

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	11th APRIL 2017	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING SERVICES	OPEN
MEMBERS' CONTACT POINT:	RICHARD RODGERS (01283) 595744 richard.rodgers@south-derbys.gov.uk	DOC:
SUBJECT:	PROPOSED TREE PRESERVATION ORDER 446 – LAND AT SK3021 4304 BURTON ROAD, MIDWAY	REF:
WARD(S) AFFECTED:	MIDWAY/WOODVILLE	TERMS OF REFERENCE:

1.0 Recommendations

1.1 That this Tree Preservation Order (TPO) be confirmed without modification.

2.0 Purpose of Report

2.1 To consider confirmation of this TPO.

3.0 Detail

3.1 This TPO was made on 21st October 2016 and supersedes an earlier Order (an area Order - see TPO431). This latest order however consists of a 1 x woodland and 3 individual trees. Trees within the woodland are described as being of mixed species whilst the individuals are a cherry, a silver fir and a willow.

3.2 The 'collective' is seen to contribute to the edge of settlement locality, visible from nearby dwellings and the local public footpaths and bridleways. Not only are the trees seen to have visual amenity, they, by virtue of their numbers, are seen to contribute to the local wildlife and general ecology of the area.

3.3 The land on which the trees are situated had been the subject of an outline planning application (9/2016/0447) which put the retention of the trees in doubt. That application has since been determined (as a refusal) of which the detrimental impact of the trees, a contributing factor.

3.4 Two separate comments relating to the proposed Order have been received, one from a local home owner and one from a consultant representing the developers/planning applicants. Their views are summarised as:

Neighbour

- We would like to see the Order made permanent. We believe there are more suitable sites less harmful to the mature woodland;

Consultant

- It would appear this updated TPO has been applied without any detailed evaluation of the tree stock. The majority of the trees within the centre of the site are self-seeded specimens, located within dense bramble undergrowth which has developed due to the lack of any formal management of the site.
- All of the trees on site had been previously surveyed in accordance with BS5837:2012 Trees in relation to Design, Demolition and Construction Survey to accompany the planning application. In this survey we managed to assess 15 individual specimens and a further 15 groups of identifiable trees. This detailed analysis of trees on the site aided and informed the planning layout where only a portion of tree cover would be impacted upon and those trees were considered to be of limited arboricultural and landscape value.
- Development was directed away from the trees with the greatest amenity. The retention of an ash and other groups and individuals (as planned) would allow for continuing amenity. Large areas of grassland would additionally be incorporated into public open space provision.
- The Council's approach to assessing the trees differs markedly, imposing a blanket TPO across the whole of the site without seemingly having undertaken any qualitative analysis of the condition or value of the site's trees, imposed without logic or justification and appears to be proposed solely as a vehicle to hinder the current application process.
- Trees have been assessed using TEMPO methodology. FPCR's scoring differs significantly from the scores attributed to the trees by the Council. In respect of the wild cherry, FPCR scored it as a 4; whereas the Council scored it 13. We feel that score is misrepresentative.
- Similarly the Silver Fir, FPCR scores it 4, SDDC 15. Again that score is misrepresentative, the tree only slightly visible to the public, with future remedial work likely due to its proximity to the adjacent property. The Willow follows that pattern – FPCR scoring it as a 6, whereas SDDC score it as a 17. FPCR argue that this tree is not visible to the public at all, concluding in summary that none of the three individually protected trees qualify for protected status.
- The woodland part of the Order does not provide sufficient detail and description of the actual tree stock it covers and it is unclear as to whether any analysis or qualitative assessment of the trees has been carried out. It is recommended that the woodland is divided into smaller sections such that any TEMPO assessment is easier to collate
- FPCR request disclosure of the Council's TEMPO assessments, still concerned as to the reason and basis for the Order.

3.5 In answer to the comments made, officers have the following response:

- The Department for Communities and Local Government (DCLG) published TPO guidance states a general description should be sufficient for areas of trees or woodlands. It is, however, important to gather enough information to be able to accurately map boundaries.

- Trees are protected for their amenity offer and not their origin (in reference to some of them being self-set). Amenity comes in many forms, often visual but the identified woodland in particular has been found to be a significant area of habitat with substantive nature conservation value that meets Local Wildlife Site selection guidelines and UK BAP priority habitat classification. The lack of formal management as referenced, has allowed that to happen. DCLG TPO Guidance mentions where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors such as importance to nature conservation.
- The proposed development would without doubt have led to the loss of a disproportionate number of trees. The clusters in the centre of the site (which would be most impacted) contribute to an evolving woodland and scrubland environment, such that their removal would lead to a significant reduction in amenity and a loss to the character of the area.
- The Council's Tree Officer has provided TEMPO scores for the individual trees. These can be forwarded to the consultants for scrutiny.
- Protecting trees of value accords with the Corporate Plan theme of Sustainable Development having environmental/ecological/wildlife benefits.

4.0 Planning Assessment

4.1 It is expedient in the interests of amenity to make the trees the subject of a TPO.

5.0 Conclusions

5.1 It is expedient in the interests of amenity to preserve.

6.0 Financial Implications

6.1 The Council would only be open to a claim for compensation in relation to any future planning decision to refuse works to any trees covered by the TPO, and liability for a particular event or occurrence could be demonstrated attributable to the trees in question.

7.0 Corporate Implications

7.1 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

8.0 Community Implications

8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

9.0 Background Information

- a. 21 October 2016 - Tree Preservation Order
- b. 18 November – Letter from FPCR (consultants)
- c. 21 November – Letter from neighbour