

Tree Preservation Order 2005 Number 441 (Sinfin Central Business Park, Sinfin Lane, Derby)

RECOMMENDATION

- 1.1 To approve confirmation, without modification, of Tree Preservation Order 2005 (Sinfin Central Business Park, Sinfin Lane, Derby)

SUPPORTING INFORMATION

- 2.1 On 10 October 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 various trees at Sinfin Central Business Park, Derby, 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 are situated in a prominent position, being clearly seen from the public highway. 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 specified in this Order also play an important part in screening industrial units from the public highway"
- 2.3 A letter objecting to the TPO was received from Mr Rayner, acting on behalf of the owners of Sinfin Central Business Park. A copy of the objection letter is attached as Appendix 3.
- 2.4 An arboricultural report was included with the objection. A copy of the report is attached as Appendix 4.
- 2.5 The Council's Assistant Arboricultural Officer, has compiled a report setting out his comments and observations on the condition of the trees, their past management and a summary of their amenity value. A copy of this report is attached as Appendix 5.
- 2.6 A second letter has been received from Mr Rayner adding further points to his objection. A copy of this second letter is attached as Appendix 6.
- 2.7 The main points of the objection are listed below followed by the Assistant Director's response.

- 2.8 **Mr Rayner's objection point one:** "We enclose a report, which my client's have commissioned in respect of the said trees, which shows that the majority of the trees are diseased and decayed."
- 2.9 **Assistant Director's response to point one:** "I accept that there is some decay present in the trees, indeed due to the nature of the trees and their past "pollarding" management I would be surprised if the trees were not decayed to some extent, however the objectors report does not state that the trees are so decayed that they are imminently dangerous and should be removed immediately. The trees have been inspected by one of the Council's Arboricultural Officers who has stated that the defects noted in the report would not be a significant issue if the trees were pollarded on a regular basis."
- 2.10 **Mr Rayner's objection point two:** "That the trees are of no special interest or species".
- 2.11 **Assistant Director's response to point two:** "As mentioned in 2.2 the trees have significant amenity value and play an important part in screening the industrial units from the public highway. Black poplars are noted for their suitability to screen factories and industrial units."
- 2.12 **Mr Rayner's objection point three:** "The roots of poplar trees can cause excessive damage and will cause damage to my client's buildings in the future."
- 2.13 **Assistant Director's response to point three:** "If, in the future, it is proved that the trees are damaging the buildings remedial tree works can be applied for."
- 2.14 **Mr Rayner's objection point four:** "The trees in their present condition pose a dangerous Health and Safety problem to members of the public due to the trees location along the boundary with a public highway and especially a bus stop."
- 2.15 **Assistant Director's response to point four:** "The objector has been advised that the LPA would have no objections to the trees being re-pollarded on a regular basis. This would reduce the sail effect on the trees (the wind resistance) as well as reducing the weight of the branches and would considerably lessen the likelihood of branches failing at the pollard union. Trees can be sustained like this for many years, which in this case would preserve the trees screening affect and ensure that their amenity value is retained. If trees do become dead, dying or dangerous then they would be exempt from the TPO and remedial works can be carried out to address the problem."
- 2.16 **Mr Rayner's objection point five:** "In fact the reason why we have undertaken a report is that a poplar tree recently fell down during high winds and was lucky not to injure a member of the general public."
- 2.17 **Assistant Director's response to point five:** "The stump of the wind blown Poplar was inspected on 5 October 2005, this being the time when trees on site were being assessed for their suitability to be made subject to a TPO. The stump showed extensive decay in the tree stump with substantial amounts of Ganoderma fungal fruiting bodies present. The amount of decay and the

presence of Ganoderma indicate that the tree's structure was compromised and it is highly probable that the tree fell because of this. The trees included in this Order were inspected at the same time, none of the trees included in this Order were found to have extensive decay or had evidence of significant fungal fruiting bodies. All the trees specified in this Order were considered to be suitable for inclusion within the Order, furthermore the LPA will not knowingly put a TPO on a tree that is dead, dying or dangerous."

- 2.18 **Mr Rayner's objection point six:** "With the increasing climate change, it is foreseen that stronger storms would be more evident within our country, but as such these trees could be brought down onto the public highway without warning due to their decayed nature."
- 2.19 **Assistant Director's response to point six:** "It is speculation that stronger winds will be more evident within the UK due to climate change in such a way as to adversely impact on these trees. Furthermore the objector's Arboricultural report does not suggest that the trees are imminently dangerous or are in danger of being brought down onto the public highway."
- 2.20 **Mr Rayner's objection point seven:** "My clients concern is that a Tree Preservation Order will add increased bureaucracy and prevent my client from taking action to prevent a Health and Safety Emergency"
- 2.21 **Assistant Director's response to point seven:** "The inconvenience of applying to the LPA in order to carry out works to protected trees is outweighed by the public amenity value that the trees provide. The application process is straight forward and incurs no extra monetary cost. As mentioned previously the objector has been advised that the LPA would have no objections to the Black Poplars being re-pollarded on a regular basis. To this date the LPA has not received an application to pollard the Black Poplars or received notifications that trees are dead, dying or dangerous."
- 2.22 **Mr Rayner's objection point eight:** "My client's concern is that Poplars are an extremely evasive tree with little arboricultural significance and are prone to disease, which rots them from the inside."
- 2.23 **Assistant Director's response to point eight:** "I believe the trees have arboricultural significance due to the fact that they give amenity value to the immediate vicinity, indeed the objectors own arboricultural report states that at the present time the trees along the road frontage provide an effective screen between Sinfin Lane and the Business Park and add considerably to the amenity of the locality.
- 2.24 With regards to the concern that Poplars are evasive trees I am sure the objector meant invasive. If it is proved that the Poplar trees are causing damage to nearby buildings then remedial works can be applied for.
- 2.25 Although Poplar trees are not noted for their resistance to the spread of decay the continued pollarding of the trees on a regular basis should overcome this potential problem. If trees do become so decayed that it renders them dangerous then they would be exempt from the TPO, however we do not

knowingly place TPOs on trees that are dead, dying or dangerous or will become so in the near future.

- 2.26 **Mr Rayner's objection point nine:** "The Tree Preservation Order now means that we need to comply with it to carry out routine inspections of the Poplars on site to ensure that they are not dangerous."
- 2.27 **Assistant Director's response to point eight:** "Tree Preservation Order legislation does not stop the owner of TPO'd trees from carrying out routine, non invasive, inspections of their trees."
- 2.28 In conclusion Committee is asked, taking into account the objection, to approve confirmation of TPO 2005 Number 441 without modification.

For more information contact:	Andy Shervill Tel: 01332 256031 e-mail: andy.shervill@derby.gov.uk Tree Preservation Orders, A Guide to the Law and Good Practice
Background papers:	Appendix 1: Implications
List of appendices:	Appendix 2: Plan Appendix 3: letter of objection Appendix 4: Objectors Arboricultural report Appendix 5: Assistant Arboricultural Officers report Appendix 6: Second letter from objector

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.

Supporting the Council's vision and priorities

- 4.1 The confirmation of Tree Preservation Order 2005 No. 441 will support the Council's vision and priorities by contributing to the objective: "a diverse, attractive and healthy environment."