

REPORT TO:	Planning Committee	AGENDA ITEM:
DATE OF MEETING:	22 March 2016	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 417 at 23 Wallfields Close, Findern	REF:
WARD(S) AFFECTED:	Willington & Findern	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 16 October 2015 in respect of a sycamore tree in the front garden of 23 Wallfields Close, Findern.

3.2 The TPO was made at the request of the Council's Tree Officer. It had been believed the tree was under the protection of both an historic Derbyshire County Council Order (DCC TPO70) which is an 'Area' order and covers a large number of trees in the locality and by virtue of its supposed situation, deemed to be on land owned and maintained as public open space by South Derbyshire District Council.

3.3 On closer inspection however, the tree is actually situated on garden land associated with 23 Wallfields Close. More so, given its age, it is unlikely to have been covered by the Area order anyway which only covers trees which were growing at the time the order was made. DCC TPO70 dates back to 1964 and it is unlikely this Sycamore is 52 years old.

3.4 An enquiry with the County Council regarding the tree's status prompted the making of this Order. The retention of the tree, now deemed to be on private land, was uncertain.

3.5 The tree is seen to contribute to the urban landscape, part of a highly visible group and an attractive green feature.

3.6 Comments relating to the proposed Order have been received and are summarised as:

- The tree in question has been neglected and never pruned, therefore left to grow to an enormous height. At the very least it needs pruning, too big as is for a residential situation;
- There are other trees in the immediate (on council land) to sustain amenity; Admittedly the tree appears in good health but so did a tree on the council owned land which was removed a few years ago;
- The branches sometimes cause problems with their proximity to telephone wires;
- The tree needs pruning to reduce risk to residents. Who is responsible for any damage caused?
- With the recent high winds there is concern that the tree will fail causing damage to residents and property. Evidence of failing trees can be seen in the locality with a tree limb snapping off, damaging a brick wall and fencing;
- The tree is not fit for purpose and will inevitably cause damage in the future, more so given the rate it is growing. Placing an order on the tree leaves us helpless and frustrated and creates a barrier for anyone now or in the future maintaining the tree;
- Many of the residents believe the tree should be removed;
- The placing of the order is heavy handed. Some other agreement could have reached in regards basic pruning which would have avoided this situation.

3.7 Additional to the above, a petition signed by 20 local residents was received. The signatories believe the removal of the tree would not (as detailed above) affect the amenity of the area, given there are other trees (those on Council land) in very close proximity.

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

- The placing of the Order does not stop necessary or prudent maintenance. Crown reductions when undertaken sympathetically and under strict control are acceptable with Sycamores;
- Admittedly there has been some confusion as to who owns the tree and whether it was protected or not;
- Trees will fail at times especially those of a particular age. The tree here appears to be in good health at present. Its position, away from high risk areas or buildings is to its advantage;
- There are other trees on the verge here that would partly compensate for its loss. This however is the best tree in the group;
- 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 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 representations, 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. 16th October 2015 Tree Preservation Order
- b. 17th November 2015 – Letter from Mr & Mrs Copeland
- c. 24th November 2015 – Letter from Miss J Adams
- d. 20th January 2016 – Petition from a number of local residents