

DECISION-MAKER:	PLANNING RIGHTS OF WAY PANEL		
SUBJECT:	OBJECTION TO TREE PRESERVATION ORDER AT 32A THOROLD ROAD		
DATE OF DECISION:	25 NOVEMBER 2014		
REPORT OF:	HEAD OF REGULATORY AND CITY SERVICES		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
NONE	
BRIEF SUMMARY	
This report covers the objection to The Southampton (32a Thorold Road) Tree Preservation Order 2014. The order was made on the 19th of June 2014. It protects a large Lime to the front of 32a Thorold Road. The tree has historically been managed by pollarding.	
RECOMMENDATIONS:	
	(i) To confirm The Southampton (32a Thorold Road) Tree Preservation Order 2014 without modifications (See Appendix 1)
REASONS FOR REPORT RECOMMENDATIONS	
1.	The tree is a mature lime tree that has visual amenity value and is part of a group of trees. The loss of the tree would have a detrimental impact on the local environment and its enjoyment by the public
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
2.	To not confirm this order - If the TPO is not confirmed, without legal protection the long term retention of the tree is uncertain.
DETAIL (Including consultation carried out)	
3.	Upon making The Southampton (32a Thorold Road) Tree Preservation Order 2014, which covers one Lime tree in the front garden of 32a Thorold Road, an objection was made from a neighbouring property.

4.	<p>The objection was received via letters dated 1st and 7th of July 2014. The objection to the TPO was as follows:</p> <ul style="list-style-type: none"> i. There was an objection to the general approach to identifying trees worthy of protection. ii. Why the tree was not included in the original Tree Preservation Order, The Southampton (Lacon Close/Thorold Road) Tree Preservation Order 2011. iii. Why a single officers view of amenity is considered as an authoritative view of the public iv. What evidence did the Council have to demonstrate how amenity was calculated.
5.	<p>A letter providing all the information requested was sent on the 21st of July 2014 (Appendix 2) and followed up on 29th of July with a copy of the TEMPO form (Tree Evaluation Method for Protection Orders) (Appendix 3).</p>
6.	<p>It has been explained to the objector that an application can be submitted to apply to have the canopy of the protected trees lifted over the driveway. A 'rolling' decision can be issued whereby the resident can maintain an agreed height over their driveway for a given number of years. After the expiry of the rolling decision, an application can again be submitted to give a further rolling decision. A suggested time scale of a rolling decision in this instance would be five years.</p>
7.	<p>In a discussion with the objector, it was stated that the tree owner would not allow access on to the property to pollard the tree. It has been explained that if the tree owner is denying access to the land, the implementation of a Tree Preservation Order will have no significance as currently, the tree cannot be pollard without the owner's permission, as access on to the land will be required.</p>
8.	<p>Any person can apply to work on a tree covered by a Tree Preservation Order, and the objector can submit an application free of charge. If permission is granted for the work, the land owner will still need to give permission to allow access on to the land for the work to be completed.</p>
9.	<p>Southampton City Council cannot give authority for access on to third party land. Any dispute over access is purely a private matter between the two parties.</p>
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
10.	<p>If The Southampton (32a Thorold Road) Tree Preservation Order 2014 is confirmed, there will be the cost of administering the service of the confirmed Order and any subsequent tree work applications.</p>

<u>Property/Other</u>	
11.	If The Southampton (32a Thorold Road) Tree Preservation Order 2014 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 reasonable foreseeable.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
12.	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.
<u>Other Legal Implications:</u>	
13.	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.
14.	In so far as the tree is on or serves a 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	
15.	NONE

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	N/A

SUPPORTING DOCUMENTATION

Appendices

1.	The Southampton (32a Thorold Road) Tree Preservation Order 2014
2.	Letter to objector
3.	TEMPO for lime at 32a Thorold Road
4.	History preceding the making of The Southampton (32a Thorold Road) Tree Preservation Order 2014.

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	