



DEVELOPMENT CONTROL COMMITTEE: –

31st March 2009

REPORT OF THE HEAD OF REGENERATION – DEVELOPMENT AND DELIVERY

CONFIRMATION OF TREE PRESERVATION ORDER 33 OF 2008 ON HEATH SERVICE STATION, 141 LICHFIELD ROAD, SHELFIELD, WALSALL WS4 1PX.

1. PURPOSE OF REPORT

To seek the confirmation of the Tree Preservation Order No 33 of 2008.

2. RECOMMENDATIONS

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order No 33 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 33 of 2008 is located within Rushall-Shelfield 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 PD1/17/859 relating to Tree Preservation Order No 33 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 33 of 2009 was made on 30th September 2008. The trees are visually prominent in the street scene and were protected for the following reasons:

- The trees form a prominent landscape feature in the local area and will continue to contribute to landscape quality in the future.
- The tree adds to the amenity and visual diversity of the immediate area.
- The tree is at risk of felling and making an emergency Tree Preservation Order will discourage the premature removal of an important tree.
- The Council's Unitary Development Plan identifies policies for protection of the trees and green spaces.

The site was proposed for redevelopment with the 2 trees in question being indicated for removal, to make way for an extension to the existing structure. After an initial assessment of the trees, this was considered undesirable. It was considered prudent at the time to place the trees under the formal protection of a TPO so that the Council could be in a strong position to control tree loss arising from future development proposals.

1.2 The minimum six week period allowed for objection to the Order expired on 12th November 2008. One representation was received on 10th November 2008 from Mr. & Mrs. Tooth of 9 Parkstone Close, Shelfield, Walsall, who object to the TPO for the following reasons;

- There are other trees in the immediate vicinity providing adequate screening and contributing to landscape quality.
- The trees are directly behind the boundary fence at the bottom of my garden and block daylight to my property.
- The crown of the trees overhangs the garden and the lawn will not grow. The area was paved some years ago but the roots are raising the paving slabs.

1.3 The Councils response to the above issues is as follows (in bullet point order);

- The immediate area does have some tree cover although it is debatable as to whether it would be worthy of inclusion in a Tree Preservation Order (TPO). In any event, part of the criteria for including trees in a TPO is that they are under some form of threat. As they do not appear to be under any form of threat that the Council know of, it would be unreasonable to include them in a TPO.
- The 2 trees are located outside the objectors cartilage in a property to the north east, and are situated approx. 15m from the rear elevation of the dwelling. T1 maple and T2 Maple are situated directly to the rear of nos. 7 & 9 Parkstone Close with their crowns extending over the rear garden by approx. 2.5m to 3m. The position of these trees in relation to the dwelling indicates that the amount of direct shading on the property is minimal, if any at all.

There is a third Maple tree situated directly to the rear of no. 9 Parkstone Close. However, this tree has not been included in the TPO as it was not under threat of removal and, if removed, would not be detrimental to the amenity of the area.

It was noted on site that a large Cherry tree was situated in the rear garden of no. 11 Parkstone Close. It is situated to the north east of no.9 Parkstone Close and has a crown spread of approx. 5m in the direction of the dwellings. It is a twin stemmed species, which results in a denser crown than normal. The position of this tree in relation to no. 9 Parkstone Close, and the size of the crown, indicates that a substantial amount of shading is cast on the rear garden of the property, particularly in the summer months and in the morning period only.

As mentioned previously, the crowns of T1 Maple and T2 Maple do not significantly overhang the rear garden area of no. 9 Parkstone Close. Their position relative the dwelling indicates that the amount of direct shading on the property is minimal. However, there is evidence of surface roots in the north east corner of the property, which are likely to arise from the Cherry in the adjacent property. These roots do not appear to be causing damage to any structure at the present time. It was also noted that the slabbed foundation of the garden shed was uneven and possibly cracked in places. Mrs. Tooth stated that the trees (the 2 Maple) were the cause of this although no evidence could be submitted to positively state that. In any case, the works necessary to remedy the situation are easily undertaken and are not considered sufficient justification to consider the trees for removal.

- To summarise, the objections submitted by Mrs. Tooth are considered insufficient to warrant the non-confirmation of the TPO. The trees are highly prominent in the locality and contribute significantly to the amenity, aesthetic and landscape value of the area.

1.4 The Committee is therefore recommended to confirm Tree Preservation Order No 33 of 2008 in an unmodified form.