

DECISION-MAKER:	PLANNING RIGHTS OF WAY PANEL		
SUBJECT:	OBJECTION TO THE MAKING OF THE SOUTHAMPTON (OCEAN VILLAGE – BARCLAYS HOUSE) TREE PRESERVATION ORDER 2018		
DATE OF DECISION:	11 DECEMBER 2018		
REPORT OF:	HEAD OF TRANSACTIONS AND UNIVERSAL SERVICES		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
None	
BRIEF SUMMARY	
28.06.18 - A tree preservation order was made to protect a number of trees that are situated within and around the boundary of a car park within Ocean Village (Appendix 1) The tree preservation order was hand served on all local parties that can have some impact to the trees or are an adjoining address. Site copies of the tree preservation order were also located within the car park.	
28.06.18 - A recorded delivery copy of the tree preservation order was sent, via Royal Mail, to the land owner.	
26.07.18 – A letter was received from the agent acting on behalf of the land owner lodging an objection to the tree preservation order. The main reason given for the objection is that the preservation order has a negative impact to the future potential for redevelopment of the area and the expediency of making the tree preservation order is also questioned.	
RECOMMENDATIONS:	
	(i) To confirm The Southampton (Ocean Village – Barclays House) Tree Preservation Order 2018, with modification. The modification will be to include in the descriptive text, the number of Italian Alders within the group category.
REASONS FOR REPORT RECOMMENDATIONS	
1.	The group of trees are a prominent feature within the local area and not only provide a visual amenity, they also are helping provide clean air within a central part of the city.
2.	The loss of these trees could not be mitigated against with nearby planting, therefore the removal of the trees would result in a net loss to the local amenity and environment.
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 management of the trees.
DETAIL (Including consultation carried out)	
4	. Officers have explained to the agent that should an application be submitted in which the design required tree removal, the application would be processed in the normal manner and a decision made. If the proposed scheme were approved by the planning department, then this decision would override the tree preservation order and the trees could lawfully be removed to implement the approved scheme. As such, officers are not in agreement that the tree preservation order prevents future potential redevelopment of the land, but does serve to protect the trees from felling through the planning process.
5	The agent's concern over the loss of future potential to redevelopment of the site, in officers' opinion, only goes to strengthen the need for the tree preservation order as it prevents the felling of the trees prior to an application being submitted to redevelop the site. This will ensure that trees are appropriately considered through the planning process and are a material consideration in any scheme presented to the Council Development Control service.
6	It was explained to the agent that as there is no current full planning application on the site, officers are not minded to consider how the tree preservation order may impact future potential, but will consider the expediency of making the order. Planning Practice Guidance advises that <i>"it may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution."</i> As there has been some interest shown on the land, which led to a concern that there is a potential for significant tree loss, officers therefore considered it as being expedient, in the interest of public amenity, to make a tree preservation order to safeguard their future and to guide potential future plans for the site.
7	An industry accepted method of evaluation was used to assess the suitability of the trees for formal protection. This method is known as TEMPO, which stands for Tree Evaluation Method for Protection Orders. (Appendix 2) When completing a TEMPO, officers always like to be conservative on scoring, which would result in a lower score being attained but if the score at the end of this exercise still guides to the tree preservation order being defensible, officers can be confident that a non-conservative assessment value would be higher and would likely show that the trees actually score the highest, or above.
8	A conservative assessment of the trees suitability was undertaken and the expediency assessment was graded as precautionary only, which is the lowest score available for expediency. Even setting the expediency as

	precautionary, the value reached still placed the trees in the defendable range of scores on the TEMPO form. This then makes the trees definitely worthy of a protection order.
9	Officers therefore feel that by placing the expediency score as precautionary, and still attaining a score that makes the order defendable, having regard to the representation, the question over the City Council's expediency of making the tree preservation order has been demonstrated as not being excessive and is in line with the industry approved assessment system and that confirming the order is reasonable and proportionate in the circumstances.

RESOURCE IMPLICATIONS

Capital/Revenue

10	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

11	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:

12	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:

13	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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RISK MANAGEMENT IMPLICATIONS

14	None
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POLICY FRAMEWORK IMPLICATIONS

15	None
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KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	N/A
<u>SUPPORTING DOCUMENTATION</u>	

Appendices	
1.	Copy of the tree preservation order plan and 1 st schedule.
2.	Copy of the tree evaluation method for protection orders – TEMPO
3.	Images of the site provided by Google Street View
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
Other Background Documents	
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