

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL		
SUBJECT:	OBJECTION TO THE IMPLEMENTATION OF THE SOUTHAMPTON CITY COUNCIL (BASSETT GREEN ROAD) TREE PRESERVATION ORDER 2013		
DATE OF DECISION:	19 NOVEMBER 2013		
REPORT OF:	HEAD OF CITY SERVICES		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY
None

BRIEF SUMMARY

This report covers the objection to The Southampton City Council (Bassett Green Road – Stoneham Lane) Tree Preservation Order 2013 (Number 594) 2013. The order was made on the 5th of July 2013. It protects 8 individual trees and 5 groups (See Appendix 1), but has been modified to 6 groups.

RECOMMENDATIONS:

- (i) To confirm The Southampton City Council (Bassett Green Road – Stoneham Lane) Tree Preservation Order 2013 (Number 594) 2013 with modifications.

REASONS FOR REPORT RECOMMENDATIONS

1. The trees are considered to have a high amenity value and their loss would have a significant impact on the local environment and its enjoyment by the public.
2. The modification is to split the single group that covered 36 and 36a Bassett Green Road, originally shown as G2 into two separate groups over 36 and 36a. These will be shown as G2 over 36a Bassett Green Road and G6 over 36 Bassett Green Road making a total of 6 groups within the order. This is not as a result of this objection but is for information.
3. The objection received from the resident of 30 Bassett Green Road on the 1st of August 2013 with regards to G1 of this order is not considered reasonable grounds to either modify the order further or not confirm the order.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. Do not confirm this order - If the Tree Preservation Order (TPO) is not confirmed, without legal protection the long term retention of the trees is uncertain.

- 5 Modify the order further to exclude the trees in G1 – These trees are in good health and show no visible signs of defects and are considered to have a positive impact on the local street scene and amenity of the area. To remove them from the order could result in their loss and therefore the loss of amenity they afford.

DETAIL (Including consultation carried out)

- 6 An objection was received from the resident of 30 Bassett Green Road on the 1st of August 2013 with regards to G1 of this order, one Lime and one Norway Maple, situated in the front garden of this property,
- 7 The objection is on the basis that the resident wishes to remove the trees due to leaf fall and sap falling on her driveway and any cars parked under them. She also believes the trees now belong to Southampton City Council as the council has placed a Tree Preservation Order on them. The objector feels that Southampton City Council should bare the cost of maintaining the trees.
- 8 A Tree Officer visited the property and spoke with the objector, giving the reasons why the TPO had been made, to replace an outdated Area order. The objector was not satisfied with the Officer's explanation and requested to proceed to the Planning and Rights of Way Panel
- 9 The Lime tree and Norway Maple are situated in the front garden of the objector's property they are singled stemmed but have a combined canopy with each other and with the neighbouring trees in the adjoining front gardens. The removal of these two trees will have a negative impact to the local street scene and amenity of the area. These trees are in good health and show no visible signs of defects. They are therefore considered worthy of protection under a TPO.
- 10 The implementation of a Tree Preservation Order does not convey ownership of a tree on private land to the local authority. The Communities and Local Government publication 'Protected Trees – A guide to tree preservation procedures' (which is included with the TPO when it is served) clearly states that the local authority does not take any responsibility of trees protected under a TPO. In addition to this a land registry search has been completed to identify the legal owner of the property and the extent of their registered land. This clearly shows that the trees do fall within the private garden of the 30 Bassett Green Road. (See Appendix 2)

RESOURCE IMPLICATIONS

- 11 None

Capital/Revenue

- 12 If the Southampton City Council (Bassett Green Road – Stoneham Lane) Tree Preservation Order (Number 594) 2013 is confirmed, there will be the cost of administering the service of the confirmed Order and any subsequent tree work applications

Property/Other

- 13 If the Southampton City Council (Bassett Green Road – Stoneham Lane) Tree Preservation Order (Number 594) 2013 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 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:

- 14 In accordance with the Constitution there is Officer delegation giving them the 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.

Other Legal Implications:

- 15 The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy his possessions but it is capable of justification under Article 1 of the First Protocol as being in the public interest (the amenity value of the tree) and subject to the conditions provided for by law (the Town and Country Planning Act 1990) and by the general principles of international law.
- 16 In so far as the tree is on or serve private residential property the making or confirmation of a TPO could interfere with the right of a person to respect for his family life and his home but is capable of justification as being in accordance with the law and necessary in a democratic society for the protection of the rights and freedoms of others (Article 8).

POLICY FRAMEWORK IMPLICATIONS

- 17 None

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	Bassett/City Wide
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SUPPORTING DOCUMENTATION

Appendices

1.	TPO Plan
2.	1 st Schedule
3.	Land Registry Plan
4.	Title document for 30 Bassett Green Road.

Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No
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Other Background Documents

Equality Impact Assessment and 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.	None	
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