

Meeting:	Development Management Committee
Date:	3 rd September 2008
Subject:	Tree Preservation Order No. 916 relating to 125 Whitchurch Gardens
Key Decision: (Executive-side only)	No
Responsible Officer:	Andy Parsons, Head of Development Management
Portfolio Holder:	Councillor Marilyn Ashton, Portfolio Holder for Planning, Development and Enterprise
Exempt:	No
Enclosures:	Letter from Mr & Mrs Bernard (received 24 th July 2008)

SECTION 1 – SUMMARY AND RECOMMENDATIONS

Tree Preservation Order (TPO) No. 916 covers a mature Sycamore at No. 125 Whitchurch Gardens. It was considered expedient to make the Order to protect the tree because of the immediate risk of the tree being cut down or pruned in a way which would have a significant impact on the amenity of the area.

Objections have been made against this TPO by Mr and Mrs Bernard. This report sets out why this TPO should be confirmed.

RECOMMENDATIONS: The Committee is requested to confirm TPO No. 916 notwithstanding the objections.

REASON: This emergency TPO needs to be confirmed within 6 months otherwise the statutory protection afforded to the aforementioned tree will be lost.

SECTION 2 - REPORT

- 2.1 On 24th June 2008, TPO No. 916 was made in respect of one Sycamore tree at 125 Whitchurch Gardens. This TPO was made at the request of the tree owner as there was concern about a neighbour who:
- Objects to the tree due to alleged poor satellite dish reception,
 - Would like the tree removed or severely lopped,
 - Has apparently lopped off over-hanging branches from this tree.
- 2.2 An objection letter was subsequently received from adjacent occupiers: Mr & Mrs Bernard.
- 2.2 Mr & Mrs Bernard's objection points are set out below with the Council's response.
- 2.2.1 The Sycamore is a common, prolific species with little biodiversity value.
Response: The subject tree is a large, isolated, mature specimen growing in a back garden where it can be viewed by many neighbouring properties. In this setting the Sycamore provides valuable public visual amenity. The TPO is based on this amenity value and not on whether the tree is rare or native.
- 2.2.2 The Sycamore regularly drops limbs of various sizes.
Response: On the day the TPO was made a visual assessment of the tree was carried out. Within the tree crown, there was no evidence of branch stub scars usually associated with limb loss.
- 2.2.3 Due to its large size, the Sycamore competes with other trees that might otherwise provide greater biodiversity value.
Response: See 2.2.1 above. As the subject tree is isolated there is no direct competition with any adjacent trees.
- 2.2.4. The Sycamore has dead branches that should be assessed before the TPO is confirmed.
Response: On the day the TPO was made a visual assessment of the tree was carried out. No significant deadwood could be seen in the tree. In any event, such deadwood is exempt from the TPO and could be removed without written Council permission. This exemption, therefore, should have no bearing on the confirmation of the TPO.
- 2.3 There is no right of appeal to the Secretary of State against the confirmation of a TPO. However, under Section 288 of the Town and Country Planning Act 1990 ("the Act"), the validity of a TPO can be challenged on a point of law by an application to the High Court within six weeks of the date the TPO is confirmed on the grounds that: -

- 2.3.1 The TPO is not within the powers of the Act, or
- 2.3.2 The requirements of the Act (or Regulations made under the Act) have not been complied with in the making of the TPO.
- 2.4 The Committee is requested to give the objections and the full circumstances due consideration. It is the Arboricultural Officer's opinion that the objections do not outweigh the amenity considerations in this case.
- 2.5 It is accordingly recommended that the TPO be confirmed.

Financial Implications

There are no financial implications.

Performance Issues

None.

SECTION 3 - STATUTORY OFFICER CLEARANCE

Name: Sheela Thakrar	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 29 th July 2008		
Name: Abiodun Kolawole	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 20 August 2008		

*Delete the words "on behalf of the" if the report is cleared directly by Myfanwy or Hugh.

SECTION 4 - CONTACT DETAILS AND BACKGROUND PAPERS

Contact: Russell Ball, Planning Arboricultural Officer, extn: 6092

Background Papers: Tree Preservation Order 916

IF APPROPRIATE, does the report include the following considerations?

1.	Consultation	YES/ NO
2.	Corporate Priorities	YES / NO
3.	Manifesto Pledge Reference Number	