

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL		
SUBJECT:	OBJECTION TO THE IMPLEMENTATION OF THE SOUTHAMPTON (82 THE GROVE) TREE PRESERVATION ORDER 2013		
DATE OF DECISION:	25 MARCH 2014		
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 (82 The Grove) Tree Preservation Order 2013. The order was made on the 13th of November 2013. It protects a large Oak (T1) to the rear of 82 The Grove (See Appendix 1)

RECOMMENDATIONS:

1. To confirm The Southampton (82 The Grove) Tree Preservation Order 2013 without modifications

REASONS FOR REPORT RECOMMENDATIONS

2. The tree is a mature oak tree that has visual amenity value and its loss would have a detrimental impact on the local environment and its enjoyment by the public.
3. The residents of 82 and 80 The Grove have both objected to this Tree Preservation Order (TPO). The objections are on the grounds of feeling unsafe with the tree in the rear garden and are concerned that branches or the tree will fall, particularly as in both households grandchildren play in the garden. They also object to the tree as it shades their properties and leaves fall into their gardens.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. To not confirm this order - If the TPO is not confirmed, without legal protection the long term retention of the trees is uncertain. This is likely to result in the removal of this tree as the tree preservation order was put on the tree when we were made aware of the residents in NO. 82 arranging to remove this oak tree.

DETAIL (Including consultation carried out)

5. An objection letter was received from 82 The Grove on the 7th of December 2013. In this letter, the residents have expressed a concern over the tree to the rear. They state that limbs have fallen in the past and that now the tree is

not safe and should be removed. The residents state that the tree is mostly only visible from the school and therefore does not have an amenity value. However, the tree is a prominent feature within the school and for its pupils and staff, the tree is clearly visible from The Grove.

6. I have written to the residents of 82 The Grove to explain the reason for making the TPO. The oak is the largest tree within the belt that runs along the rear of The Grove, and its loss would have a negative impact on the visual and ecological amenity that it provides to the local area.
7. A subsequent objection was received via email from the residents at 80 The Grove. In this email the residents have expressed their concerns over the tree as it drops leaves in the garden and also blocks light to their property. They also have concerns that the tree is leaning and could fall over in the wind. The residents of number 80 also state that the tree serves no valuable purpose.
8. I also wrote to the residents at 80 the Grove in which it was explained that I would not be supportive of allowing a mature oak tree to be removed due to its leaf fall. I also pointed out to the residents that as the tree is to the North East of the property and as such would cast limited shadow over their property.
9. I have explained to both residents that the tree is a private tree and that if they have concerns over any aspect of the tree, then to contact a suitably qualified tree surgeon or an arboricultural consultant. However, at the time of making the TPO there were no visible defects on the tree which would result in there being a foreseeable likelihood that this tree would fail.

RESOURCE IMPLICATIONS

Capital/Revenue

10. If The Southampton (82 The Grove) Tree Preservation Order 2013 is confirmed, there will be the cost of administering the service of the confirmed Order and any subsequent tree work applications

Property/Other

11. If The Southampton (82 The Grove) Tree Preservation Order 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:

12. 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:

- 13. 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.
- 14. In so far as the tree is on or serves 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

- 15. NONE

KEY DECISION? NO

WARDS/COMMUNITIES AFFECTED:	Sholing/City Wide
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SUPPORTING DOCUMENTATION

Appendices

1.	TPO Plan
2.	Photograph taken from The Grove
3.	Photograph taken from Oasis Academy
4.	Tree Evaluation Method for Protection Orders (TEMPO)

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)

1.	NONE	
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