

DECISION-MAKER:	Planning Rights of Way Panel
SUBJECT:	The Southampton (Pennine Road) Tree Preservation Order 2022
DATE OF DECISION:	20 th September 2022
REPORT OF:	Head Of Service

<u>CONTACT DETAILS</u>			
	Title	Head of City Services	
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Author:	Title	City Tree Officer	
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STATEMENT OF CONFIDENTIALITY

BRIEF SUMMARY

101 Pennine Road is an ex-council house. As a consequence there is a deed of covenant in place requiring approval from the council prior to undertaking any tree work. There is a mature lime tree to the front garden.

The current owner contacted the council in December 2018 seeking permission to carry out work to the tree and therefore was aware of the requirement to obtain prior consent from the council.

Consent was granted in January 2019, eventually with modifications by the council, as the original specification of a 20%-25% reduction was considered excessive. The council agreed up to 1.5m branch reduction to previous cuts, with no cut to exceed 50mm diameter.

In April 2021 the council received an anonymous report of tree work having been carried out.

This work was not authorised by the council and a Tree Officer visited site in June 2021 to find that the tree had been pollarded beyond previous cuts. This is considered poor arboriculture practice as it can damage the health of the tree.

A Tree Preservation Order (TPO) was made in June 2022, to protect the tree against a future perceived threat to the tree, If further excessive work were to be carried out it could affect the health of the tree and the amenity it provides to the area.

An objection to the TPO was received from the tree owner by email and despite further email communication and a telephone conversation with the owner, the council has been unable to overcome the objection.

The matter is now presented to the panel for a final decision on whether to confirm the TPO.

RECOMMENDATIONS:

	(i)	To confirm the Southampton (Pennine Road) Tree Preservation Order 2022
	(ii)	

REASONS FOR REPORT RECOMMENDATIONS

1.	The Tree’s size, condition and location mean it makes a significant contribution to the amenity value of the area, in a location with few amenity trees. The protection provided by a Tree Preservation Order will ensure the long-term retention of these features.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3	To not confirm the TPO would not offer the legal protection which is considered prudent for the reasonable management of the tree.

DETAIL (Including consultation carried out)

1	April 2021 The council was informed that alleged unauthorised work had been carried out on the lime tree at 101 Pennine Road.
2	June 2021 During a site visit the Tree Officer noted that the tree had been pollarded. The cuts had been made beyond the previous cuts. This is poor arboriculture practice as it cuts away the trees energy reserves and can cause harm to the structure and health of the tree.
3	8 June 2022 an assessment of the tree’s suitability for protection was completed and can be seen in Appendix 1 (TEMPO Form). This is an industry wide accepted method of assessing a tree for its suitability for protection by a TPO. This assessment indicated that the tree ‘definitely merits’ protection.
4	14 June 2022 A TPO was made and served. (Appendix 2), to protect the tree from any further potentially harmful work.

5	26 June 2022 The council received an objection to the TPO by email from the Tree owners. (Appendix 3). The main points of the objection relate to nuisances caused by small branch drop, leaf fall and tree sap.
6	30 June Tree officer phoned the tree owner to discuss objection but agreed to write.
7	30 June 2022 The council responded by email to the points in the objection. (Appendix 4)
8	13 July 2022 Email sent asking if the tree owners wanted to withdraw or uphold their objection.
9	The tree officer has attempted to reach the tree owners by phone on several occasions during July and August 2022 to discuss the objection but has not heard back from the tree owners.
10	As the objections have not been withdrawn the matter has been brought to the Panel to make a final decision as to whether to confirm the TPO.

RESOURCE IMPLICATIONS

Capital/Revenue

	Cost would be those associated with the administration of confirming the TPO and administration of any subsequent applications made under the TPO.

Property/Other

	If the TPO is confirmed, compensation may be applied for 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

Statutory power to undertake proposals in the report:

	The Council has the power to make a Tree Preservation Order where it appears to them expedient in the interests of amenity to do so. Before confirming the Tree Preservation Order, the Council must consider the representations made.

<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)
RISK MANAGEMENT IMPLICATIONS	
	None
POLICY FRAMEWORK IMPLICATIONS	
	None

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Tree Evaluation Method for Preservation orders Form
2.	The Southampton (Pennine Road) Tree Preservation Order 2022
3	The Objection to the TPO dated 26 June 2022
4	The Tree Officers response to the objection, dated 30. June 2022
5	Photos of the tree and map of location

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
Data Protection Impact Assessment :None	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
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.		
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