

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	25th JUNE 2019	CATEGORY: Delegated
REPORT FROM:	STRATEGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	Chris Nash (01283) 595926 chris.nash@southderbyshire.gov.uk	DOC:
SUBJECT:	TREE PRESERVATION ORDER 505: THE LAWNS, 82 MAIN STREET, ETWALL	REF:
WARD(S) AFFECTED:	ETWALL	TERMS OF REFERENCE:

1.0 Recommendations

1.1 That this tree preservation order should be confirmed.

2.0 Purpose of Report

2.1 To consider confirmation of this tree preservation order.

3.0 Detail

3.1 This tree preservation order (TPO) was made on 16th November 2018 in respect of two groups of trees, one comprising 7 Sycamore and another comprising 10 London Plane, along with an individual Lime tree, all situated on land at The Lawns, 82 Main Street, Etwall.

3.2 The TPO was made following receipt of a conservation area notification for works to reduce the crowns of the trees by one-third (ref. 9/2018/1285). The Sycamore and London Plane trees provide an excellent feature in the townscape, with the canopies coalescing and creating an archway over the drive. The further single lime is also a feature tree in the street scene.

3.3 Works to reduce the crowns of the trees by one-third amounts to crown topping rather than crown reduction and was not considered to be a suitable form of management, harmful to their form and visual amenity.

3.4 When made, a conservation area notification can be dealt with in one of three ways:

- make a TPO if justified in the interests of amenity, preferably within 6 weeks of the date of the notice;
- decide not to make a TPO and inform the person who gave notice that the work can go ahead; or
- decide not to make a TPO and allow the 6-week notice period to end, after which the proposed work may be done within 2 years of the date of the notice.

3.5 A notification is not, and should not be treated as, an application for consent under an Order, so the Council cannot refuse consent or grant consent subject to conditions. With this in mind, and given the public amenity value offered by the trees and the immediate threat they were under, a Tree Preservation Order was the only option to prevent the inappropriate works taking place.

3.6 Four letters of objection has been received through consultation stating:

- the form and visual amenity of the trees is unlikely to be unduly compromised if they are sympathetically reduced in height and width by professional pruning;
- only the tops of the trees can be seen from the roadside and the driveway opening;
- whilst agreeing that such features required careful monitoring and management to enhance the village, the trees are large and do shade a number of adjoining properties;
- loss of light to habitable rooms, especially on summer evenings;
- London Planes are of a brittle nature and sizeable branches and twigs are falling on adjoining property;
- appropriate management is required to address safety and damage concerns from dead/dying branches;
- would be most appropriate to reach agreement on the extent and form of tree management;
- there has been no maintenance of the trees for several years and the refusal of works and making of a TPO is a disappointment;
- lack of maintenance could contribute to disease;
- height and spread of the canopy is of concern, as is the spread of roots into adjacent gardens and potentially towards foundations and drainage of dwellings, with damage to patios and borders to date;
- leaf drop is an inconvenience, especially in the autumn where fortnightly green bin collections are inadequate, and they block drains and gutters;
- shading is leading to moss growth on roofs, contributing to the replacement of two roofs and refurbishment of two others;
- the trees attract pigeons which in turn leads to excessive droppings and a health risk;
- costs of maintenance related to many of the above secondary impacts of the trees; and
- concern about a row of Thuja (conifer) on the boundary with 82 Main Street which causes shading and maintenance issues.

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

- The principle of works to maintain the trees and reduce their canopies is not in dispute – it was down to the manner in which the works were proposed to be carried out, and the inability to command alternatives, which led to the TPO being made. Nonetheless, the amenity value of the trees is sufficient in its own right to command long term control, and it is possible for the owner (or others) to apply for a management plan so to enable repeat works without the need for multiple applications for consent.
- The lack of maintenance for a number of years is unfortunate, with the amenity value of the trees enhanced in the interim. The TPO recognises the latter such that future maintenance will need to respect this protection, but

protection in itself is not a barrier to appropriate works being proposed and accepted.

- Many of the issues raised, such as shading, canopy spread, branch/twig drop, the extent of leaf drop and root spread would be curtailed to some noticeable degree upon the agreement and carrying out of suitable works. The resulting secondary costs arising to adjoining occupiers are would subsequently not be considered to be unreasonable given the trees have existed in this situation and resulted in a degree of impact for some time.

3.8 It is noted that the applicant for the 2018 notification has approached the Council for advice and officers will endeavour to assist with facilitating a more suitable proposal for works to the trees.

4.0 Planning Assessment

4.1 It is expedient in the interests of amenity to make the trees the subject of a TPO in accordance with advice set out in the PPG.

5.0 Conclusions

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

6.0 Financial Implications

6.1 None.

7.0 Corporate Implications

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

8.0 Community Implications

8.0 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. 17 January 2019 – Tree Preservation Order.
- b. 25th January and 1st, 5th and 20th February 2019 – Letters of objection.