



Confirmation of Tree Preservation Order 591 (Land at Rykneld Road, Derby)

Purpose

- 1.1 To make the temporary Tree Preservation Order 591 (Land at Rykneld Road, Derby) permanent.

Recommendation(s)

- 2.1 To confirm Tree Preservation Order 591 (Land at Rykneld Road, Derby) without modification.

Reason(s)

- 3.1 In the interest of public visual amenity.

Supporting information

- 4.1 On 13th November 2019 we made Tree Preservation Order 591 (Land at Rykneld Road, Derby)
- 4.2 Grounds for making the order - The Oak tree indicated in this Order is proposed for protection in the interests of public visual amenity. The tree is situated within the northeast corner of the field located south of Hollybrook Way and east of Rykneld Road. The tree can be clearly seen and appreciated from the public realm and contributes 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. The tree is proposed to be removed to facilitate the construction of a retail unit, which was the subject of a full planning application (ref: 19/01265/FUL); the removal of the tree would have a negative impact on public amenity.
- 4.3 Background information – The tree is located on land allocated for residential development in the Core Strategy under Policy AC20 – Rykneld Road allocation. A planning application, ref 19/01265/FUL, was submitted in August 2019 for the erection of a retail unit with new access and car parking. The tree was shown to be within the footprint of the proposed retail unit and therefore would need to be removed in order to facilitate the proposed construction. Within the tree survey supplied by the applicant the tree was assigned a BS5837: 2012 retention category of B1 (tree of moderate quality: mainly arboricultural qualities). The tree has accrued significant amenity value to justify inclusion within a TPO and it is considered that the proposed development could be amended in order to retain the tree. As there is no guarantee that the developer would retain this visually important tree voluntarily it was expedient to make the tree subject to a TPO.

- 4.4 A copy of the TPO including plan can be seen at Appendix 1.
- 4.5 A photograph of the tree viewed from Hollybrook Way can be seen at Appendix 2.
- 4.6 A decision notice refusing the proposed development (ref 19/01265/FUL) on land at Rykneld Road, Derby, (South Of The Hollybrook PH), for erection of a retail unit (Use Class A1) with new access and car parking was issued on 26/11/2019.
- 4.7 The Oak tree was a material consideration in refusing the proposed development as stated in the decision notice: Part 4: Reasons for Refusal (6):
- In the opinion of the Local Planning Authority, insufficient information has been submitted with the application to satisfactorily demonstrate how the development can be constructed without causing harm to the health and visual amenity value of retained trees on the site. In particular, given the change in land levels close to the western site boundary, the Local Planning Authority questions the feasibility of constructing the site access using no-dig construction methods within the root protection areas of Oak trees (T08 and T09). **The Local Planning Authority also considers that the development, as result of the removal of Oak tree (T05), would cause harm to the visual amenities of the surrounding area through the loss of an important landscape feature on the site.** For these reasons it is considered that the development fails to comply with Policies CP3, CP4 and CP16 of the Derby City Local Plan - Part 1 (Core Strategy).
- 4.8 On the 20th December 2019 we received an objection to the making of the TPO from the developer (Heatherton Developments Ltd). The objection letter and supporting photograph is attached as appendix 3. The grounds for the objection is stated as *'We are objecting to the proposed TPO as the tree has poor public visibility and hence it is not 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands In their area'. This is the justification that must be met for the LPA to make the TPO. The Government advice states 'The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.'*
- The views from Rykneld Road (see attached photo's) show that the tree does not have good public visibility because of its size and distance from the road. Visibility would be improved a little if the hedge was cut lower (as previously) but the tree would still remain a minor feature in the landscape, especially compared to the larger protected oak trees located closer to the road.'*
- 4.9 When considering whether to make the tree subject to a TPO the amenity value of the tree was assessed, as recommended by the government, using a recognised amenity evaluation system. The Oak tree scored sufficient points to justify inclusion within a TPO. The amenity evaluation is attached as appendix 4.
- 4.10 The objector appears to have assessed the view of the tree from Rykneld Road only and does not mention the view of the tree form Hollybrook Way to the north. Nevertheless even with a restricted view from Rykneld Road the tree will still have scored sufficient points within the amenity evaluation to justify inclusion within the TPO.

- 4.11 The Tree Preservation Order Officer emailed the objector on the 23rd December 2019 acknowledging their objection and asked if they were aware of view of the tree from Hollybrook Way and in lieu of this view whether they still wished to object to the making of the TPO. The photograph of the tree as viewed from Hollybrook Way was attached to the email.
- 4.12 The objector did not reply to the Tree Preservation Order officers' email. A further email was sent on the 13th January 2020. Again the objector did not reply.

Public/stakeholder engagement

- 5.1 None.

Other options

- 6.1 Not to confirm the Tree Preservation Order.

Financial and value for money issues

- 7.1 None.

Legal implications

- 8.1 The making of the TPO demonstrates that the LPA is fulfilling its duties as laid out in Section 198 of the Town and Country Planning Act 1990.

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	05/02/2020

Background papers: List of appendices:	Appendix 1 – Draft Order and Location Plan Appendix 2 – Photograph of Tree Appendix 3 –Letter of Objection Appendix 4 - Photographs Appendix 5 – Amenity Evaluation Rating for TPOs
---	---