

Appendices 1 – 4

Photographs 1 – 6



## GENERAL PURPOSES COMMITTEE REPORT

Report Title	Tree Preservation Order No. 240 land to rear 48 – 84 Southfield Road, Northampton, NN5 6HL
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	10 February 2020
Policy Document:	Not applicable
Directorate:	Regeneration, Enterprise and Planning
Accountable Cabinet Member:	Councillor Tim Hadland

### 1. Purpose

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- 1.1 To set out the background to and the reasons for making the Tree Preservation Order, provide an outline of Government advice and to respond to the comments and objections raised to the Order.

### 2. Recommendation

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- 2.1 That Tree Preservation Order No. 240 land to rear 48 – 84 Southfield Road, Northampton, NN5 6HL be confirmed without modification.

### 3. Issues and Choices

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#### 3.1 Background

- 3.1.1 An application referenced N/2019/1201 under section 211 of the Town and Country Planning Act 1990 was validated on 18 September 2019 and gave notice of the intention to fell one mature lime tree in the rear garden of 33 Dave Bowen Close, NN5 4US, see Photo 1.
- 3.1.2 The individual tree is one in the long line of trees that border St Crispin's Park, the public open space behind Berrywood Road and Southfield Road. Of those trees, 69 remain in the public open space to the north, whilst the ten identified in the order have been incorporated into private rear gardens, and many more continue the line to the south, to the rear of 146 Southfield Road, see Photos 2, 3 and 4.

- 3.1.3 The tree in the rear garden of 33 Dave Bowen Close appeared to the Tree Officer to be in good health and condition overall and in his opinion, it can reasonably be expected that the tree had a safe useful life expectancy of between 40 and 100 years, see Photos 1 and 5.
- 3.1.4 Following site visits the Tree Officer came to the view that the removal of this one tree would have a negative impact upon public amenity and would also set a precedent for neighbours to remove other trees, so further degrading the local landscape.
- 3.1.5 The Council can make a Tree Preservation Order if it appears to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

## **3.2 Issues**

### **3.2.1 Government guidance**

- 3.2.2 The Council had until 30 October 2019 to respond to the notification, and under the guidance to the Regulations that response could only take one of three forms:
- to make a Tree Preservation Order;
  - not to make an Order and inform the person who gave notice that the work can go ahead; or
  - not to make an Order and allow the 6-week notice period to end, after which the proposed work may be done within 2 years of the date of the notice.
- 3.2.3 The long line of lime trees that bordered the open space and flanked Southfield Road provided a huge amenity from a great many public vantage points, and our opinion was that the removal of one of the trees would create a gap in the rhythm of the flowing line disrupting the soft backdrop to the Southfield Road properties, see Photos 6 and 7.
- 3.2.4 A S211 notice is not an application for consent under an Order and so the Council cannot:
- refuse consent; or
  - grant consent subject to conditions
- and so, to prevent what we considered to be inappropriate work as it would significantly detract from the public amenity, we were compelled to serve a Tree Preservation Order.
- 3.2.6 When deliberating over whether it is appropriate to make an Order the Council uses a systematic methodology known as the Tree Evaluation Method for Preservation Orders, see Appendix 1.
- 3.2.7 The long line of lime trees that borders the open space, see Photo 1, provided a huge amenity from a great many public vantage points, and our opinion was that the removal of one of the trees would create a gap in the rhythm of the flowing line disrupting the soft backdrop to the properties of Southfield Road.
- 3.2.8 Under TEMPO the individual tree in the rear garden of 33 Dave Bowen Close achieved a score of 22, see Appendix 2.
- 3.2.9 Therefore, Tree Preservation Order No. 240 was served on 25 October 2019. The opportunity was taken to include the ten individual mature lime trees in the rear gardens of Dave Bowen Close and behind the NHS property in Willow Close, in the order, see Appendix 3.

### **3.2.10 Public reaction**

- 3.2.11 Since the Order was served four letters have been received from properties in Southfield Road, but not from 33 Dave Bowen Close, see Appendix 4.
- 3.2.12 A letter dated 4 November 2019 from Mr Todd of 72 Southfield Road suggested that lime was an unsuitable species for protection, and that the trees bordering St Crispin's Park (managed by the authority) had not been maintained in the six years he had been resident in the property. The Tree Officer responded on 3 December.
- 3.2.13 Mr Evans and Mrs Oakenfull of 60 Southfield Road wrote on 10 November to suggest that the trees were an unsuitable species in an unsuitable position for protection, those comments were responded to by the Tree Officer on 10 December.
- 3.2.14 Mr Leeson and Ms Smith of 66 Southfield Road wrote to Legal Services on 13 November stating that the trees were an unsuitable species in an unsuitable position for protection, those comments were responded to by Legal Services on 13 November and the Tree Officer on 13 December.
- 3.2.15 Mrs Harrison of 52 Southfield Road wrote on 23 November to assert that the trees had not been maintained in recent years and to query liability in the event of a damage, her queries were answered by Legal Services on 28 November.

### **3.2.16 Responses to the objectors**

- 3.2.17 In general the comments raised do not address the question of public amenity, the threshold test for the serving of an Order, but focus more on the consequences of trees behaving as nature intended, and the negative issues that arise for them as householders from falling leaves, honeydew etc. The Council's response to each letter are included in Appendix 4.

### **3.2.18 Conclusion**

- 3.2.19 The letters of objection have been carefully considered but it has been concluded that the protection of the lime tree was necessary to avoid the possibility of the individual tree's removal, and to prevent precedent that would allow further removals, and the strongly adverse impact that any tree removal would have upon local amenity.
- 3.2.20 Accordingly, it is recommended that Committee confirm Tree Preservation Order No. 240 without modification.

## **3.2 Choices (Options)**

- 3.4.1 Option 1 – confirm Tree Preservation Order 240 without modification.
- 3.4.2 Option 2 – allow the provisional Tree Preservation Order to lapse without confirmation.

## **4. Implications (including financial implications)**

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### **4.1 Policy**

- 4.1.1 The report does not set new policy and does not have any implication on any existing policies.

### **4.2 Resources and Risk**

- 4.2.1 The tree is under private ownership and are therefore the responsibility of the land owner.
- 4.2.2 The only financial implications are the serving of the Tree Preservation Order (already served), the confirming of the order (if approved) and officer time dealing with any applications for work to the trees.
  
- 4.3 Legal**
- 4.3.1 The tree remains the legal responsibility of the tree owner. The only legal implications are the Council's statutory responsibilities to administer any application for work to the tree.
  
- 4.4 Equality**
- 4.4.1 It is not anticipated that including the tree in the Tree Preservation Order will have any direct impact on equalities, community safety, or economic issues or a perceptible impact on the social well-being, leisure and culture, or health issues.
  
- 4.5 Consultees (Internal and External)**
- 4.5.1 No additional consultees
  
- 4.6 Environmental Implications (including climate change issues)**
- 4.6.1 With regard to sustainability, the protection of the trees by Tree Preservation Order should prevent unnecessary pruning or premature removal and thereby ensure their environmental benefits continue for as long as possible.
  
- 4.7 Other Implications**
- 4.7.1 It is not anticipated that including the tree in the Tree Preservation Order will raise any other implications.

## **5. Background Papers**

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- 5.1.1 TEMPO explained, Appendix 1.
- 5.1.2 The completed TEMPO score sheet, Appendix 2.
- 5.1.3 Tree Preservation Order No. 240 land to rear 48 – 84 Southfield Road, Northampton, NN5 6HL, Appendix 3.
- 5.1.4 The public reactions and Council's response to each letter, Appendix 4.

Jonathan Hazell  
Arboricultural Officer  
8812

**PHOTOGRAPHS**

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PHOTO 1



The tree referred to in N/2019/1201

## PHOTO 2



### KEY:

The position of individual tree referred to in N/2019/1201 is indicated by the white circle  
The overall line of trees is indicated by the blue line

**PHOTO 3**



The line of mature lime trees bordering St Crispin's Park

**PHOTO 4**



The line of mature lime trees bordering St Crispin's Park, the particular tree highlighted



**PHOTO 5**



The particular tree bordering St Crispin’s Park is highlighted

**PHOTO 6**



Part of the line of trees behind the properties of Southfield Road.

**PHOTO 7**



The particular tree viewed from Southfield Road.