

<b>REPORT TO:</b>	<b>Planning Committee</b>	<b>AGENDA ITEM: 5</b>
<b>DATE OF MEETING:</b>	<b>25<sup>th</sup> February 2020</b>	<b>CATEGORY: Delegated</b>
<b>REPORT FROM:</b>	<b>Strategic Director (Service Delivery)</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>Tom Beardsmore (01283) 595821</b> <a href="mailto:thomas.beardsmore@southderbyshire.gov.uk">thomas.beardsmore@southderbyshire.gov.uk</a>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Tree Preservation Order No. 517 – Land at Cadley Hill Road, Swadlincote and Swadlincote Lane, Castle Gresley</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>Church Gresley</b>	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

1.1 That this Tree Preservation Order (TPO) should be confirmed with modifications.

## **2.0 Purpose of Report**

2.1 To consider the confirmation of this TPO.

## **3.0 Detail**

3.1 The TPO was made on 18 October 2019 in respect of multiple trees situated on land at the corner of Cadley Hill Road and Swadlincote Lane ('the new Order').

3.2 A previous TPO was made in 18 October 2012 (TPO No. 367 – 'the first Order') as the site was the subject of ongoing enquiries relating to its re-development for residential purposes. The trees present on site were classed as numerous and in good health as well as having a high amenity value. It was considered expedient to create a TPO due to the potential threat the trees were under.

3.3 Following the consultation process on the first Order, modifications were considered necessary and before its confirmation the matter was brought to the Planning Committee on 5 March 2013. However, despite subsequent correspondence indicating that the Order was confirmed within time, it has subsequently been discovered there is some doubt that it was properly confirmed. As the site is now being developed and some trees have already been removed under that permission, the new Order, subject of this report, was considered to be expedient so to reaffirm the original protection as well as extend it to trees that surround the site.

3.4 Since then, a copy of the confirmed first Order has been submitted as a supporting document to an objection. Following legal advice, it is considered that the first Order still has 'status' and consequently the new TPO should be amended to ensure that the same trees are not unnecessarily protected across multiple Orders.

3.5 The one letter of objection to the making of the Order relates to 'tree group A1', and raises the following points:

- the statement for the reasons for making the order are misleading in suggesting that the October 2012 Provisional TPO was not progressed and presumably that it expired six months after the date upon which it was made;
- the grounds for the new Order also state that "there is no evidence to suggest that the TPO was confirmed", which is considered incorrect as a copy of the confirmed Order has been enclosed as proof;
- the grounds stated in the new Order refer to numerous trees having already been removed and the need for a new Order to protect the trees existing on site. The new Order goes beyond what is necessary to protect trees on the development site and includes variations to the effect of the first Order insofar as it relates to retained land;
- those amendments fall outside the reasons and to the extent that they are considered to be necessitated by the removal of trees on the development site, they arise only by reason of the Council's own consent to the removal of those trees; and
- variations to the requirements of the first Order insofar as they relate to retained land are both illogical and unreasonable.

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

- at the time of making the new Order in October 2019 there was uncertainty as to the status of TPO367, with no evidence held either digitally or physically that the Order was confirmed;
- the letter with objections to the new Order included a scanned version of the confirmed first Order, and as such there is now evidence in hand that the trees on site were permanently protected;
- as a result of this evidence a number of trees can be omitted before confirming TPO517, so that they are not protected twice;
- despite this evidence, there is still justification for the new Order as further trees within and adjacent to the site require protection, having since become more significant specimens by passage of time or by their now collective function with others both on and off the site;
- there is also sufficient justification to progress with area A1 – a large group of mature trees. These trees directly adjoin the development site with potential for branches to overhang the grounds of the newly built properties. Without protection from an Order there is heightened potential for these overhanging branches/limbs to be removed without control negatively impacting on the long-term health and amenity value of these trees; and
- the group of trees identified within area A1 offer a significant level of outstanding amenity value from the public realm and together with other trees across the development site form a significant wildlife habitat, including habitat connectivity, worthy of protection. In addition, they provide a significant break to the built form within this area and were significant in considering the appropriateness of the development in the first instance.

#### **4.0 Planning Assessment**

4.1 It is expedient in the interests of amenity and habitat value to make the trees the subject of a TPO in accordance with advice set out in Planning Practice Guidance. As a result

of receiving evidence that the first Order was confirmed, the following trees within TPO517 can be omitted before confirmation as they are already protected: T1, T2, T3, T4, T5, T6, T7, T8, T9, T10, T11, T16, T17, T18, T19, T20, T21 and T22.

## **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 important trees contributes towards the Corporate Plan themes of enhancing biodiversity across the District, tackling climate change and enhancing the attractiveness of South Derbyshire.

## **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 October 2019: Tree Preservation Order No. 517
- b. 13 November 2019: Letter of objection with copy of TPO367