

Confirmation of TPO No. 602

Purpose

- 1.1 The Planning Control Committee is asked to consider an objection to the making of TPO No.602

Recommendation(s)

- 2.1 To authorise the Director of Planning, Transport and Engineering to confirm Tree Preservation Order (TPO) No. 602 without modification.

Reason(s)

- 3.1 In the interest of public visual amenity.

Supporting information

- 4.1 On 23 November 2021 we made Tree Preservation Order 602 (Highway Verge to the front of 36 Blagreaves Lane, Littleover, Derby).
A copy of the TPO schedule can be seen as Appendix 1.
A copy of the TPO plan can be seen as Appendix 2.
Photographs of the tree can be seen as Appendix 3.
- 4.2 **Grounds for making the order** – The Birch tree indicated in this Order is proposed for protection in the interests of public visual amenity. The tree can be appreciated from the public realm and contributes materially to the amenities area by playing an important part in providing a sense of scale and maturity and by having a general ‘greening’ effect on the immediate area.
- 4.3 **Background information** – The tree is located in the small highway verge immediately to the east of 36 Blagreaves Lane. Much of the west part of the tree canopy overhangs the garden of 36 Blagreaves Lane. Complaints have been made to the tree section with regards to the overhanging branches. It was implied that the resident at 36 Blagreaves Lane would instruct a tree surgeon to remove all overhanging branches. This would in effect destroy the tree. The tree section requested that the tree be made subject to a TPO. Taking into account the nuisance element of the tree it still had accrued sufficient amenity value to justify inclusion within a TPO.

The tree is managed by the Derby City Councils Tree Section and is on an eighteen-month inspection cycle. The last inspection being carried out in the Spring of 2021. At the time of the inspection the minor damage to the wall was noted.

Public/stakeholder engagement

- 5.1 One objection to the making of the TPO has been received.
The objection letter (redacted) can be seen as Appendix 4.

Other options

- 6.1 Not to confirm the TPO.

Financial and value for money issues

- 7.1 The tree has an asset value of £17,000
Repairs to the wall is not expected to exceed the value of the tree.

Legal implications

- 8.1 None.

Climate implications

- 9.1 None

Other significant implications

- 10.1 None.

This report has been approved by the following people:

| Role | Name | Date of sign-off |
|---|-------------|------------------|
| Legal Finance Service Director(s) Report sponsor Other(s) | Paul Clarke | 08/02/2022 |

| | |
|---|--|
| Background papers: List of appendices: | Appendix 1 – TPO schedule Appendix 2 – TPO plan Appendix 3 – Photographs of the tree Appendix 4 - Objection letter (redacted) |
|---|--|

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Town and Country Planning Act 1990

The [Derby City Council (*Highway Verge to the front of 36 Blagreaves Lane, Littleover, Derby*) Tree Preservation Order 2021, Number 602]

The [Derby City Council], in exercise of the powers conferred on them by Section 198 of the Town and Country Planning Act 1990 make the following Order –

Citation

1. This Order may be cited as [Derby City Council (*Highway Verge to the front of 36 Blagreaves Lane, Littleover, Derby*) Tree Preservation Order 2021, Number 602]

Interpretation

2. - (1) In this Order “the authority” means the [Derby City Council].
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3. - (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall -
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. - In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate

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provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this [23rd] day of [November 2021]

[if the Council's Standing Orders require the sealing of such documents:]

~~[The Common Seal of [Derby City Council]~~

~~was affixed to this Order in the presence of —~~

~~.....]~~

[if the Council's Standing Orders do not require the sealing of such documents:]

[Signed on behalf of the [Derby City Council]



.....

Verna Bayliss - Director of Planning and Transportation – Strategic Partnerships, Planning and Engineering

Authorised by the Council to sign in that behalf]

~~[CONFIRMATION OF ORDER~~

~~[This Order was confirmed by [Derby City Council] without modification on the [] day of []]~~

~~OR~~

~~[This Order was confirmed by the [Derby City Council], subject to the modifications indicated by [], on the [] day of []]~~

~~[Signed on behalf of the [Derby City Council]~~

~~Authorised by the Council to sign in that behalf]~~

~~[DECISION NOT TO CONFIRM ORDER~~

~~[A decision not to confirm this Order was taken by [Derby City Council] on the [] day of []]~~

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~~[Signed on behalf of the [Derby City Council]~~

~~.....~~

~~Authorised by the Council to sign in that behalf]~~

~~[VARIATION OF ORDER~~

~~[This Order was varied by the [Derby City Council] on the [] day of [] by a variation order under reference number [] a copy of which is attached]~~

~~[Signed on behalf of the [Derby City Council]~~

~~.....~~

~~Authorised by the Council to sign in that behalf]~~

~~[REVOCATION OF ORDER~~

~~[This Order was revoked by the [Derby City Council] on the [] day of []]~~

~~[Signed on behalf of the [Derby City Council]~~

~~.....~~

~~Authorised by the Council to sign in that behalf]~~

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Article 3

SCHEDULE**Specification of trees****Trees specified individually**

(encircled in black on the map)

| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i> |
|-------------------------|--------------------|--|
| [T1] | Birch | Located in the highway verge to the front of 36 Blagreaves Lane, Littleover, Derby |

Trees specified by reference to an area

(within a dotted black line on the map Appendix 1 – Map 1 and Map 2)

| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i> |
|-------------------------|--------------------|------------------|
| [None] | | |

Groups of trees

(within a broken black line on the map)

| <i>Reference on map</i> | <i>Description (including number of trees of each species in the group)</i> | <i>Situation</i> |
|-------------------------|---|------------------|
| [None] | | |

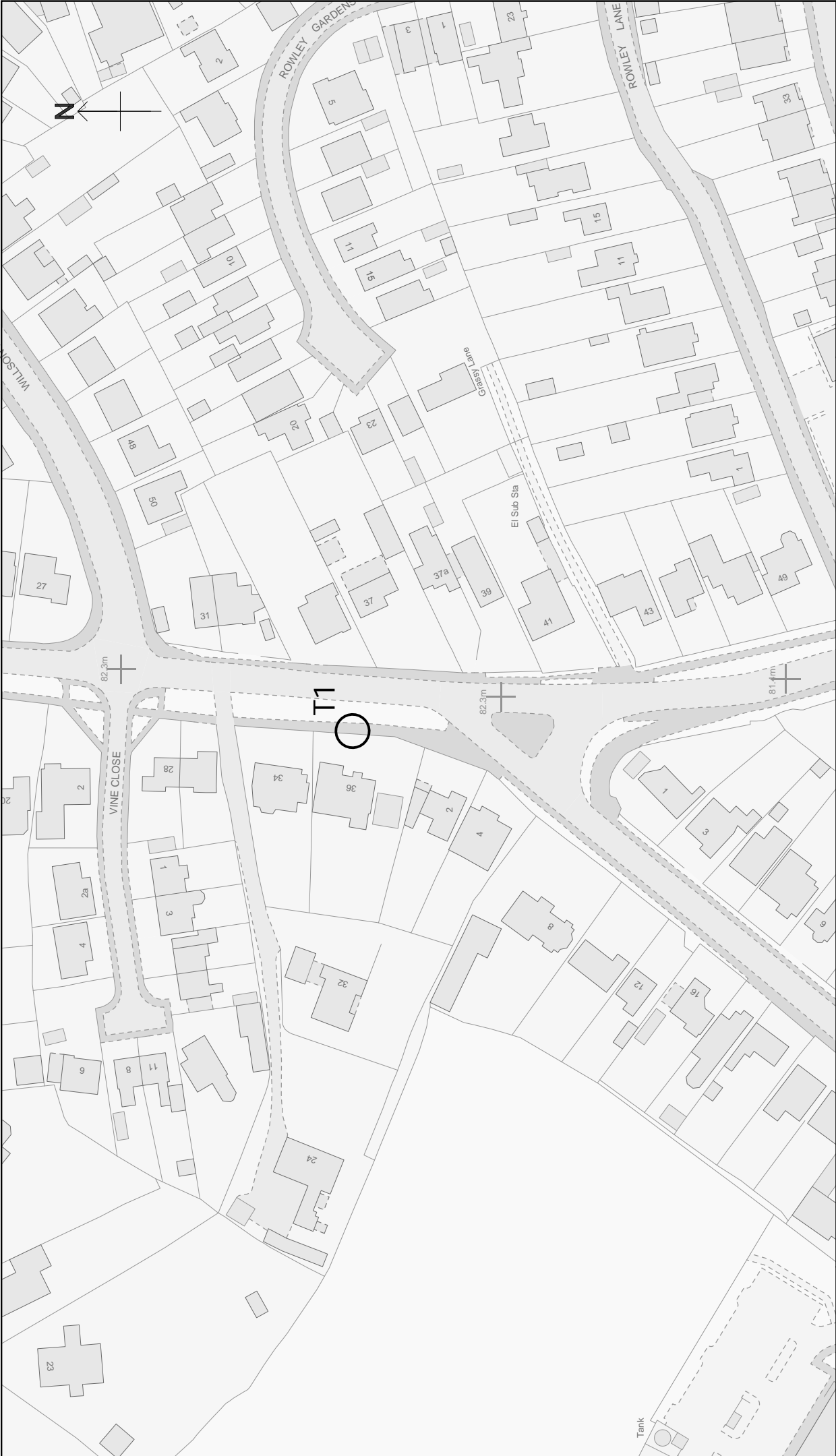
Woodlands

(within a continuous black line on the map)

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| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i> |
|-------------------------|--------------------|------------------|
| [None] | | |

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Appendix 2



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Ordnance Survey
2021.

Licence Number: 10

Drawing No: TPO No.602

Date: 22/11/2021

Map Scale: 1:1250

Contact: Andy Shervill

Department:

Communities and Place

Telephone Number: (01332) 640666

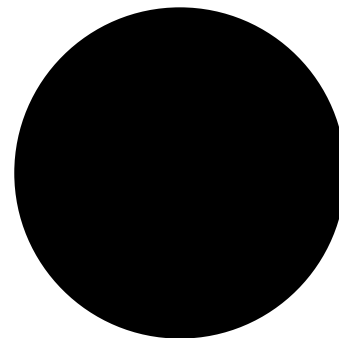
Derby City Council (Highway Verge to the front of 36 Blagreaves Lane, Littleover, Derby)
Tree Preservation Order 2021, Number 602



Derby City Council





**Objection to Tree Preservation Order 2021, Number 602**

Dear Sir/Madam (Director of Planning),

I object to the Tree Preservation Order being placed on the Birch tree growing on the Highway verge to the front of 36 Blagreaves Lane, Littleover, Derby Birch as referred to in your letter of the 23rd November (Reference: Tree Preservation Order 2021, Number 602).

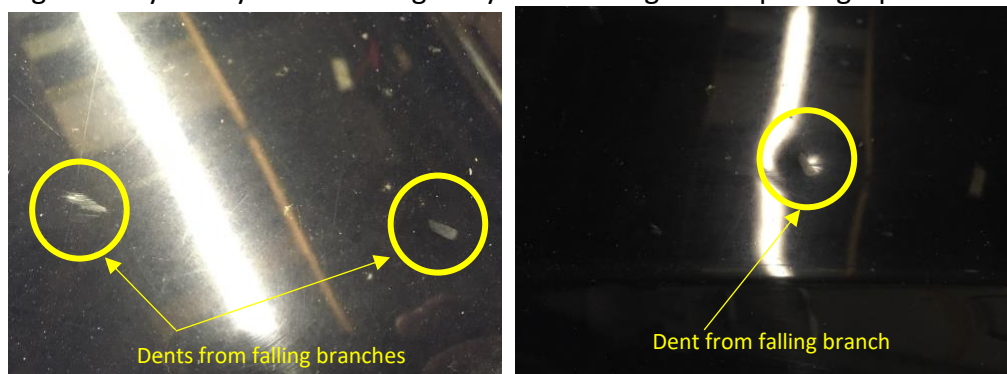
My objection is based on the following 3 reasons:

1 - Tree is causing damage to property

As you can see in the photographs below, the tree is causing cracks in the boundary wall of my property.



In addition to damaging my boundary wall, branches have fallen on my cars parked legitimately on my drive causing bodywork damage – see photographs of damage below.



I deem it completely unacceptable why I should continue to have my property at risk and effectively be prohibited from using a legitimate part of my property for fear of further damage.

2 - The significant risks to future damage to my property that the tree poses

I'm an Engineer at Rolls-Royce and on a daily basis manage risk so I'm very familiar with risk assessment. The tree poses High Impact risks for 2 reasons: 1) the proximity of my water meter with the root system (2 feet away from the base of the tree) leading to a broken water main and personal inconvenience; and 2) due to forked nature of the 2 bows of the tree when it eventually splits in two the damage the bows will do to my house, my cars and potentially to any member of my family or the public will be significant and costly. I don't live in a world where I wait for problems to arise then react to them, I proactively prevent them. Therefore, it should be no surprise to you that I wish to proactively prevent these problems from happening in the first place. I am hopeful the Council is averse to such preventable risks becoming a reality and incurring the claims costs that will arise from that.

3 - The obstruction of my right to prune the part of the tree that overhangs my property.

Since my first correspondence about this tree back in May 2014 with David Beadle through to this year with Douglas Monaghan, I have been fair all along in seeking guidance on my rights and open to a collaborative approach that satisfies both myself and the Council. I'd have been well within my rights to just chop the main bow off by now so I hope you appreciate I'm not just another tree-hating resident who couldn't care less for the Council's trees. I wanted us to work together to reach a mutually beneficial conclusion that at the least reduced the height of the tree in a mutually satisfactory way. And yet the most recent response I've had culminating in this TPO leads me to interpret your message as *"No you can't touch it! It's our tree! Don't care about the damage/risks to you! We're overruling the rights you're entitled to!"* This leads me to conclude I'm being punished with the TPO which will make it harder, costlier and arguably impossible for me to prune the tree at all in future regardless of the damage it will continue to cause as it continues to grow. Sounds more like Tree Authoritarianism than Tree Management. Do you care more about the people whose property the tree doesn't affect than those that it does? I am a Council Tax payer as well in case it had slipped your mind.

I do hope that you fully appreciate the genuine justifications behind my objection to the Tree Preservation Order and that it is withdrawn. I continue to hope that a mutually satisfactory conclusion is arrived at with respect to addressing the issues I have raised above and as ever am willing to work collaboratively with you to reach that.

Finally, can I request that you please keep me informed of the progress of this matter?

Yours sincerely,

