

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

<b><u>CONTACT DETAILS</u></b>			
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<b>STATEMENT OF CONFIDENTIALITY</b>

<b>BRIEF SUMMARY</b>
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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.

<b>RECOMMENDATIONS:</b>	
	(i) To confirm (with Modifications) The Southampton (Weston Park Primary School) Tree Preservation Order 2024.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
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.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
	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.
<b>DETAIL (Including consultation carried out)</b>	
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- <b>Objection 1</b> received mainly in relation to T2, T3, T4 (Appendix 3)</p> <p>The main points were:</p> <ul style="list-style-type: none"> <li>• The trees are a hazard to children. Falling branches and potential injury to children and substantial delays in obtaining permission to deal with these.</li> <li>• The trees block light from the garden</li> <li>• The trees have the potential to damage the fence.</li> <li>• Falling leaves and seedlings</li> <li>• Damage to school buildings from above and below ground as some of these trees are too close to the buildings.</li> </ul>

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- <b>Objection 2</b> was received, mainly in relation to G6. (Appendix 3).The main points are :

	<ul style="list-style-type: none"> <li>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.</li> </ul>
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- <b>Objection 3</b>(Appendix 3) was received in relation to W2 of the Order. The main points are:</p> <ul style="list-style-type: none"> <li>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.</li> <li>Following planning permission for 226a and 222a, It is logical to expect the Council intended to restrain the height of trees near these properties.</li> </ul>
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.
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
	Costs will be those associated with the administration of confirming the Order and the administration of any subsequent applications made under the Order.
<b><u>Property/Other</u></b>	
	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.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
	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.
<b><u>Other Legal Implications:</u></b>	
	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 .
<b>RISK MANAGEMENT IMPLICATIONS</b>	
	None

<b>POLICY FRAMEWORK IMPLICATIONS</b>	
	None

<b>KEY DECISION?</b>	<b>No</b>
<b>WARDS/COMMUNITIES AFFECTED:</b>	Woolston

SUPPORTING DOCUMENTATION

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

**Documents In Members' Rooms**

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2.	

**Equality Impact Assessment**

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

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

**Other Background documents available for inspection at:**

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