

Appendices:
5
Photographs:
7



NORTHAMPTON
BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE REPORT

Report Title	Tree Preservation Order No. 229 at 17 Hillcrest Avenue, Northampton NN3 2AB
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AGENDA STATUS: PUBLIC

Committee Meeting Date:
20th October 2014

Policy Document: Not applicable

Directorate:
Regeneration, Enterprise and
Planning

Accountable Cabinet Member:
Councillor Tim Hadland

1. Purpose

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

2. Recommendations

2.1 That Tree Preservation Order No. 229 be confirmed.

3. Issues and Choices

3.1 Report Background

3.1.1 Tree Preservation Order No. 229 comprises one Sycamore that stands in the rear garden of 17 Hillcrest Avenue, Northampton NN3 2AB. The TPO plan shows the location of the tree.

3.1.2 On 22nd May 2014 a telephone call was received from the owner of 17 Hillcrest Avenue expressing concern that the owner of 27 Lindale Close had informed them that they intended to undertake their common law right to remove all the overhanging branches back to the boundary.

- 3.1.3 A site visit was made on 30th May 2014 and a Tree Preservation Order was made on 9th June 2014 and served on the occupants of 17 Hillcrest Avenue and 27 Lindale Close (Appendices 1 & 2).
- 3.1.4 A letter objecting to the Tree Preservation Order was received on 8th July 2014 (Appendix 3). It is the objector's opinion that the Sycamore is not unique as Hillcrest Avenue is lined with specimens of Sycamore which are clearly visible by all persons within and adjacent to Hillcrest Avenue. They state that only the top of the canopy of the tree is visible from the public highway in Lindale Close and an even smaller view of the tree is visible from Hillcrest Avenue. The current owners of 27 Lindale Close purchased the property in March 2014 and state that if a Tree Preservation Order had been in force they would not have purchased the property.
- 3.1.5 The tree appears to be in good health and condition with a well-balanced canopy. It can reasonably be expected that the tree has a safe useful life expectancy of at least 20-40 years.
- 3.1.6 The Tree Preservation Order remains unconfirmed because of the objections made by the owner of 27 Lindale Close.

3.2 Issues

3.2.1 Government Advice

- 3.2.2 Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.
- 3.2.3 Authorities can either initiate this process themselves or in response to a request made by any other party. When deciding whether an Order is appropriate, authorities are advised to take into consideration what 'amenity' means in practice, what to take into account when assessing amenity value, what 'expedient' means in practice, what trees can be protected and how they can be identified.
- 3.2.4 'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.
- 3.2.5 When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way.
- 3.2.6 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.

3.2.7 The Tree

- 3.2.8 The tree is a large mature Sycamore.
- 3.2.9 It is approximately 18m in height with a crown spread of approximately 17m and a trunk diameter of 805mm.
- 3.2.10 The tree appears to be in good condition. The base has normal buttress root formation with no evidence of cavities or decay. The trunk is unremarkable with no apparent defects, decay or cavities. The branch structure appears normal with well-formed unions. There is some deadwood within the crown. The previous year's annual shoot extension and leaf size would indicate that the tree is displaying normal vigour.

3.2.11 There is evidence that the tree was subject to some remedial pruning several years ago to reduce the branches overhanging the rear garden of 27 Lindale Close.

3.2.12 The tree has been assessed using TEMPO (Tree Evaluation Method for Preservation Orders). TEMPO is an evaluation assessment to determine a tree's suitability for protection by a Tree Preservation Order. The TEMPO system is open, to a degree, to the interpretation and judgement of the assessor. However, it is recognised in the industry as a defensible method of assessment and is used by many Local Planning Authorities.

3.2.13 The TEMPO system includes an amenity assessment by determining the tree's suitability for a TPO by considering condition, retention span, relative public visibility and other factors. It then considers the expediency and finally provides a decision guide based on the numerical score. The assessment of the Sycamore arrived at a score of 15, TPO defensible (Appendix 4). However, it is considered that the numeric values for retention span and relative public visibility could be considered as conservative and therefore the overall final score could have been higher.

3.2.14 Response to objections

3.2.15 The letter of objection states that in their opinion the Sycamore tree is not unique as Hillcrest Avenue is lined with specimens of Sycamore trees. The street trees along Hillcrest Avenue are Lime trees. However, the presence of other trees within the area whether the same species or not should not detract from a tree's suitability for inclusion within a Tree Preservation Order.

3.2.16 The letter states that only the top of the canopy is visible from the public highway in Lindale Close and an even smaller view of the tree is visible from Hillcrest Avenue. Approximately 50% of the crown of the tree is visible from various locations along Lindale Close. There are limited views of the tree from Hillcrest Avenue but the tree is highly visible from Cumberland Close to the north of the tree. (See Appendix 5 & Photographs 1-7)

3.2.17 The objectors state that had the tree been previously protected by a Tree Preservation Order that they would not have purchased 27 Lindale Close. However, no specific information is provided as to why. The tree is not located within the boundary of 27 Lindale Close and is therefore outside the control of the objectors. The tree is a large mature specimen with a proportion of the crown overhanging the rear garden of 27 Lindale Close which would have been evident at the time of any viewing prior to purchase. The objector prior to the Tree Preservation Order being served would have had a common law right to cut back the growth overhanging their property. However, this would be difficult to achieve without trespassing on to adjacent land, would give little benefit in alleviating shading due to the location of the tree in relation to the garden but crucially if undertaken would significantly affect the visual amenity the tree provides.

3.2.18 A Tree Preservation Order should not be seen as a restriction to appropriate or suitable maintenance. The owners of 27 Lindale Close submitted an application to undertake some minor reduction (up to 2m) of the lower lateral branches to reduce the overhang over their garden soon after the Tree Preservation Order was served. This application was considered and consent has been granted for the proposed work.

3.2.19 Conclusion

3.2.20 It is concluded that the Sycamore tree is an important feature within the local landscape and contributes to the overall amenity of the area.

- 3.2.21 Any pruning work to fulfil the common law right (cut back all overhanging growth) of the residents of 27 Lindale Close, which theoretically would be possible, would have a significant visual impact on the tree.
- 3.2.22 The objections have been considered but it is concluded that the protection of the tree is necessary to avoid the possible extensive work that could be undertaken without statutory protection. Accordingly, it is recommended that the committee confirm Tree Preservation Order No. 229.

3.3 Choices (Options)

- 3.3.1 Option 1 - Confirm the Tree Preservation Order.
- 3.3.2 Option 2 - Allow provisional Tree Preservation Order to lapse without confirmation.

4. Implications (including financial implications)

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 is 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 tree.

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 Other Implications

- 4.6.1 With regard to sustainability, the protection of the tree by tree preservation order should prevent unnecessary pruning or premature removal and thereby ensure its environmental benefits continue for as long as possible.

5. Background Papers

- 5.1 Tree Preservation Order No. 229; 17 Hillcrest Avenue, Northampton NN3 2AB.
- 5.2 Tree Evaluation Method for Preservation Orders (TEMPO) Survey data sheet and decision guide.

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