

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	17 NOVEMBER 2015	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 403 AT THE FIRS, 28B WESTON ROAD, ASTON ON TRENT	REF:
WARD(S) AFFECTED:	ASTON ON TRENT	TERMS OF REFERENCE: DC01

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 3 June 2015 in respect of a Yew tree in the garden of 28b Weston Road, Aston on Trent.
- 3.2 The TPO was made at the request of the Council's Tree Officer following notification to remove it had been received, under application ref: 9/2015/0366. Its removal though was not seen to be appropriate at the time, and thus an Order was made. The tree is seen to contribute to a small group of similar evergreen trees here – that group seen as an attractive green feature in this conservation area/ village centre situation.
- 3.3 Comments relating to the proposed Order have been received and are summarised as:
- The tree is not an attractive tree. It has been damaged in the past and has not recovered over time;
 - The tree can only be seen when looking through the garden of 28a Weston Road. It is not clearly visible from the road and therefore its removal would not affect the village setting, as stated it would in the reasons for the Order;
 - The tree is best seen from the garden of 28a Weston Road, to which access is restricted. As such no close up inspection has been undertaken and no further decision should be made without that close up inspection.

- The tree is very close to a neighbour's house (No. 30), hanging over their property. Due to that proximity there is a concern that as the tree grows it may damage foundations there – another neighbour (No. 28a) removed a tree in this same group that was starting to affect their own property's foundations;
- The owner wishes to add a small extension to the back of their house. They do not wish to go closer to 28a as it would not please them. Rather, they want to extend into the space where the tree is as this is less intrusive on the neighbour;
- They do not take the decision to remove a long standing tree lightly; with their efforts to add to the green offer here a testament to that. They do not want an expensive problem though that this tree (its roots) may cause whilst wishing to add/extend their property in a neighbour friendly way.
- They would be happy to plant a replacement;
- Given they have formally requested to remove the tree, it is presumed the Council will therefore be taking on the full liability for potential damage to foundations. Given the proximity, this situation will undoubtedly occur in the future.

3.4 In answer to the comments made officers have the following response:

- Direct damage to foundations is highly unlikely. The case referred to adjacent, (of that at 28a with roots in the cellar) was mainly due the immediacy of that tree's buttress to the house which was moving a wall and thus the roots grew in. In this case no evidence that root damage has occurred or is likely to do so.
- Yew trees are very slow growing and regeneration, if damage has been done previously, can take a number of years. It is acknowledged that the tree on its own is of limited merit; as part of the group however it is deemed to be important, more so now tree works at 28a have been carried out.
- The Council's Tree Officer evaluated this particular tree at close quarters, when assessing the trees on land at 28a Weston Road. Additionally, amenity is mostly measured from how the tree is seen from the public realm, from which there are views of its mid and upper canopy;
- The small extension mentioned is the subject of a separate planning application (9/2015/0851), during which the merits of the trees retention verses the benefits of development will be additionally assessed. There is an appeals process to contest any decision undertaken.

4.0 Planning Assessment

4.1 It is expedient in the interests of amenity to make the tree 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 Notwithstanding the above representation, the responsibility for trees and their condition remain with the landowner. The Council would only be open to a claim for compensation if an application to refuse works to the TPO was made and subsequently refused, and liability for a particular event or occurrence could be demonstrated.

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. 3 June 2015 Tree Preservation Order
- b. 29th June 2015 – Letter from Sarah Swainson