

DECISION-MAKER:	PLANNING RIGHTS OF WAY PANEL		
SUBJECT:	OBJECTION TO TREE PRESERVATION ORDER AT 40, WESTRDIGE ROAD, PORTSWOOD.		
DATE OF DECISION:	21 JUNE 2016		
REPORT OF:	HEAD OF TRANSACTIONS AND UNIVERSAL SERVICES		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY

None

BRIEF SUMMARY

A Tree Preservation Order (TPO) was placed on a group of trees on the site of 40, Westridge Road in response to the owner submitting a planning application to redevelop the site. The trees are highly visible from the public car park, from adjacent properties and from Tennyson Road to the south. The Order originally covered a group of trees, excluding laurel, along the north western boundary to a public tarmac car park. The order was later varied to cover only two trees of better quality once removal of the laurel hedge revealed the trees no longer formed a cohesive group, and one tree was found to be in poor condition. The Order was made on 30th November 2015 and varied on the 21st March 2016 and is attached as Appendix 1. There is a publicly owned yew tree in the car park on the same visual boundary with 40 Westridge Road. Appendix 2 shows an aerial image of the location with a plan viewed as Appendix 3.

RECOMMENDATIONS:

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| (i) | To confirm the Southampton (40, Westridge Road) Tree Preservation Order 2015 (Appendix 1) without further modification. |
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REASONS FOR REPORT RECOMMENDATIONS

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| 1. | The trees are valuable for public amenity, ecological benefit, visual screening and greening of the landscape. Particularly in a high vehicle use site such as a car park, trees help improve air quality and reduce the negative impacts of exhausts. |
| 2. | Proposed development will increase the built and hard landscape of the area, reducing green infrastructure - albeit piecemeal – further reducing space to replace the canopy cover locally. |

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 2 properties locally. One objection was received from the property owner's agent.
5.	Emails were exchanged with the site owner to clarify which trees were covered in the original group and advice was offered on how trees can be retained on construction sites and within developments using proven engineering solutions. A site visit was offered by the tree officer but not taken up.
6.	A report was received from the owner's agent objecting to the TPO (Appendix 4). The key objection is that the group includes trees of low quality and in close proximity to a dwelling. This was followed with several emails and phone calls to the agent.
7.	A site meeting was held with the agent on 15 th March 2016. The tree in close proximity can be managed by pruning which will not significantly alter the amenity value of the tree. One Poor quality tree was excluded. The visual amenity of T2 from Tennyson Road in particular was noted. As a result, the TPO was varied to cover only the two larger, better quality trees. The amended order was served on the 21 st March. This is felt to meet the objection to only include trees that are worthy of protection.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
8.	Cost will be those associated with the administration of confirming the Order and administration of any subsequent applications made under the Order.
<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 or damage which was not reasonably foreseeable.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
10.	In accordance with the Constitution, the officer has delegated 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

SUPPORTING DOCUMENTATION

Appendices

1.	The Order: The Southampton (40, Westridge Road) Tree Preservation Order 2015
2.	Aerial image of the location of 40 Westridge Road, the car park and the trees as they were at the time of making the TPO
3.	Diagrammatic location plan
4.	The Objection in report format
5.	Email exchange prior to the objection in chronological order

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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Privacy Impact Assessment

Do the implications/subject of the report require a Privacy Impact Assessment (PIA) 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