

<b>DECISION-MAKER:</b>	PLANNING RIGHTS OF WAY PANEL		
<b>SUBJECT:</b>	OBJECTION TO TREE PRESERVATION ORDER AT TEBOURBA WAY, MILLBROOK		
<b>DATE OF DECISION:</b>	21.02.16		
<b>REPORT OF:</b>	HEAD OF TRANSACTIONS AND UNIVERSAL SERVICES		
<b><u>CONTACT DETAILS</u></b>			
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<b>STATEMENT OF CONFIDENTIALITY</b>	
None	
<b>BRIEF SUMMARY</b>	
<p>A Tree Preservation Order (TPO) was placed on a number of City owned trees along Tebourba Way following notification from the appellants' agent in which works detrimental to the trees' health and amenity value were proposed. The Order identifies 6 individual trees and 2 groups along Tebourba Way which I believe have demonstrably high amenity value from Tebourba Way.</p> <p>The proposal was to remove all overhanging vegetation and branches over to an adjacent property back to the boundary. I feel this work is excessive and would involve the removal of significant branches resulting in large wounds.</p> <p>This is the second Order to cover these trees. This is due to an administration error in the first Order which could not have been remedied any other way. The second Order was made on 2nd September 2016.</p>	
<b>RECOMMENDATIONS:</b>	
	(i) To confirm the Southampton (Tebourba Way 2) Tree Preservation Order 2015 (appendix 1) without further modification.
<b>REASONS FOR REPORT RECOMMENDATIONS</b>	
1.	The trees are valuable for public amenity, ecological benefit, visual screening and greening of the landscape. They are particularly important in this location next to a main road through the city. This not only increases the public visibility but also heightens the need for this canopy coverage as trees help improve air quality and reduce the negative impacts of exhaust gases & particulates.
2.	The works which were proposed would reduce the ability for the trees to provide these important benefits and result in trees which are visually unpleasing. Furthermore the wounds that would result from the proposals will be large, exposing heartwood and sapwood to colonisation by decay pathogens. Although the colonisation is not certain, is it certainly predictable

	and will result in a reduction of the trees' lifespan, ultimately leading to their premature removal at the city's expense.
<b>ALTERNATIVE OPTIONS CONSIDERED AND REJECTED</b>	
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.
<b>DETAIL (Including consultation carried out)</b>	
4.	The order was made and notified to the agent, owner and a property on site (Unit A, Atlantic Works Oakley Road). One objection was received from the property owner's agent.
5.	<p>Emails were exchanged with the owners' agent and attempts were made to limit the proposed works to reduce the severity and impact on the trees.</p> <p>Despite the attempts made to resolve the concerns, which included a rejected request for a site meeting to discuss the trees in more detail, the agent and client still wish to prune the trees back to the boundary. This would reduce the amenity value of the trees and create large number of significant sized pruning wounds on the trees.</p>
6.	<p>A letter was received from the owner's agent objecting to the TPO (appendix 4).</p> <p>The objections which were raised are summarised below</p> <ul style="list-style-type: none"> <li>○ Objection Raised <ul style="list-style-type: none"> <li>○ this order has been borne out of further inefficiency by the Local Planning Authority rather than expediency</li> </ul> </li> <li>○ SCC Comment <ul style="list-style-type: none"> <li>○ Southampton City Council considered it expedient to protect the trees by serving a TPO due to the threat posed by the works submitted.</li> </ul> </li> <li>○ Objection Raised <ul style="list-style-type: none"> <li>○ The only tree works our client wishes to undertake would be to prevent damage and abate a nuisance to his property from overhanging branches by maintaining a reasonable clearance around his property which can be carried out as an exemption under a Tree Preservation Order.</li> </ul> </li> <li>○ SCC Comment <ul style="list-style-type: none"> <li>○ Southampton City Council are aware that works to abate a nuisance can be undertaken as an exemption to a TPO. However, the original works requested far exceed the works which would be required to abate a nuisance.</li> </ul> </li> <li>○ Objection Raised <ul style="list-style-type: none"> <li>○ We note that the Local Planning Authority state the reason for the serving of the Tree Preservation Order is due to concerns over the loss of these trees. We are unable to explain how the Local Planning Authority believe that minor pruning to these trees to abate a nuisance, constitutes loss</li> </ul> </li> <li>○ SCC Comment <ul style="list-style-type: none"> <li>○ The point which is raised in regards to the wording of the reasoning of the TPO is taken on board. It is unlikely that overhang pruning would result in the loss of these trees in the short term. This will be</li> </ul> </li> </ul>

	<p>addressed and our internal processes changed accordingly. This does not detract from the points made earlier where the canopy loss, amenity value reduction and creation of a large number of significant sized pruning wounds are mentioned as a reason to oppose the works.</p> <ul style="list-style-type: none"> <li>○ Objection Raised <ul style="list-style-type: none"> <li>○ the serving of a second Tree Preservation Order (T2-656) on the site protecting the same time is unlawful</li> </ul> </li> <li>○ SCC Comment <ul style="list-style-type: none"> <li>○ As detailed in The Town and Country Planning (Tree Preservation) (England) Regulations 2012, under regulation 10, the variation of a Tree Preservation Order is used to alter the schedule, plan or trees covered within it. The error was not in any of these sections and as a result the decision was taken to make a new TPO to avoid confusion.</li> <li>○ No need or requirement was found to revoke the original TPO because it was made on a provisional basis. This means that after 6 months it will lapse and cease to be valid unless confirmed. The decision was taken to let the old TPO lapse and serve a new TPO which was legally correct and valid.</li> </ul> </li> </ul>
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## RESOURCE IMPLICATIONS

### Capital/Revenue

8.	Cost will be those associated with the administration of confirming the Order and administration of any subsequent applications made under the Order.
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### Property/Other

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.
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## LEGAL IMPLICATIONS

### Statutory power to undertake proposals in the report:

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.
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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 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.
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## POLICY FRAMEWORK IMPLICATIONS

12.	None
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<b>KEY DECISION?</b>	No	
<b>WARDS/COMMUNITIES AFFECTED:</b>	N/A	
<b><u>SUPPORTING DOCUMENTATION</u></b>		
<b>Appendices</b>		
1.	The Order: The Southampton (Tebourba Way 2) Tree Preservation Order 2016	
2.	Aerial image of the location of	
3.	Street view image of the trees concerned	
4.	The Objection as attachment	
<b>Documents In Members' Rooms</b>		
1.	None	
<b>Equality Impact Assessment</b>		
Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.		No
<b>Privacy Impact Assessment</b>		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.		No
<b>Other Background Documents</b>		
<b>Equality Impact Assessment and Other Background documents available for inspection at:</b>		
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	