



DEVELOPMENT CONTROL COMMITTEE: –

19 February 2008

REPORT OF THE INTERIM HEAD OF REGENERATION - DELIVERY AND DEVELOPMENT

CONFIRMATION OF TREE PRESERVATION ORDER 43 OF 2007 ON LAND AT 306, SKIP LANE, WALSALL, WS5 3RA.

1. PURPOSE OF REPORT

To seek the confirmation of the Tree Preservation Order No 43 of 2007.

2. RECOMMENDATIONS

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order No 43 of 2007 in 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 43 of 2007 is located within Paddock 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**

Andrew Cook - Extension: 2447

11. **BACKGROUND PAPERS**

File PD1/17/811 relating to Tree Preservation Order No 43 of 2007.

Simon Tranter,
INTERIM HEAD OF REGENERATION - DELIVERY AND DEVELOPMENT

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1.0 **REPORT DETAIL.**

1.1 The Tree Preservation Order No 43 of 2007 was made on 26 October 2007. 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 has been blamed for subsidence damage to an adjacent property and making an emergency Tree Preservation Order will discourage the premature removal of this important tree.

1.2 The minimum six week period allowed for objection to the Order expired on 7 December 2007. One response has been received from OCA UK Ltd objecting to the Tree Preservation Order on the following grounds;

- No evidence has been supplied by the Council that a recognised landscape evaluation method for assessing candidate trees for a Tree Preservation Order has been used.
- The tree concerned may qualify under Section 198 (6) (b) of The Town and Country planning Act 1990 as an actionable nuisance and should not be protected.

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

- The Council uses the 'Tree Evaluation Method for Preservation Orders' (TEMPO) when assessing trees for a preservation order, this is a recognised evaluation method and a copy of the assessment has since been sent to OCA UK Ltd.
- It has not been proven or particularly likely that the tree is responsible for subsidence damage to a nearby property and consequently may not qualify under Section 198 (6) (b) of The Town and Country Planning Act 1990 as an actionable nuisance.

1.3 The Committee is therefore recommended to confirm Tree Preservation Order No 43 of 2007 in unmodified form.

TPO 43 of 2007 land at 306, Skip Lane, Walsall, WS5 3RA.

