1) Nothing in regulation 13 shall prevent—

(a) the cutting down, topping, lopping or uprooting of a tree—

(i) which is dead;

(ii) in compliance with any obligation imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance;

(b) the removal of dead branches from a living tree.

(c) the cutting down, uprooting, topping or lopping of a tree, to the extent that such works are **urgently necessary to remove an immediate risk of serious harm**, or to such other extent as agreed in writing by the authority prior to the works being undertaken;

It further states

(2) Where paragraphs (1)(a)(i) or (1)(c) apply, notice in writing of the proposed activities shall be given to the authority—

(a) in the case of works **urgently necessary to remove an immediate risk of serious harm**, **as soon as practicable after the works become necessary; and**

(b) **in any other case at least five working days prior to the date on which the works are to be commenced.**

This means that work required to address a hazardous tree can be dealt with in a timely manner without any delays caused by the usual application process.

The height of a tree does not make it dangerous; it grows in response to various environmental pressures to enable it to remain stable including its root structure which is designed to flex to withstand winds. Therefore, trees in good health and mechanical structure should not be omitted from protection because they are tall and may fall. Any trees that are found to be arboriculturally unsound will be dealt with by the school after prior consent has been obtained by the council.

The area marked as W2 is a Woodland Order, so this covers any current and future trees. It is not possible to omit certain trees such as the sycamore saplings. These all contribute to the woodland nature of the area and are useful as habitat and food source to biodiversity. If the school wants to carry out a thinning process of this area to remove some vegetation such as the sycamore saplings, then they can make an application to the council. The ash tree with alleged ash die back will be included in the survey and dealt with accordingly.

If following the survey an application to fell this tree is received it will be assessed on the supporting arboriculture evidence. I cannot omit this one tree from the Woodland Order. However, the TPO will not cause a barrier to good arboriculture and tree management.

- **Following planning permission for 226a and 222a, It is logical to expect the Council intended to restrain the height of trees near these properties.**

I could not find any evidence within the planning applications 05/00464 and 06/00670 to support this statement. It would be for the applicant to consider the impact to the new buildings from trees at the time and future, rather than for a 3rd party to reduce trees to accommodate a new dwelling. There is no mention of any intention by the council to restrain any trees in height, within the applications or decision notices. The council would not enter a programme of reducing the heights of trees as this does not represent best arboriculture practice. At question C11 of the planning applications the applicants have ticked that no trees are required to be felled to complete the redevelopment and there is no mention of a requirement for the school trees to be kept at a certain height.

Currently the Tree Preservation Order is temporary and cannot be made permanent (Confirmed) with outstanding objections, therefore if you are not satisfied with my response and wish to uphold your objection, then the matter must be presented to a panel of elected members at the Planning & Rights of Way Panel.

This is a publicly held meeting in which your objection would be presented along with my report explaining the reasoning behind the making of the TPO along with my responses to objections received. You will be invited to this meeting and will be given an allotted time to put your objection across to the members of the panel. Once all representation has been heard, the members will vote on whether the council should confirm the order.

Please could you respond to me in relation to how you wish to proceed with this objection, by either completing and returning the enclosed form, or contacting me at the email address above. If you are satisfied with my response, then you can withdraw your objection, however if you wish to take the objection to the Planning and Rights of Way Panel, then please state that you wish to uphold your objection.

If the objection is upheld, then I will start the process of writing my report, which you will receive a copy of along with the date of the meeting. This must be within 6 months of the making of the order, so no later than 14 November 2024. Please would you let me know by return if you wish to uphold your objection or if you are willing to withdraw it.

If you have any questions regarding my response or wish to discuss any further points, please do not hesitate to contact me.

Yours faithfully


Tree Officer

If you would like this letter sent to you in another format or language, please contact the number at the top of this letter.

