

DEVELOPMENT CONTROL COMMITTEE: –

27<sup>th</sup> January 2009

REPORT OF THE HEAD OF REGENERATION – DEVELOPMENT AND DELIVERY.

**CONFIRMATION OF TREE PRESERVATION ORDER 15 OF 2008 ON LAND AT ST. STEPHENS CHURCH, WOLVERHAMPTON STREET, WILLENHALL, WV13 2PS.**

**1. PURPOSE OF REPORT**

To seek the confirmation of the Tree Preservation Order No 15 of 2008.

**2. RECOMMENDATIONS**

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order No 15 of 2008 in an unmodified form. A plan showing the Tree Preservation Order is attached to this report.
- (ii) Support the reason for making the Tree Preservation Order set out in the report detail, paragraph 1.1.
- (iii) Note that one representation has been received in respect of this Tree Preservation Order.

**3. FINANCIAL IMPLICATIONS**

Within budget, in general, new Tree Preservation Orders generate additional applications for consent and increase officers' workload.

**4. POLICY IMPLICATIONS**

Within Council policy – YES

**5. LEGAL IMPLICATIONS**

The owners and future owners of this site will be required to apply for Council permission if they wish to fell or prune any tree protected by the Tree Preservation Order. Failure to do this renders anyone carrying out unauthorised works to trees liable to criminal proceedings.

6. **EQUAL OPPORTUNITY IMPLICATIONS**

NOT APPLICABLE

7. **ENVIRONMENTAL IMPACT**

The management of Walsall's tree cover through the administration of the Tree Preservation Order system has positive implications in protecting trees for their visual and environmental benefits. Removal of protected trees is often necessary because trees have a finite lifespan and may also cause nuisance or damage. In these instances the Council has to decide whether the removal of protected trees is justified. In the event that felling a tree is permitted, the Council can secure replacement planting to maintain tree cover.

8. **WARD(S) AFFECTED**

The Tree Preservation Order 15 of 2008 is located within Willenhall South Ward.

9. **CONSULTEES**

Owners and near neighbours were sent copies of the Tree Preservation Order and invited to make representations to the Council in either opposition or support of this Tree Preservation Order. Any response is described within the report.

10. **CONTACT OFFICER**

Cameron Gibson - Extension: 2453

11. **BACKGROUND PAPERS**

File PD1/17/841 relating to Tree Preservation Order No 15 of 2008.

**Simon Tranter,**  
HEAD OF REGENERATION – DEVELOPMENT AND DELIVERY.

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### 1.0 **REPORT DETAIL.**

1.1 The Tree Preservation Order No 15 of 2008 was made on 02 July 2008. The tree was protected for the following reasons:

- The tree forms a prominent landscape feature in the local area and will continue to provide an important item of landscape quality in the future.
- The tree adds to the amenity and diversity of the immediate area.
- The Council's Unitary Development Plan identifies policies for protection of the trees and green spaces.
- The tree was at risk from planning application 08/0749/OL which has since been refused on 27 June 2008. Since then, another application has been made on the site to the west (08/1814/OL) which will have a detrimental effect on the long-term health and condition of the tree. This application, at present, is still undetermined. However, confirmation of this Tree Preservation Order will ensure the continued protection of what is an important tree.

1.2 The minimum six week period allowed for objection to the Order expired on 13 August 2008. One representation has been received by letter from Wharton Arboricultural Consultancy on behalf of Albion Properties objecting to the Tree Preservation Order on the following grounds;

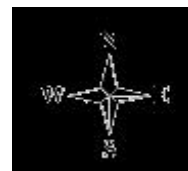
- The tree is considered to be a C category in line with BS5827:2005.
- There are numerous structural defects associated with the trunk and canopy, which significantly reduces its safe useful life.
- There is considerable target and bacterial cankering on the trunk, which has resulted in the loss of structural wood and caused the formation of cavities.
- The tree is surrounded by hard standing, which limits water and gaseous exchange.
- In future, the tree will directly conflict with the boundary wall and cause the wall to collapse in to the proposed development site.
- The tree has limited public amenity due to the restricted views.

The Council's response to this objection is as follows:

- The categorisation used in BS 5837:2005 Trees in relation to Construction – Recommendations has no bearing on the criteria used to assess trees for inclusion in a Tree Preservation Order. BS5837:2005 is used to assess trees within the context of proposed development whereas TPOs are used to assess a tree's contribution to amenity value.
- It is agreed that the tree has numerous cankers on the trunk and main limbs, however these are not unusual on a tree of this species. They can form cavities and affect the structural condition of the surrounding wood, however no substantial cavities or areas of concern were noted at the time of inspection. A few smaller cavities were intrusively inspected and appeared to be relatively sound in nature.
- It is agreed that the tree is surrounded by hard standing which does inhibit water and gaseous exchange. However, this is a generic approach to trees in this situation and does not account for the history of the site. The tree does not show any signs that it is not happy with its location which would be evident through reduced extension growth, and undersized and chlorotic leaves. This indicates that the hard standing has been present for many years and the tree has adapted well to any change that may have occurred. There is, therefore, no reason to suspect that the presence of the hard standing will affect the tree to such an extent that it would not be worthy of consideration for inclusion in a TPO.
- The proximity of the tree to the wall will result in conflict through future growth of the tree. However, it is not set in stone that, as predicted by the Arboricultural Consultant, the pressure the tree will exert on the wall through an increase in stem diameter will be sufficient to push it over. This cannot be ascertained at present without intrusive investigations into the foundation and construction of the wall and, even then, would be no more than guess work. The future health, condition and growth rate of the tree cannot be predicted. Therefore, any future conflict between the tree and the wall cannot be predicted.
- The TEMPO (Tree Evaluation Method for Preservation Orders) has assessed the public visibility of the tree to be of 'limited view only'. This is due to the fact that the tree is situated towards the rear of the residential properties on Wolverhampton Street and within St. Stephens Church car park. The views of the tree are blocked by both the church and the commercial building to the south west of the car park (Wood Yard?) although this does not necessarily mean that it cannot be seen at all. On the contrary, the tree can be viewed directly by the many people who use the church hall immediately adjacent and by the users of the car park. It is also appropriate to consider that the area to the north and the immediate area to the west are potentially, marked for development. Any future residential properties in these locations would, further, increase the amenity value of the tree.
- To support the aforementioned comment, government guidance contained in the DETR publication Tree Preservation Orders: A Guide to the Law and Good Practice (the 'Blue Book') states at section 3.2 that "*The [amenity]*

*benefit may be present or future ...*”, which justifies the consideration of future development in this instance.

- 1.3 The site to the west (Wood Yard, Lyndon and Woodlawn) has been subject to a recent planning application for residential development (08/1814/OL). Plot 3 of this application would result in the indirect removal of this tree through root damage and/or severance. In addition to this, there appears to be no space available for replacement planting within the proposed development, as advocated in the objection. The end result would be the loss of the tree with no replacement planting to cater for future amenity.
- 1.4 The Committee is therefore recommended to confirm Tree Preservation Order No 15 of 2008 in unmodified form.



TPO 15 of 2008 land at St. Stephens Church, Wolverhampton Street, Willenhall, WV13 2PS.



Not to Scale      Date 26 June 2008      Centre 395976E 298477N      Andrew Cook

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