

# **PLANNING COMMITTEE**

2<sup>nd</sup> March 2020

## **TREE PRESERVATION ORDER (NO. 9 ) 2019 – Tree on land at Milton Drive, Hagley DY9 9LS.**

Relevant Portfolio Holder	Cllr M. A. Sherrey
Portfolio Holder Consulted	No
Relevant Head of Service	Head of Planning and Environmental Services
Ward(s) Affected	Hagley
Ward Councillor(s) Consulted	No
Non-Key Decision	

### **1. SUMMARY OF PROPOSALS**

- 1.1 The Committee is asked to consider the confirmation without modification of Tree Preservation Order (No.6) 2019 relating to a tree on land at Milton Drive, Hagley DY9 9LS.

### **2. RECOMMENDATIONS**

- 2.1 It is recommended that provisional Tree Preservation Order (No.6) 2019 relating to an Oak tree on land at Milton Drive, Hagley DY9 9LS is confirmed without modification as in the provisional order as raised and shown in appendix (1).

### **3. KEY ISSUES**

#### **Financial Implications**

- 3.1 There are no financial implications relating to the confirmation of the TPO.

#### **Legal Implications**

- 3.3 Town and Country Planning (Trees) Regulations 2012 covers this procedure.

#### **Service / Operational Implications**

#### **Back Ground;**

- 3.4 The provisional order was raised on 4<sup>th</sup> October 2019 after a phone call was received from a resident of Milton Drive enquiring about the status of an (Holm) Oak tree to the front of their property in view of the possibility of getting the tree removed. The tree in question is very prominent to the residents of Milton Drive, would be highly visible from gardens of surrounding properties. The tree also provides a high level of historic value due to its age and

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impressive size. Therefore it was deemed prudent to raise an order on the site due to the risk of its potential loss.

**3.5** The Following two objections have been received in respect of the provisional TPO having been raised;

1. Email received from Mrs Perrins dated 16<sup>th</sup> October 2019 (Appendix 2) the owners of the tree included within the order which is support by an Arboricultural report undertaken by Morfe Valley Arboriculture shown in (Appendix 3)
2. Letter dated 30<sup>th</sup> October 2019 from Mr Martin Southall ( Appendix 4) also support by an Arboricultural report undertaken by Morfe Valley Arboriculture shown in (Appendix 3)

My comments in relation to the points raise within these objections are as follows:

- a. I agree with comments made with regards to the visibility of the tree from the main public highway as they are limited however, the tree within the order is visible to road users and pedestrians on the Stourbridge Road and Birmingham Road as shown in the photographs appendix 7. Therefore clearly would be visible from the properties in Milton Drive as well as a number of surrounding properties on the Stourbridge Road (A491), the Birmingham Road (A456) and properties within Rockinghamhall Gardens.
- b. The National Planning Policy Framework states in relation to amenity value:

*“Amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.*

*Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.”*

- c. In regard to issue the raised of tree root invasion into drain lines as indicated to by the Email from Mrs Perrins dated 20/ 12/ 2019 and letter from Severn Trent dated 20/12/2019 ( Appendix 5). Tree roots will follow easily accessible water and nutrients sources within the soil and can indeed cause blockages to drains however, can only do so by

capitalizing on cracks or gaps in pipes already present and are not known to cause direct physical damage to pipe work.

- d. The concern mentioned over roots undermining foundations and links to subsidence are not unfounded in some situations. The NHBC classify Holm Oak as a high water demand species however, the soil in the area is recorded by the British Geological Survey as Sandstone substrate and topsoil as light (sandy) to medium (sandy), (although it is accepted that pockets of heavier soils are possible within this survey). This type of soil is generally considered as free draining and not prone to clay shrinkage subsidence exacerbated by tree roots. Additionally, the assertion that clay shrinkage subsidence can be predicted in a reliable manner is false. Trees and buildings in such situations can exist in very close proximity to each other and never have any issues with subsidence. There has been no evidence provided of any subsidence damage having been experienced on any of objecting properties.
  - e. The properties of Milton Drive were constructed Circa.1971 and the development was clearly designed around the tree with it ultimately becoming a defining feature of the site. The driveway is now no more constrictive than had the tree not been in situ at the time of construction and the drive and dwellings laid out differently. It is clear upon visiting the site that the roots of the tree are the cause of the longstanding disturbance and lifting damage to the driveway. Although this is not any more than would be expected given the size and age of the tree. I believe engineering solutions can be explored to address these issues.
3. My comments in relation to the Arboricultural report undertaken by Morfe Valley Arboriculture as instructed by Mrs Perrins are as follows:
- a. I agree with comments made around previous crown management made within the report; it does appear that the tree was topped rather than pollard pruned and the suggested time frame of around the properties construction would be correct. The tree has clearly made an exceptional recovery from what would have been drastic works on the crown. The level of regrowth the tree has produced since this pruning shows it is in a strong level of vigour. These works have led to the tree producing a large spreading crown not far off the width it would have been had the works not been undertaken. Additionally it appears that the tree has developed a suitable degree of reaction wood around the original wounds with no obvious visual signs of structural defect at these points. If failure of the major scaffold was envisage as a developing risk bracing could be employed to virtually mitigate this entirely.

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- b. The presence of a *Ganoderma* spp. fungal bracket on the northern side of the main stem is noted; *Ganoderma* spp. is known to be a slow acting pathogen and can take many years to cause decay and have any major detrimental effect on a tree. Upon sounding the tree using a sound mallet it is clear that there has been a good amount of vigour in reactive wood within the main stem; producing in columns either side of the areas of decay.
  - c. *Kretzschmaria* ssp is parasitic fungal pathogen of trees, colonising within the roots and lower stem and rarely seen above 1m which usually ends in a risk of brittle fracture and windthrow. The example evidenced within the report is situated within the main crown break at a height around 4m and does not exhibit the typical visual characteristics expected, I therefore consider this has being misidentified in this case.
  - d. TEMPO is used as guidelines for quantifying amenity value in order to advise on the suitability of including a tree within an order. I disagree with the scoring as presented but I believe this to be a result of the misidentification of the above and the perceived level of threat brought against the tree. If re-scored conservatively the tree scores 5, 4, 2, 2 and 5 respectively totalling 19 which clearly warrants' protection.
- 3.6 The Following correspondence of support have been received in respect of the provisional TPO having been received;
- 1. Email dated 05/ 11/2019 from Mr Peter Harrington, 3 Milton Drive (Appendix 6)
- 3.7 Policy Implications- None  
HR Implications- None  
Council Objective 4- Environment, Priority C04 Planning
- 3.6 Climate Change / Carbon/ Biodiversity- The Proposal in relation to confirming the TPO can only be seen as a positive impact on the environment.

**Customer / Equalities and Diversity Implications**

- 3.7 The customers have been provided with the relevant notification and the responses received are attached in the appendices. The customers will receive notification by post of the decision of the committee.
- 3.8 Equalities and Diversity implications- None

**4. RISK MANAGEMENT**

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- 4.1 There are no significant risks associated with the details included in this report.

**5. APPENDICES**

List Appendices.

- Appendix (1) Plan & Schedule of Provisional Order
- Appendix (2) Email of objection from Mr Perrins 2 Milton Drive
- Appendix (3) Arboricultural Report from Morfe Valley Arboriculture
- Appendix (4) Letter of Objection from Mr Martin Southall, 1 Milton Drive
- Appendix (5) Email from Mrs Perrins and Supporting Letter from Severn Trent Water.
- Appendix (6) Email dated 05/ 11/2019 from Mr Peter Harrington, 3 Milton Drive
- Appendix (7) Photographs of subject tree.

**6. BACKGROUND PAPERS**

None

**7. KEY**

TPO - Tree Preservation Order

**7.1 Conclusion and recommendations:**

The tree in question is very prominent to the residents of Milton Drive, would be highly visible from gardens of surrounding properties gardens. The tree also provides a high level of historic value due to its impressive size.

Therefore I would recommend to the committee that the order is confirmed and made permanent without modification as shown in appendix (1) of this report.

**AUTHOR OF REPORT**

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