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<b>REPORT TO:</b>	<b>DEVELOPMENT CONTROL COMMITTEE</b>	<b>AGENDA ITEM: 7</b>
<b>DATE OF MEETING:</b>	<b>15 January 2008</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>DIRECTOR OF COMMUNITY SERVICES</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>NICKY TOON Ext: 5926</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>TREE PRESERVATION ORDER 289 217 High Street, Newhall</b>	<b>REF: TPO 289</b>
<b>WARD AFFECTED:</b>	<b>NEWHALL &amp; STANTON</b>	<b>TERMS OF REFERENCE: DC01</b>

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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 12 September 2007 in respect of a pear tree at 217 High Street, Newhall.

The order was made for the following reason:

"The tree is important being visible from the public highway and a number of neighbouring properties. It provides visual relief in an otherwise built-up residential area where there are few mature trees. The Council has received a planning application to develop the garden which could involve the removal of the tree and in view of its amenity value South Derbyshire District Council consider it expedient that this Order be made."

- 3.2 Two letters of objection has been received from the occupier of 217 High Street, Newhall raising the following points:

- There are numerous 'mature' trees, hedges, bushes and other mature vegetation to an age of at least 45 years.
- There are two mature, very tall poplar trees at the front of the property dating from the late 1920's.
- There is an ash tree at the property, which is subject to a 20 year old Tree Preservation Order which is not only a feature of the property but also of the surrounding properties.
- The quality of the fruit from the pear tree is very substandard, inedible and prone to infection throughout the growing season.

- The tree is not stable, has decaying and dead branches and is not considered safe in the short or medium term, regardless of any planning application.

A further letter of objection has been received from the occupier advising that they are intending to have the Tree Preservation Order rescinded; quantify against South Derbyshire District Council a claim in damages for the abuse of power in placing the order; and ensure the Authority is not able to re-impose such an order in future.

3.3 In answer to the comments made the Council's landscape architect has the following comments:

- The tree is nearing its final years but is currently in good condition. The tree has a lean towards the adjacent house but it is currently not a hazard. Leaning trees typically put out further support roots to support themselves. However, if it were to fail from unseen butt rot it would not hit the adjacent house but damage the fence. The roots form a root plate structure to support themselves. There is currently no apparent lifting movement of this supporting root plate.
- The tree should be regularly monitored but is a fine visual feature. In the future the tree will probably hollow out in the central trunk area and die due to fungal infection. A pear tree nearby has succumbed due to trunk basal rot and has been felled, however the protected tree is not yet at this stage. When it does die a replacement tree would be insisted in the same location. The pears appear to be fine on inspection.
- The tree has excellent visual amenity and is by far the most important tree in the Area and is worthy of a Tree Preservation Order. The large ash nearby is now in terminal decline. The poplars are near the end of their lives at nearly 90 years old.

#### **4.0 Planning Assessment**

- 4.1 It is expedient in the interests of amenity to make this tree the subject of a Tree Preservation Order. The pear tree is of high visual amenity within this built up area where there are few mature trees.

#### **5.0 Conclusions**

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

#### **6.0 Financial Implications**

- 6.1 None.

#### **7.0 Background Implications**

Tree Preservation Order 289  
Letter 6 October 2007.  
Letter 20 October 2007.  
Letter 4 December 2007