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REPORT TO:	DEVELOPMENT CONTROL COMMITTEE	AGENDA ITEM: 7
DATE OF MEETING:	08 FEBRUARY 2005	CATEGORY: DELEGATED
REPORT FROM:	DEPUTY CHIEF EXECUTIVE	OPEN
MEMBERS' CONTACT POINT:	TONY YOUNG	DOC:
SUBJECT:	TREE PRESERVATION ORDER 228 – LAND AT NOS. 529 AND 543 BURTON ROAD, MIDWAY	REF:
WARD AFFECTED:	MIDWAY	TERMS OF REFERENCE: DC01

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### 1.0 Recommendations

1.1 That this Tree Preservation Order 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 was made on 4<sup>th</sup> October 2004 in respect of an area of trees located at Nos. 529 and 543 Burton Road, Midway.

The Order was made for the following reasons:-

'This area of mature and recently planted trees form part of a mature garden landscape and being in an elevated position and visible from public vantage points including the highway network and public open space. The site is also within the National Forest and provides a valuable contribution to providing trees in the urban area. A planning application has been received by the Local Planning Authority to develop the land for housing which would involve the removal of the majority of the trees. In view of their amenity value, South Derbyshire District Council considers it expedient that this order is made.'

3.2 One letter has been received in support of the TPO requesting that the order is confirmed because the recently planted saplings provide a haven and food to attract and support an increasing range of bird and other wildlife and because there are also more mature trees and a mature hedgerow on the site, which deserve protection.

3.3 One letter of objection has been received from the Agents' who submitted the planning application for residential development. Their objection is that the Government guidance entitled 'Tree Preservation Orders – A guide to the law and good practice' states that the area classification should only be used as a temporary measure until the trees in the area can be assessed properly and reclassified and that

trees contained within an area TPO may not all merit protection. They state that they have taken the specialist advice of an arboriculturist and object on the grounds that 'the order is non-specific and therefore gives no guidance as to which trees the local planning authority would wish to see retained within any proposed redevelopment of the site, and nor does it differentiate between good quality trees that truly warrant retention and defective or unstable specimens that require removal irrespective of any development proposal; and as the Order includes all trees on the site. It imposes an unreasonable burden on the current owners to apply for consent before undertaking even minor pruning works or removing small trees as part of normal garden maintenance operations.' They also make observations that the trees to the rear of 543 are of limited amenity value, that some of the trees are decayed, unstable and infected with canker or dutch elm disease and that the amenity value of the young trees is limited and they could be relocated within the residential development.

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

- DETR guidance entitled 'Tree Preservation Orders – A Guide to the Law and Good Practice' advises that Area orders should only be a temporary measure and therefore the trees are to be resurveyed and if necessary a revised group order will be made.
- The Act does not limit the application of TPOs to trees of a minimum size.

#### **4.0 Planning Assessment**

4.1 It is expedient in the interests of amenity to make this area of trees the subject of a Tree Preservation Order. The trees are located in an elevated position and visible from public vantage points including the highway network and public open space. The owners enjoyment of their properties would not be unduly prejudiced by the TPO. Applications to do works to the trees would be considered by the Authority in the interests of ensuring the tree's amenity value to the area is not diminished. Dead, dying or dangerous trees within the TPO are exempt from such control provided replacement trees are planted.

#### **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 None

#### **8.0 Community Implications**

8.1 None

#### **9.0 Background Implications**

- 9.1 04 October 2004 Tree Preservation Order
- 9.2 08 December 2004 letter of support from local resident
- 9.3 09 December 2004 letter from Agent/objector