

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL		
SUBJECT:	OBJECTION TO THE IMPLEMENTATION OF THE SOUTHAMPTON (HILL COTTAGE GARDENS) 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 (Hill Cottage Gardens) Tree Preservation Order number 597 of 2013. The order was made on the 18th of July 2013. It protects a small woodland (W1) to the rear of a new development and three groups (See Appendix 1), although there is a modification to the shape of group G1.

RECOMMENDATIONS:

- (i) To confirm The Southampton (Hill Cottage Gardens) Tree Preservation Order number 597 of 2013 with modifications.

REASONS FOR REPORT RECOMMENDATIONS

1. The trees are considered to have a high amenity value and their loss would have a detrimental impact on the local environment and its enjoyment by the public. The modification is to change the shape of G1 on the plan and has no impact on this objection, it is therefore for information.
2. The objection received from the owners of Marhill Copse, who own the land adjacent to Hill Cottage Gardens is not considered reasonable grounds to modify or not confirm this order. The area is a woodland and the name "copse" is derived from the coppice regime that the woodland may have been under in the past.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. 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.
4. If the TPO is not confirmed, without legal protection the long term retention of the trees is uncertain.

5. Modify the order to exclude the trees in W1 – These trees are in good health 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 owners of Marhill Copse, who own the land adjacent to Hill Cottage Gardens, with regards to inclusion of a section of woodland W1 situated to the rear boundary of 19 to 28 Hill Cottage Gardens.
7. The objectors do not wish to have the area shown as W1 on the plan (See Appendix 1) to be recorded as woodland. They say that it is a copse, not a woodland. Under the Tree Preservation Order legislation there are four categories, Individuals, groups, areas and woodlands. Copse is not available to use within the TPO and therefore it is considered most appropriate to use the woodland category.
8. A letter was sent to the land owners outlining the reason for the TPO. However, no further communication has been received and the objection has not been retracted. It is therefore considered that as there is an outstanding objection the matter needs to proceed to the Planning and Rights of Way Panel.
9. This new woodland TPO is a continuation of an existing woodland order covering a large proportion of Marhill Copse.
10. Copse is a term that identifies a scheme of management that a woodland is under which usually involves cyclical management such as cutting trees to maintain them as a coppice.

RESOURCE IMPLICATIONS

11. None

Capital/Revenue

12. If The Southampton (Hill Cottage Gardens) Tree Preservation Order number 597 of 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 (Hill Cottage Gardens) Tree Preservation Order number 597 of 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 reasonable 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:	Bitterne Park/City Wide
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SUPPORTING DOCUMENTATION

Appendices

1.	TPO Plan.
2.	Schedule

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)
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1.	None	
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