



DEVELOPMENT CONTROL COMMITTEE: –

01 April 2010

REPORT OF HEAD OF DEVELOPMENT & DELIVERY

NON CONFIRMATION OF TREE PRESERVATION ORDER 36 OF 2008

1. PURPOSE OF REPORT

To report to the committee on progress with Tree Preservation Order 36 of 2008 made under emergency procedures which has never been confirmed.

2. RECOMMENDATIONS

The Committee is recommended to:

- (i) Note the report.
- (ii) Allow Tree Preservation Order 36 of 2008 to lapse.

3. FINANCIAL IMPLICATIONS

Within budget.

4. POLICY IMPLICATIONS

Within Council policy.

5. LEGAL IMPLICATIONS

If a Tree Preservation Order is not confirmed it will cease to protect the trees it covers.

6. EQUAL OPPORTUNITY IMPLICATIONS

The procedures for making Tree Preservation Orders are prescribed by detailed legislation and guidance on trees which merit protection so there are no direct equal opportunity implications.

7. ENVIRONMENTAL IMPACT

Tree Preservation Orders have a positive environmental impact as legal tools to protect tree cover in the area.

8. WARD(S) AFFECTED

Tree Preservation Order 36 of 2008 is located within the St. Matthews ward.

9. **CONSULTEES**

None.

10. **CONTACT OFFICER**

Andrew Cook – Extension: 2447

11. **BACKGROUND PAPERS**

- Tree Preservation Order 36 of 2008 file PDI/17/862

Simon Tranter

HEAD OF DEVELOPMENT & DELIVERY

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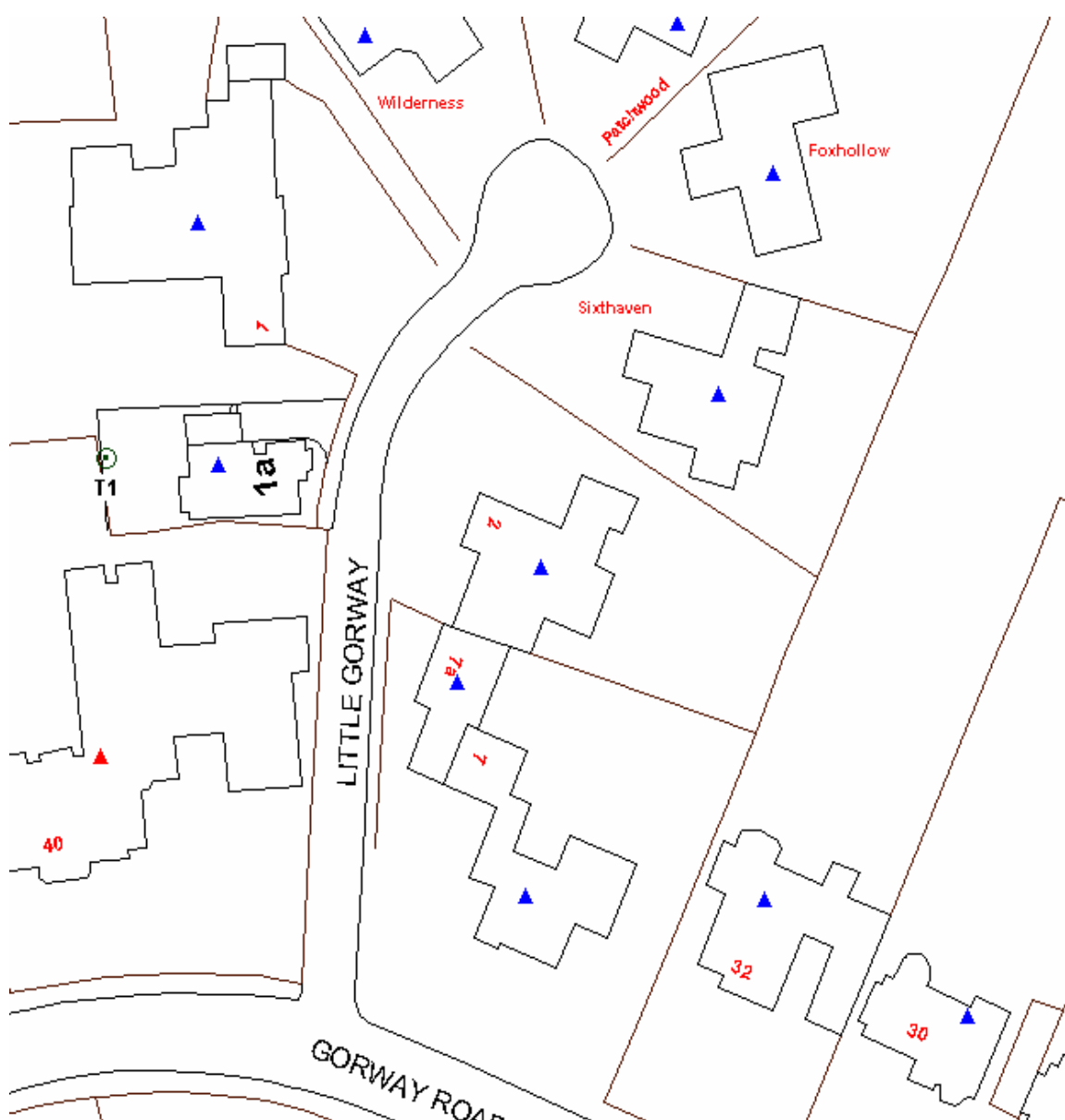
NON CONFIRMATION OF TREE PRESERVATION ORDER 36 OF 2008

REPORT DETAIL.

- 1 The committee is aware that most Tree Preservation Orders are made by officers through delegated emergency powers and reported to Development Control Committee for confirmation. These emergency powers allow officers to respond quickly when important trees are found to be under threat and justify protection through a Tree Preservation Order. The initial Tree Preservation Order is provisional and only becomes permanent once it has been confirmed. Confirmation is a formal legal process which must take place within 6 months of the Tree Preservation Order being made. In Walsall Council all Tree Preservation Orders are confirmed by this committee. Any Tree Preservation Order which has not been confirmed within 6 months lapses and ceases to have any practical effect and the trees involved are not protected. The Tree Preservation Order can subsequently be confirmed outside of the six month period and the trees would again be protected.
- 2 A few Tree Preservation Orders have been made through the emergency procedures which have never been confirmed for various reasons. The purpose of this report is to report on one outstanding Tree Preservation Order and seek the support of the committee for the action taken by officers.
- 3 The following provisional Tree Preservation Order was made in 2008 under Section 201 of The Town and Country Planning Act 1990:
 - Tree Preservation Order 36 of 2008 on land at 1a, Little Gorway, Walsall, WS1 3BQ

This Tree Preservation Order is described in more detail together with the reasons that it has not been confirmed:

4 **Tree Preservation Order 36 of 2008 on land at 1a, Little Gorway, Walsall, WS1 3BQ.**



- 4.1 Provisional Tree Preservation Order 36 of 2008 was made on 25 November 2008 in response to a request from a member of the public who was concerned that the tree was in imminent danger of being removed by the landowner. During the initial site visit access was not available to the base of the tree to undertake a detailed inspection, the visit confirmed that the tree was visually important but accessing the land would have alerted the landowner to a possible Tree Preservation Order and risked the removal of the tree before any Order could be made. A subsequent site visit to assess the tree more thoroughly was undertaken after the provisional Tree Preservation Order had been made and revealed that the base of the tree was causing direct damage to a retaining wall and that future incremental growth of the tree would exacerbate the problem. As the tree is causing property damage it does not justify protection through a Tree Preservation Order.

Recommendation: Allow Tree Preservation Order to lapse.