

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL		
SUBJECT:	OBJECTION TO THE IMPLEMENTATION OF A TREE PRESERVATION ORDER		
DATE OF DECISION:	26 OCTOBER 2010		
REPORT OF:	EXECUTIVE DIRECTOR OF NEIGHBOURHOODS		
AUTHOR:	Name:	Nik Gruber, Senior Tree Officer	Tel: 023 8083 4028
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STATEMENT OF CONFIDENTIALITY			
None			

SUMMARY

This report covers the objection to The Southampton (659 Portswood Road) Tree Preservation Order (TPO) 2010 which was made on 21st May 2010. It protects one individual Ash tree (*Fraxinus excelsior*) identified as T1.

RECOMMENDATIONS:

- (i) To confirm the Southampton (659 Portswood Road) Tree Preservation Order 2010 (see Appendix 1) without modifications

REASONS FOR REPORT RECOMMENDATIONS

1. An objection was received from Mr de Groen of 663 Portswood Road on 31st May 2010 with regards to the blocking of sunlight to his property and the number of seedlings the tree generates. (see Appendix 2)
2. The tree is considered to have a good visual amenity value and its loss would have an impact on the local environment and its enjoyment by the public. A Tree Evaluation Method for Preservation Orders (TEMPO) has been carried out and confirms the tree definitely merits TPO (see Appendix 3)
3. Following correspondence (see Appendix 4) a site visit was arranged and the general health and condition of the tree was discussed. There was a dispute to the claim that the tree is "a prominent feature in that part of Broadlands Road".
4. After further negotiation and discussion on the health and condition of the tree, Mr de Groen wished to maintain his objection. He confirmed three reason:-
 - (a) Loss of evening sunlight to the rear of my property during summer months.
 - (b) Profusion of seedlings close to the house which not all neighbours take care to remove.
 - (c) Proximity of the tree to my garage (approx.30 feet).

Previous correspondence and background are included. (see Appendix 5)
5. There are no recent enquiries regarding re-development of the site which is unallocated.

CONSULTATION

6. None

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

7. If the TPO is not confirmed, without legal protection the long term retention of the tree is uncertain.

DETAIL

8. A letter was received from a local resident dated 5th March 2010, requesting a site visit to assess whether the tree could be protected as it was understood to be under threat.
9. The Ash T1 is a maturing tree in good health and condition. There were no major defects noted at the time of inspection and it is believed to have a safe useful life expectancy in excess of 40 years.
10. This tree is growing in the rear garden of 659 Portswood Road and adjacent to a garage block. The tree is not visible from Portswood Road although can be seen from Broadlands Road and the numerous surrounding properties.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

11. None

Revenue

12. If the Southampton (659 Portswood Road) TPO 2010 is confirmed, there will be the cost of administering the service of the confirmed Order and any subsequent tree work applications.

Property

13. None

Other

14. If The Southampton (659 Portswood Road) TPO 2010 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:

15. Planning and Rights of Way Panel

Other Legal Implications:

16. 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.

17. In so far as the tree is on 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

18. None

SUPPORTING DOCUMENTATION

Appendices

1.	The Southampton (659 Portswood Road) TPO 2010
2.	Letter of objection
3.	Tree Evaluation Method for Preservation Orders - TEMPO
4.	Letter responding to objection
5-7	Further correspondence

Documents In Members' Rooms

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)
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1.	The Southampton (659 Portswood Road) TPO 2010	Not applicable
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Background documents available for inspection at:

FORWARD PLAN No: None **KEY DECISION?** No

WARDS/COMMUNITIES AFFECTED:	Swaythling
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