

<b>REPORT TO:</b>	<b>PLANNING COMMITTEE</b>	<b>AGENDA ITEM: 8</b>
<b>DATE OF MEETING:</b>	<b>8<sup>th</sup> NOVEMBER 2016</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>DIRECTOR OF COMMUNITY AND PLANNING SERVICES</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>KIM PARKES (01283) 595982</b> <a href="mailto:kim.parkes@south-derbys.gov.uk">kim.parkes@south-derbys.gov.uk</a>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>TREE PRESERVATION ORDER 433 AT 33 WOODFIELD DRIVE, SWADLINCOTE</b>	<b>REF: TPO433</b>
<b>WARD(S) AFFECTED:</b>	<b>SWADLINCOTE</b>	<b>TERMS OF REFERENCE:</b>

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## **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3.1 A TPO was originally made on 23 December 2015 in respect of an Ash tree at 33 Woodfield Drive, Swadlincote (ref: TPO423). That Order lapsed without confirmation due to matters beyond officers' control.

3.2 A further Order was made on 15 June 2016 in respect of the same Ash tree.

3.3 The Order was originally made at the request of the Council's Planning Assistant following a letter from the owner who felt under pressure from neighbouring property owners to carry out works to the tree.

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

- The health of the tree is questionable and the tree owners have refused to allow access to their property for a full tree assessment to be undertaken; and
- The tree has caused damage to a boundary wall.

3.5 In response, officers have the following response:

- It is not obvious from a basic visual assessment that there are any issues with the tree that cause an imminent danger. As for access or permission to undertake works to a tree on neighbouring land, this is a civil matter which the neighbours should take separate legal advice on.
- The damage present to the boundary wall appears to be historic and has not caused the wall to become liable to imminent collapse. Should the tree be the

cause of the damage, then it should not worsen as the tree is no longer maturing. The owner of the wall should investigate other means by which they can resolve the damage to the wall.

#### **4.0 Planning Assessment**

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

#### **5.0 Conclusions**

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

#### **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. 15 June 2016 Tree Preservation Order
- b. 23 February 2016 - Letter from R V Pearson