

DECISION-MAKER:	PLANNING RIGHTS OF WAY PANEL		
SUBJECT:	OBJECTION TO TREE PRESERVATION ORDER AT TANNER'S BROOK INFANT AND JUNIOR SCHOOLS.		
DATE OF DECISION:	6 CTOBER 2015		
REPORT OF:	HEAD OF REGULATORY AND CITY SERVICES		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY			
None			
BRIEF SUMMARY			
<p>A Tree Preservation Order (TPO) was placed on some groups and individual trees on the site of Tanners Brook Primary and Junior schools in response to the ownership of the land transferring from Southampton City Council to the trustees of a newly formed Academy. The Order was made on 15 June 2015. The Order identifies 4 groups of trees along the frontage to Elmes Drive, one individual copper beech visible from the road and a woodland group (W1) which forms a buffer to the school playground and connects to another woodland strip to the eastern boundary of the cemetery and bowling centre on Tebourba Way. Appendix 4 shows an aerial image of the location.</p>			
RECOMMENDATIONS:			
	(i)	To confirm the Southampton (Tanners Brook Infant and Junior Schools) Tree Preservation Order 2015 (appendix 1) without modification.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	The trees are valuable for public amenity, ecological connectivity screening and greening of the landscape.		
2.	The ownership of the trees will move from Southampton City Council, where they are protected by Council policy, to a third party where this protection will no longer be in place. The school may choose to manage the trees in a very different way to that in which the local authority manages them with potential detriment to the character of the area.		
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED			
3.	To not confirm this Order. This would not offer the legal protection which is considered prudent for the future reasonable retention and management of the trees.		
DETAIL (Including consultation carried out)			
4.	The order was made and notified to 34 properties locally. Objections were received from two neighbouring properties on Munro Crescent which back onto the school playing fields.		

5.	<p>Several communications via email and phone from the residents at these properties in Munro Crescent to the tree team were received and responded to (appendix 2).</p> <p>A site visit was made to discuss the objections on the 7th July 2015 where I met with one of the residents and a resolution was reached. The resident kindly offered to communicate the key points of the discussion with the neighbouring properties that had also expressed concern. This resulted in a single objection coming forward.</p>
5.	<p>The focus of the objection is the belt of trees identified as W1 on the plan attached to the Order. The trees are young, maturing trees planted as a screening/buffer belt within the curtilage of the school grounds.</p>
6	<p>Applications for works under the TPO have been made by the three properties in Munro Crescent, including the property which has lodged the objection: rolling consent has been granted for management of overhang for a period of 5 years.</p>
7.	<p>A precis of the objections is understood to be as follows (see appendix 3 for the full objection letter):</p> <ul style="list-style-type: none"> a) They will prevent neighbours from doing any emergency or remedial pruning. b) It introduces a level of bureaucracy not currently in place. c) The trees have not undergone any maintenance by the owners. d) Self-set saplings will be protected by the woodland group. <p>The email response of the 30.06.15 sought to resolve these issues which were raised initially by email. The initial email also noted</p> <ul style="list-style-type: none"> e) Height as a concern. <p>Officer notes to the above objections are as follows:</p> <ul style="list-style-type: none"> a) TPO's do not restrict works to emergencies – dead or dangerous trees or parts of trees are exempt. b) There will be a requirement to submit applications that is not currently in place. We have sought to minimise any new administration and have granted five year rolling consents to three adjacent properties to carry out Common Law pruning as per their existing rights. c) Lack of maintenance is not grounds for objecting to the making of an Order. A TPO will not prevent good arboricultural management being undertaken. d) The Order will include self-set saplings within the school grounds but not in the gardens of the adjacent properties, which are not subject to the order. e) Neighbours would need to apply to the owners to reduce the height of trees as they are not on the neighbours land so beyond their current management. Applications to reduce the height of young trees will be treated the same as they would be prior to the Order being made.
<p><u>Capital/Revenue</u></p>	
8.	<p>Cost will be those associated with the administration of confirming the Order and administration of any subsequent applications made under the Order.</p>

<u>Property/Other</u>	
9.	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 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 of damage which was not reasonably foreseeable.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
10.	In accordance with the Constitution, there is an 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>	
11.	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.
POLICY FRAMEWORK IMPLICATIONS	
12.	None
KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	N/A
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Southampton (Tanners Brook Infant and Junior Schools) Tree Preservation Order 2015
2.	Copy of emails and letters received and sent between the neighbours at Munro Crescent and the tree team.
3.	Objection Letter
4.	Aerial image of trees and groups at Tanners Brook Schools
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	No
Privacy Impact Assessment	

Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out?		No
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	