

Report sponsor: Director of Planning, Transport
and Engineering
Report author: Tree Preservation Order Officer

Confirmation of TPO No. 613

Purpose

- 1.1 The Planning Control Committee is asked to consider an objection to the making of TPO No.613.

Recommendation(s)

- 2.1 To authorise the Director of Planning and Transportation to confirm Tree Preservation Order (TPO) No. 613 without modification.

Reason(s)

- 3.1 In the interest of public visual amenity.

Supporting information

- 4.1 On 16th January 2023 we made Derby City Council (8b The Green, Mickleover, Derby) Tree Preservation Order 2023, Number 613..
A copy of the TPO plan can be seen as Appendix 1.
A copy of the TPO schedule can be seen as Appendix 2.
Photographs of the trees can be seen as Appendix 3.
The Amenity Evaluation score can be seen as Appendix 4.
- 4.2 **Grounds for making the order** – The 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 and to the character of the conservation 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 within the Mickleover Conservation Area and is growing to the east of the drive that serves 8b and 8c The Green Mickleover. The tree overhangs a third party garden (5 Ivy Court, Mickleover). The resident of 5 Ivy Court, Mickleover submitted a section 211 Notification notifying the removal of five branches that overhang their garden. The notified works, if carried out would be significantly detrimental to tree health and would have a negative impact on the character of the conservation area. An amenity evaluation has been carried out for which the tree scored sufficiently to justify inclusion within a TPO.

Public/stakeholder engagement

- 5.1 One objection to the making of the TPO was received on 22nd February 2023. The objection is summarised below:
- 5.1.1 The tree has not had any maintenance in the past 43 years.
 - 5.1.2 It is so tall now that when we have inclement weather it really gives us concern to the safety of the buildings behind it including ours.
 - 5.1.3 This tree does not give an aesthetic view in fact it has spindly outline and not pleasing to look at which is the view from our bungalow.
 - 5.1.4 There is a lot of debris from this tree when the weather is bad which blocks guttering.

Other options

- 6.1
- Not to confirm the TPO
 - Confirm the TPO with a modification.

Financial and value for money issues

- 7.1 None.

Legal implications

- 8.1 Before confirming the TPO the LPA must consider valid objections to the making of the TPO.

In response to the points raised in the objection

- 9.1 Point 5.1.1:
Irrespective of whether the tree has had any maintenance or not the tree has accrued that special visual amenity to justify inclusion within a TPO.
- Point 5.1.2:
Often the threat of tall trees failing is perceived and whilst a tall tree may cause some concern in reality the risk of a healthy tree, free of significant structural defects, failing is within acceptable parameters. If the tree does become dangerous there are procedures that can be followed to make the dangerous tree safe. The tree is approximately 30m from the objector's boundary. It is very unlikely that if the tree or any part of it failed it would reach the objectors property.
- Point 5.1.3:
The form of the tree is considered to be typical for a Black Pine. Visual amenity of the tree was assessed, and it was judged to have accrued that special visual amenity value to justify inclusion within a TPO. Visual amenity value to a certain extent is a personal opinion however we use a visual amenity assessment (appendix 4) to demonstrate the justification of a TPO.

Point 5.1.4:

All trees shed leaves/needles and is a natural process. The clearing of tree detritus from gutters and drains is considered to be part of routine maintenance of a property.

Climate implications

10.1 None

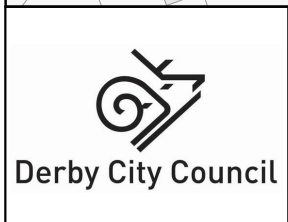
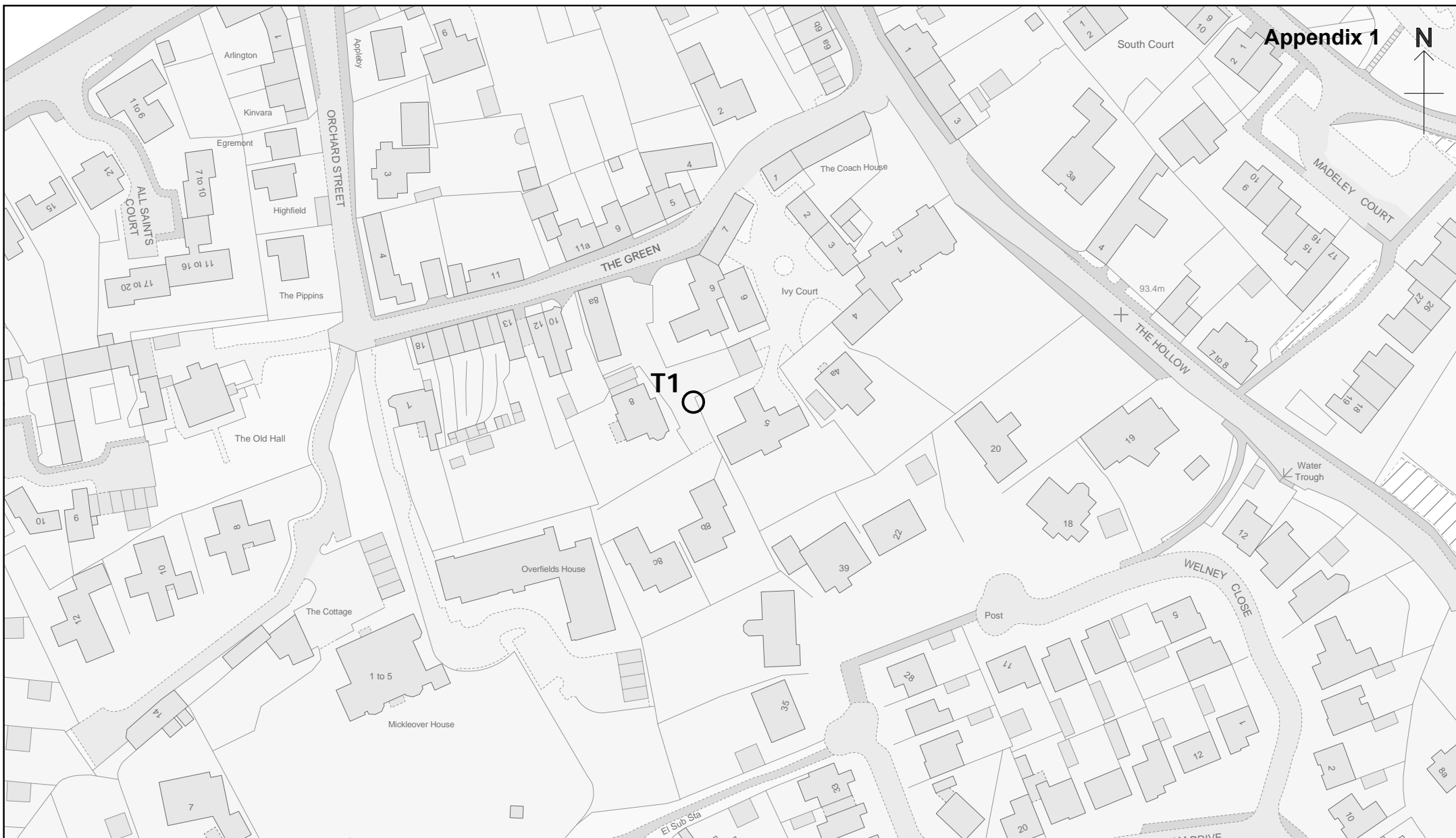
Other significant implications

11.1 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	28/03/2023

Background papers: List of appendices:	Appendix 1 (TPO plan) Appendix 2 (TPO schedule) Appendix 3 (Photos of trees) Appendix 4 (Amenity Evaluation)
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Appendix 1

Derby City Council (8b The Green, Mickleover, Derby)

Tree Preservation Order 2023, Number 613

Drawing No: TPO No.613	 Ordnance Survey © Crown Copyright and Database Rights Ordnance Survey 2023. Licence Number: 100024913
Date: 12/01/2023	
Map Scale: 1:1250	
Contact: Andy Shervill	
Department: Communities and Place	
Telephone Number: (01332) 640666	

Classification: OFFICIAL

Town and Country Planning Act 1990**The [*Derby City Council (8b The Green, Mickleover, Derby) Tree Preservation Order 2023, Number 613.*]**

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 (8b The Green, Mickleover, Derby) Tree Preservation Order 2023, Number 613.

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

Classification: OFFICIAL

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Dated this [16th] day of (January 2023]

[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, Transportation 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 []]~~

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

~~.....~~

Classification: OFFICIAL

Classification: OFFICIAL

~~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~~

~~[REVOCAION 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~~

Classification: OFFICIAL

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

(encircled in black on the map Appendix 1)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
[T1]	Pine	Located on the east side of drive that serves 8b and 8c The Green, Mickleover.

Trees specified by reference to an area on Appendix 1

(within a dotted black line on the map Appendix 1)

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

Groups of trees

(within a broken black line on the map Appendix 1)

<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 Appendix 1)

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

S211 notified branches to be removed



View from SSW



View from SW



View from the Hollow looking SWW



View from Welney Close looking NW



Amenity Evaluation Rating for TPOs

SITE VISIT DATE: 04/01/23

TREE SPECIES:

[A]: Pine

[B]:

ADDRESS:.

8b The Green, Mickelover

AMENITY VALUE RATING:

[A]= 16

[B]=

SURVEYED BY: A Shervill

1 Size		SCORE		6 Suitability to area		SCORE	
		[A]	[B]			[A]	[B]
1	Very small 2-5m ²	6		1	Just suitable	2	
2	Small 5-10 m ²			2	Fairly suitable		
3	Small 10-25 m ²			3	Very suitable		
4	Medium 25-50 m ²			4	Particularly suitable		
5	Medium 50-100 m ²						
6	Large 100-200 m ²						
7	Very large 200 m ² +						
2 Life expectancy		4		7 Future amenity value		1	
1	5-15 years			0	Potential already recognised		
2	15-40 years			1	Some potential		
3	40-100 years			2	Medium potential		
4	100 years +			3	High potential		
3 Form		1		8 Tree influence (current or future)		-1	
-1	Trees which are of poor form			-1	Significant		
0	Trees of not very good form			0	Slight		
1	Trees of average form			1	Insignificant		
2	Trees of good form						
3	Trees of especially good form						
4 Visibility		2		9 Added factors			
1	Trees only seen with difficulty or by a very small number of people			If more than one factor relevant maximum score can still only be 1			
2	Back garden trees, or trees slightly blocked by other features			1	Screening unpleasant view		
3	Prominent trees in well frequented places			1	Relevant to the Local Plan		
				1	Historical Association		
				1	Considerably good for wildlife		
				1	Veteran tree status		
5 Other trees in the area		1		10 Rating		16	
0	Wooded surroundings (70%)						
1	Many (30%)						
2	Some (10%)						
3	Few (<10%)						
4	None						

Typical useful life expectancy of common trees.

300+ Yew

200-300 Oak, Sweet Chestnut, Plane, Sycamore, Lime

150-200 Scots Pine, Hornbeam, Beech, Tulip Tree, Norway Maple, Lebanon Cedar

100 -150 Ash, Spruce, Walnut, Red Oak, Horse Chestnut, Field Maple, Monkey Puzzle, Mulberry, Pear

70 - 100 Rowan, Whitebeam, Apple, Gean, Catalpa, Robinia, Ailanthus

50 - 70 Poplars, Willows, Cherries, Alders, Birches.

ADD EACH FACTOR TOGETHER 1+2+3+4+5+6+7+8+9 = Rating

(The suitable benchmark rating for inclusion within a TPO is 15)

Methods for evaluating the amenity of trees placed under TPOs

1. Size of tree

Size of tree is measured as the area when viewed from one side. The height and diameter of the crown itself is estimated omitting the height of any clear stem. Multiply the two together to calculate the total area m².

Where two or more trees grow close together or as a group, they form a single visual unit and are valued as one tree.

2. Life expectancy

All identifiable problems surrounding the trees should be considered in order to assess the potential life expectancy, such as localised conditions and the proximity of the tree to obvious factors that may have a bearing on its future health. The score rating in this category must be made on arboricultural grounds by a suitably qualified professional.

Typical useful life expectancy of common trees:

300+ Yew

200-300 Oak, Sweet Chestnut, Plane, Sycamore, Lime

150-200 Scots Pine, Hornbeam, Beech, Tulip Tree, Norway Maple, Lebanon Cedar

100 -150 Ash, Spruce, Walnut, Red Oak, Horse Chestnut, Field Maple, Monkey Puzzle,

Mulberry, Pear

70 - 100 Rowan, Whitebeam, Apple, Wild Cherry, Catalpa, Robinia, Ailanthus

50 - 70 Poplars, Willows, Cherries, Alders, Birches.

There are of course exceptions to the list and each tree must be judged on its merits, but these figures do give guidance.

3. Form

The form of the tree is difficult to define precisely, but one should consider what is being offered in terms of its physical and structural attributes and how highly pleasing that may be in the aesthetic sense. Trees with good natural characteristics or trees that contrast well with their location can be examples of trees with good form. The judgements for these characteristics must be made by professionally qualified arboriculturalist.

4. Public amenity assessment

The public amenity assessment is based on how much of the tree or trees can be seen, and from which point. The appropriate criteria are identified within the rating form.

5. Other trees in the area

The percentage of tree cover within the visual area considers the overall contribution of trees in the nearby surrounding area. It is intended to represent a visual impression as seen from ground level from different public viewpoints. The lower the surrounding tree population, then the higher the amenity value and vice-versa.

Woodland surrounding More than 70% of the visual area covered by trees, & at least 100 in total

Many more than 30% of the visual area covered by trees and at least 4 trees in total

Some more than 10% of the visual area covered by trees, and at least 4 trees in total

Few Less than 10% of the visual area covered by trees, but at least one other tree present

None No other trees present in the area under consideration.

6. Suitability to the area

As a general rule, one should aim to have the most suitable tree, or group that the available space will conveniently contain or maybe one with a suitable growing habit. Sometimes a tree or group of trees is particularly suitable to a certain setting or area with a particular character i.e. Weeping Willows hanging down over water or a row of oak trees in a country lane.

7. Future amenity value or potential to contribute

An assessment must be made on the tree's future, i.e. does the tree or group have room to develop, will it develop into a potentially large tree or group and will it eventually be seen by many to offer a reasonable degree of amenity value. There are several things to consider here, and knowledge of the tree's potential growth under various conditions is necessary to reach a reasonably accurate rating.

0 Potential already realised - If the tree or trees are of considerable size their amenity value is likely to have been realised, therefore it is fair to assume no rating is necessary

1 Some potential - The tree or trees will develop to contribute some amenity in the future but are possibly blocked by lots of other features i.e. building or other trees

2 Medium potential - The tree or trees will develop to contribute significantly to amenity in the future but are possibly blocked by some other features i.e. buildings or other trees

3 High potential - The tree or trees are in an appropriate place where they will develop well and eventually contribute well to the local amenity and landscape.

8. Tree influence

Trees in urban situations are often found in close association with existing buildings and structures. This can lead to a perceived conflict between the differing features which can be difficult to quantify, but is, none the less real. For the purpose of this assessment what is being considered is the relationship between the tree and nearest inhabited building.

-1 Significant - The tree or trees are medium to large or have potential to become so and have a significant influence over a nearby inhabited building

0 Slight - The tree or trees are small to medium, or they only have potential to become so, and so have only a slight influence on inhabited buildings nearby

1 Insignificant - The tree or trees are either too small or far enough away from an inhabited building to be a significant influence.

9. Added factors

Where there is some special value to the tree which has not been considered by the previous factors additional value ratings can be used. The factors included on the rating form include important screening value, relevance in The Local Plan, wildlife potential and historical association. Other factors may be suggested by individual circumstances, but it is important to be clear that such factors really do add an extra value to the trees under consideration.

It is important that if more than one factor is relevant, then it should still score just one point. It is considered that the amenity value should have already been recognised in the other eight factors and that this extra score is only help maintain its importance and not to help it reach the benchmark.