

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL
SUBJECT:	Objection received to the making of The Southampton (Grenville Court) Tree Preservation Order 2023.
DATE OF DECISION:	12 th March 2024
REPORT OF:	David Tyrie – Head of City Services

<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director Place	
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Author:	Title	City Tree Officer	
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STATEMENT OF CONFIDENTIALITY	
NONE	
BRIEF SUMMARY	
To consider the objection received in the making and serving of a tree preservation order that protects 4 trees at Grenville Court, Old Farm Drive	
RECOMMENDATIONS:	
(i)	To confirm The Southampton (Grenville Court) Tree Preservation Order 2023
REASONS FOR REPORT RECOMMENDATIONS	
1.	A tree preservation order was made due to concerns that the established trees may be felled.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
2.	Not protecting the trees. With no formal protection of these trees, the landowner can fell the trees and can do so with no notification or any formal notice or permission. 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 trees provide to the wider location.
DETAIL (Including consultation carried out)	
3.	26 th July 2023 – The tree team received a web form from a resident at Grenville Court requesting confirmation if the two trees at the front of the property are protected by a tree preservation order as they are alleged to be causing structural damage to the property.
4.	28 th July 2023 – A site visit was made by a tree officer to assess the amenity of the trees on the site and their suitability of a tree preservation order. A Tree Evaluation Method for Protection Orders (TEMPO) was completed at this visit. (Appendix 1)

5.	Due to the perceived threat and high score attained on the TEMPO assessment, a tree preservation order was deemed suitable.
6.	As the person who contacted the City Council in relation to the trees was not the owner of the land, it was not deemed urgent to make the order.
7.	October 2023 the Council received a completed tree work application from another resident of Grenville Court. In this application, the resident requested to fell the two Norway maple trees at the front of the property. The resident mistook these trees as being in an old tree preservation order that covered different trees, and therefore submitted the application.
8.	Due to the increase in threat, The Southampton (Grenville Court) Tree Preservation Order 2023 was made and served on the 5 th of October 2023. This order protects the two Norway maple contained within G1 and two silver birch contained within G2 of the order. (Appendix 2)
9.	30 th October 2023 the Council received a letter from the management company, who were acting on behalf of the landlord for Grenville Court. (Appendix 3)
10.	Within the letter, the agent stated that they are concerned about potential damage being caused by tree roots to the building and the drainage system. They also state that they have commissioned reports from a reputable tree surgeon and structural engineer.
11.	3 rd November 2023 an email discussion was opened with the management company detailing why the order was deemed necessary and regarding the alleged damage and reports that have been commissioned. (Appendix 4)
12.	29 th February 2024. The management company were contacted to inform that their objection will be presented at this Planning & Rights of Way panel. An email response was received back, along with a copy of a recent drain report. (Appendix 5)
13.	You can see from the second page of the report, drain referenced as SWMH1 has root ingress within the system. However, it can clearly be seen that the drainage system is damaged, and this has allowed roots to enter via the open areas.
14.	Tree roots will follow the water table within the soil, therefore when they locate the source of the water, which in this case is a broken joint in the drainage system, the enter and proliferate due to the high level of water available.

15.	Tree roots are not able to detect water within an enclosed drainage system and when they grow naturally, they exploit the gaps between the soil particles as they do not have the ability to move the soil out of the way. Therefore, the roots also do not have the ability to start to attack the drain structure to cause it to deteriorate in order to reach the water within.
16.	It is therefore the officers view that the roots within the drainage system are a result of a failed system, and the damage has not been caused by the roots of the trees. Making an effective repair of the system will prevent the water content of the soil rising and roots will not enter an enclosed system.
17.	Given that no evidence has been advanced that demonstrates that the trees are the factor to the alleged structural damage to the building, members are requested to consider the impact that the loss of these trees would have to the local amenity and weigh this up against the information presented in objection to it being confirmed.
18.	It is the officers view that if evidence were to be supplied after the order is confirmed, then this will be assessed as part of an application to fell. Only if this information successfully demonstrates that the trees are causing damage to the property, will approval for felling be given.
19.	The Norway maple trees that are alleged to be causing damage to the property have been pollarded in the past and Google Streetview images show this was completed in 2011 and again in 2015. The 4-year gap between pollarding is a suitable time between each pollard, however this management cycle has not been maintained as the last observable pollard was in 2015 and has not been completed since then.
20.	It is the officers view that re-pollarding the trees now would be acceptable and therefore invite the agent to apply to pollard the Norway maples back to their previous pollard points. This would then restart the management cycle of pollarding with a view of them being re-pollard in another 4 years.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
	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>	
	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.

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)
RISK MANAGEMENT IMPLICATIONS	
	NONE
POLICY FRAMEWORK IMPLICATIONS	
	NONE

KEY DECISION?	Yes/No
WARDS/COMMUNITIES AFFECTED:	
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Tree Evaluation Method for Protection Orders
2.	Tree Preservation Order plan
3.	Letter from management agent
4.	Email discussion between SCC and management agent
5.	Drain report dated January 2 nd 2024
6.	Site photos

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.	