

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	20th MARCH 2018	CATEGORY: DELEGATED
REPORT FROM:	STRATEGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	RICHARD RODGERS (01283) 595744 richard.rodgers@south-derbys.gov.uk	DOC:
SUBJECT:	PROPOSED TREE PRESERVATION ORDER 478 – LAND OFF SWAN HILL, MICKLEOVER	REF:
WARD(S) AFFECTED:	ETWALL	TERMS OF REFERENCE:

1.0 Recommendations

1.1 That this tree preservation order should be modified to omit the area outside the main woodland and then confirmed as such.

2.0 Purpose of Report

2.1 To consider confirmation of this tree preservation order (TPO).

3.0 Detail

3.1 This tree preservation order was made on 6th October 2017 in respect of a wooded copse /woodland featuring a variety of trees including willow, birch and hazel. The trees were planted with the intention of screening the adjacent housing estate in an attempt to soften public views of the development where seen from the south. The feature is relatively young at just less than 20 years old.

3.2 The TPO was made following contact from a member of the public concerned that trees were being removed (or had the potential to be removed) without control.

3.3 A number of comments relating to the proposed Order have been received and are summarised as:

- The order should be amended to exclude the former access strip, that at the bottom of the bund and most immediate to the houses; this land limited in regards tree numbers, more overgrown with brambles etc. The principle of a TPO here though is a public amenity well worth safeguarding.
- Order should be amended to exclude our land, that that we have maintained (through the lack of others) for the last 15 years using our own time, effort and expense.

- Why is the track at the bottom of the bund included? there are no trees there so nothing to preserve.
- Who owns the woodland? Whilst in general support of the order, some basic maintenance of the trees is required, even if just to lessen the potential to damage adjacent property.
- The trees are becoming quite tall and blocking sunlight from our homes/gardens. Our preference is that the trees are retained albeit in a managed form that keeps their height in check. We would trust the TPO would not stop this from happening or the landowner use it as an excuse not to carry out necessary work, more so with some trees failing in the area of late.
- Are the trees the appropriate species? They are growing so tall with no obvious slowing in their growth rate. Has any sort of risk assessment been carried out on the trees (in terms of potential to fail) given their situation/condition?
- Why has the trees amenity been assessed as high, the land to the opposite side of the bund now so overgrown, it effectively 'screens' the 'planned for screen'? Our amenity has been compromised with local groups of youths congregating here and carrying out anti-social activities.
- The order presumably does not relate to self-set shrubs? Equally, how do we identify specific trees we may wish to prune (if we were to apply) given the dense nature of the woodland and the third party ownership of such – i.e. trespass concern.
- We have looked after the area (part of the TPO) for the last 15 years, at our own expense through adverse possession. Putting a TPO on land looked after by one party but owned by another will cause confusion and possibly delays if any works are required.
- You want the TPO in place to protect the trees from recent development; what is that development?
- We have been maintaining shrubs and bushes in the area now covered by the TPO; can we still do so, they in our opinion not being trees? What do you consider to be a tree?
- Who should make an application for necessary works; us or the landowner? If it is the landowner it is unlikely to bear fruit due to their limited interest in the land and lack of incentive to assist.
- Is an application required for works deemed necessary by way of Health & Safety?
- Why is the word woodland used when it is clearly not ancient or a woodland – that is misleading.
- The wording used to justify the order is a misrepresentation. The land has been neglected by those responsible for its maintenance and management.

Only once in 15 years have you organised a one day visit to maintain the access strip. There has to be a reason why you have shown no interest in the land for 15 years and now fancifully dress it up as something that it is not.

- We are the only known land owners covered by the Order such others (neighbours) commitment and interest is as passive onlookers only.

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

- The trees have been assessed by the Council's Tree Officer where he believes the feature best fits a woodland description. Having visited the site recently he is of the opinion some thinning and coppicing work (as a minimum) could be carried out here without detriment to the woodland screening qualities. It is preferred however that this be done in a controlled fashion. This could be done by way of a series of approved (by way of applications) long-term tree management plans; that in turn would reduce the administrative burden on any future applicant. He is also of the opinion that the work should be done fairly soon before the trees become too tall.
- Protecting the trees by way of a TPO does not prevent appropriate work being applied for and approved. There are also some exemptions in terms of express consent, where Health & Safety supersedes; or the cutting of deadwood etc.
- The land is not owned by the Council such maintenance of it falls to the land owner. In the main the site is owned by Redrow Homes and Taylor Wimpey Homes although two small parts are owned by local residents. It is the responsibility of the land owner to make the trees safe. Applications can be made however on behalf of the land owner although separate consent would be required from them also.
- The access strip to the immediate south-west of the curtilage of the adjoining houses and between the trees could be removed from the order (by way of modification) without undue detriment. It may be best it be kept open however (i.e. not fenced off) to allow maintenance access, as was originally planned.
- DCLG TPO guidance advises that authorities may consider taking into account other factors such as importance to nature conservation. The Council's Tree Officer has opined that the feature certainly contributes to local wildlife habitats in addition to its primary use as a vegetative screen.
- A tree has been described as a woody perennial plant typically having a single stem or trunk growing to a considerable height and bearing some lateral branches at some distance from the ground. The Council would be willing to advise on this further should the need arise.

4.0 Planning Assessment

- 4.1 It is expedient in the interests of amenity to make the trees the subject of a tree preservation order in accordance with advice set out in the Governments PPG document.

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. 6 October 2017 Tree Preservation Order
- b. Various letters from local residents