

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	29 th NOVEMBER 2016	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING SERVICES	OPEN
MEMBERS' CONTACT POINT:	RICHARD RODGERS (01283) 595744 richard.rodgers@south-derbys.gov.uk	DOC:
SUBJECT:	PROPOSED TREE PRESERVATION ORDER 436: LAND ADJACENT TO 572 BURTON ROAD, MIDWAY, SWADLINCOTE, DE11 0DP	REF:
WARD(S) AFFECTED:	MIDWAY	TERMS OF REFERENCE:

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 This TPO was made on 25th July 2016 in respect of a silver birch tree and a hornbeam tree on land or adjacent to 572 Burton Road, Midway.

3.2 The TPO was made at the request of the Area Planning Officer following receipt of a planning application to develop the land (see application 9/2016/0117). The development (the erection of six homes) is seen to compromise the long term retention of both trees, although for subtly different reasons. The trees are seen to offer excellent amenity to this roadside situation, indeed the Hornbeam is considered to be an A1 quality tree.

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

- I dispute the suggestion that the silver birch has excellent amenity and is highly visible to the public on Burton Road. It is a single tree and isn't a particularly good specimen;
- I have two other silver birch trees in my garden which in my opinion are both better specimens. There is nothing special about this silver birch that warrants a TPO, more so as Silver Birch are a common species in the area;
- The birch is one of 29 in my garden, most visible from Burton Road. The loss of one is insignificant and a replacement could be sought. The removal of the tree in such a location would not have a significant impact on the local environment.

- A previous approval here (2007/0334) made no reference to the need for a TPO, nor was a tree report requested. Nothing has changed in the interim, save the trees have grown. Why now are a tree report / TPO deemed necessary?
- The current housing development at Drakelow Power Station resulted in the demolition of hundreds of trees. Why was no TPO placed there?
- There is a current application for houses on land to the rear of my site; land covered with similar trees as to my silver birch. It would be inequitable if these trees are allowed to be removed whilst a single silver birch tree in my garden is made the subject of a TPO;
- The silver birch is already fairly tall and an order that no one is allowed to cut down, top or lop the tree without permission is ludicrous. If allowed to continue to grow unchecked, the trees will doubtless become a hazard to mine and neighbouring properties.

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

- The Councils Tree Officer has supported the request for a TPO here. His assessment has considered all trees on the site (of which there are numerous), picking these two as the stand out trees that most clearly meet the TPO criteria.
- This particular silver birch (the subject of this TPO) is the most prominent tree on the site, being closest to the road and on higher ground in comparison to the others mentioned. Its loss to the immediate area would be the most obvious and any replacement would not offer anywhere near to same level of amenity for the foreseeable future.
- These two trees have evolved since the 2007 application and have grown into impressive features in the landscape. To ignore them would be a mistake and contrary to policy/guidance which seeks to protect important trees in the landscape.
- Planning application decisions are made on the merits of each individual application; no two sites being the same. This site has an undoubted urban context and trees in such a context provide welcome environmental benefits as well as visual landmarks.
- TPO's do not stop necessary routine maintenance, indeed applications allow for appropriate professionally supported works to be considered.
- The Order has been requested not to stop development but to identify reasonable constraints which need to be considered.

4.0 Planning Assessment

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

5.0 Conclusions

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

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. 25 July 2016 - Tree Preservation Order
- b. 30 July 2016 – Letter from land owner