

Tree Preservation Order – 2004 Number 411 (55 Morley Road)

RECOMMENDATION

1. Committee is asked to confirm, without modification, Tree Preservation Order 2004 Number 411 (55 Morley Road)

SUPPORTING INFORMATION

- 2.1 On 29 September 2004 Derby City Council, in exercise of the powers conferred on them by sections 198, 201 and 203 Of the Town and Country Planning Act 1990, made the above Tree Preservation Order (TPO) on a single Willow tree within the curtilage of 55 Morley Road, as shown on the plan attached as Appendix 2.
- 2.2 A letter objecting to the TPO was received on 20 October 2004 from Mr Cheetham, a resident of 55 Morley Road. At the time the TPO was made Mr Cheetham was understood to be the owner of the land on which the willow tree protected by the TPO is situated. A copy of the letter is attached as Appendix 3.
- 2.3 A second letter objecting to the TPO was received on 1 November 2005. The objector is a resident of 28 Deborah Drive, whose property is situated adjacent to the willow tree. A copy of the letter is attached as Appendix 4.
- 2.4 The TPO was made in response to the outline planning application ref: DER/07/04/01370/PRI, which proposed the erection of 4 dwelling houses within the garden of 55 Morley Road. This application had shown that the tree specified in the TPO was to be removed. The reason for the TPO is given as "The tree indicated in this Order is proposed for protection in the interests of public visual amenity. The tree can be clearly seen from the public highway and contributes materially to the amenities of the locality; it is situated in a prominent position and will increase in public amenity value as it matures. The tree has a screening affect, which may help to break up the visual impact of any potential development of the site on which it is growing. The tree is also under threat from development pressures."
- 2.5 Members may recall that in September's Planning Control Committee meeting outline planning permission was refused partly on the grounds of the loss of the willow tree protected by this TPO. A subsequent outline planning application (ref:

09/04/02001/PRI) was submitted, which again proposed the erection of four dwelling houses. This new application retained the tree and permission was granted conditionally on 17 December 2004.

- 2.6 Below is set out the grounds of the objection from the resident of 55 Morley Road. The Assistant Director's response to the comments is highlighted in bold type.
- 2.7 Grounds for objection point one: "This Willow Tree adds very little amenity to the surrounding area or myself, as there are a number of trees on this site. Most of these trees will be staying as part of the development and a new planting scheme will be proposed which will increase the amenity value to all affected.

Assistant Director's response: **As mentioned in 2.4 above the Willow does have public amenity value and would add instant maturity to the approved development. The Willow is the only tree that was shown to be removed which has significant public amenity value. Other trees that were shown to be retained are thought not to have enough public amenity value to justify a TPO or are not under threat.**

New planting would eventually add amenity value to the area but the Willow adds amenity value now and would also help to screen neighbouring properties from the potential development. New planting can be used to enhance existing trees. Although shown to be retained in the approved scheme, the TPO is still needed to protect the tree during construction, and in the longer term to protect its wider public amenity.

- 2.8 Grounds for objection point two: "The Willow is extremely close to properties nearby, which will over time cause structural/drain damage and a potential danger in high winds."

Assistant Director's Response: **If in the future it is proved that the Willow has caused damage to neighbouring properties or if the tree is becoming a hazard, appropriate works to rectify the problem could be applied for and would be looked at very sympathetically. No such evidence has so far been produced.**

- 2.9 Grounds for objection point three: "Most of the owners in the bungalows close to the tree have complained to me in the past about the willow, as it blocks out a lot of light and causes a nuisance when shedding it's leaves by blocking gutters etc."

Assistant Director's Response: **As with all TPO'd trees interested parties can apply to carry out works to protected trees. Justifiable works to abate a real problem are looked at sympathetically. Trees shed leaves naturally; the inconvenience of leaves falling into gutters does not outweigh the public amenity that this tree provides.**

- 2.10 Grounds for objection point four: Willows Trees give very little value to wildlife.

Assistant Director's response: **It has not been cited by the LPA that wildlife is a reason for the making of the TPO.**

- 2.11 Below is set out the grounds of the second objection to the TPO. The Assistant Director's response to the comments is highlighted in bold type.
- 2.12 Grounds for objection point one: "I suspect that this Willow may have caused problems in my home. When I bought my property there were bad cracks to internal walls and ceilings which I have had repaired. I was unaware at that time what damage Willow trees can do to property – plus in high winds there is a lot of debris."

Assistant Director's Response: **Evidence has not been submitted proving that the Willow tree has caused damage/subsidence to the objectors' property. If in the future it is proved that the Willow has caused damage, appropriate works to rectify the problem could be applied for and would be looked at very sympathetically.**

Trees naturally shed debris, consisting of leaves and twigs etc, the inconvenience that this debris causes does not outweigh the amenity value that the Willow tree provides and the necessity of this TPO.

- 2.9 Grounds for objection point two: "I am also concerned about the future growth over my property. Approx 2 years ago, Mr Cheetham kindly had a bough taken off the Willow behind my property. Already that tree is over my boundary again. He also had a lot of work done on the other Willow, which badly affected my neighbours at No. 30. That tree had grown over her garden and was level with her roof. I fear the same could happen with "my" tree."

Assistant Director's response: **As with all TPO'd trees interested parties can apply to carry out works to protected trees. Justifiable works to abate a real problem are looked at sympathetically.**

- 2.10 Grounds for objection final point: "I am aware of the amenity value of trees and I approve that – where they cause no problems to people and property. There are other trees that can be seen by people well enough in Mr Cheetham's property."

Assistant Director's response: **The Willow tree specified in the TPO is the only tree in the garden of 55 Morley Road where a TPO is considered justifiable. Other trees on the site do not, in my opinion, meet the criteria as laid out in the Government guidelines. "Tree Preservation Orders, A Guide to the Law and Good Practice". This is due to the fact that selected trees are shown to be retained and can be protected by conditions on the reserved matters planning application. Other trees are of insufficient quality to justify a TPO.**

- 2.11 In conclusion, Committee is asked, in the interests of public visual amenity, to confirm Tree Preservation Order 2004 Number 411 (55 Morley Road) without modification.

For more information contact:	Andy Shervill, Tree Preservation Order Officer, Tel - 01332 256031 E-mail – 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: First letter of objection, Appendix 4: Second letter of objection

IMPLICATIONS

Financial

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. None directly arising.

Corporate Objectives and Priorities for Change

4. Confirmation of this Order will help take forward Derby City's Vision for 2004-05, by contributing to the objective of making Derby City with a healthy environment.