

WIRRAL COUNCIL

PLANNING COMMITTEE

16 November 2017

SUBJECT:	Tree Preservation Order No WR0379 14 WOODHEY ROAD, HIGHER BEBINGTON, CH63 8PD
WARD/S AFFECTED:	Bebington
REPORT OF:	Assistant Director Environmental Services
KEY DECISION	NO

1. EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to inform the Committee of an objection to Wirral Borough Council Tree Preservation Order No WR0379 and to recommend that the order shall be confirmed.

2.0 BACKGROUND

- 2.1 The trees are a prominent Sycamore and Pine in the side garden of 14 Woodhey Road. The trees are clearly visible from a public highway. The owner was concerned that neighbours would prune the trees in a way that would be detrimental to the trees.

3.0 THE OBJECTION

- 3.1 Objections were received to this TPO. The objections were on the grounds of
- The size of the trees in a modest garden, and that the trees are dangerous due to their size and proximity to the houses.
 - Lack of light and leaves and debris falling into adjacent gardens and gutters. There were also objections on the grounds of
 - Pigeons in the trees fouling adjacent gardens and causing a health hazard
 - The fact that the trees can now not be touched.

4.0 COMMENTS ON THE OBJECTION

- 4.1 The issues raised would exist with or without a preservation order.

The trees, belong to, and are the responsibility of, the person on whose land the tree is growing.

As with owners of unprotected trees, they are responsible for maintaining their trees, with no statutory rules setting out how often or to what standard. The local planning authority cannot require maintenance work to be done to a tree just because it is protected. However, the authority can encourage good tree management, particularly when determining applications for consent under a Tree Preservation Order. This will help to maintain and enhance the amenity provided by protected trees.

There is no evidence to suggest that the trees are dangerous. Height and size is not an indicator of a tree being dangerous and the risk trees pose is considered to be low. The Health and Safety Executive (HSE) recognises that the risk of "being struck and killed by a tree falling" is "extremely low", and is firmly in its "broadly acceptable" category of risks. The National Tree safety Council states,

'Disproportionate media attention, especially after storms when trees fall, creates a general public misconception of danger. When asked individually, most people do not have this perception. However, because trees so rarely kill or seriously injure people, when they do, it is headline news. The number of people killed by cars, being 500 times greater, is so

common that the deaths barely get a mention. Sadly, these headline stories about deaths from trees have made landowners increasingly more concerned than they should be about the risks from trees and their liabilities if something does go wrong.'

Every autumn people complain about the annoyance caused by falling leaves. Although the leaves may be annoying or cause an inconvenience, they are rarely, if ever, a nuisance in the legal sense. Courts will be unlikely to find nuisance because the general rule is that the neighbour must prove substantial interference with his comfort and convenience.

A reasonable person could be expected to accept that the fall of leaves from a tree is a seasonal occurrence over which the tree owner has no control (other than to remove the tree), neither could he stop the wind blowing them over a boundary. Therefore, leaves, flowers or fruit covering a neighbour's lawn or filling up his gutters may be an inconvenience, but would not normally be considered to be a nuisance (i.e. causing damage). The reasonable person would clear them from his property at intervals. Likewise a tree owner has no control over the movement or behaviour of birds which are just as likely to perch on buildings as trees.

People generally enjoy sunlight and as a result expect to have light to their property. However, in simple terms there is generally no absolute right to light from across a neighbour's land with regards to trees. Shading of a garden is unlikely to constitute an infringement of a right to light.

A preservation order means that an application needs to be made to the council to carry out any tree work, not that they cannot be managed.

The tree owner is not obliged to cut back the overhanging branches, but the nuisance can be removed by cutting back the branches to the boundary, however an application would be necessary if the tree is protected.

5.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

5.1 There are no direct impacts for voluntary, community and faith groups.

6.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

6.1 There are no direct Resource Implications arising out of this report.

7.0 LEGAL IMPLICATIONS

7.1 The principal effect of a TPO is to prohibit the, cutting down, uprooting, topping, lopping, wilful damage, or wilful destruction of trees without the LPA's consent.

8.0 EQUALITIES IMPLICATIONS

8.1 There are no direct implications arising from these proposals which adversely affect equality and diversity.

9.0 CARBON REDUCTION IMPLICATIONS

9.1 Trees store carbon within their tissues and continually absorb carbon, helping to offset carbon emissions produced by other urban activities.

10.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

10.1 The planning implications arising from this report are outlined above and there are no direct Community Safety implications arising from this report.

11.0 RECOMMENDATION/S

11.1 That the Planning Committee Confirm The Tree preservation Order WR0379 despite objections

12.0 REASON/S FOR RECOMMENDATION/S

12.1 Trees form a prominent part of the Wirral landscape and comprise an essential feature in the special character of many of Wirrals residential areas. Indeed, even where tree cover is not a distinctive characteristic of a neighbourhood, a single large tree or group of trees can have a significant visual impact within the surrounding area.

It has been the policy to protect many of the important trees in Higher Bebington with Tree Preservation Orders. It is proposed to extend this policy by making the Wirral Borough Council Tree Preservation Order No.WR0379 to protect the trees at 14 Woodhey Road.

Urban trees are a valuable source of ecosystem services in towns and cities. They help us alleviate problems associated with densely packed populations by improving local air quality, capturing carbon and reducing flooding.

Urban trees provide a number of health benefits including improving local air and water quality by absorbing and filtering pollutants (Bolund and Hunhammar, 1999) and by reducing the urban heat island effect (Akbari et al., 2001), decreasing illnesses associated with poor air quality and heat. There is also evidence that urban greenery can help reduce stress levels and improve recovery time from illness (Ulrich, 1979).

Trees also provide a valuable habitat for much of the UK's urban wildlife, including bats (Entwistle et al., 2001) and bees (RHS, 2012).

The Council has a duty to make provision for the preservation of trees and woodlands in the interests of amenity. It does this by making Tree Preservation Orders (TPO). The purpose of a Tree Preservation Order is to protect trees which make a significant impact on their local surroundings. This is particularly important where trees are in immediate danger.

Government guidance states that, 'Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to pro-actively make Orders as a precaution

In this case it was felt that as the trees do indeed have a significant amenity value, it would be expedient to pro-actively serve a TPO as a precaution.

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REFERENCE MATERIAL

The following background papers have been used in the preparation of this report:
Wirral Borough Council Tree Preservation Order No.WR0379

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
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