



Tree Preservation Order 2005 Number 439 (1 Spinney Close, Darley Abbey)

RECOMMENDATION

- 1.1 To approve confirmation, without modification, Tree Preservation Order 2005 Number 439 (1 Spinney Close, Darley Abbey)

SUPPORTING INFORMATION

- 2.1 On 7 September 2005 Derby City Council, in exercise of the powers conferred by sections 198, 201 and 203 of the Town and Country Planning Act 1990, made the above Tree Preservation Order (TPO) on land at 1 Spinney Close, Darley Abbey, as shown on the plan attached as Appendix 2.
- 2.2 The reason why the TPO was made is cited as: "The trees indicated in this Order are proposed for protection in the interests of visual public amenity. The trees contribute materially to the amenities of the locality, playing an important part in providing a sense of scale and maturity to the immediate vicinity. The trees are also under threat from the redevelopment of the site. Therefore this Order is necessary to allow the visually important trees on the site to be taken into consideration when determining a redevelopment scheme for the site."
- 2.3 A letter objecting to the TPO was received from Mr Robert Owen, who is a resident of 7 Waterside Close. Mr Owen's residence is situated adjacent to 1 Spinney Close. A copy of the objection letter is attached as Appendix 3.
- 2.4 The main points of Mr Owen's objection are below followed by the Assistant Directors response.
- 2.5 **Mr Owen's objection:** "I am one of the owners of 7 Waterside Close which backs directly on to 1 Spinney Close. On the grounds of 1 Spinney Close along the boundary with 1 Waterside Close are a large number of very high fast growing conifers which are less than 20 years old which block out the afternoon and evening sunlight into our rear garden. These need to be lopped to bring them back down to a reasonable size balancing the desire for more sunlight and retaining privacy for all neighbours. When they have been lopped they need to be regularly lopped to keep them at that height.
- 2.6 I can understand the desirability of a tree preservation order to protect mature old trees but don't see the need for a tree preservation order to cover all tree in the grounds of 1 Spinney Close particularly young fast growing conifers which need regular cutting to keep them under control.

- 2.7 I appreciate it is possible to go back to the Council to apply for permission to have these conifers lopped. But this likely to be regular activity and I don't believe the benefit of a general tree preservation order justifies the additional cost and administration for us, the owners of 1 Spinney Close or the Council."
- 2.8 Could the tree preservation order be amended to protect specific tree enabling the conifers to be maintained without the restrictions of the tree preservation order."
- 2.9 **Assistant Director's response:** "The area type TPO was made in response to an outline planning application being submitted which sought permission to develop the site for residential purposes, ref: DER/08/05/01281/PRI, the outline application has subsequently been approved with conditions. The reason why an area type TPO was made rather than specified individual trees and groups of trees is so that all the trees on the proposed development site can be taken into consideration once a detailed residential scheme has been submitted.
- 2.10 The trees that Mr Owen is objecting to being included in the TPO play an important part in providing a screen between 1 Spinney Close and residential properties in Waterside Close and Abbeyfields Close.
- 2.11 Subject to a TPO Consent application being submitted, it would be reasonable to give approved permission so that the row of trees could be pruned in order to facilitate increased light levels into neighbouring properties whilst maintaining the trees screening effect. Any approval would be subject to conditions in order to maintain control over the tree works.
- 2.12 The TPO consent application process is a straight forward procedure, incurring no extra cost to the applicant. This inconvenience of submitting a TPO Consent application is unavoidable but necessary in order to ensure that the trees on the potential development site and the amenities of the locality are given due consideration.
- 2.13 Once a detailed scheme has been submitted, approved and implemented the TPO could then be re-assessed and, if necessary, a new TPO be made which would protect specific individual trees and groups of trees that have accrued sufficient public amenity value to justify a TPO. Once this has happened, the area type TPO could then be revoked. The trees now being discussed could be included in any new Preservation Order, in order to maintain control, so as to protect their screening properties.
- 2.14 In conclusion members are asked, in the interests of public amenity and in support of policy E11 of the adopted City of Derby Local Plan, to approve confirmation of TPO 2005 No.439.

For more information contact:	Andy Shervill Tel: 01332 256031 email – andy.shervill@derby.gov.uk
Background papers:	Tree Preservation Orders, A Guide to the Law and Good Practice
List of appendices:	Appendix 1: Implications Appendix 2: Plan Appendix 3: letter of objection

IMPLICATIONS

Financial

- 1.1 None.

Legal

- 2.1 The Local Planning Authority must, before deciding whether to confirm the Tree Preservation Order, consider any duly made objections.
- 2.2 The Local Planning Authority may modify the Tree Preservation Order when confirming it.

Personnel

- 3.1 None directly arising.

Corporate objectives and priorities for change

- 4.1 The confirmation of Tree Preservation Order 2005 Number 439 will support the Council's vision and priorities by contributing to the objective: "a diverse, attractive and healthy environment."