

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL (WEST)		
SUBJECT:	THE SOUTHAMPTON (3 FIELD CLOSE) TREE PRESERVATION ORDER 2014		
DATE OF DECISION:	27 JANUARY 2015		
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 (3 Field Close) Tree Preservation Order 2014. The order was made on the 6th August 2014. It protects a Silver Birch at the bottom of 3 Field Close rear garden.

RECOMMENDATIONS:

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| (i) | To confirm The Southampton (3 Field Close) Tree Preservation Order 2014 without modifications (See Appendix 1) |
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REASONS FOR REPORT RECOMMENDATIONS

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| 1. | This is a prominent feature for both residents within Field Close and along Bassett Green Road. The loss of this tree would have a detrimental impact on the local environment and its enjoyment by the public. |
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ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

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| 2. | To not confirm this order - If the TPO is not confirmed, without legal protection the long term retention of the tree is uncertain. |
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DETAIL (Including consultation carried out)

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| 3. | Upon making The Southampton (3 Field Close) Tree Preservation Order 2014, which covers one Silver Birch tree in the rear garden of 3 Field Close, an objection was made by the property owner. |
| 4. | The objection was received via email (Appendix 2) dated 28 th August 2014. The objection to the TPO was as follows: <ul style="list-style-type: none"> i. Tree is blocking light to 64 Bassett Green Road ii. Safety concerns in the event of tree failure iii. Leaves and seeds blocking gutters and covering house interior |
| 5. | A letter providing additional information was sent on the 1 st September 2014 (Appendix 3) and included a copy of the TEMPO form (Tree Evaluation Method for Preservation Orders) (Appendix 4). |

6.	A site visit was carried out to discuss the issues surrounding The Southampton (3 Field Close) Tree Preservation Order 2014 the property owner wished to hold the objection to the order.
7.	The property owner confirmed the objection on 22 nd September 2014 (Appendix 5).

RESOURCE IMPLICATIONS

Capital/Revenue

8.	If The Southampton (3 Field Close) 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.
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Property/Other

9.	If The Southampton (3 Field Close) 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.
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LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

10.	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.
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Other Legal Implications:

11.	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.
12.	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

13.	None
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KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	Swaythling Ward

<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	The Southampton (3 Field Close) Tree Preservation Order 2014
2.	Objection Email
3.	Response letter to objector
4.	Evaluation Method for Tree Preservation Orders
5.	Confirmed Objection
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No
Other Background Documents	
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