



Confirmation of TPO No. 599

Purpose

- 1.1 The Planning Control Committee is asked to consider an objection to the making of TPO No.599

Recommendation(s)

- 2.1 To authorise the Director of Planning and Transportation to confirm the temporary Tree Preservation Order (TPO) No. 599 without modification

Reason(s)

- 3.1 In the interest of public visual amenity.

Supporting information

- 4.1 On the 9th April 2021 we made TPO 2021, Number 599 (West Side of Foresters Park, Sinfin Lane, 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.
- 4.2 **Grounds for making the Order:** The trees indicated in the Order were proposed for protection in the interests of public visual amenity. The trees can be appreciated from the public realm and contribute materially to the amenities of the locality 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 trees are located on land associated with the disused bingo hall located on the west side of Foresters Park, Sinfin Lane. Planning application reference number 21/00182/FUL was submitted for the change use of bingo hall to retail (Lidl supermarket). Application plans showed three Birch trees (indicated as G1 within the TPO) adjacent to Sinfin Lane to be removed. The trees have accrued sufficient amenity value to justify inclusion within a TPO. Two Horse Chestnut trees have also been made subject to the temporary TPO No.599 and are scheduled as T1 and T2 within the order. T1 and T2 were shown as being retained within the planning application.

Following the making of the temporary TPO and subsequent discussions with the planning case officer, the Tree Preservation Order officer and the agent amended plans were submitted which showed the trees as being retained. The amended plans were acceptable and planning application 21/00182/FUL was approved, subject to conditions, on 16th July 2021.

- 4.4 **Objection to the making of the TPO:** The agent, on behalf of Lidl GB Ltd objected to the making of the temporary TPO. The objection letter can be viewed as appendix 3.

The objection specifically objects to the making of the TPO in relation to the three Birch trees (scheduled as G1 within the order).

Reasons for the objection are summarised as below:

- The trees are proposed to be removed to facilitate construction works.
- The removal of trees will increase visibility of the new store
- The removal of the trees will reduce the level of tree maintenance.

4.5 The planning case officer and the Tree Preservation Order Officer were of the opinion that the tree group G1 could be retained without significant detriment to the visibility of the new store. Layout plans were amended and subsequently approved and have demonstrated that the new store can be constructed with the trees in situ. With regards to the trees being a maintenance burden all trees, within the urban environment, are a maintenance burden. However, they should be seen as an asset which provide visual amenity, wildlife habitat and eco-services.

4.6 It is noted that Lidl were offering to provide compensation for the loss of trees by contributions for tree replacements off site on Council owned land nearby and enhancement to proposed landscaping on site. Whilst this offer was appreciated the retention of mature trees, which could be retained without significant impact on the proposed development, took precedent.

Public/stakeholder engagement

5.1 None.

Other options

6.1 Not to confirm the TPO or confirm the TPO with modifications.

Financial and value for money issues

7.1 None.

Legal implications

8.1 None.

Other significant implications

9.1 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	31/08/2021

Background papers:

List of appendices:

Appendix A – Copy of the TPO (including TPO Plan)
Appendix B – Objection letter

Town and Country Planning Act 1990

**The [*Derby City Council (West Side of Foresters Park, Sinfin Lane, Derby)*
Tree Preservation Order 2021, Number 599]**

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 (Land at West Side of Foresters Park, Sinfin Lane, Derby) Tree Preservation Order 2021, Number 599*]

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.

Dated this [9th] day of [April, 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, Transport 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]~~

~~.....~~

~~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]~~

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]	Horse Chestnut	Located on land north of the junction of Foresters Way where it joins Sinfin Lane.
[T2]	Horse Chestnut	Located on land north of the junction of Foresters Way where it joins Sinfin Lane and east of T2.

Trees specified by reference to an area

(within a dotted black line on the map)

<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>
[G1]	Three Birch Trees	Located on the west side of Foresters Way, adjacent to Sinfin Lane, Derby.

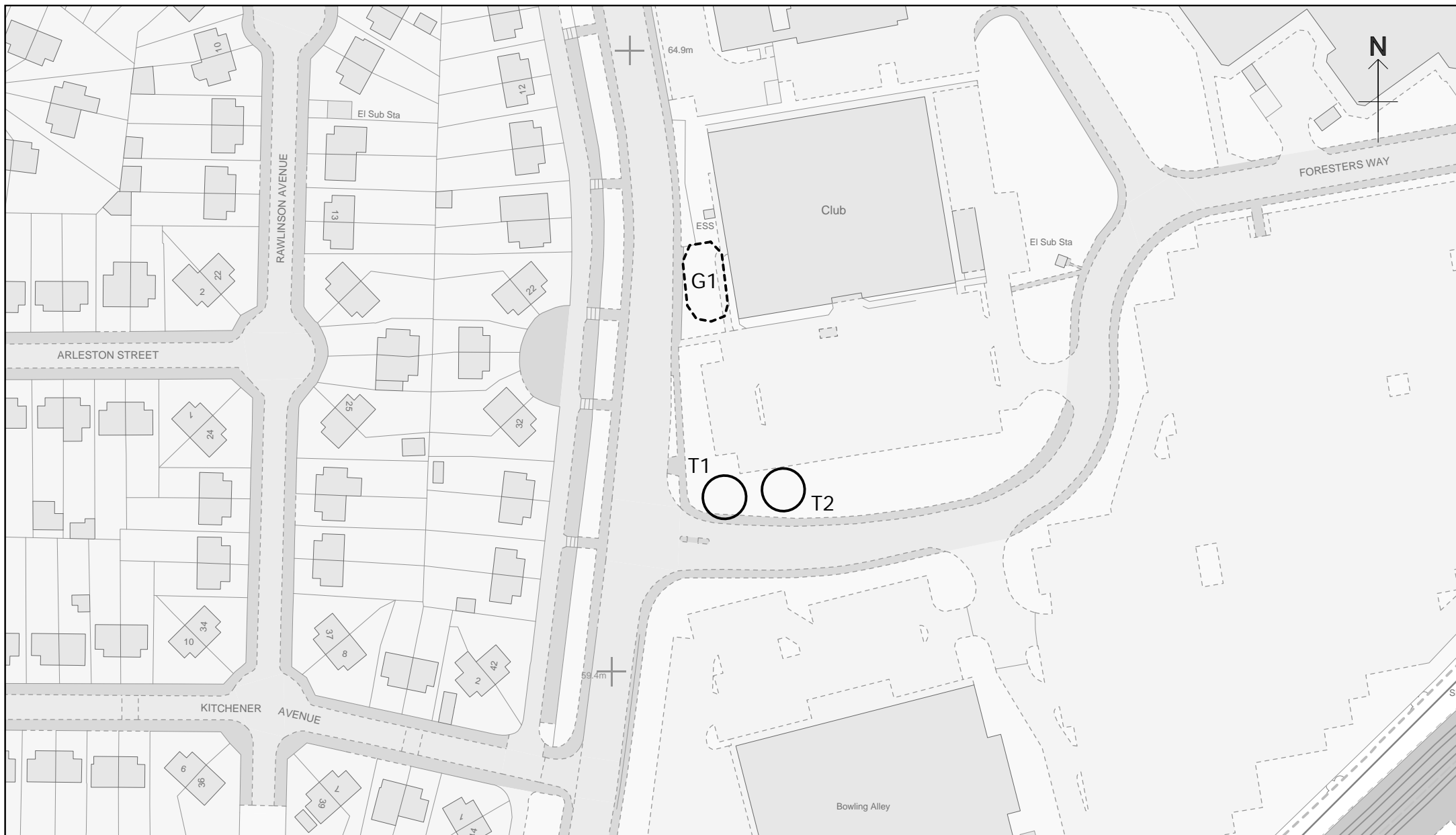
Woodlands

(within a continuous black line on the map)

Classification: OFFICIAL

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

Classification: OFFICIAL



Derby City Council

Derby City Council (West Side of Foresters Park, Sinfin Lane, Derby) Tree Preservation Order, Number 599

Drawing No: TPO Number 599

Date: 08/04/2021

Map Scale: 1:1250

Contact: Andy Shervill
Department:
Communities and Place

Telephone Number: (01332) 640666



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Strategic Director of Communities and Place
Derby City Council
The Council House
Corporation Street
Derby
DE1 2FS

6 May 2021

Dear Sir/Madam,

THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012
TOWN AND COUNTRY PLANNING ACT 1990
DERBY CITY COUNCIL (WEST SIDE OF FORESTERS PARK, SINFIN LANE, DERBY) TREE PRESERVATION ORDER 2021, NUMBER 599

On behalf of Lidl GB Ltd, I am writing to object to the temporary Tree Preservation Order (TPO) executed on 9 April 2021 relating to five trees at the above address (TPO number 599).

Lidl have been consulted as a 'person interested in the land' affected by the order as defined by Paragraph 2 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012, as the trees are within the site boundary of Lidl's live planning application ref: 21/00182/FUL at the former Buzz Bingo Hall on Foresters Way / Sinfin Lane, which is seeking consent for the following development:

"Change of use of bingo hall (Sui Generis) to retail (Use Class E) and associated external alterations, construction of external plant compound, reconfiguration of car park and site access and associated landscaping"

The trees subject to the temporary TPO include two Horse Chestnut trees (T1 and T2), which are located along the southern boundary of the application site at the Sinfin Lane / Foresters Way junction, and a group of three Birch Trees (G1) which are located between the existing Bingo Hall and Sinfin Lane. T1 and G1 trees are all Category B, and T2 is Category C. Therefore, these trees are of moderate quality as opposed to Category A, which would be trees of high quality.

Within current application ref: 21/00182/FUL, the three Birch Trees forming G1 are proposed to be removed in order to facilitate the construction works, increase visibility of the new store and reduce the level of tree maintenance required across the site. This letter therefore objects specifically to the making of a TPO relating to G1 trees.

The application site is located in close proximity to the Foresters Way, Sinfin Lane and Osmaston Park Road (A5111), and is expected to draw a significant proportion of peak hour pass-by trips from the associated junctions. It is estimated that 40% of weekday trips and 30% of Saturday trips to the store will be generated by pass-by trips, as set out in the Transport Statement submitted to

support current application ref: 21/00182/FUL. This figure is substantial and makes up the largest trip type bringing customers to the store.

The store must be clearly visible from the surrounding road network for vehicles travelling in both directions, otherwise anticipated pass-by trips are likely to reduce. The G1 trees will restrict visibility of the proposed store for vehicles travelling along Sinfin Lane, which therefore decreases the store's visibility to potential passing trade. A reduction in pass-by trip could adversely impact the viability of the new retail store. Ensuring good visibility of the proposed store is, therefore, essential to the economic success of the retail unit.

The G1 trees are located on a site that is currently vacant, where Lidl propose to make a multi-million pound investment in the reuse and reoccupation of the building, leading to the creation of approximately 40 new jobs at a time when many people continue to feel the fallout of the pandemic. Other social and economic benefits, accruing would be the temporary socio-economic benefits generated during the construction phase and permanent socio-economic benefits generated once the scheme is complete and operational, including gross value added to the local economy through employment, additional worker expenditure in the local economy and new business rates revenue. These benefits will be adversely impacted if the TPO is confirmed.

As outlined above, the G1 trees restrict visibility from Sinfin Lane and could reduce the number of pass-by trips to the store.

Lidl are willing to provide compensation for the loss of the trees and would welcome further dialogue on this, but it could include the following;

- Contributions for replacement off-site trees on Council owned land nearby; and
- Enhancement to proposed landscaping on site.

Confirming the TPO will detrimentally affect the viability of the proposed Lidl store, which will regenerate a vacant site, provide new job opportunities and invest significantly in this area of Derby. We trust these impacts will be considered carefully before the TPO is confirmed.

Yours faithfully



Julie White
Associate Director
BSc (Hons) MATRP MRTPI