

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL
SUBJECT:	Objection received regarding the making of The Southampton (Swift Hollow) Tree Preservation Order 2022
DATE OF DECISION:	6 th June 2023
REPORT OF:	David Tyrie – Head of City Services

<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director Place	
	Name:	Adam Wilkinson	Tel: 023 8083 3005
	E-mail	Adam.Wilkinson@southampton.gov.uk	
Author:	Title	City Tree Officer	
	Name:	Gary Claydon-Bone	Tel: 023 8083 3005
	E-mail	Gary.Claydon-Bone@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY	
NONE	
BRIEF SUMMARY	
To consider the objection received in relation to the making of the tree preservation order.	
RECOMMENDATIONS:	
	(i) To confirm The Southampton (Swift Hollow) Tree Preservation Order 2022, with amendments.
REASONS FOR REPORT RECOMMENDATIONS	
1.	An email was received from a resident in which they had indicated that they wish to remove branches from an oak tree to the front of the property. At the time, the tree was not protected and there was a concern that the work could have resulted in harm to the visual amenity to the street scene or the complete loss of the tree. Members are required to consider the objections received and whether it is expedient in the interest of amenity, to confirm the TPO in the interests of amenity to the area.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
2.	To not protect the tree. If the council did not protect the tree as part of the wider woodland order, it may have resulted in the loss of this tree. This would not only have a negative impact to the local street scene, it would also negatively impact the environmental and ecological benefits that the tree provides to the wider location.
DETAIL (Including consultation carried out)	
3.	On a date prior to the 14 th of December, the tree team received a telephone call in relation to an Oak tree at the front of 7 Swift Hollow. The caller wanted to know if the tree was protected.

4.	The officer who took the call, requested that they send in an email and this email was received on the 14 th of December 2022.
5.	On the 14 th of December 2022, an email was received from the resident in which they explained that they wished to remove some branches from the tree and wanted to be sure that it wasn't protected by a tree preservation order. The resident also supplied some photos of the tree and a location plan.
6.	On the 15 th of December, a tree officer visited the site to assess the trees amenity value and whether it was suitable to make a tree preservation order. An industry accepted method of the evaluating a trees suitability for a tree preservation order was completed. This is known a TEMPO, which is a Tree Evaluation Method for Protection Orders (Appendix 1)
7.	Although the resident had only requested to remove limbs, without protection, this could have resulted in large structural limbs being removed or the complete felling of the tree.
8.	Given the amenity that the tree provides to the local area and being part of the wider woodland area to the rear, it was felt that the oak tree was suitable to protect and to incorporate this as part of a wider tree preservation order that included the woodland to the rear of the properties.
9.	On the 16 th of December, A woodland tree preservation order was made and served on the required properties. This included the Oak tree in the newly fenced parcel of land adjacent to the property and the woodland behind. (Appendix 2)
10.	When the order was being served to the property, the tree officer serving the order was approached by the resident of number 7 Swift Hollow.
11.	The resident was not pleased that an oak tree within the boundary of the property, had been protected by a tree preservation order. They felt that the Council had 'tricked them' in to giving additional information in an email and to then make a tree preservation order. The resident also stated that they only intended to remove some branches and did not want to remove the entire tree.
12.	At the time that the order was served, there were trades people at the address. They questioned the tree officer about the protection status and from when the protection started. During the conversation, the tree officer heard one of the trades people say to the resident 'I told you that you should have felled the tree last week'.
13.	This statement, although it cannot be confirmed as a true statement of intent, gives some additional weight as to why the order was correct to make and serve, also why it should remain and to continue the protection status of the trees
14.	On Friday the 16 th of December, an objection was received from a resident regarding the tree preservation order. (Appendix 3)
15.	The main points of the objection are as follows: - <ul style="list-style-type: none"> - The tree owner only wanted to just trim some branches and did not intend to remove the tree. - The tree blocks sunlight to the garden and they wanted to cut the branches to allow light into the garden.

	<ul style="list-style-type: none"> - The tree drops many leaves and by trimming the branches, this will reduce the number of leaves in the garden. - That the tree preservation order was made as the land registry document still showed the previous owners' details.
16.	20 th of December 2022 – An email was sent to the resident which explained the rationale for making the order. Information was also given as to how to apply for work and further details were given in relation to the objection and the process involved to take this to appeal (Appendix 4)
17.	On the 10 th of March 2023, the resident at the property upheld their objection and therefore the order cannot be confirmed until permission is granted by the members of the planning and rights of way panel
18.	The council are seeking permission to confirm this tree preservation order with amendments.
19.	The amendment would be to remove the section of woodland tree preservation order from the rear of 44 Swift Gardens. A plan that demonstrates how the new tree preservation order would look is attached as appendix number 5
20.	This tree preservation order also covers the rear of 44 Swift Gardens, however the trees to the rear are already protected by G20 of The Southampton (Swift Road) TPO 1977.
21.	After a site visit was made to assess what trees are within the rear garden of 44 Swift Gardens, it was apparent that the significant trees on site are already protected by the order of 1977, and therefore there is no requirement to keep the Swift Hollow order on this property as it is not required.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
	NONE
<u>Property/Other</u>	
	NONE
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
	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>	
	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

RISK MANAGEMENT IMPLICATIONS	
	NONE
POLICY FRAMEWORK IMPLICATIONS	
	NONE

KEY DECISION?	Yes/No
WARDS/COMMUNITIES AFFECTED:	Woolston
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Tree Evaluation Method for Protection Orders
2.	The Southampton (Swift Hollow) Tree Preservation Order 2022
3.	Email from resident objecting to the tree preservation order
4.	Email to resident regarding objection
5.	Plan to show how TPO will look after amendment.
6.	Photos of tree.

Documents In Members' Rooms

1.	
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out	Yes/No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	Yes/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.	