

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM:7
DATE OF MEETING:	17th NOVEMBER 2020	CATEGORY: Delegated
REPORT FROM:	STRATEGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	JAMES NORTON (01283) 595745 james.norton@southderbyshire.gov.uk	DOC:
SUBJECT:	TREE PRESERVATION ORDER NO. 535: 101 SCROPTON ROAD, HATTON	REF:
WARD(S) AFFECTED:	HILTON	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 18 May 2020 in respect of a single mature Cedar tree, situated to the rear of 101 Scropton Road, Hatton.
- 3.2 The TPO was made following a request from the owner of 101 Scropton Road who was concerned about inappropriate works to the tree where it overhangs the boundary with 105 Scropton Road.
- 3.3 One letter of objection has been received stating:
 - The owner of the tree is trying to use the TPO process to negate responsibilities in respect of the trees and to (misguidedly) negate the neighbours' common law rights;
 - The government's own advice is that in only the most exceptional of circumstances should a TPO be placed on a tree that is not visible (in its entirety) from a public space. This means, in general, trees in rear gardens or on within gated communities, that are not visible should not be protected;
 - The tree in questions drops needles for a large percent of the year which have to be removed so that children are able to run around on the grass in bare feet in the summer;
 - The tree is not being properly maintained as it has grown massively in the last 5 years, their satellite dish has had to be relocated 3 times, and it now blocks out a significant amount of sunlight;
 - Several times a year their guttering has to be cleared out and they have to dispose of huge amounts of needles that get into everything when the weather is bad; and
 - They are unable to use solar panels for power on a home that used to get the sun all day because of the amount of light the tree now blocks out.

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

- There is no evidence to demonstrate that the TPO has been sought in order for the owner to negate their responsibilities. The request for a TPO came from the owner in response to what he perceived as a threat to the health and appearance of the tree due to its location on the boundary of his land, and concerns about the appearance of the tree should the neighbour lop overhanging branches. The existing tree was assessed for its amenity value, and so to ensure its immediate protection the TPO was progressed. There is no requirement for neighbours to be notified in advance.
- The Planning Practice Guidance (PPG) confirms that the Council can make a TPO if it appears to them to be *“expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”*. It goes on to state that *“Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public”*. Contrary to that stated, the PPG states *“the trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public”* [emphasis added]. To this end, even trees not in a publicly visible position can be protected. In any case, the subject tree here is clearly visible from the public highway and merits protection as it offers amenity value in both directions along Scropton Road.
- Whilst mature Cedar trees are likely to shed needles on a regular basis, this is balanced against the amenity value of the tree and in this case is outweighed by its public amenity, and biodiversity, value. Whilst it appears still to be growing, it is predominantly within the owner’s boundary and needle drop would largely be within that boundary. The dropping of needles, similar to leaf or fruit drop, is seldom a justification to allow works to take place to/removal of a tree, and thus the objection on this basis cannot be sustained.
- The securing of a TPO is not a reason in itself stop any maintenance of the tree, should it be necessary but it will require the approval of works to any protected tree which should be undertaken in accordance with the relevant British Standards. The relocation of the satellite dish is unfortunate but again, the tree has been in the same location for some time and the location of the dish is something that could have been foreseen.
- The tree is to the south east of the neighbours dwelling and as such would not stop solar gain entirely, although may block some sunlight. Recent aerial photography indicates little shading during the day in the spring. However, there appear to be no panels in place currently and in any case there is no right to unobstructed sunlight for the purposes of energy generation.

4.0 Planning Assessment

- 4.1 It is expedient in the interests of amenity to make the tree 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

- 7.1 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. 18 May 2020 – Tree Preservation Order.
- b. 25 June 2020 – Letter of objection.