

## **Tree Preservation Order 2014 Number 581 (224 Chellaston Road, Derby)**

### **SUMMARY**

- 1.1 This report summarises and comments on objections to a Tree Preservation Order (TPO) on a group of four *Pinus nigra* var. Black pine trees at 224 Chellaston Road, Derby and recommends confirmation of the TPO without modification.

### **RECOMMENDATION**

- 2.1 To approve confirmation, without modification, of Tree Preservation Order 2014 Number 581 (224 Chellaston Road, Derby)

### **REASONS FOR RECOMMENDATION**

- 3.1 Confirmation of this TPO would control works to the four trees on site, avoiding a potential loss of amenity value to the immediate and wider area.

### **SUPPORTING INFORMATION**

- 4.1 On 23rd July 2014, 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 four pine trees at 224 Chellaston Road, Derby as shown on the plan attached as Appendix 2.
- 4.2 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 and can be appreciated from the immediate vicinity as well as from further afield. The trees contribute materially to the amenities of the locality by playing an important part in providing a sense of scale and maturity." The owner of the property had indicated that they wished to fell the trees because of the problems with falling pine cones, the drive being undermined by tree roots and the potential for the tree roots to cause damage elsewhere.
- 4.3 Two letters, attached as Appendix 3, objecting to the TPO were received from Mr and Mrs Heldreich at 217 Chellaston Road and Mrs Worton of 222 Chellaston Road. A letter of support, attached as Appendix 4, for the making of the TPO has been received from Mr and Mrs Marriott at 219 Chellaston Road.
- 4.4 The objections from Mr and Mrs Heldreich and Mrs Worton are summarised below followed by the Director's response.

- 4.5 **Objection point one – Mr and Mrs Heldreich and Mrs Worton:** Both expressed concern that the pines, being evergreen, shade their properties.
- 4.6 **Director's response to point one:** A requirement for light is a personal and subjective matter. Some people prefer direct sunlight, while others enjoy the shade. In English law, there is no effective right to light from across a neighbour's land. Under the Prescription Act 1832 a right to light can be acquired, although it is severely limited. Using it in relation to trees is problematic and generally unsuccessful. A tree owner is not obliged to prune a tree to provide light to a neighbouring property.
- 4.7 **Objection point two – Mr and Mrs Heldreich and Mrs Worton:** The making of the TPO fails to address the nuisance caused by the trees in relation to pine cones and needles littering gardens and the public highway, and possibly contributing to the blocking of the drain at the junction of Acorn Close and Chellaston Road.
- 4.8 **Director's response to point two:** Leaves and seeds are carried freely on the wind and are outside our control. Clearing of leaves from gutters and pathways are normal routine seasonal maintenance that property owners are expected to carry out. Pruning will not help this problem as trees will quickly replace removed leaves. *Taken from our "Tree management" webpage.* Street Cleansing clear material littering the public highway as problems are identified by operatives as they do their rounds. In addition, they clean specific sites when requested. No requests, however, for cleaning up needles and cones in this location has been made by local residents. In the last year, Highways, in line with routine practice, have cleaned the gullies in front of 224 Chellaston Road once. Towards Acorn Close, the gullies have been cleaned four times. Highways have identified that the on-going issue with the gullies at Acorn Close is that they discharge into an inadequate soak away. This will be remedied soon when they are connected to the surface water sewer. There are also issues with other gullies at Shelton Drive and the entrance to the petrol station where gully connections have been broken. Again, these will also be rectified in the near future.
- 4.9 **Objection point three - Mr and Mrs Heldreich and Mrs Worton:** Concerned that the making of the TPO does not address their concerns that the trees overhang the main A514; they are too close to the houses and need pruning; dead branches fall off in high winds in to adjoining gardens and the public highway.
- 4.10 **Director's response to point three:** Trees are living organisms that naturally lose branches and best practice dictates they are inspected by a qualified tree professional on a regular basis for reasons of safety. This responsibility rests with the owner. No guarantee can be given as to the absolute safety or otherwise of any individual tree, as even apparently sound trees can fail. Overall risk though to human safety is extremely low. Figures quoted in the National Tree Safety Group document on "Common sense risk management of trees", published by The Forestry Commission in July 2011, show that the annual risk of death from trees is 1 in 10,000,000 or less if high wind incidents are excluded. No evidence from a qualified tree professional has been presented to us to suggest that the trees are in a dangerous condition and should be removed, or that other works to the trees are required.
- 4.11 **Objection point four – Mr and Mrs Heldreich:** The four pine trees are out of proportion to one semi-detached garden.
- 4.12 **Director's response to point four:** We do have a number of protected pine trees located close to properties in residential areas. These trees, with the correct management, have continued to make a safe contribution to their locality.

- 4.13 **Objection point five – Mrs Worton:** Bird mess is making their driveway slippery and marking their car paint work.
- 4.14 **Director’s response to point five:** Birds causing a mess with droppings, although inconvenient, is not a good enough reason to remove the trees. Pruning will not solve this problem as birds will sit on the remaining branches. *Taken from our “Tree management” webpage.*
- 4.15 **Objection point six – Mr and Mrs Heldreich and Mrs Worton:** The four pine trees seriously limit the possibility of any other vegetation growing in the front garden of properties affected by the trees.
- 4.16 **Director’s response to point six:** While it is accepted that the four pine trees are limiting other vegetation growing in the front garden of properties affected by the trees, there are a number of plants that will thrive in shade and where there is a lack of moisture, as detailed on the Royal Horticultural Society webpage “Plants for under trees”.
- 4.17 **Objection point seven – Mrs Worton:** Tree roots have made their driveway cracked and uneven.
- 4.18 **Director’s response to point seven:** Tree roots typically grow close to the surface, and it is not uncommon for them to develop on the underside of hard surfaces such as driveways, which can lead to cracks developing through physical pressure. This damage is frequently superficial, and there is a range of options available which include: do nothing; repair the cracks; remove the existing surface and replace with a new one engineered to accommodate the roots; prune the roots or remove the tree (the latter two are subject to Tree Preservation Order consent or conservation area notification if relevant). *Taken from Arboricultural Association “Tree damaging property” webpage.*

## OTHER OPTIONS CONSIDERED

- 5.1 The only other option considered is not to confirm the order, which would mean that the trees on site would be left without any level of statutory protection, which could lead to their removal or damage.

This report has been approved by the following officers:

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Graham Toon Tel: 01332 642117 email: graham.toon@derby.gov.uk None Appendix 1 - Implications Appendix 2 - Location Plan Appendix 3 - Letters of objection Appendix 4 - Letter of support Appendix 5 - Photographs

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 None arising from this report.

**Legal**

- 2.1 The Local Planning Authority must, before deciding whether to confirm the Tree Preservation Order, consider any duly made objections.

The Local Planning Authority may modify the Tree Preservation Order when confirming it.

**Personnel**

- 3.1 None arising from this report.

**IT**

- 4.1 None arising from this report.

**Equalities Impact**

- 5.1 None arising from this report.

**Health and Safety**

- 6.1 None arising from this report.

**Environmental Sustainability**

- 7.1 Trees, such as the four pine trees discussed in this report, are an important part of urban areas, because they:
- provide a wealth of benefits relating to biodiversity. In our urban areas, whether located on streets, or in parks, gardens or schools, trees are unique in their ability to support a variety of wildlife
  - clean the air, reduce temperatures, and counteract our polluting lifestyles by absorbing and storing carbon dioxide through a process known as photosynthesis. During this process, which enables them to grow, carbon dioxide is converted into stored carbon. This is why trees are sometimes referred to as 'carbon sinks'
  - provide oxygen for people, and catch dust and pollutants on their leaves. By filtering out polluted air, they help reduce the incidence of asthma, skin cancer and stress-related illness
  - provide natural winter insulation and summer shade, which could help reduce the annual heating and cooling expenditure of homeowners.

## **Property and Asset Management**

8.1 None arising from this report.

## **Risk Management**

9.1 None arising from this report.

## **Corporate objectives and priorities for change**

10.1 This decision would assist in taking forward the Corporate Priority of achieving 'An inspiring place to live'.

## Appendix 2



217 Chellaston Road  
Shelton Lock  
Derby  
DE24 9EE

10<sup>th</sup> August 2012

The Director of Planning and Property Services,  
Derby City Council,  
Neighbourhoods Directorate,  
The Council House,  
Corporation Street,  
Derby  
DE1 2FS

Dear Sir,

We refer to your letter of 23<sup>rd</sup> July reference TPO 581 regarding trees at 224 Chellaston Road. It seems quite incongruous to us that suddenly, after living here for almost 40 years, we receive notification that a Tree Preservation Order is to be made covering these trees.

We suggest that the wording of the justification of the order “visual amenity”, “appreciated from the immediate vicinity” etc. indicates that the powers to be are not aware of the problems these trees cause to the immediate neighbourhood, and are based on subjective and emotional grounds without considering the problems caused by the trees as outlined below.

We object to the granting of a Tree Preservation Order based on the following facts: -

- The pines being evergreen shade our property (across the road) throughout the winter months during the afternoon and evening, thus preventing any possible solar heating benefits.
- These trees are constantly dropping their pine cones onto the pavements and road.
- The dropping of pine needles is also a problem littering the pavements and gardens and blocking the gutters.
- As you will be aware there is an ongoing problem with flooding at the junction of Acorn Close and Chellaston Road, the huge amount of needles deposited on the road and in the gutters could well be a contributory factor to the blocking of this drain.
- The branches of the 4 pine trees overhanging the main A514 and become more prominent every year.

- Four trees of this size in one small semi-detached garden is out of all proportion to the site, and the branches substantially overhang adjacent properties.
- An observation of the garden at 224 Chellaston Road will quite clearly indicate the extent of the shedding of cones and pine needles and the lack of any other possibility of any other vegetation.

In conclusion we strongly object to the Council imposing a Tree Preservation on these Pine Trees and from our point of view and near neighbours we would prefer to see the trees removed. The removal of these trees would not cause any great detrimental effect, as there are already ample trees in the immediate vicinity.

Yours faithfully,

Wendy Heldreich

Tony Heldreich



222, Chellaston Rd  
 Shelton Lock  
 Derby  
 DE24 9ED

Tree Preservation Order 2014 no 881

### Objections

1. Trees now too big close to houses need pruning
2. Dangerous dead branches fall off in highwinds on to the main road pavements & gardens.
3. Garden full of pine needles & cones. They fall on parked cars on the drive, dangerous on the pavement when wet
4. Can't grow anything in the front garden very dry.
5. Driveway cracked & uneven caused by the tree roots.
6. Makes front of house very dark
7. Birds especially pigeons in the trees. Bird excretion on drive very slippery, and marks car paint work.
8. Pavement needs sweeping nearly everyday.



August 1<sup>st</sup> 2014

Derby City Council,  
Neighbourhoods Directorate,  
The Council House,  
Corporation Street,  
Derby.  
DE1 2FS.

Ref: TPO 581

Dear Sirs,

My husband and I would like to express our support for the above tree preservation order on Chellaston Road, Shelton Lock, and hope you decide to make it a permanent one.

The trees are many years old, and they support a lot of wildlife. Pigeons and Doves nest in them, and Squirrels and finches feed on the cones and I'm sure there's an awful lot more going off in them that we don't see.

Since we moved here a few years ago we have noticed quite a few trees are disappearing from the area, and animals and birds seem to be decreasing rapidly. We have not seen any Hedgehogs, Frogs, Toads, or Thrushes in our garden in the last couple of years and the Squirrels and Robins are now only occasional visitors despite our doing our best to make our patch as wildlife friendly as we can.

We live directly opposite the pine trees, and any autumn "mess" they may cause is minimal compared to leaves from other smaller trees along the road, and surely this is a small price to pay for a couple of months to see the beautiful trees throughout the year, and something to expect if you buy a house with trees close by.

Yours Faithfully

Colin & Carole Marriott  
219 Chellaston Road,  
Shelton Lock,  
Derby.  
DE24 9EE



## Appendix 5

Four pine trees,  
224 Chellaston Road

