

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL
SUBJECT:	Objections received to the making of The Southampton (Victor Court) Tree Preservation Order 2022
DATE OF DECISION:	22 November 2022
REPORT OF:	HEAD OF CITY SERVICES

<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director Communities, Culture and Home	
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Author:	Title	City Tree Officer	
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STATEMENT OF CONFIDENTIALITY

NONE

BRIEF SUMMARY

A tree work application was received to reduce the canopy of the 4 Silver Birch trees to the front of Victor Court for the reason of blocking light to the properties. At the time the trees were not protected by a tree preservation order (TPO) and there was a concern that the trees may be felled. Members are required to consider the objections received and whether it is expedient to confirm the TPO in the interests of amenity to the area.

RECOMMENDATIONS:

	(i)	To confirm The Southampton (Victor Court) Tree Preservation Order 2022, without modifications.
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REASONS FOR REPORT RECOMMENDATIONS

1	In May 2022, an application to carry out work to a protected tree was received via the planning portal to carry out crown reductions on the 4 Silver Birch to the front of Victor Court, which is located on Thornhill Park Road in Bitterne.
2	The applicant had requested to reduce two trees by 1.5 metres and the other two by 2 metres. The reason given for the work was due to the blocking of light to the apartments.
3	There is a tree preservation order on the site, but this did not include the 4 Silver Birch, that were subject of the application, therefore the council must inform that applicant that the subject trees are not protected. This was done via email on the 17 th of May 2022
4	As the work was requested due to the alleged loss of light to the properties, there was a concern that, if left unprotected, the trees might be felled to remove all the alleged shading issues.

5	Due to the perceived threat to the trees, it was deemed expedient in the interest of amenity to protect the trees with a TPO to ensure that they benefit from long term legal protection.
6	24 th May 2022. A site visit was undertaken to assess the trees to ensure that they are suitable for a tree preservation order. The Tree Evaluation Method for Preservation Orders (TEMPO) was used for this assessment. This is an industry accepted assessment tool to measure the suitability of trees for protection by a tree preservation order. (See appendix 1)
7	26 th May 2022. The Southampton (Victor Court) Tree Preservation Order 2022 was made and served to all properties within Victor Court. (See appendix 2)
8	27 th May 2022. Emails were sent to the management company for Victor Court and the tree surgeon who was named on the application originally received. Copies of the TPO were attached to these emails
9	6 th June 2022, an objection was received from a resident of Victor Court, which was sent in from the resident's daughter on their behalf. The objection was in relation to the trees blocking light to the apartment and that they would prefer to have the trees felled along with further concerns over tree roots and the building. (See appendix 3)
10	15 th June 2022. An email was sent to the resident's daughter detailing the reason behind the making of the order and providing information regarding the light issues associated with the trees that sit to the North of the building, shade calculations were also provided along with information regarding tree roots and buildings. The benefits of the trees were also detailed within the email. (See appendix 4)
11	15 th June 2022 A letter of objection was received from another resident of Victor Court. This was signed by the resident along with 4 other signatories, which are assumed to also be resident at Victor Court. (See appendix 5)
12	The objection detailed within the letter was in relation to the light being blocked to the properties and that residents had to keep their lights on within their apartments during the day. The resident also states that this has an impact to their mental health.
13	4 th August 2022. A letter was sent to the resident who objected, and details were given that outlined the benefits of trees and information showing the location of the shadow caused by the trees. (See appendix 6)
14	For both objections received, the objector was informed about the process of taking the objection to a Planning and Rights of Way Panel, unless I was able to satisfy the points of their objection and their objection was lifted. Neither objector lifted their objection, therefore the ability for the council to confirm the TPO, will be for the panel to determine
15	It is the officer's opinion that the trees provide an amenity to the local area and soften the built structure. The trees being on the boundary abutting the main road, have a very high amenity value and they also have many years life expectancy and will continue to provide visual, ecological, and environmental benefits to the surrounding area. (See appendix 7)
16	If the tree preservation order is not confirmed, this may result in the potential loss of the trees, which would have a detrimental impact to the street scene.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
17	To not confirm this Order. This would not offer the legal protection which is considered prudent for the future reasonable management and retention of the trees.
DETAIL (Including consultation carried out)	
18	NONE
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
19	Cost will be those associated with the administration of confirming the Order and administration of any subsequent applications made under the Order.
<u>Property/Other</u>	
20	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 of damage which was not reasonably foreseeable
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
21	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>	
22	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	
23	NONE
POLICY FRAMEWORK IMPLICATIONS	
24	NONE

KEY DECISION?	N/No
WARDS/COMMUNITIES AFFECTED:	N/A
<u>SUPPORTING DOCUMENTATION</u>	

Appendices	
1	TEMPO
2	The Southampton (Victor Court) Tree Preservation Order 2022
3	Email of objection received via resident's daughter
4	Email to resident's daughter
5	Letter of objection received from resident of Victor Court
6	Letter sent to resident of Victor Court
7	Site Photos

Documents In Members' Rooms

1.	NONE
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Equality Impact Assessment

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

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
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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