



## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE PLANNING COMMITTEE**

**MONDAY 6TH NOVEMBER 2017**  
**AT 6.00 P.M.**

**PARKSIDE SUITE, PARKSIDE, MARKET STREET, BROMSGROVE, B61 8DA**

**PLEASE NOTE THAT AFTER 5PM, ACCESS TO THE PARKSIDE SUITE IS VIA THE MAIN ENTRANCE DOOR ON THE STOURBRIDGE ROAD. PLEASE ALSO NOTE THAT THERE IS NO PUBLIC PARKING AVAILABLE FOR THE NEW PREMISES. THE NEAREST PARKING IS THE PARKSIDE (MARKET STREET) PAY AND DISPLAY CAR PARK.**

**MEMBERS:** Councillors R. J. Deeming (Chairman), P.L. Thomas (Vice-Chairman), C. Allen-Jones, S. J. Baxter, M. T. Buxton, C.A. Hotham, S. R. Peters, S. P. Shannon, M. A. Sherrey, C. J. Spencer and P. J. Whittaker

Updates to the Reports of the Head of Planning and Regeneration Services will be available in the Council Chamber one hour prior to Meeting. You are advised to arrive in advance of the start of the Meeting to allow yourself sufficient time to read the updates.

Members of the Committee are requested to arrive at least fifteen minutes before the start of the meeting to read any additional representations and to ask questions of the Officers who will also make themselves available for at least one hour before the meeting. Members are also requested to give Officers at least forty-eight hours notice of detailed, technical questions in order that information can be sought to enable answers to be given at the meeting.

### **AGENDA**

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.

3. To confirm the accuracy of the minutes of the meeting of the Planning Committee held on 2nd October 2017 (Pages 1 - 6)

4. Updates to planning applications reported at the meeting (to be circulated prior to the start of the meeting)
5. Tree Preservation Order (11) 2017 - Trees on land adjacent to 73 Linthurst Newtown, Blackwell (Pages 7 - 132)
6. 2017/00950/FUL - Demolition of existing 2 storey building, The Greyhound (ph), 30 Rock Hill, Bromsgrove, Worcestershire, B61 7LR - Greyhound Inn Developments Ltd (Pages 133 - 138)
7. 2017/00968/FUL - Erection of 12 stable blocks (total) 34 loose boxes), 12 sheds, 4 storage containers, 1 pole mounted floodlight and CCTV camera, ancillary office and manège - Newhouse Farm, Lea End Lane, Hopwood, Birmingham, Worcestershire, B48 7AX - Mr Philip Michell (Pages 139 - 150)
8. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS  
Chief Executive

Parkside  
Market Street  
BROMSGROVE  
Worcestershire  
B61 8DA

26th October 2017

# BROMSGROVE DISTRICT COUNCIL

## PLANNING COMMITTEE

### Information for Members of the Public

The Planning Committee comprises 11 Councillors. Meetings are held once a month on Mondays **at 6.00 p.m.** in the Parkside Suite, Parkside, Market Street, Bromsgrove, B61 8DA - access to the Parkside Suite after 5pm is via the main entrance door on the Stourbridge Road. The nearest available public parking for the new premises is Parkside (Market Street) Pay and Display. .

The Chairman of the Committee, who is responsible for the conduct of the meeting, sits at the head of the table. The other Councillors sit around the inner-tables in their party groupings. To the immediate right of the Chairman are the Planning Officers. To the left of the Chairman is the Solicitor who provides legal advice, and the Democratic Services Officer who takes the Minutes of the Meeting. The Officers are paid employees of the Council who attend the Meeting to advise the Committee. They can make recommendations, and give advice (both in terms of procedures which must be followed by the Committee, and on planning legislation / policy / guidance), but they are not permitted to take part in the decision making.

All items on the Agenda are (usually) for discussion in public. You have the right to request to inspect copies of previous Minutes, reports on this agenda, together with the background documents used in the preparation of these reports. Any Update Reports for the items on the Agenda are published on the Council's Website at least one hour before the start of the meeting, and extra copies of the Agenda and Reports, together with the Update Report, are available in the public gallery. The Chairman will normally take each item of the Agenda in turn although, in particular circumstances, these may be taken out of sequence.

The Agenda is divided into the following sections:-

- Procedural Items

Procedural matters usually take just a few minutes and include: apologies for absence, approval of the Minutes of the previous meeting(s) and, where necessary, election of a Chairman and / or Vice-Chairman. In addition, Councillors are asked to declare whether they have any disclosable pecuniary and / or other disclosable interests in any items to be discussed. If a Councillor declares a disclosable pecuniary interest, he/she will withdraw from the meeting during the discussion and voting on that item. However, it is up to the individual Councillor concerned to decide whether or not to declare any interest.

- Reports of the Head of Planning and Regeneration

(i) **Plans and Applications to Develop, or Change of Use** - Reports on all applications will include a response from consultees, a summary of

any observations received and a recommendation. Recent consultation responses will be reported at the meeting within the Update Report.

Each application will be considered in turn. When the Chairman considers that there has been sufficient discussion, a decision will be called for. Councillors may decide that, in order to make a fully informed decision, they need to visit the site. If this is the case, then a decision on the application will be deferred until the next meeting of the Committee. Alternatively, a decision may be deferred in order that more information can be presented / reported. If the Councillors consider that they can proceed to making a decision, they can either accept the recommendation(s) made in the report (suggesting any additional conditions and / or reasons for their decision), or they can propose an amendment, whereby Councillors may make their own recommendation. A decision will then be taken, usually by way of a show of hands, and the Chairman will announce the result of the vote. Officers are not permitted to vote on applications.

Note: **Delegation** - All items are presumed to be matters which the Planning Committee has delegated powers to determine. In those instances where delegation will not or is unlikely to apply, an appropriate indication will be given at the meeting.

Any members of the public wishing to make late additional representations should do so in writing, or by contacting their Ward Councillor(s) well in advance of the Meeting. You can find out who your Ward Councillor(s) is/are at [www.writetothem.com](http://www.writetothem.com).

Members of the public should note that any application can be determined in any manner, notwithstanding any (or no) recommendation being made to the Planning Committee.

- (ii) **Development Control (Planning Enforcement) / Building Control** - These matters include such items as to whether or not enforcement action should be taken, applications to carry out work on trees that are the subject of a Tree Preservation Order, etc.. 'Public Speaking' policy does not apply to this type of report, and enforcement matters are normally dealt with as confidential items (see 'Confidential / Exempt Business' below).

- Reports of the Head of Legal and Democratic Services

These reports relate to, for example, cases where authority is sought to commence legal proceedings for non-compliance with a variety of formal planning notices. They are generally mainly concerned with administrative and legal aspects of planning matters. 'Public Speaking' policy does not apply to this type of report, and legal issues are normally dealt with as confidential items (see 'Confidential / Exempt Business' below).

- Urgent Business

In exceptional circumstances, and at the discretion of the Chairman, certain items may be raised at the meeting which are not on the Agenda. The Agenda is published a week in advance of the meeting and an urgent matter may require a decision. However, the Chairman must give a reason

for accepting any "urgent business". 'Public Speaking' policy would not necessarily apply to this type of report.

- **Confidential / Exempt Business**

Certain items on the Agenda may be marked "confidential" or "exempt"; any papers relating to such items will not be available to the press and public. The Committee has the right to ask the press and public to leave the room while these reports are considered. Brief details of the matters to be discussed will be given, but the Committee has to give specific reasons for excluding the press and public.

### **Public Speaking**

Where members of the public have registered to speak on planning applications, the item will be dealt with in the following order (subject to the discretion of the Chairman):-

- Introduction of item by the Chairman;
- Officer's presentation;
- Representations by objector;
- Representations by applicant (or representative) or supporter;
- Parish Council speaker (if applicable) and / or Ward Councillor;
- Consideration of application by Councillors, including questions to officers.

All public speakers will be called to the designated area by the Chairman and will have a maximum of 3 minutes to address the Committee.

Feedback forms will be available within the Council Chamber for the duration of the meeting in order that members of the public may comment on the facilities for speaking at Planning Committee meetings.

### **NOTES**

Councillors who have not been appointed to the Planning Committee but who wish to attend and to make comments on any application on the attached agenda are required to inform the Chairman and the relevant Committee Services Officer before 12:00 noon on the day of the meeting. They will also be subject to three minute time limit.

Councillors who are interested in the detail of any matter to be considered are invited to consult the files with the relevant Officer(s) in order to avoid unnecessary debate on such detail at the meeting. Members of the Committee are requested to arrive at least one hour before the start of the meeting to read any additional representations and to ask questions of the Officers who will also make themselves available for at least one hour before the meeting. Members are also requested to give Officers at least forty-eight hours notice of detailed, technical questions in order that information can be sought to enable answers to be given at the meeting. Councillors should

familiarise themselves with the location of particular sites of interest to minimise the need for Committee Site Visits.

Councillors are respectfully reminded that applications deferred for more information should be kept to a minimum and only brought back to Committee for determination where the matter cannot be authorised to be determined by the Head of Planning and Regeneration Services.

In certain circumstances, items may be taken out of the order than that shown on the agenda and, therefore, no certain advice can be provided about the time at which any item may be considered. However, it is recommended that any person attending a meeting of the Committee, whether to speak or to just observe proceedings and listen to the debate, be present for the commencement of the meeting at 6.00 p.m.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - SECTION 100D

1. All applications for planning permission include, as background papers, the following documents:-
  - a. The application - the forms and any other written documents submitted by the applicant, the applicant's architect or agent, or both, whichever the case may be, together with any submitted plans, drawings or diagrams.
  - b. Letters of objection, observations, comments or other representations received about the proposals.
  - c. Any written notes by officers relating to the application and contained within the file relating to the particular application.
  - d. Invitations to the Council to comment or make observations on matters which are primarily the concern of another Authority, Statutory Body or Government Department.
  
2. In relation to any matters referred to in the reports, the following are regarded as the standard background papers:-

Policies contained within the County Structure Plan and Local Plan below, and Planning Policy Statements, specifically referred to as follows:-

BDP	-	Bromsgrove District 2011-2-30
SPG	-	Supplementary Policy Guidance
SPD		Supplementary Planning Document
  
3. Any other items listed, or referred to, in the report.

Note: For the purposes of the Local Government (Access to Information) Act 1985, unless otherwise stated against a particular report, "background papers" in accordance with Section 100D will always include the Case Officer's written report and any letters or memoranda of representation received (including

correspondence from Parish Councils, the Highway Authority, statutory consultees, other 'statutory undertakers' and all internal District Council Departments).

**Further information**

If you require any further information on the Planning Committee, or wish to register to speak on any application for planning permission to be considered by the Committee, in the first instance, please contact Jan Smyth, Democratic Services Officer, at [jan.smyth@bromsgroveandredditch.gov.uk](mailto:jan.smyth@bromsgroveandredditch.gov.uk), or telephone (01527) 64252 Extn. 3266.

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## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE PLANNING COMMITTEE**

**MONDAY, 2ND OCTOBER 2017, AT 6.00 P.M.**

PRESENT: Councillors R. J. Deeming (Chairman), P.L. Thomas (Vice-Chairman), C. Allen-Jones (during Minute No. 36/17), M. T. Buxton, S. R. Peters, S. P. Shannon, M. A. Sherrey, C. J. Spencer, L. J. Turner (substituting for Councillor S. J. Baxter) and P. J. Whittaker

Officers: Mr. D. M. Birch, Mr. D. Kelly, Mrs. T. Lovejoy, Mrs. J. Smyth and Mrs. P. Ross

32/17 **APOLOGIES**

Apologies for absence were received on behalf of Councillors S. J. Baxter, C. A. Hotham and M. A. Sherrey. Councillor L. J. Turner was confirmed as Councillor Baxter's substitute for the meeting.

33/17 **DECLARATIONS OF INTEREST**

No declarations of interest were made.

34/17 **MINUTES**

The minutes of the meeting of the Planning Committee held on 4th September 2017 were received.

**RESOLVED** that the minutes of the meeting be approved as a correct record.

35/17 **2017/0761/FUL - RESIDENTIAL DEVELOPMENT OF 148 DWELLINGS (AMENDMENT TO 2015/0687) - FORMER POLYMER LATEX SITE, WESTON HALL ROAD, STOKE PRIOR, WORCESTERSHIRE - MR MARK ELLIOT**

Officers provided additional information in relation to the proposed residential development, with regards to: Highway, Contaminated Land, Air Quality Matters and Urban Design matters, further to additional comments received from Highway Consultant Mott McDonald, Worcestershire Highways Authority and Worcestershire Regulatory Services; proposals for amending Conditions 6 and 7; with the addition of seven further Conditions; and amended Section 106 contributions towards the provision of enhanced education facilities at Stoke Prior First School, Shared Aston Fields and St John's Middle and South

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Bromsgrove High, all as detailed in the published Update Report, copies of which were provided to Committee Members and the public gallery prior to commencement of the meeting. Officers also provided a verbal update on comments received from the Council's Drainage Engineers who had no objections to the development.

The Committee then considered the Application, which had been recommended for approval by Officers. Having considered the Officer's report and Update, Members queried why there was no mention in the Section 106 details for the provision of wheelie bins for the proposed development; and that funding should be sought from the developer. Officers explained that this had been omitted from the application as approved in 2015 but could be rectified through the amended S106 agreement should Members be minded to approve the Application. In response to Members queries, Officers also provided clarification as to why the NHS had not sought contributions under the original or this amended Application.

## **RESOLVED** that

- 1) Planning Permission be delegated to the Head of Planning and Regeneration to determine the planning application, subject to the receipt of a suitable and satisfactory legal mechanism in relation to the following matters:
  - i. the provision of 21 affordable housing units;
  - ii. a contribution of £285,685.61 towards the provision of enhanced education facilities at Stoke Prior First School, Shared Aston Fields and St John's Middle and South Bromsgrove High;
  - iii. a contribution of £23000 towards public transport improvement measures including bus stops on Shaw Lane and cycle provision at Ryefields Road;
  - iv. the provision and maintenance in perpetuity of the proposed on site public open space, Local Equipped Area of Play and areas for habitat enhancement;
  - v. the provision of and maintenance in perpetuity of the proposed drainage facilities on the site (including the balancing ponds and pumping station); and additionally
  - vi. a contribution of £61.40 per dwelling for the provision of wheelie bins and a separate contribution of £1632 per apartment block for the provision of communal bins.
  
- 2) the Conditions as detailed on pages 14 to 18 of the main agenda report, but with Conditions 6 and 7 being amended to read as follows:
  6. The remediation of the site must be carried out in accordance with the Georisk Management Geoenvironmental Assessment; Report ref: 14247/1 and the Georisk Management Remediation Method Statement & Validation Plan; Report ref: 14247/3, Dated: July 2017

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prior to the commencement of development, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority;

7. Following the completion of the measures identified in the Georisk Management Geoenvironmental Assessment; Report ref: 14247/1 and the Georisk Management Remediation Method Statement & Validation Plan; Report ref: 14247/3, Dated: July 2017, a validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval of the Local Planning Authority prior to the occupation of any dwellings.

3) the following additional Conditions as detailed on pages 4 to 5 of the Update Report, as detailed below:

14) No other development (hereby permitted) shall commence until visibility splays have been provided on each side of the proposed access on a line joining a point 2.4 metres back from the nearside edge of the adjoining carriageway measured along the centreline of the access, to a point 54 metres west and 59 metres east measured along the nearside edge of the carriageway from the centre of the new access. Nothing shall be planted, erected and/or allowed to grow which exceeds a height of 0.6metres on the triangular area of land so formed in order not to obstruct the visibility described above.

Reason: Required as a pre commencement condition in the interests of highway safety.

15) Prior to the first occupation of any dwelling hereby approved the existing vehicular access onto the adjoining highway shall be permanently closed. Details of the means of closure and reinstatement of this existing access shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of work on the development hereby approved.

Reason: To ensure the safe and free flow of traffic using the adjoining County highway.

16) The development hereby permitted shall not be occupied until the accesses shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with the Worcestershire Highways Design Guide and these areas shall thereafter be retained and kept available for those users at all times.

Reason: In the interests of Highway safety and to ensure the free flow of traffic using the adjoining Highway.

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- 17) Prior to the first occupation of any dwelling hereby permitted the residential unit shall be fitted with an electric vehicle charging point in accordance with details that shall first be submitted to and approved in writing by the Local Planning Authority and thereafter the charging point shall be keep available for the charging of electric vehicles.

Reason: To encourage sustainable travel and healthy communities.

- 18) The development hereby permitted shall not be brought into use until the applicant has submitted to and have approved in writing residential travel plan that promotes sustainable forms of access to the site with the Local Planning Authority. This plan thereafter will be implemented and updated in agreement with Worcestershire County Councils Travel plan co-ordinator.

Reason: To reduce vehicle movements and promote sustainable access to the site.

- 19) No dwelling hereby permitted shall be occupied until the applicant has submitted to and had approved in writing a welcome pack that promotes sustainable travel for future residents with the Local Planning Authority.

Reason: To reduce vehicle movements and promote sustainable access to the site.

- 20) During the course of any site clearance and development, the hours of work for all on-site workers, contractors and sub-contractors shall be limited to between;  
0730 to 1800 hours Monday to Friday  
0800 to 1300 hours Saturdays  
and NO WORKING shall take place at any time on Sundays, Bank Holidays or Public Holidays or at any time outside of the above permitted working hours unless first agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of neighbouring occupiers.

36/17

## **ADDITIONAL ITEM - DIVERSION OF PUBLIC FOOTPATH NO. AV-528 (C) - ASH LANE, HOPWOOD, BROMSGROVE**

(The Chairman agreed to the consideration of this item as a matter of urgency because a decision was required thereon before the next meeting of the Committee.)

The Committee considered a report which detailed the withdrawal of Public Path Diversion Order 2014 (Bridleway, No AV-528 (C) (Part)),

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Ash Lane Bromsgrove (the “Order”) made under s257 of the Town and Country Planning Act 1990.

Members were asked to note that there was a typographical error in the order in that it should have been Public Path Order 2017 and not 2014.

Officers drew Members’ attention to Appendices 1 and 2 to the report and provided clarification on matters raised. Officers explained that because of the scale of amendments required, they were proposing to deal with the amendment by a new order rather than by modifications at confirmation stage.

Members were asked to approve the withdrawal of the Order so that it could be replaced by a more comprehensive order.

**RESOLVED** that the withdrawal of Public Path Diversion Order 2014 (Bridleway, No AV-528 (C) (Part)), Ash Lane Bromsgrove (the “Order”) made under s257 of the Town and Country Planning Act 1990, be approved.

The meeting closed at 6.40 p.m.

Chairman

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### PLANNING COMMITTEE

6<sup>th</sup> November 2017

Tree Preservation Order (No.11) 2017

**– Trees on land adjacent to 73 Linthurst Newtown, Blackwell**

Relevant Portfolio Holders	P J Whittaker (Environmental Services and Leisure)
Portfolio Holder Consulted	No
Relevant Head of Service	Head of Environmental Services
Ward(s) Affected	Linthurst
Ward Councillor(s) Consulted	No
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

- 1.1 The Committee is asked to consider the confirmation of Tree Preservation Order (No.11) 2017 relating to trees and woodland on land adjacent to 73 Linthurst Newtown, Blackwell.

**2. RECOMMENDATIONS**

- 2.1 It is recommended that Tree Preservation Order (No.11) 2017 relating to trees and woodland on land adjacent to 73 Linthurst Newtown, Blackwell ('the Site') is confirmed without modification as shown on the plan and schedule appendix (1).

**3. KEY ISSUES**

**Financial Implications**

- 3.1 There are provisions for compensation in specified circumstances, if further to confirmation of the order, consent to carry out works on trees is refused or granted subject to conditions. There are also provisions for a statutory challenge against the Order if the order is deemed to be made or confirmed unlawfully. Officers cannot quantify either the risk of this happening or the likely expenditure if they do.

**Legal Implications**

- 3.3 The Town and Country Planning (Tree Preservation) (England) Regulations 2012 cover this procedure. The power to make a TPO is found at section 198 of the Town and Country Planning Act 1990.

Section 198 of the TCPA 1990 provides (emphasis added):

“(1) If it appears to a local planning authority that it is **expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order** with

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respect to such trees, groups of trees or woodlands as may be specified in the order.

(2) An order under subsection (1) is in this Act referred to as a “tree preservation order”.

Regulation 5 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 provides:

“5.— Procedure after making an order

(1) As soon as practicable after making an order, and before confirming it, the authority which made it shall—

(a) serve on the persons interested in the land affected by the order—

(i) a copy of the order; and

(ii) a notice containing the particulars specified in paragraph (2);

(b) make a copy of the order available for public inspection, in accordance with paragraph (3); and

(c) in the case of an order made following service of a notice under section 211(3) (preservation of trees in conservation areas), serve on the person who served that notice the information specified in sub-paragraph (a).

(2) The particulars mentioned in paragraph (1)(a)(ii) are—

(a) the reasons for making the order;

(b) a statement that objections or other representations with respect to any trees, groups of trees or woodlands specified in the order may be made to the authority in accordance with regulation 6;

(c) the date, being at least 28 days after the date of the notice, by which any objection or representation must be received by the authority; and

(d) a copy of regulation 6.

(3) A copy of the order shall be made available for inspection, free of charge, at all reasonable hours, at the offices of the authority by whom the order was made; and where an order is made on behalf of an authority, it shall be made available for inspection also at the offices of the authority on whose behalf it was made.

Regulation 7 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 provides (emphasis added):

“7.—(1) The authority **shall not confirm an order which they have made unless they have first considered objections and representations duly made in respect of it and not withdrawn.**

(2) An authority **may confirm an order with or without modifications.**



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(3) Where an order is confirmed it shall be endorsed to that effect and the endorsement shall also indicate—

(a) that the order was confirmed with modifications or without modifications, as the case may be; and

(b) the date on which it was confirmed.

(4) Where an order is confirmed with modifications, the modifications shall be indicated in the order by distinctive type or other means.

(5) A modification under paragraph (2) may not add to the Schedule to the order (and the map) references to a tree to which the order did not previously apply.”

#### Service / Operational Implications

##### Background

3.4 TPO 11 of 2017 consist of a woodland area, 6 groups and 19 individual trees as shown in the schedule to the order appendices (1). It was made because there is considered to be a continued threat of trees being removed to accommodate the potential of development on the site. The area of Blackwell contains a high volume of mixed species and varied age class trees that add greatly to the overall character of the area. The trees within this site contribute to that character of the area in that they are seen from a number of local properties, and public vantage points off Foxes Close, Linthurst Newtown and Public Foot Path / Right of Way to the north of the site. Being visible from these locations, they therefore contribute to the amenity of the area.

3.5 The PPG states that:

“The woodland category’s purpose is to safeguard a woodland as a whole. So it follows that, while some trees may lack individual merit, all trees within a woodland that merits protection are protected and made subject to the same provisions and exemptions. In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made are also protected by the Order.” (Tree Protection Orders, paragraph 028)

The woodland designation was made because In the UK, woodland is defined by the Forestry Commission and the UK Government in the UK Forestry Standard and national Forestry Statistics as the following:

*‘land under stands of trees with a canopy cover of at least 20%, including integral open space. There is no minimum height for trees to form a woodland at maturity, so the definition includes woodland scrub’*

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The woodland area included within the order clearly has a density of trees that provide well above the 20% level of canopy cover required therefore the use of this designation is felt to be appropriate on this site.

- 3.6 The site was subject to a previous Tree Preservation Order raised in 2016 (Bromsgrove District TPO (13) 2016). This TPO was made in provisional form on the 3<sup>rd</sup> August 2016 to protect the trees and woodland from being felled or mismanaged. The order was made in view of concerns having been raised in previous weeks by local residents who had contacted the Council highlighting that chainsaw activity was taking place on the site. When officers attended the site it was found that trees had clearly been felled. On further investigation it was discovered that Freefield Investments Ltd held an interest in the land. Freefield Investments Ltd is a property development company who are understood to specialise in acquisition of land for then onward sale once outline planning permission has been granted. The site is designated Green Belt land and is currently under consideration for future removal from the Green Belt as part of the Strategic Housing Land Availability Assessment (SHLAA) process being undertaken by the Council's Strategic Planning section.
- 3.7 The validity of this order was contested and an objection raised by Freefield Investments Ltd on the grounds listed in their letter to the council reference code MAF1/JDP dated 08<sup>th</sup> August 2016 and supported by the documentation from Grove Tompkins Bosworth Solicitors, Barton Heyett Arboricultural Consultants and Jerry Ross Arboricultural Consultants and Cotswold Wildlife Surveys on behalf of Mr and Mrs Fell as shown in appendix (2). Therefore, in line with standard procedure where an objection are received at the provisional stage of a new TPO order it was taken to the January 2017 planning committee meeting to request its confirmation. The planning committee confirmed the TPO without modification and the order was formally confirmed on the 12<sup>th</sup> January 2017.
- 3.8 Access Homes LLP then raised further objection to BDC TPO (13) 2016 and sought to have the TPO quashed by the High Court by way of statutory challenge. Access Homes LLP is the registered owner of the site and the land registry documents indicate that they were registered as the freehold owners in November 2016. The grounds of the challenge were as follows:
- Misdirection as to section 198 of 1990 Act and PPG, or failure to adequately give reasons
  - Flawed approach to "Woodland"/ acting for an improper purpose
  - Procedural unfairness based on article 1 and 6 of ECHR made up of:-
    1. Flaws in site visit (presence of tree officer and his ability to address members in private

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2. Flaws in committee process (inability to be able to address the committee orally)
- 3.9 Having fully evaluated the grounds of challenge and having being able to carried out a more extensive site survey due to an improved level of access to the site during the winter period allowed by the decline of heavy ground vegetation cover, the following conclusions were arrived at:

The extent of “Woodland” designation cover within BDC TPO (13) 2016 was found to be too extensive due to the tree volume in some sections of the site being lighter in density than first thought.

Also although it is BDC’s usual practice for the Development Control Manager to lead the site visit (albeit with the tree officer present), on this occasion the tree officer, who was promoting the TPO was the sole officer in attendance at the site visit before the committee meeting on 9 January 2017. It was therefore accepted by the parties that the attendance of the site visit by the tree officer without the Development Control Manager, as is the usual practice of the Defendant, was sufficient in the circumstances of this case to give the impression of procedural unfairness.

Therefore, it was agreed that the best way forward would be to quash the original order and, accordingly, TPO (13) 2016 was quashed by consent.

- 3.10 A new provisional order was then raised (Bromsgrove District Tree Preservation Order (11) 2017) on the 4<sup>th</sup> July 2017 as shown in appendix (1). The new order’s “Woodland” designation is reduced in extent it being considered that this provided tree protection more relevant to the nature and density of the tree stock on the site.
- 3.11 The new order also contains 19 individual trees and 6 groups of trees as shown in the schedule attached to appendix (1). The revised level of tree protection within the new order is felt to be accurate and consistent with the level and density of valuable tree stock on the site and therefore addresses the argument regarding the inappropriate level of cover within the previous order.

#### 4.0 The power to make a TPO

4.1 As set out in 3.3 above, the power to make a TPO is found at s.198 of the TCPA 1990. A TPO may be made where it appears that such an order is ‘expedient in the interests of amenity to make provision for the preservation of trees or woodlands’. The question is therefore: is it expedient in the interests of amenity to confirm this order? As also noted at 3.3 above it is possible for this committee to confirm this order without modification, confirm the order with modification or not confirm the order.

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4.2 The 'Planning Practice Guidance' or 'PPG' provides guidance on what 'amenity' and 'expedient' mean in practice (appendix 8).

#### **4.0 Representations Received (Objections)**

- 4.1 The following three objections have been received in respect of the Bromsgrove District Council TPO (11) 2017.
- 4.2 Letter from Harrison Clark Rickerbys Solicitors dated 4<sup>th</sup> August 2017 as shown in appendix (3) On behalf of Access Homes.
- 4.3 My comments in relation to the points raised within the letter are as follows:
- The justification and reason the order has been raised is that tree work had clearly been undertaken on the site and was progressing to remove trees and other vegetation from the land. Also relevant is the nature of the companies owning the land which are understood to specialise in acquisition of land for then onward sale once outline planning permission has been granted. Therefore it was reasonable to assume the site would be largely cleared of tree stock to accommodate development on the site.
- 4.4 The large proportion of trees within the site are visible from a number of public vantage points around the site including Linthurst Road, Foxes Close and Public Foot Path to the North of the site (see maps appendix (7) highlighting the location of the public footpath to the North of 73 Linthurst Newtown and appendix (9) photographs of site). They are also visible from a number of local properties and gardens. Therefore, I feel that the trees do offer an acceptable level of visual amenity value and it is appropriate to make the main overriding reason for the raising of the order being in the interest of amenity.
- 4.5 Access Homes LLP was not directly served notice of the raising of the new TPO but Freefield Investments Ltd were and are known to be a linked company to Access Homes LLP under the management of the Fell Family. Therefore, I feel that that all parties concerned with this land were made aware of the TPO at the point it was raised. This would appear to be confirmed by the objection received. Two notification site notices were also put up on site on the 5<sup>th</sup> July 2017.
- 4.6 In terms of expediency for the raising of the order I feel that the known nature of the companies who own the land and the evidence of the level of work that was being gradually undertaken on the site along with the value of the trees in this setting is adequate justification in terms of expediency to the raising of the order.
- 4.7 Due to the level of visibility both from public vantage points and local properties I feel that the loss of any currently protected trees within the site would undoubtedly have a detrimental influence on the outlook from these vantage points and the overall character of the area and therefore the

### PLANNING COMMITTEE

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enjoyment of passers-by and local residents would be affected. As well as the visual amenity benefits the tree stock within the site especially the woodland area also offers a high level of habitat value to the area. If any major volume of tree stock within the site was lost or it would undoubtedly have a major impact on the amount of wild life that benefit offered by the overall tree cover and could drive the wild life from within the site and possibly wider area of adjoining land. TPO PPG indicates that these other factors are relevant to an assessment of amenity but they are not alone sufficient to warrant making an order (see appendix (8) 'other factors'). TPO PPG also highlights under the heading "Individual, Collective and Wider Impact" that an assessment of the particular importance of an individual tree, group of trees or of woodlands by reference to their characteristics is advised (see appendix (8)). One criteria under this heading is 'future potential as an amenity'. I consider that the trees would have great future potential as an amenity to the residents, visitors or users of any future development on this site.

4.8 In relation to the other points raised in the letter:

- A copy of the consent order is attached at Appendix 11. The letter asserts that contrary to the consent order, TPO 11 of 2017 is more restrictive than the plan attached to the consent order. Officers are of the view that this matter is not relevant to the committee's consideration and in any event, as TPO 11 of 2017 is far less extensive than the plan attached to the consent order, does not accept Harrison Clark Rickerbys' assertion. If it is necessary to make an amendment to TPO 11 of 2017 because of the consent order, the Council has the power to vary the order under section 333(7) of the Town and Country Planning Act 1990.
- As set out in paragraph 3.3 above, regulation 5 of the Tree Preservation Regulations, the requirement is to make the order available and to serve the order on people interested in land affected by the order. In this and other orders, the Council considers that occupiers of property in the vicinity of the protected trees are sufficiently affected by the order to warrant a notice.
- The issue of payment of fees and disclosure of information is not directly relevant to the committee's decision. For information, the fees have been paid and disclosure has been made further to the information request.

Report objection from Barton Hyett Associates Arboricultural Consultants on behalf of Access Homes LLP dates 28.07.2017 as shown appendix (3).

4.9 My comments in relation to the points raised within the letter are as follows:

4.10 The large majority of trees within the site are visible from a number of public vantage points around the site including Linthurst Road, Badger Way and Public Foot Path to the North of the site (see map appendix 7). They are also visible from a number of local properties and gardens. Therefore the trees do offer an acceptable level of visual amenity value and it is appropriate to make

### PLANNING COMMITTEE

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the main overriding reason for the raising of the order being in the interest of amenity.

- 4.11 It is accepted that the visibility of some trees and certainly trees within the woodland block is limited. Unsurprisingly, some trees within the woodland block obscure other trees within the woodland block. TPO guidance under the heading **Visibility** see appendix (8) is "The extent to which trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should be visible from a public place such as a road or footpath, or accessible by the public". It is clear that the guidance does not require that every single tree must be visible from a public place. PPG goes on to highlight within the next paragraph titled **Individual, Collective and Wider Impact** "Public visibility alone will not be sufficient to warrant an Order".
- 4.12 The authority is advised to also assess the particular importance of an individual tree, of groups of trees or woodlands by reference to its or their characteristics including, size and form, future potential as an amenity, rarity, cultural or historic value, contribution to and relationship with the landscape and contribution to the character or appearance of a conservation area". Therefore, I feel that even though some trees are not visible from a public place or individually visible there is justification for their inclusion within the order in view of the wider collective benefits they given in relation to the points mentioned in the above paragraphs.
- 4.13 The TEMPO assessment chart showing how the trees were graded in terms of condition, longevity, visibility, expediency and other factors are attached in appendix 10. The TEMPO assessment was sent to Access Homes Limited on 22 August 2017 further to an information request.
- 4.14 Email received from Mr Matt Fell dated 4<sup>th</sup> August 2017 as shown appendix (4). My comments in relation to the points raised within the letter are as follows:
- 4.15 I feel that the group designation of G1 within the order is appropriate as although if evaluated individually arguably some trees might not be of sufficient quality to warrant TPO protection. Together they form a valuable cohesive group that is highly prominent to users of Linthurst Newtown and residents opposite the site therefore offering a high degree of visual amenity value to the area.
- 4.16 T15 is an appropriate distance from the property and although there is some minor root plate damage to the local paved area there is no indication that it might damage the property. There is some squirrel damage within the crown but there are no obviously over weighted branches this could be managed by a suitable level of pruning.
- 4.17 T16 & T17 are partially visible from vantage points on the Linthurst Road and are highly visible from the gardens and properties to the South Eastern side of 73 Linthurst Newtown offering a high degree of screening and visual amenity

### **PLANNING COMMITTEE**

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value to residents. T17 Willow has received some crown management pruning to ensure a safe crown distance is maintained from the local power lines. However, the tree is of a good age and there is a substantial amount of crown remaining on what is a perfectly viable tree.

- 4.18 I accept that not all of the trees identified within the new order are visible from a public place but they merit consideration in view of their future potential as an amenity, rarity, cultural or historic value, contribution to and relationship with the landscape and benefit they provide to the character of the area. Therefore, they should remain within the order.

#### **5.0 Representations Received (Support)**

5.1

We have received 22 correspondence of support for the order from local residents as shown in appendix (6)

There is clearly a very strong local concern regarding the potential threat of mismanagement or loss of trees on the site as evidenced by the letters of support we have received for both the previous and revised new order.

#### **6.0 conclusions and recommendations**

6.1

Having given full consideration to all the points raised in terms of objection and extensively surveyed and evaluated the tree stock and its relevance in this setting I feel that it is worthy of TPO protection. I therefore recommend that the order as shown in appendix (1) is confirmed without modification.

#### **7. Customer / Equalities and Diversity Implications**

- 7.1 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.
- 7.2 Equalities and Diversity implications- None

#### **8. RISK MANAGEMENT**

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

#### **9. APPENDICES**

Appendix 1– Copy of Provisional Order  
Appendix 2 – Copy of Objections to BDC TPO (13) 2016  
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## **PLANNING COMMITTEE**

**6<sup>th</sup> November 2017**

- Appendix 3 – Letter of Objection from Harrison, Clark and Rickerby Solicitors
- Appendix 4 - Report of Objection from Barton Hyett Arboricultural Consultants
- Appendix 5 – Email of Objection from Mr Fell Dated 4<sup>th</sup> August 2017
- Appendix 6 – Messages of Support
- Appendix 7 – Plan showing location of Public Footpath
- Appendix 8 – Copy of TPO Guidance notes
- Appendix 9 - Photographs of trees from local vantage points
- Appendix 10 – TEMPO Assessment
- Appendix 11 – Copy of consent order dated 20 June 2017

### **10. BACKGROUND PAPERS**

None

### **11. KEY**

TPO - Tree Preservation Order

### **AUTHOR OF REPORT**

Name: Gavin Boyes  
Email: [gavin.boyes@bromsgroveandredditch.gov.uk](mailto:gavin.boyes@bromsgroveandredditch.gov.uk)  
Tel: 01527 64252 x 3094

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# APPENDIX (1)

Town and Country Planning (Tree Preservation) (England) Regulations 2012

Town and Country Planning Act 1990

Tree Preservation Order (11) 2017

Bromsgrove District Council in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

### Citation

1. This Order may be cited as Tree Preservation Order (11) 2017

### Interpretation

2.— (1) In this Order “the authority” means Bromsgrove District Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

### Effect

3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

### Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 4<sup>th</sup> July 2017

Signed on behalf of Bromsgrove District Council

  
.....  
CLARE FLANAGAN

Authorised by the Council to sign in that behalf

# Agenda Item 5

## First Schedule

### Trees specified individually

(encircled in black on the map)

<u>No. on Map</u>	<u>Description</u>	<u>NGR</u>	<u>Situation</u>
T1	Ash	399729 - 272428	Near left boundary
T2	Ash	399703-272484	Centre left side of site
T3	Ash	399661-272519	Near left boundary
T4	Ash	399658-272523	Near left boundary
T5	Ash	399649-272540	Near left boundary
T6	Oak	399698- 272582	Near right boundary
T7	Silver Birch	399704-272544	Centre site
T8	Silver Birch	399714-272551	Centre site
T9	Ash	399737-272563	Right boundary of site
T10	Ash	399757-272533	Right boundary of site
T11	Sycamore	399761-272527	Right boundary of site
T12	Ash	399764-272521	Right boundary of site
T13	Holly	399790-272479	Right boundary of site
T14	Holly	399792-272476	Right boundary of site
T15	Sycamore	399765-272484	Right side of property
T16	Yew	399759-272493	Right side of property
T17	Willow	399750-272501	Rear of property
T18	Oak	399664-272558	Centre of plot rear of Property
T19	Apple	399726-272560	Right side of site

### Trees specified by reference to an area

(within a dotted black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>NGR</u>	<u>Situation</u>
G1	2 x Horse Chestnut, 1 x Oak, 3 x Lawsons Cypress 1 x Spruce	399743-272428	Front boundary with Linthurst Newtown road

# Agenda Item 5

G2	3 x Ash	399703-272467	Near left boundary
G3	2 x Horse Chestnut 3 x Beech 1 x Birch, 6 x Sycamore	399729-272512	Centre of site
G4	1 x Pear, 4 x Apple	399746-272529	Right side of site
G5	3 x Silver Birch	399697-272574	Near right boundary
G6	1x Oak, 1x Holly 1x Ash	399686-272549	Centre of site

## Groups of Trees

(within a broken black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>NGR</u>	<u>Situation</u>
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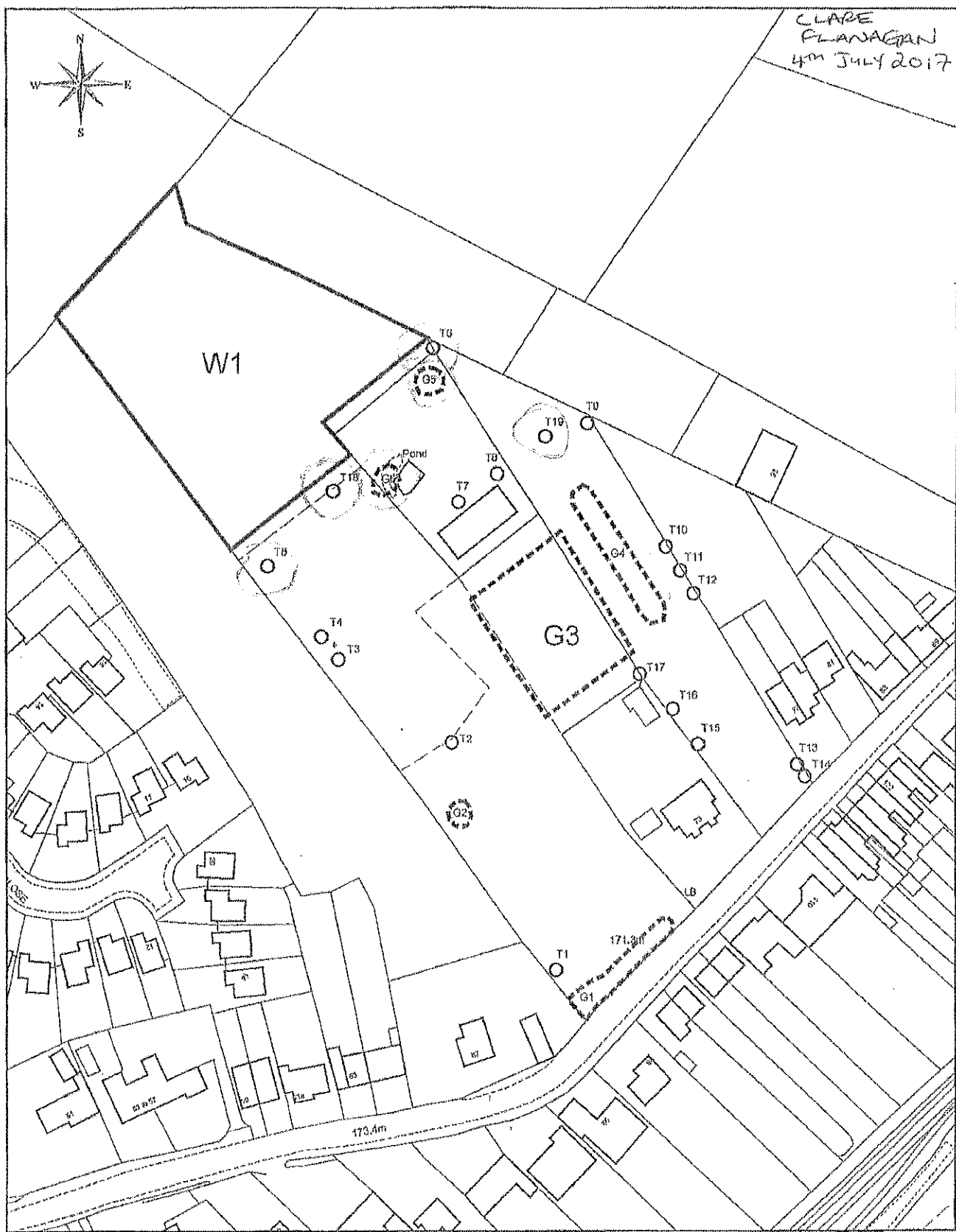
NONE

## Woodlands

(within a continuous black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>NGR</u>	<u>Situation</u>
W1	Mixed native Species woodland	399639-272584	North-eastern end of site

CLARE  
FLANAGAN  
4th JULY 2017



**Bromsgrove District Council**  
www.bromsgrove.gov.uk

Project:	Bromsgrove District Council Tree Preservation Order (11) 2017
Drawing:	Land Adjoining 73 Linthurst Newtown Blackwell
Drawing No:	P0000/0

Drawn:	G.B.
Scale:	1/1250 A4
Date:	28 / 06 / 2017

Engineering and Design Services Town Hall Water Straz Square Redditch Worce B96 8AH
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**APPENDIX (2)** Objections to TPO (13) 2016

Ref	Name
O1	Freefield Investments Ltd
O2	Grove Tompkins Bosworth Solicitors (on behalf of Freefield Investments Ltd.)
O3	Cotswold Wildlife Surveys (on behalf of Freefield Investments Ltd.)
O4	Barton Hyett Arboricultural Consultants (on behalf of Freefield Investments Ltd.)
O5	Jerry Ross Arboricultural Consultancy (on behalf of Freefield Investments Ltd.)

# FREEFIELD INVESTMENTS LTD

PO BOX 16864  
HENLEY IN ARDEN  
B95 8BG  
TEL: 01564 792539 FACSIMILE: 01564 898711

08 August 2016

Our ref: MAF1/JDP  
Your ref: TPO(13)2016

Mrs R Sultana  
Bromsgrove District Council  
Parkside  
Market Street  
Bromsgrove  
Worcs  
B61 8DA

BY EMAIL ONLY

Dear Madam

Re: Town and Country Planning Act 1990  
Bromsgrove District Council Tree Preservation Order (No.13) 2016  
Tree/s on land at side and rear of 73 Linthurst Newtown, Blackwell

We refer to your letter of 3<sup>rd</sup> inst., enclosing purported Tree Preservation Order on land owned by this company at Linthurst Newtown, Blackwell. Can you please note the above address for all future correspondence with us.

It is clear the Local Authority has acted precipitively and not in accordance either with the prescribed procedures and regulations or governing statutes. Further, the Local Authority has misapplied and misinterpreted the relevant law and has acted oppressively demonstrating clear prejudice and bias.

The schedule to the purported TPO does not comply with the relevant regulations and guidelines and wrongly describes the land as woodland. The Local Authority's own records and a quick glance at the site evidences this land is not woodland. Accordingly, the schedule is fatally flawed due to the errors and omissions.

The plan attached to the purported TPO is also incorrect and to assist we attach a copy of our Title Plan which shows the extent of and the correct boundary to our land.

For your further information, we would refer you to the Judgement in Evans v Waverley Borough Council (1995) which specifically addresses the 'woodland' mis-categorisation.

Taking all the above into account, it is clear the TPO is manifestly wrong and therefore a nullity.

M

**FREEFIELD  
INVESTMENTS LTD**

PO BOX 16864  
HENLEY IN ARDEN  
RG5 2RG

For your further information, your Tree Officer that attended the site on Wednesday last, serving Notice, ordered our contractors to immediately cease their maintenance work and demanded immediate access to our land. When access was lawfully denied, because your Officer had not given any prior notice, he became belligerent and hostile and threatened to ask the police to attend. We are disappointed that a Local Authority Officer would endeavour to unlawfully force entry and prevent our contractors from carrying out their lawful work. As a gesture of goodwill, our contractors have temporarily ceased their maintenance work to allow the Local Authority the opportunity to liaise with us and deal with this matter fairly and objectively.

We have today instructed our solicitors, Grove Tompkins Bosworth, 54 Newhall Street, Birmingham, B3 3QG, to draft proceedings against the Local Authority to set aside this Order and to seek costs on an indemnity basis and damages for unwarranted interference with the rights and powers of the landowner.

In the circumstances, we invite the Local Authority to forthwith revoke this purported TPO so as to avoid unnecessary litigation and wasteful costs.

We also confirm we have instructed an Arboriculturist, Andy Warren of Cotswold Wildlife Surveys, Withy Way, Charingworth, Chipping Camden, Glos, GL55 6NU, to act on our behalf and to survey any trees on our land that may merit consideration for a TPO. We would invite the Local Authority's Tree Officer to meet with Andy Warren in order that this issue is professionally dealt with in the best interests of all parties.

For the avoidance of doubt, we formally object to this TPO without in any way admitting the validity of the same.

Finally, as a further gesture of goodwill, we undertake not to cut down any mature trees on our land pending a site meeting with our Arboriculturist.

Yours faithfully,

**M A Fell**  
**Director**

c.c. Clare Flanagan, Principal Solicitor, Bromsgrove District Council  
Claire Felton, Head of Legal, Equalities & Democratic Services  
Kevin Dicks, Chief Executive, Bromsgrove District Council  
Andy Warren, Cotswold Wildlife Surveys  
Grove Tompkins Bosworth, Solicitors

Registered in England No. 3650166

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Grove Tompkins Bosworth  
Solicitors

M. W. Ingalls  
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Email [law@gtb-solicitors.com](mailto:law@gtb-solicitors.com)

YOUR REF

OUR REF **JRD.MS.Freefield**

DATE **05 September 2016**

Bromsgrove District Council  
Parkside  
Market Street  
Bromsgrove  
Wores B61 8DA

and by email: [r.sultana@bromsgroveandredditch.gov.uk](mailto:r.sultana@bromsgroveandredditch.gov.uk)

Dear Sirs

**Re: Freefield Investments Limited  
Tree/s on Land at Side & Rear of 73 Linthurst Newtown, Blackwell  
Tree Preservation Order (13) 2016**

We have been consulted by our clients, Freefield Investments Limited, in relation to the above Tree Preservation Order which has been issued and in our view is self-evidently wrong in designating the whole of the area as W1 and is clear abuse of process to deliberately frustrate our clients' lawful use of their land. Can we please invite the local authority to revoke the TPO as in the alternative we are instructed to seek Counsel's opinion with a view to claiming costs and damages in accordance with precedents and case law. Our clients' Arboriculturist has been instructed to liaise with the local authority Tree Preservation Officers and to work constructively with them to agree any trees or groups of trees that may be appropriate for TPO protection. In view of the holiday period our clients' Arboriculturist has not had sufficient time to prepare his full professional report in this matter and we are therefore asking for additional time in order that this can be prepared and submitted for consideration and a constructive meeting can take place with your Mr Bucklitch.

We trust this is in order and no action will be taken until this meeting has taken place.

Yours faithfully

**GROVE TOMPKINS BOSWORTH**  
Personal E-mail: [jrd@gtb-solicitors.com](mailto:jrd@gtb-solicitors.com)





30<sup>th</sup> September 2016



Cotswold Wildlife Surveys

Mrs R Sultana  
Bromsgrove District Council  
Parkside  
Market Street  
Bromsgrove  
Worcestershire  
B61 8DA

Dear Madam,

**TREE PRESERVATION ORDER: BROMSGROVE DISTRICT COUNCIL  
(No. 13) 2016 - TREES ON LAND AT SIDE AND REAR OF 73 LINTHURST  
NEWTON, BLACKWELL, BROMSGROVE, B60 1BS**

Further to the formal notice of the above Tree Preservation Order (TPO) on 3<sup>rd</sup> August 2016, this is to confirm, that on behalf of my clients Mr M Fell and Ms E Rosser, I wish to object to the notification of the TPO.

The Council have made the order for the following reason:

*The trees provide special amenity value and the Tree Preservation Order is made in the interests of amenity.*

Whilst we are not opposed to TPOs *per se*, in this case the TPO appears to have been hastily applied across part of the garden at No. 73, as well as the land on each side and to the rear of No. 73.

It is understood that the TPO was made in response to the clearance of scrub and previously felled tree stems on the adjoining land, and that the whole site, including the rear and side garden of No. 73 was identified by the Tree Officer as woodland, thereby engendering a blanket 'W' coverage for the TPO.

My objection is as follows:

1. The side and rear garden of No. 73 is not woodland, and is not connected in any way to the works on the adjoining land. Furthermore, No. 73 is in the private ownership of Mr Fell and Ms Rosser and is used for domestic purposes. As such it should not have been included in the TPO.
2. The clearance works on the adjoining land actually started about two years ago, with recent works focusing on tall ruderal vegetation, scrub and previously felled material, with some small areas of young, self-seeded trees also included.

---

Cotswold Wildlife Surveys Limited - Company Reg. No. 6864285 (England & Wales)  
Withy Way, Charingworth, Chipping Campden, Gloucestershire, GL55 6NU  
Tel: 01386 593056/07879 848449 Email: [andy@cotswoldwildlifesurveys.co.uk](mailto:andy@cotswoldwildlifesurveys.co.uk)  
VAT Reg. No. 944 1653 20

The latter consisted of Ash *Fraxinus excelsior*, Sycamore *Acer pseudoplatanus*, Domestic Plums *Prunus domestica* and Goat Willow *Salix caprea*, whilst the scrub included Elder *Sambucus nigra* and Cherry Laurel *Prunus laurocerasus*.

It is worth noting that most of the young, self-seeded trees to the rear of No. 73 had previously been severely pruned by the electricity board as part of their cable wayleave clearance operations.

By designating the whole site as W1, work on clearing the scrub had to cease, leaving the land around No. 73 in an unkempt state. This is having a negative effect on the neighbourhood, and is particularly concerning for Mr Fell and Ms Rosser who are surrounded on three sides by the mess.

3. As the TPO was applied to trees of *special amenity value*, it is requested that the TPO is re-issued so that it only applies to those trees of landscape and visual importance and not the whole site, and not the garden of No. 73.

Indeed, I have walked the site with Andy Bucklitch, the Tree Officer, and I am aware that he has since re-visited to examine the individual trees in more detail.

During our visit he acknowledged that the woodland TPO is the highest level of cover, and is designed to protect trees which are potentially at risk, thereby allowing the Tree Officer sufficient time to review the site and place specific TPOs on individual trees.

Given that only a small part of the adjoining land is being tidied up, with the majority untouched, I do not see the justification for a blanket woodland TPO, when there would appear to be sufficient time to assess the trees on the site on their individual merits as laid out in the Town and Country Planning Act.

I would also suggest that any TPO should not restrict my clients at No. 73 on the grounds of reasonable tree works, which under the present circumstances this clearly does.

Yours sincerely,

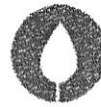
Andy Warren BSc (Hons), MA (LM), Tech Cert (Arbor A), MCIEEM, TechArborA

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Cotswold Wildlife Surveys Limited - Company Reg. No. 6864285 (England & Wales)  
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VAT Reg. No. 944 1653 20

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F.73LN | TPOob | PEB| 28.09.2016



**Barton Hyett**  
Arboricultural Consultants



**TREE PRESERVATION ORDER OBJECTION**

ON BEHALF OF

**FREEFIELD INVESTMENTS LIMITED**

RELATING TO

**BROMSGROVE DISTRICT COUNCIL TREE PRESERVATION ORDER (NO 13) 2016**

AT

**LAND AT SIDE AND REAR OF:  
73 LINTHURST NEWTOWN, BLACKWELL**

**Prepared by:** Paul Barton *MSc, TechCert (ArborA), MArborA*  
**Checked by:** Jerry Ross, *BSc, FArborA*  
**Reference:** F.73LN



**Barton Hyett Associates**  
Arboricultural Consultants

Unit 5E, Deer Park Business Centre, Eckington, Pershore, WR10 3DN  
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Website: [www.barton-hyett.co.uk](http://www.barton-hyett.co.uk)

FREEFIELD INVESTMENTS LIMITED  
LAND AT 73 LINTHURST NEWTOWN, BLACKWELL  
TREE PRESERVATION ORDER OBJECTION



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4. CONCLUSIONS	10

## REVISIONS:

Date	Rev	Description of revision	Initials
28.09.16	-	First issue	PEB

## 1. INTRODUCTION

- 1.1 A Tree Preservation Order (TPO) has recently been served by Bromsgrove District Council.
- 1.2 The title of the TPO is:
  - Bromsgrove District Council Tree Preservation Order (No 13) 2016, tree/s on land at side and rear of 73 Linthurst Newtown, Blackwell
- 1.3 The above address is hereafter referred to as 'the site'.
- 1.4 The TPO specifies:
  - W1 woodland
- 1.5 The stated reasons for serving the Order are as follows:
  - *"The trees provide special amenity value and the Tree Preservation Order is made in the interests of amenity"*
- 1.6 The TPO was served on 3<sup>rd</sup> August 2016 and takes provisional effect for six months from this date. After this time, if the TPO has not been formally confirmed by the Local Planning Authority (LPA) its provisional effect will lapse and a new Order must be served.
- 1.7 The deadline for objections to be received by the LPA in relation to this Order was stated as 5<sup>th</sup> September 2016. Since then, letters have been exchanged between Freefield Investments Limited and the local planning authority (LPA) and a letter from the LPA dated 9<sup>th</sup> September granted an extension of time for representations to be made until Friday 30<sup>th</sup> September 2016.
- 1.8 I have been instructed to prepare this representation as part of an objection to the TPO by the Directors of Freefield Investments Limited.
- 1.9 The objection is made in accordance with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. It states the reasons for the objection and specifies the trees, groups of trees or woodlands in question.

## 2. GUIDANCE

2.1 Guidance is provided to Local Planning Authorities by the Department for Communities and Local Government through the online Planning Practice Guidance suite (<http://planningguidance.planningportal.gov.uk>), which replaced previous guidance contained in the document 'Tree Preservation Orders: A Guide to the Law and Good Practice' commonly referred to as 'the Blue Book'. This guidance sets out the grounds on which a TPO might be served. For clarity, the relevant elements of this guidance are reproduced below:

2.2 Power to make a TPO:

*Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.*

*When deciding whether an Order is appropriate, authorities are advised to take into consideration what 'amenity' means in practice, what to take into account when assessing amenity value, what 'expedient' means in practice, what trees can be protected and how they can be identified.*

*'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.*

*When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:*

### Visibility

*The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.*

### Individual, collective and wider impact

*Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also*

*assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:*

- *size and form;*
- *future potential as an amenity;*
- *rarity, cultural or historic value;*
- *contribution to, and relationship with, the landscape; and*
- *contribution to the character or appearance of a conservation area.*

*Other factors*

*Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order*

*It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area.*

FREEFIELD INVESTMENTS LIMITED  
LAND AT 73 LINTHURST NEWTOWN, BLACKWELL  
TREE PRESERVATION ORDER OBJECTION



### 3. GROUNDS FOR OBJECTION

3.1 The grounds for objection are as follows:

- a. The use of the woodland category is inappropriate and unjustified.
- b. The TPO cannot be justified on the grounds of preserving public amenity
- c. The plan showing the land covered by the TPO is not of sufficient accuracy.

3.2 Each of the above points of objection are explained in further detail in the following paragraphs.

#### Inappropriate use of the woodland category

3.3 The planning policy guidance on making TPO's states:

*"The woodland category's purpose is to safeguard a woodland as a whole. So it follows that, while some trees may lack individual merit, all trees within a woodland that merits protection are protected and made subject to the same provisions and exemptions. In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made are also protected by the Order.*

*It is unlikely to be appropriate to use the woodland classification in gardens'.*

3.4 The TPO schedule describes the trees to be protected as "all trees of any size and species within W1 on the plan".

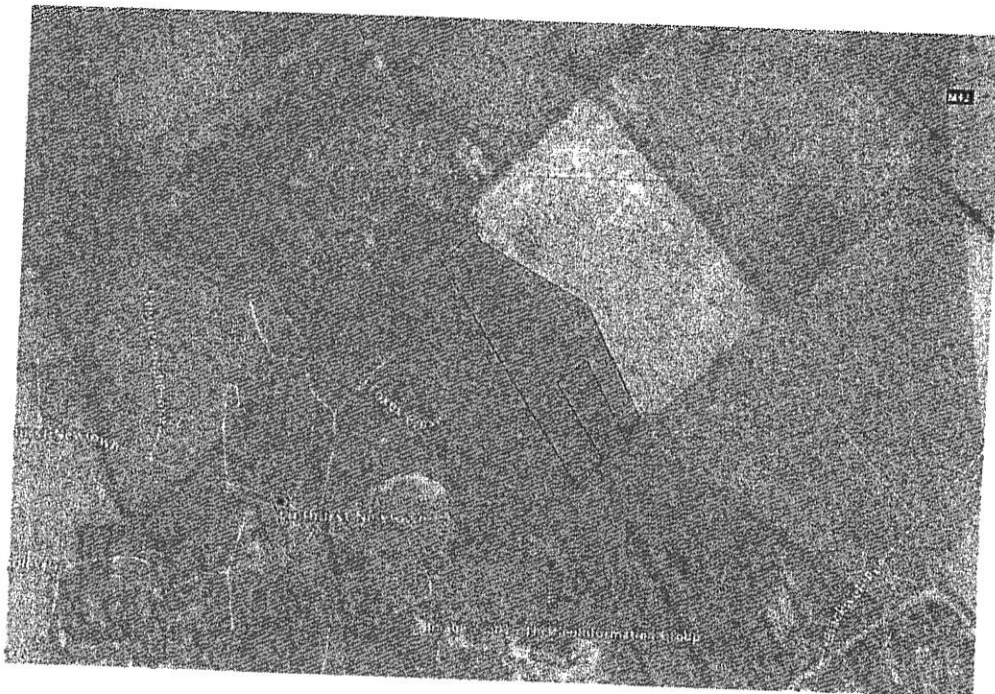
3.5 The land that the Order relates to is in parts heavily vegetated with ruderal low-level flora including bramble, nettles, fern and annual weeds, but devoid of trees. While it is accepted that woodlands have open areas such as glades and rides, the areas of this site that are devoid of any trees comprise major proportions of the area as a whole and cannot be described in these terms. The designation of an area that includes such substantial regions of tree-less land as 'Woodland' within a TPO is unreasonable and contrary to the intentions of the TPO legislations. The designation of this land within this provisional TPO as 'Woodland' is interpreted as an attempt to enforce the conversion of existing scrubland in to future woodland by protecting all naturally occurring self-set seedling and sapling growth. In so doing the Local Authority appears to be forcing the landowner to give his land over for a use for which he has not intended.





*Photos 1 & 2: open scrub areas to the sides of no.73 showing barley any trees of significant stature.*

- 3.6 The TPO plan shows that the northeast side of the garden of no.73 is also included within the woodland order. As noted above in the planning policy guidance, woodland orders should not be used in gardens.
- 3.7 The northern part of the site contains numerous young trees, including Goat Willow, Silver and Downy Birch, Hawthorn, Oak, Sycamore, Beech, Elder and Apple. These are largely pioneer species of tree that readily self-seed and colonise previously disturbed or barren land. This accords with the site history, which in recent time was a Mink Farm and paddock, *not* woodland. Indeed there is no historical evidence that the area included any woodland: aerial imagery shows that in 1945 that the area was an agricultural field as shown in figure 1 below.



*Figure 1: Aerial image from 1945 with approximate site boundary shown in red (source Google Earth Pro, 2016).*

- 3.8 The LPA's 2015 'Strategic Housing Land Availability Assessment' includes the site in its schedule of 'Green Belt potential' sites (site reference BDC154). The assessment process involved two strategic planning officers undertaking desk-based research and site visits to evaluate the site's potential for allocation for housing. The desk-based research included GIS data on conservation sites, the habitat inventory and the Worcestershire Biodiversity Action Plan. The on-site assessment included a survey of the site's size, current use, character of surrounding area, physical constraints, boundaries and surrounding land use. The conclusion of the planning officer's assessment was that the predominant land type is 'agricultural scrubland' and that 'landscape and trees' would not be significantly impacted by development of the site. Please see figure 2 below.
- 3.9 In addition, the sales particulars written to advertise the land for sale in 2005 describe the land as 'a valuable piece of accommodation/agricultural land'. Clearly, the owner did not purchase a woodland so to classify it as such a short time later is unjustifiable.

FREEFIELD INVESTMENTS LIMITED  
 LAND AT 73 LINTHURST NEWTOWN, BLACKWELL  
 TREE PRESERVATION ORDER OBJECTION



## Sites in Blackwell, Burcot and Beoley

Appraisal Criteria		Site Reference	BDC8	BDC90	BDC109	BDC124	BDC154	BDC178
<b>SITE SUITABILITY ASSESSMENT</b>								
Site size (In hectare)			0.7	6.7	0.34	2	1.52	1.78
Stage A	Strategic Policy							
	Biodiversity, Geodiversity & Heritage							
	Land at risk of flooding							
Stage B	Impact on the historic, cultural & built environment							
	Access to public transport							
	Access to primary school							
	Access to local retail facilities							
	Access to health facilities							
	Contaminants on site							
	Landscape & Trees							
	Public Rights of Way							
	Physical constraints							
	Open space & recreation							
	Employment Land							
	Infrastructure capacity							
	Highway access							
	Green Belt							
	Compatibility with adjoining uses							
<b>SITE AVAILABILITY ASSESSMENT</b>								
Is the site immediately available for development?								
What is the predominant land type?		Access to Station Cottage	Agricultural	Gardens	Gardens, Housing, Field	Agricultural Scrubland	Agricultural	
<b>SITE ACHIEVABILITY ASSESSMENT</b>								
Willingness of landowner to progress site for development								
Appropriate timeframe for development		Unknown	Unknown	Unknown	Unknown	Unknown	Unknown	
<b>POTENTIAL RESIDENTIAL YIELD</b>								
Potential yield based on SHLAA Methodology			10	55	4	24	45	45

Figure 2: BDC SHLAA 2015 showing the site details highlighted in red.

Public visual amenity

3.10 In the LPA's reasons for making the TPO is stated that:

*'The trees provide special amenity value and the Tree Preservation Order is made in the interests of amenity'.*

3.11 This reason has been applied to all the trees that are the subject of the TPO. Whilst some of the trees that are present on the site are visible to the general public, notably those along the frontage to Linturst Newtown, most are not. It cannot be the case that trees have 'special amenity value' if they cannot be seen

3.12 The Planning Policy Guidance on the making of TPO's states:

*'The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public'*

3.13 The land covered by the Order adjoins Linthurst Newtown on the southeast side. This is the only road that provides views of the trees within the site. It is accepted therefore that the row of trees along the roadside do have visual amenity as they are easily seen. Additionally, mature trees in the internal square shaped area immediately to the rear of the garden can be partially viewed, as the top of their crowns are visible over the roofs of adjacent houses.

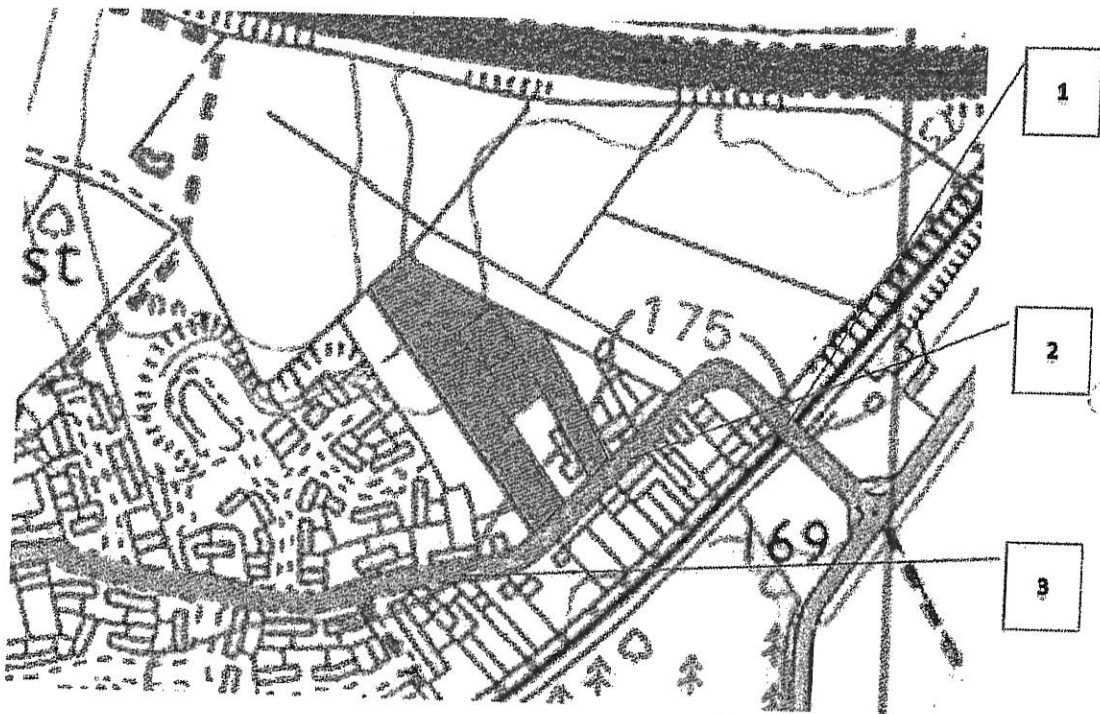


Figure 2: snapshot of Ordnance Survey plan showing the site in relation to local roads and footpaths. Photos taken from locations 1, 2 and 3 are provided below.

FREEFIELD INVESTMENTS LIMITED  
LAND AT 73 LINTHURST NEWTOWN, BLACKWELL  
TREE PRESERVATION ORDER OBJECTION

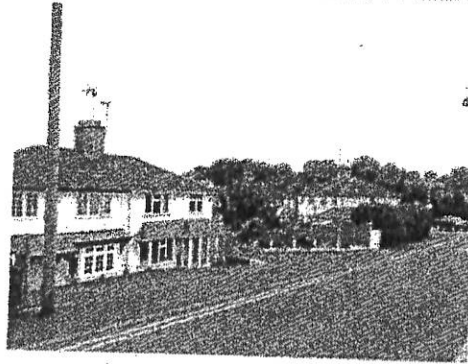


Photo 3: from location 1 on the railway bridge.



Photo 4: view from location 2.

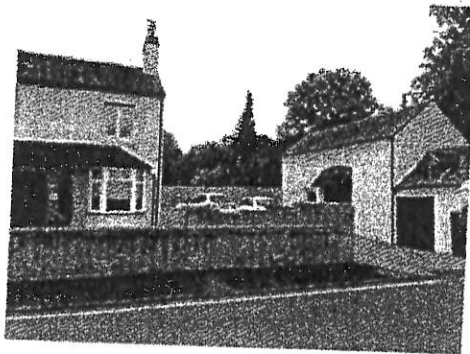


Photo 5: view from location 3.

- 3.14 The areas of the site that contain more dense tree cover are not visible from public roads or footpaths, so have a negligible visual amenity value.
- 3.15 No information has been provided by the LPA to demonstrate how the amenity value of any trees that are the subject of the TPO were assessed in a 'structured and consistent way taking into account their visibility, individual visual impact and wider visual impact', as specified within Government guidance.
- Inaccurate TPO plan
- 3.16 The plan showing the location of W1 in relation to the land has been drawn at 1:1250 scale. The boundary line appears to have been drawn by hand using a broad-nibbed pen, which when measured with a scale rule gives a boundary width of 2 metres. This is not sufficiently accurate to determine which trees near the boundary of the site are included in the Order.
- 3.17 Additionally, the drawn boundary line along the northeast boundary of the garden of no.73 is approximately 2 metres inside the garden boundary. As noted at 3.6 above, this attempt to include trees within the domestic curtilage of the property as woodland is inappropriate and would lead to

FREEFIELD INVESTMENTS LIMITED  
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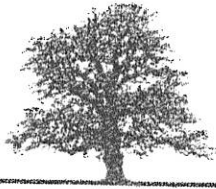
ongoing confusion for the occupant of the house, particularly with regard to naturally occurring saplings or small ornamental garden trees that could be planted along the boundary in the future.

#### 4. CONCLUSIONS

- 4.1 It is requested that TPO No 13 is not confirmed by the Council for the reasons stated within this report.
- 4.2 If, however, the council is minded to confirm the Order (having given due consideration to the reasons for objection set out above), it is requested that the TPO be confirmed subject to modifications that omit any tree/tree group that cannot be demonstrated in a consistent and structured way to make a significant, long-term, contribution to public visual amenity as well as its enjoyment by the public.
- 4.3 Therefore, in the event of a decision being made by the Council to confirm the Order with modifications, it is requested that a more detailed assessment is made of the trees in order to ascertain which trees are of significant quality and visibility in order to attract the special amenity value required for suitability for a TPO. In order to undertake such an assessment, some vegetation clearance will be necessary to gain access through the dense ruderal vegetation.

Paul Barton, MSc, MArborA

28<sup>th</sup> September 2016



Jerry Ross Arboricultural Consultancy

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BROMSGROVE DISTRICT COUNCIL

The Council House,

Burcot Lane

Bromsgrove

Worcestershire

B60 1AA

30 September 2016

FAO C. Felton, Head of Legal Equalities & Democratic Services

Dear Ms Felton

**Tree Preservation Order No. 13 (2016)**

Land at the side & rear of **73 LINTHURST NEWTOWN, BLACKWELL**

Please accept the following as an addendum to be considered in addition to document no. F.73LN/TPOob/PEB/28.09.2016, being a letter of formal objection to the above TPO by Paul Barton of Barton Hyett Associates, acting on behalf of Freefield Investments Limited.

There follows an analysis of the area included as 'woodland W1' in the Order using the methodology known as Woodland Evaluation Method for Preservation Orders ("Woodland TEMPO). This allows for scoring the area in question on a number of criteria with the total score being used to determine whether a TPO is definitely merited, if a TPO is clearly defensible or unlikely to merit TPO protection or if a TPO is indefensible or simply inapplicable.

I include here a score sheet and a document explaining the system. The system inevitably assumes that the area in question is recognisably 'woodland'; Mr Barton's previous submission makes clear that this is not the case over much of the area designated as W1. However, confining the assessment to that part of the site which is at least largely tree covered, the result is a score of 11, giving a clear indication that the woodland TPO is indefensible.

I trust that this method of providing a disinterested evaluation of the appropriateness of designating the site as a woodland TPO will be given due weight.

Yours sincerely

J.P. ROSS B.Sc.(hons) F.Arbor.A

Jerry Ross Arboricultural Consultancy

The Old Pound,

Llangarron,

Ross-on-Wye,

Herefordshire.

HR9 6PG

VAT No: 549 5597 83



# Agenda Item 5

## WOODLAND EVALUATION METHOD FOR PRESERVATION ORDERS (WOODLAND TEMPO) SURVEY DAT SHEET AND DECISION GUIDE

Date 30/09/2016 Surveyor J.P.Ross

### Woodland details

TPO Ref (if applicable) TPO 13 (2016)

Location: Land adj. to 73 Linthurst Newtown r

### REFER TO GUIDANCE NOTES FOR ALL DEFINITIONS

#### Part 1: Amenity assessment

a) Condition and suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

- |                                     |                         |
|-------------------------------------|-------------------------|
| 10) Unmanaged – good/fair condition | Highly Suitable         |
| 8) Unmanaged – poor condition       | Very Suitable           |
| 5) Excessively managed              | Suitable                |
| 2) Under good management            | Barely suitable         |
| 1) Derelict                         | Unlikely to be suitable |
| 0) Dead/Dying/Dangerous*            | Unsuitable              |

Insofar as the area designated as W1 contains any recognisable woodland it is Unmanaged and in Poor Condition.  
SCORE 8

\*Relates to existing context and is intended to apply to majority of main stand trees having severe irremediable defects only

b) Naturalness & suitability for TPO

- |                             |                         |
|-----------------------------|-------------------------|
| 10) Ancient/ASN             | Highly suitable         |
| 8) Recent semi-natural      | Very suitable           |
| 5) Replanted ancient        | Suitable*               |
| 2) Recent native plantation | Barely suitable         |
| 1) Pioneer dominant         | Unlikely to be suitable |
| 0) Recent exotic plantation | Unsuitable              |

Such woodland that can be recognised as such is wholly dominated by self-set 'Pioneer' species  
SCORE 1

\*if few old growth trees present & little or no regen consider TEMPO tree/group assessment

c) Size (ha) & suitability for TPO

- |            |   |
|------------|---|
| 10) 100+   | Extremely suitable                                |
| 8) 10-<100 | Highly Suitable                                   |
| 5) 5-<10   | Very Suitable                                     |
| 2) 0.25-<5 | Suitable  |
| 1) <0.1    | Unsuitable (consider TEMPO tree/group assessment) |

Area: 0.25<5 Ha.  
SCORE 2

d) Cultural factors

Woodland must have accrued 13 or more points (with no zero score) to qualify

- 10) Historical record / vital landscape feature / ≥10% veteran tree population present
- 8) SSSI or other national designation; significant landscape / habitat importance
- 5) Woodland with local designation / high public use / identifiable habitat value
- 2) Woodland with internal public access (use light or unknown) / some habitat value
- 1) Woodland adjacent to highway or with external public access / low habitat value
- 0) Woodland with none of the above additional features inc. minimal habitat value

SUB-TOTAL = 11  
TPO INDEFENSIBLE

#### Part 2: Expediency assessment

Woodland must have accrued 15 or more points to qualify

- 5) Immediate threat to overall woodland
- 4) Immediate risk of significant loss / severe fragmentation
- 3) Foreseeable risk of significant loss / severe fragmentation
- 2) Foreseeable risk of partial loss / fragmentation
- 1) Precautionary only

Scores & Notes

#### Part 3: Decision guide

- |       |                       |
|-------|-----------------------|
| Any 0 | Do not apply TPO      |
| 1-12  | TPO indefensible      |
| 13-15 | Does not merit TPO    |
| 16-20 | TPO defensible        |
| 21+   | Definitely merits TPO |

Add scores for Total

Decision



Forbes-Laird Arboricultural Consultancy Ltd

• Planning • TPO • Safety Inspection • Subsidence • Litigation • Design

WOODLAND EVALUATION METHOD FOR PRESERVATION ORDERS

WOODLAND TEMPO

Guidance Note for Users

Julian Forbes-Laird

BA(Hons), MICFor, MEWI, M.Arbor.A, Dip.Arb.(RFS)

Registered Consultant of the Arboricultural Association

Director & Principal Consultant, Forbes-Laird Arboricultural Consultancy Ltd

April 2008

Principal Consultant:

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## Introduction

### **Background**

The impetus to take a fresh look at existing TPO suitability evaluation methods originally grew out of the preparation for a local authority of a detailed Method Statement for reviewing Tree Preservation Orders (TPOs) in 2002. The client wanted the Method Statement to include a reliable means of assessing trees for TPO suitability, and asked for a bespoke system.

Having looked closely at what was already available, the author decided that there was considerable room for improvement, as each of the better-known existing methods has disadvantages.

Accordingly, TEMPO was developed as a direct response to the apparent continuing uncertainty about what attributes a tree should have in order to merit statutory protection by TPO.

Since its public release, TEMPO has consistently gained popularity, being in use with over 50 local authorities, several of which have used it for a full scale TPO review, as well as many consultants.

However, TEMPO was deliberately designed to address considerations of TPO suitability in relation to individual trees and groups of trees: it does not consider factors relating to woodland TPO suitability assessment.

'Woodland TEMPO' has been developed specifically to address these factors, following instruction from Loch Lomond and The Trossachs National Park Authority, who wanted to augment their use of TEMPO with a method specifically designed to consider woodlands.

### **Overview**

Woodland TEMPO (W-TEMPO) is designed primarily as a field guide to decision-making, though it is recognized that some desk study work is likely to be required. Like TEMPO, the woodland version is presented on a single side of A4 as an easily completed pro forma. As such, it stands as a record that a systematic assessment has been undertaken.

W-TEMPO considers all of the relevant factors in the TPO decision-making chain, including expediency<sup>1</sup>.

Excluding the first section, which is simply the survey record and is thus self-explanatory, W-TEMPO replicates TEMPO's three-part structure:

- Part 1 is the Amenity Assessment
- Part 2 is the Expediency Assessment
- Part 3 is the Decision Guide

These parts are set out and function as follows:

## Part 1: Amenity Assessment

This part of W-TEMPO is broken down into four sections, each of which is related to woodland suitability for statutory protection by TPO:

- a) Condition
- b) Naturalness
- c) Size
- d) Cultural factors

The first three sections form an initial assessment, with trees that 'pass' this going on to the fourth section. Looking at the sections in more detail:

### **a) Condition**

This is expressed by six terms, which are defined as follows:

Unmanaged – good/fair condition	Woodland with little or no interference but without this having lead to a marked deterioration in condition
Unmanaged – poor condition	Woodland with little or no interference with this having lead to a marked deterioration in condition
Excessively managed	Woodland showing unnecessary removal/clearing of trees in poor or dead condition, including 'hygiene' works to remove (non-hazardous) dead wood etc
Under good management	Woodland being managed according to accepted standards of good silvicultural practice, including the preservation of deadwood habitat
Derelict	Woodland that has been neglected or which has suffered severe storm damage, such that its cohesion, integrity and value have been eroded beyond reasonable expectation of recovery
Dead/dying/dangerous	Woodland, usually of small size, with key trees in unretainable condition such that it has no obvious future as a viable and cohesive entity

The scores are weighted towards woodlands in unmanaged condition, as government advice<sup>2</sup> counsels against making a woodland type TPO where good management is in place. However, woodlands that have become derelict, thereby losing their value as cohesive features, score low in that it might not be appropriate to seek to compel their retention. Dead, dying or dangerous trees should not be placed under a TPO, due to exemptions within the primary legislation, hence the zero score for this category. However, it is accepted that the applicability of this to woodlands will only occur in rare cases.

A note on the pro forma emphasizes that 'dangerous' should only be selected in relation to the woodland's existing context: a future danger arising, for example, as a result of development, would not apply. Thus, a woodland can be in a state of general collapse but not be dangerous due to the absence of targets currently at risk. Although the wording in the method reflects that of the primary legislation in England, it is intended to include hazardous trees that require remediation which is 'urgently necessary in the interests of safety' (as per s106 of the Town and Country Planning (Scotland) Act 1997).

Under this section of W-TEMPO, it is important to consider the condition of those principle trees without which the woodland would lose its aerodynamic, visual or cultural cohesion. If the woodland cannot be 'split' in this way, for example into differing compartments, then its average condition should be considered.

Each of the condition categories is related to TPO suitability.

## b) Naturalness

It is an accepted principle of silvicultural assessment to categorize woodlands according to a scale that encompasses woodlands close to their 'natural' state at one end, and woodlands which are wholly alien features at the other.

The six 'naturalness' categories given in this section seek to identify the various possibilities, though it is accepted that woodlands can often comprise a mosaic of types. In such cases, the surveyor should consider scoring the different woodland types present and then either averaging the resulting score, or including only the more natural areas under any resulting TPO.

The class type names are intended either to reflect published classifications, or to be self explanatory. For specific definitions, therefore, it is recommended that further reading is undertaken.

However, it is considered helpful to outline the author's general intention as follows:

Ancient/ASN	Wooded area continuously occupied by trees since 1600 or earlier (England & Wales; 1750 for Scotland) possibly including later native introductions and management; includes wood pasture
Recent semi-natural	Woodland arising either naturally or by planting after 1600 (or 1750 in the case of Scotland), the character of which is similar to ancient woodland in terms of tree/shrub species present, such that its biodiversity value would be likely to increase over time, given preservation and appropriate management
Replanted ancient	Area known to have been wooded prior to 1600 (or 1750 for Scotland) but which may have been almost cleared in the interim, to be overplanted with (usually exotic) timber crop trees intended for commercial use; some old growth trees and/or ancient areas (inc. soils/seedbanks) surviving; capable of at least partial restoration over time
Recent native plantation	Commercially planted native woodland that either has yet to mature or has matured but has yet to develop an uneven age structure and other features of interest; trees regularly spaced, few habitat features, shrub and herb layers poor
Pioneer dominant	Area recently captured by pioneer species, typically in pole stage and with very little diversity; little if any indication of succession species arising; poor potential for development into recent semi-natural except over significant lapse of time and/or with intensive management
Recent exotic plantation	Commercially planted non-native woodland

As with condition, the chosen category is related to a summary of TPO suitability.

## c) Size

The size bands given in the method broadly correspond to those used by the Forestry Commission (FC) in the publication 'National Inventory of Woodland and Trees, Great Britain' (FC 2003), at Tables 1 and 7a. However, the total number of size categories used by the FC of ten was considered to be unwieldy, and so the categories in the medium to upper size ranges have been conflated.

Where a mosaic woodland is being assessed, the size categories can be used to run multiple assessments to derive an aggregate score (allowing computation of a mean), or to test the TPO suitability of certain compartments (e.g. replanted ancient woodland where old growth trees survive in only a part of the total treed area).

Once again, the categories relate to a summary of TPO suitability.

## Sub-total 1

At this point, there is a pause within the decision-making process: as the prompt under 'other factors' states, woodlands only qualify for consideration within that section providing they have accrued at least thirteen points. Additionally, they must not have collected any zero scores.

The total of thirteen has been arrived at by combining various possible outcomes from sections a-c.

The scores from the first three sections should be added together, before proceeding to section d, or to part 3 as appropriate (i.e. depending on the accrued score). Under the latter scenario, there are two possible outcomes:

- 'Any 0' equating to 'do not apply TPO'
- '1-12' equating to 'TPO indefensible'

## d) Cultural factors

Assuming that the woodland qualifies for consideration under this section, further points are available for five sets of criteria, however only one score should be applied per tree (or group):

### Historical record / vital landscape feature / $\geq 10\%$ veteran tree population present

The first of these criteria is intended to identify woodlands which are known to have existed well prior to the 1600 date that defines ancient woodland (or well prior to 1750 in the case of Scotland). An example of such a record would be a Domesday Book entry. It is accepted that 'vital landscape feature' is susceptible to subjective interpretation, though it ought to be possible to benchmark this at a sensible level based on high public visibility. In relation to veteran trees, the percentage given is arbitrary, being designed to reflect the presence of a significant population of such specimens: it maybe that a near miss percentage of, say, 9% is as good, and so this criterion should not be applied too strictly. Clearly, however, very low percentages of veteran trees present would not qualify.

### SSSI or other national designation, or significant landscape / habitat importance

The first of these criteria is assumed to be self-explanatory. The second and third criteria are intended to be interpreted in similar fashion as above, though obviously at lesser values. It is recognized that an assessment of habitat importance is likely to require ecological input, unless the benefit is self-evident (e.g. Red Data Book species already known to be present).

### Woodland with local designation / high public use / identifiable habitat value

'Local designations' include Sites of Interest for Nature Conservation, which tends to overlap with 'identifiable habitat value', and may even reflect/be considered under 'significant habitat importance' in the class above. 'Local designations' could also include historical records of less antiquity than the 1600 (or 1750) cut-off for ancient woodland. An example of this would be a so-called Roy Wood. High public use is intended to reflect woodlands comprising a locally known recreational resource, whereby public access is commonplace at, say, weekends. 'Identifiable habitat value' could relate to woodlands with a good age structure, retained deadfalls/deadwood, rich shrub and/or herb layers, fungi, etc, where there is factual knowledge that such features are being utilised.

Woodland with internal public access (use light or unknown) / some habitat value

'Internal public access' is intended to reflect either rights of way (England and Wales) or known actual useage (Scotland). 'Moderate habitat value' is intended to identify woodlands offering biodiversity benefits at an intermediate, non-specific level. Features will be similar to those listed in the class above, but will be fewer, and evidence of actual useage will be lower or absent.

Woodland adjacent to highway or with external public access / low habitat value

In relation to access, this class covers woodlands in England and Wales where formal access is external, allowing views of and into the woodland only (rather than the enjoyment of its interior), and where there is no known useage in the case of woodlands in Scotland. 'Low habitat value' is intended to reflect a generally absence of habitat features and only slight indications that the woodland is beneficial to biodiversity, beyond that accruing from cohesively treed space per se.

Woodland with none of the above additional features inc. minimal habitat value

Unlike TEMPO, W-TEMPO provides for a zero score in section 1d: it is intended that this class should apply where the presence of cohesively treed space confers no obvious benefits other than through the trees themselves. Examples would include an area of land captured by a monoculture of self-set sycamore, or a Sitka spruce plantation. This class, then, is intended to weed out any woodland that has 'unfairly' scored highly in other categories by virtue, say, of good condition and/or large size.

**Sub-total 2**

This completes the amenity assessment and, once again, there is a pause in the method: the scores should be added up to determine whether or not the woodland has sufficient value to merit an expediency assessment.

The threshold for this is fifteen points, arrived at via a minimum qualification calculated from the thirteen point threshold under sections a-c, plus at least two extra points under section d. Thus woodlands that only just scrape through to qualify for the 'other factor' score, need to genuinely improve in this section in order to rate an expediency assessment.

## Part 2: Expediency assessment

This section is designed to award points based on four levels of identified threat to the trees concerned, which are intended to form a cascade of reducing impact and/or lower immediacy, as follows:

### Immediate threat to overall woodland

For example, planning application for development at the expense of its integrity/cohesion and/or requiring a change of use of significant quantum of treed space.

### Immediate risk of significant loss / severe fragmentation

It is intended that this class be applied similarly to that above, but in cases where the anticipated adverse effect and/or where the threat are less imminent.

### Foreseeable risk of significant loss / severe fragmentation

It is intended that this class be applied similarly to that above, but in cases where the threat is perceived rather than known.

### Foreseeable risk of partial loss / fragmentation

It is intended that this class be applied similarly to that above, but in cases where the anticipated effect is of lower significance to the retention of the overall woodland.

### Precautionary only

This class reflects the potential suitability of making precautionary TPOs, in line with published government guidance<sup>3</sup>. Accordingly, and in order to avoid a disqualifying zero score, 'precautionary only' still scores one point.

Clearly, other reasons apply that might prevent/usually obviate the need for making a woodland TPO. However, it is not felt necessary to incorporate such considerations into the method, as the author wishes to maximize its usability in the field: these other considerations are most suitably addressed as part of wider a desk study.

As a final note on this point, it should be stressed that the method is not prescriptive except in relation to zero scores: W-TEMPO merely suggests a course of action. Thus a woodland scoring, say, 21, and so 'definitely meriting' a TPO, might not be included for protection for reasons unconnected with its attributes.

## Part 3: Decision Guide

This section is based on the accumulated scores derived in Parts 1 & 2, and identifies five outcomes, as follows:

### **Any 0 Do not apply TPO**

Where a woodland has attracted a zero score, there is a clearly identifiable reason not to protect it, and indeed to seek to do so is simply bad practice.

### **1-12 TPO indefensible**

This covers woodlands that have failed to score enough points in sections 1a-c to qualify for an 'cultural factors' score under 1d. Such woodlands have little to offer their locality and should not be protected.

### **13-15 Does not merit TPO**

This covers woodlands which *have* qualified for a 1d score, though they may not have qualified for Part 2. However, even if they have made it to Part 2, they have failed to pick up significant additional points. This would apply, for example, to a borderline woodland in amenity terms that also lacked the protection imperative of a clear threat to its retention.

### **16-20 Possibly merits TPO**

This applies to woodlands that have qualified under all sections, but have failed to do so convincingly. For these trees, the issue of applying a TPO is likely to devolve to other considerations, such as public pressure, resources and 'gut feeling'.

### **21+ Definitely merits TPO**

Woodlands scoring 21 or more are those that have passed both the amenity and expediency assessments, where the application of a TPO is fully justified based on the field assessment exercise.

## **Notation boxes**

Throughout the method, notation space is provided to record relevant observations under each section. For local authorities using W-TEMPO, it may even be helpful to include a copy of the W-TEMPO assessment in with the TPO decision letter to relevant parties, as this will serve to underline the transparency of the decision-making process.



## Conclusion

Like its cousin, W-TEMPO is a quick and easy means of systematically assessing woodland suitability for statutory protection. It may be used either for new TPOs or for TPO re-survey.

From the consultants' perspective, it is also an effective way of testing the suitability of newly applied TPOs, to see whether they have been misapplied, or it can be used to support a request to make a TPO in respect of woodlands perceived to be at risk, for example from adjacent development.

W-TEMPO does not seek to attach any monetary significance to the derived score: the author recommends the use of the Helliwell System where this is the objective.

Any feedback on the method is gratefully received by the author.

**JFL**

Contact: [jfl@flac.uk.com](mailto:jfl@flac.uk.com)

## *References*

- 1 'Tree Preservation Orders: A Guide to the Law and Good Practice', DETR 2000
- 2 Ibid.
- 3 DETR 2000 op. cit. at para. 3.5

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Your reference:

Our reference: RA03.ACC0014-0001

Direct email: randrews@hcrlaw.com



4<sup>th</sup> August 2017

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PLANNING TEAM

**DELIVERED BY HAND AND EMAIL: [r.sultana@bromsgroveandredditch.gov.uk](mailto:r.sultana@bromsgroveandredditch.gov.uk)**

Dear Sirs,

**OBJECTION to Bromsgrove District Council Tree Preservation Order (11) 2017 dated 4<sup>th</sup> July 2017  
Land Adjoining 73 Linthurst Newton Blackwell**

We write on behalf of Access Homes LLP to **OBJECT** to Bromsgrove District Council Tree Preservation Order (11) 2017 which was made by Bromsgrove District Council on 4<sup>th</sup> July 2017 ("the TPO").

Access Homes LLP are the freehold owners of the Land Adjoining 73 Linthurst Newton Blackwell, to which the TPO relates ("the Site").

This objection is made on two main grounds:

1. The making of the TPO in its current form does not meet the required legal and planning policy tests; and
2. The actions of Bromsgrove District Council ("the Council") over the last twelve months throughout both the process of assessing the merits of protecting the Site by way of a Tree Preservation Order, and also dealing with associated matters, have contained repeated errors, inconsistencies, and fundamental legal flaws.

The basis for these objections is set out substantively below.

**1. Objection to the extent and form of the TPO**

No substantive justification has been given by the Council for the extent of the protection in the TPO, nor has an assessment of the trees selected for protection been provided.

Birmingham T. 0121 454 0739 F. 0121 455 7211 53 Calthorpe Road Edgbaston Birmingham B15 1TH  
Cheltenham T. 01242 224422 F. 01242 518428 Ellenborough House Wellington Street Cheltenham GL50 1YD  
Hereford T. 01432 349670 F. 01432 349660 Thorpe House 29 Broad Street Hereford HR4 9AR  
Thames Valley T. 0118 911 1206 F. 0118 900 7874 100 Longwater Avenue Green Park Reading RG2 6GP  
Worcester T. 01905 612001 F. 01905 744899 5 Deansway Worcester WR1 2JG  
Wye Valley T. 01989 562377 F. 01989 565961 Overross House Ross Park Ross-on-Wye HR9 7US

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# Agenda Item 5

This failure is a breach of the requirements of Regulation 5(2)(a) of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 ("the Regulations"), which require the "reasons for making the order" to be served on all parties with a legal interest in the land affected.

Firstly, it is important to note that the Council did not serve notice of the TPO on Access Homes LLP as freehold owner in breach of Regulation 5(1) of the Regulations. The Council is well aware from the Court proceedings relating to the previous tree preservation order for the Site that Access Homes LLP is the registered owner of the land affected by the TPO, however the Council still failed to serve it.

Secondly, even if the Council had served notice of the TPO on Access Homes LLP, the only justification given in the notice accompanying the TPO (which Access Homes LLP has now obtained following a direct request to the Council) was in the form of a generic statement, which simply stated:

**"The trees provide special amenity value and the Tree Preservation Order is made in the interests of amenity".**

The Council's failure to provide substantive reasons for making the TPO is also, in our view, a failure to carry out a lawful consultation. It is settled law that, if a consultation exercise is undertaken, then it must be carried out properly (see the case of *R v North East Devon HA ex p Coughlan*). This means that it must, amongst other things, include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration of the same and thus enable an intelligent, and fully-informed, response.

The Council is under a duty to address relevant arguments raised during the consultation exercise. It is not entitled to assume that, because it has complied with the statutory timescales for consultation, that the consultation exercise is automatically sufficient. This is particularly the case where there is clear evidence to the contrary, for example our client's persistent requests for further information, as set out further below.

The failure to provide substantive "reasons" for making the TPO is also grounds for reasonable doubt as to whether the TPO has been made in accordance with the Council's legal powers to make tree preservation orders as provided by Section 198 of the Town and Country Planning Act 1990 ("TCPA 1990"), or whether the making of the TPO is ultra vires.

The legal power for the Council to make the TPO in Section 198(1) of the TCPA 1990 expressly requires that tree preservation orders may only be made where it appears to the local planning authority that "***it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands***".

It would be irrational, and therefore, unlawful for the Council consider it expedient to protect trees without the Council having considered in detail the Government's planning policy guidance in relation to the making of tree preservation orders.

This guidance is provided by the Planning Practice Guidance ("PPG"), which makes clear that prior to making the TPO, the Council should to be able to "***show that protection would bring a reasonable degree of public benefit in the present or future***" (PPG para 36-007-20140306).

The PPG also makes clear that in assessing amenity "***trees or at least part of them should normally be visible from a public place such as a road or footpath, or accessible by the public***" (PPG para 36-008-20140306), and further that "***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***" (PPG para 36-007-20140306).

We are aware that the Council's Tree Officers have undertaken numerous visits to the Site over the last twelve months, and so a reasoned justification for the making and extent of the TPO in accordance with the PPG should be available and disclosed. We are also aware that the justification and 'TEMPO' scores have been requested by our client's Arboricultural Consultant on a number of occasions, and the Council has failed to provide these repeatedly.

In fact, a large number of attempts have been made by our firm, our client's Arboricultural Consultants, and our clients directly to engage with the Council in relation to the appropriate level of protection of trees on this Site, but the Council has consistently declined to engage.

Our clients have also made a formal request for the disclosure for information pursuant to the Environmental Information Regulations 2004, which the Council has failed to respond to within the required statutory timeframes (discussed further below). The result of these repeated errors on the part of the Council has meant that there has been no way of our clients obtaining the reasoned assessment of the Council's perceived merits of the TPO in advance of needing to submit this Objection. This puts our client at a considerable disadvantage, and is in breach of the various legal requirements set out above and below.

Due to the lack of information provided by the Council, we enclose an assessment of the TPO prepared on behalf of Access Homes LLP by Barton Hyett Arboricultural Consultants. This sets out our client's objection to the extent of the TPO on the basis of the failure to meet the requirements of the PPG guidance in assessing the amenity value of the trees on the Site.

The enclosed document prepared by Barton Hyett should be treated as a formal part of our client's objection to the extent of the TPO.

## **2. Unlawful Actions and Errors of Bromsgrove District Council**

As the Council is aware, our client has already incurred considerable inconvenience and expense as a result of the Council's unlawful actions in relation to the making of tree preservation orders and other related failings in relation to the Site.

We are aware that Council has also incurred considerable expense due to its actions, which costs will have been met at public expense.

In particular the Court action which resulted in the original tree preservation order made by the Council in relation to the Site last year, Bromsgrove District Council Tree Preservation Order (13) 2016, being quashed by Court Order on 20<sup>th</sup> June 2017 ("the Court Order"), due to the Council's unlawful actions in the making of that tree preservation order.

The High Court of Justice also ordered the Council pay from public money our client's legal costs due to the nature of the Council's errors.

In addition to the errors identified in the Court action, there have been a number of further issues as regards to the actions and conduct of the Council in connection with the TPO and related matters. These include:

1. The Council's failure to serve notice of the TPO on all parties with an interest in the land affected by the TPO, in breach of Regulation 5(1) of the Regulations;

# Agenda Item 5

2. The Council's failure to provide reasons for the making of the TPO in breach of Regulation 5(2)(a) of the Regulations and potentially Section 198(1) of the TCPA 1990;
3. The TPO being made by the Council in a form which is, in part, more restrictive than the form of Tree Preservation Order annexed to the Court Order, and so therefore being in breach of the Court Order;
4. The Council's failure to pay our client's legal fees as set out in the Court Order within the timeframe required by Civil Procedure Rules Part 44.7;
5. The Council's failure to act fairly, consistently, and impartially with regard to the consultation of persons interested in the tree preservation orders at the Site, and in particular the illogical selection of consultees, and the inconsistent redaction of names, addresses, and signatures of consultation responses; and
6. The Council's failure to respond to our client's formal request for the disclosure of information relating the making of the tree preservation orders at the Site dated 21<sup>st</sup> June 2017 in breach of Regulation 5(2) and 7(1) of the Environmental Information Regulations 2004.

The above are all clear breaches of the Council's legal obligations under statute and / or Court Order which have occurred since the High Court quashed the previous tree preservation order.

It is unclear whether the errors are sheer incompetence or are a deliberate and unlawful attempt to frustrate due process in relation to the TPO, but in either case, this letter illustrates a number of clear failings on the part of the Council which our client will consider challenging in Court.

We hope that, in the circumstances, the Council will scrutinise its reasons for making the TPO in accordance with the national policy in the PPG, and will by return disclose the Council's formal assessment of the perceived amenity of the trees proposed to be protected on the Site to our client, together with a reasoned justification for the making of the TPO.

The failings of the Council in relation to the request for disclosure under the Environmental Information Regulations are being pursued separately, and our client reserves its position with regard to taking further action in relation to the Council's failings through the Courts.

Yours faithfully



**HARRISON CLARK RICKERBYS LIMITED**

*Encl – Barton Hyett objection*

# APPENDIX (4)

AH\_73LN | TPOob | PEB | 28.07.2017



## TREE PRESERVATION ORDER OBJECTION

ON BEHALF OF

ACCESS HOMES LLP

RELATING TO

BROMSGROVE DISTRICT COUNCIL TREE PRESERVATION ORDER (11) 2017

AT

LAND AT SIDE AND REAR OF:  
73 LINTHURST NEWTOWN, BLACKWELL

Prepared by: Paul Barton MSc, TechCert (ArborA), MArborA  
Reference: AH\_73LN



**Barton Hyett Associates**  
Arboricultural Consultants



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**Arboricultural  
ASSOCIATION**  
Professional Member  
MEMBER PR989

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## REVISIONS:

Date	Rev	Description of revision	Initials
28.07.17	-	First issue	PEB



## 1. INTRODUCTION

- 1.1 A Tree Preservation Order (TPO) has recently been served by Bromsgrove District Council.
- 1.2 This is the second TPO made on the land within one year; TPO (13) 2016 was previously made in August 2016 and confirmed in January 2017 but has been quashed by a consent order from the High Court following an application for Judicial Review by the landowner.
- 1.3 The title of the new TPO is:
  - Bromsgrove District Council Tree Preservation Order (No 11) 2017, trees adjoining 73 Linthurst Newtown, Blackwell
- 1.4 The above address is hereafter referred to as 'the site'.
- 1.5 The TPO specifies the following in the schedule:
  - Nineteen individual trees (T1 – T19)
  - Six groups of trees (G1 – G6)
  - One woodland (W1)
- 1.6 The stated reasons for serving the Order, as contained in the attached regulation 5 notice are as follows:

"The trees provide special amenity value and the Tree Preservation Order is made in the interests of amenity"
- 1.7 The TPO was made on 4th July 2017 and takes provisional effect for six months from this date. After this time, if the TPO has not been formally confirmed by the Local Planning Authority (LPA) its provisional effect will lapse and a new Order must be served.
- 1.8 The deadline for objections to be received by the LPA in relation to this Order is stated as 4th August 2017.
- 1.9 I have been instructed to prepare this representation as part of an objection to the TPO by the Directors of Access Homes LLP.
- 1.10 The TPO, and this objection, must be considered on its own merits; it does not relate to a planning application for development but simply relates to the merits of trees and whether or not they are of sufficient value to warrant protection.
- 1.11 The objection is made in accordance with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. It states the reasons for the objection and specifies the trees, groups of trees or woodlands in question.

## 2. GUIDANCE

2.1 Guidance is provided to Local Planning Authorities by the Department for Communities and Local Government through the online Planning Practice Guidance suite which replaced previous guidance contained in the document 'Tree Preservation Orders: A Guide to the Law and Good Practice' commonly referred to as 'the Blue Book'. This guidance sets out the grounds on which a TPO might be made. For clarity, the relevant elements of this guidance are reproduced below and the pertinent elements of the guidance in relation to this objection shown in bold:

### 2.2 Power to make a TPO:

Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

When deciding whether an Order is appropriate, authorities are advised to take into consideration what 'amenity' means in practice, what to take into account when assessing amenity value, what 'expedient' means in practice, what trees can be protected and how they can be identified.

'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.**

When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

#### Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. **The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.**

#### Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also

assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

#### Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. **These factors alone would not warrant making an Order.**

Although some trees or woodlands may merit protection on amenity grounds, it may not be expedient to make them the subject of an Order. It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area.

### 3. GROUNDS FOR OBJECTION

3.1 The grounds for objection are as follows:

- a) The TPO cannot be justified on the grounds of preserving public amenity
- b) The schedule of trees is incorrectly written.

3.2 This objection relates to the following trees included in the order:

- T5 (Ash)
- T6 (Oak)
- T18 (Oak)
- T19 (Apple)
- G4 (1 x Pear, 4 x Apple)
- G5 (3 x Silver Birch)
- G6 (1 x Oak, 1 x Holly, 1 x Ash)
- W1 (Mixed species)

#### Objection relating to public visual amenity

3.3 In the LPA's reasons for making the TPO it is stated that:

"The trees provide special amenity value and the Tree Preservation Order is made in the interests of amenity".

3.4 This reason has been applied to all the trees that are the subject of the TPO. Whilst some of the trees that are present on the site are visible to the general public, notably those along the frontage to Linturst Newtown, many are not. It cannot be the case that trees have 'special amenity value' if they cannot be seen.

3.5 As noted above, the Planning Policy Guidance on the making of TPO's states:

*'The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public'.*

3.6 I have requested a copy of the tree officer's assessment of the trees but have not received a reply. I understand that the council use an evaluation method called 'TEMPO' (Tree Evaluation Method for Preservation Orders) authored by Julian Forbes-Laird in 2006. The scoring system in this method is weighted to favour trees that have a high degree of visibility, as follows:

c) Relative public visibility & suitability for TPO	
<i>Consider realistic potential for future visibility with changed land use</i>	
5) Very large trees with some visibility, or prominent large trees	Highly suitable
4) Large trees, or medium trees clearly visible to the public	Suitable
3) Medium trees, or large trees with limited view only	Suitable
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable
1) <u>Trees not visible to the public, regardless of size</u>	<u>Probably unsuitable</u>

3.7 The land covered by the Order adjoins the road Linthurst Newtown on the southeast side. This is the only road that provides an uninterrupted view of some trees within the site. It is accepted therefore that the row of trees along the roadside do have visual amenity as they are easily seen. The view from Foxes Close to the west gives visibility to the tops of some trees in the centre of the site.

3.8 The mature trees in the internal square shaped area immediately to the rear of the garden (G3 of the TPO) can be partially viewed, as the top of their crowns are visible over the roofs of adjacent houses.



Figure 1: snapshot of Google aerial photo showing the site in relation to local roads and footpaths. Photos taken from locations 1, 2, 3 and 4 are provided below to show the visibility in to the site. The blue circle represents the area of the site which cannot be viewed from any nearby public areas.



*Photo 1: from location 1 on the railway bridge. The tops of G3 are the visible.*



*Photo 2: view from location 2. Hollies T13 & T14 in the foreground amongst overgrown Laurel. G3 is visible beyond the house to the right.*



*Photo 3: from location 3. Top of T1 visible behind garage.*



*Photo 4: Google streetview image from Foxes Close. The tops of trees within G3 are visible.*

- 3.9 There are no public rights of way within the fields to the west, north or east of the site, so views of the trees at the top of the site are extremely restricted.
- 3.10 Due to the limited viewpoints of the site, the following trees cannot be seen, and therefore have no public visual amenity:
- T5 (Ash)
  - T6 (Oak)
  - T18 (Oak)
  - T19 (Apple)
  - G5 (3 x Silver Birch)
  - G6 (1 x Oak, 1 x Holly, 1 x Ash)
  - W1 (Mixed species)
- 3.11 In addition to the above, most of the trees within G4 (1 Pear and 4 Apple) cannot be seen; only the Pear tree at the southern end of the group is possibly visible. The planning guidance states that "the group category should be used to protect groups of trees where the individual category

would not be appropriate and the group's overall impact and quality merits protection". It is therefore unreasonable to protect five trees based on the public visibility of just one.

- 3.12 The guidance notes that accompany TEMPO do make provision for the possibility that changes in site use can affect the future potential for public visibility, for example where trees that are currently hidden from view are exposed following clearance of surrounding land.
- 3.13 Not only are these trees not currently visible, but the realistic potential for their visibility to increase is very low as the trees further down the site are protected from removal thereby providing a natural visual buffer separating the road and houses from the trees at the top (north) of the site.

Objection relating to incorrect TPO schedule

- 3.14 The schedule has been incorrectly written as it lists the six 'groups' of trees under the heading 'trees specified by reference to an area', instead of listing them under 'groups of trees'. Under the 'groups of trees' heading, the schedule states "none".
- 3.15 This error appears to be an administrative mistake. The Town and Country Planning (Tree Preservation) (England) Regulations 2012 state in para 3 (4) that "In the case of any discrepancy between the map contained in, or annexed to, an order and the specification contained in the Schedule to that order, the map shall prevail".
- 3.16 This point of objection is therefore a minor one, as it is still clear from the order which trees are to be protected. However, in the interests of serving a clear and unambiguous order, it would be preferable if the schedule were amended.

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#### 4. CONCLUSIONS

- 4.1 It is requested that the provisional TPO No 11 (2017) is modified to remove from it T5, T6, T18, T19, G4, G5, G6 and W1 for the reasons listed above, before confirming the order.
- 4.2 It is also requested that the TPO schedule is amended to place the 'groups' of trees in the correct section.

Paul Barton, *MSc, MArborA*

28th July 2017



**Gavin Boyes**

---

**From:** Matt Fe. [REDACTED]  
**Sent:** 04 August 2017 16:15  
**To:** Gavin Boyes; Rasma Sultana  
**Subject:** TPO Order No.11 2017 Ref: RS/TPO(11)2017

Dear Sirs,

This is an objection to the Tree Preservation Order No.11 2017 on Land adjoining 73 Linthurst Newtown Blackwell, under Regulation 6.

For the avoidance of doubt, we do not own the Former Mink Farm simply referred to as Land adjoining 73 Linthurst Newtown. We own No.73 Linthurst Newtown, known as Charlton House. We are the most affected neighbour to the site as we border it on 3 sides.

We object to the use of a group order for G1. This gives some poor quality trees that would not usually merit a TPO, protection. We are greatly concerned with the first 2 Lawson Cypress trees in G1 and object to their protection. For almost a year we have sought to have these poor quality trees removed to improve highway safety. We have improved the vision to the East of our property but are unable to do so to the West due to the previous flawed TPO and now this one. The access to our property is directly opposite a bus stop, most often used by school children. An accident due to not being able to see traffic from our drive and vice versa could have fatal consequences. All to protect 2 non native poor examples of Conifer trees! This goes against all common sense and natural justice.

We also note the Spruces and other Lawson Cypress in G1 are of very poor form, namely they look like lollipops, are very top heavy and potentially dangerous given their close proximity to Linthurst Newtown, we therefore object to their protection.

We object to T15 on 2 grounds. The first is that it is an 'actionable nuisance'. The tree is approximately 20m tall and directly on our boundary, with a canopy that is within 1m of our house. The roots have already started to lift part of our rear patio and will no doubt start to cause problems with the rear of our property. The attached plan to the TPO does not reflect the true position of T15, it is much closer than shown. The 2nd ground for objecting to T15 is that it is of particularly poor form. The tree has suffered extensive Squirrel damage. The squirrels gnaw through the bark into the stem of the tree to access the sap. These wounds to the tree are then weak points for disease and rot. We have had already had a large branch snap out of the tree and land in our garden. This tree does not merit any protection.

We object to T16 and T17. Both trees are of poor form and not visible to the public. T16 which was referred to as 'lop sided' by a councillor on a previous site visit can only be seen from the North and not from any public place.

T17, has already been heavily cut back due to works with the electricity cables, has obvious and visible rot, and last year a large branch snapped out of the tree. Neither of these trees should be protected.

We support the protection of the large trees in G3. It is not clear why any tree directly North of G3 would be protected as they can not be seen from a public place. Indeed any tree which is Northerly of another cannot be seen from Linthurst Newtown. We understand that if a tree cannot be seen from a public place it does not merit protection. Therefore we object to T5, T6, T7, T8, T9, T10, T11, T18, T19 (which has fallen over), G5, G6, 4x apple trees in G4 and the use of a Woodland Order for W1. Regarding W1 only a handful of trees are visible to the public, surely these should be individually protected?

We trust our objections are taken into account.

Yours faithfully,

Mr & Mrs Fell

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## APPENDIX (6)

From: I  
Date: T1  
To: Clai  
Subject:

Dear Ms Felton,

I am writing to express my concern regarding the possible lifting of the TPO we worked hard to put into place on woodland and established trees behind number 73 Linthurst Newtown Blackwell. TPO 11 2017. Could you please let me know why there is a chance it could be lifted and what BDC propose to do to prevent it.

Sadly this land is not currently accessible to residents of the village as it is in private ownership, however it is visible from the various footpaths in the area and provides a beautiful boundary to our village adding greatly to its character.

As I am not a wildlife expert simply a villager who enjoys walking in this area, I cannot comment in detail on the endangered native species which use this land as habitat, nor on the nature of the trees within it. When the TPO was put into place there were many large trees to protect and even some ancient orchard. Everything that was not protected when the original TPO was put into place has mostly been cut down. The 100 year old hedge which screened the property from the road was one of the first things to go. Please help us to prevent the developers who now own this site from causing any further damage. Fortunately you were able to act quickly last time and prevent loss of some beautiful trees with the TPO. Thank you.

My main concerns are for the local wildlife and environment that we live in. My arguments may not all hold a great deal of expert knowledge nor real legal strength, but further investigation should prove that there are issues to allow your intervention to protect this woodland. Neighbours that live adjacent to the site have commented on the wildlife they have seen such as newts, roe deer, badgers and bats. I have been a resident of this village since 2000 and have personal experience of the wide range of birds we are lucky enough to see in our gardens in Blackwell. I am a member of the RSPB and have myself heard and/or seen little owls, tawny owls, nuthatches, tree creepers and finches and tits of various types. I have also seen deer and bats near my own home which probably originate from such woodland. With regard to bats in particular, I live in a cottage 50 yards from this site. Bats were regular visitors to our loft and when we had it converted we had to allow bat access following an inspection by the bat conservation trust, as it is likely that rare species of bats were also making use of our roof and those of neighbouring properties.

This woodland is very similar in size and has more established trees than an adjacent site (which is linked to this one in fact by a hedge) and already has protected status as woodland. There is no way you could believe that this site is agricultural scrubland! I have been informed by more knowledgeable people that this woodland incorporates trees from a very old orchard which should also be taken into consideration. This area also acts as a green corridor allowing wildlife to move around our local area.

On another environmental level, and perhaps a more immediate worry if lost, is the benefit that these trees provide in terms of counteracting the pollution and carbon from the nearby M42 motorway. We are all aware that climate change and carbon in particular are of special concern to authorities at the moment. These trees also provide a barrier to some of the noise pollution caused and are probably helpful

# Agenda Item 5

in slowing down water run off from the motorway in heavy rains. Rainfall and water run off from the motorway has threatened to flood the old cottages opposite the site on a few occasions. I have already suffered great anxiety on a few occasions after heavy rain when water has lapped at my doorstep and threatened to come into my living room... My next door neighbour was not so lucky at ~~the~~ and actually had water in the front room.

Our draft Neighbourhood Plan in section 3.0 vision and objectives states:

1. **We will protect the built, historical and natural environment ensuring that our green spaces and the Green Belt are protected.**

And

3. **We will promote nature conservation and protect areas of special environmental value.**

We need to respect the will of the people living in the village who have written and support our plan.

Our district plan states:

**8.213** Landscape, which results from the interaction between the nature and culture of a place, directly affects our quality of life. In the past, landscapes of local importance were protected through rigid local designations, whilst the impact of developments outside of these areas was not normally considered. However, it is now recognised that all landscapes matter.

Section 8 of the BDP also refers to protecting wildlife and green corridors.

In legal terms I am aware that you have to consider the amenity these trees provide. To summarise, this can be argued in terms of the heritage and character of our village and the local area. Wildlife is also an amenity in my opinion and the many protected native species that are resident require your intervention. Protecting our village and the wider community from pollution, flooding and noise should also be considered as an amenity; we should be planting trees and protecting established ones to do our bit to fight climate change. It doesn't matter if this is only a small wood in the great scheme of things, every tree matters, we have little woodland in our lovely rural area, what we do have needs protection.

I love my village, I love living here. I want to keep and protect our beautiful environment and I urge you to intervene in protecting these trees.

Thank you for your assistance,

## Gavin Boyes

**From:** Andrew Bucklitch  
**Sent:** 04 August 2017 14:32  
**To:** Gavin Boyes  
**Subject:** FW: Town & Country Act 1990 - B.D.C Tree Preservation Order (No.11) 2017 on land adjoining 73 Linthurst Newtown Blackwell

Andy Bucklitch  
Tree Officer

Environment Services – Bromsgrove District & Redditch Borough Council Crossgate Depot, Crossgate Road, Redditch, Worcestershire. B98 7SN Tel 01527 548348 email [a.bucklitch@bromsgrove.gov.uk](mailto:a.bucklitch@bromsgrove.gov.uk)

<http://www.bromsgrove.gov.uk/my-place/environment/managing-your-trees.aspx>

-----Original Message-----

**From:** Rasma Sultana  
**Sent:** 04 August 2017 13:04  
**To:** Andrew Bucklitch  
**Cc:** Tracy Lovejoy  
**Subject:** FW: Town & Country Act 1990 - B.D.C Tree Preservation Order (No.11) 2017 on land adjoining 73 Linthurst Newtown Blackwell

FYI

Last minute support sent in at 2:41am!!!!

PLI

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**Frc**  
**Sent:** 04 August 2017 02:41  
**To:** Rasma Sultana  
**Subject:** Town & Country Act 1990 - B.D.C Tree Preservation Order (No.11) 2017 on land adjoining 73 Linthurst Newtown Blackwell

To whom it may concern,

I write as a paying council tax resident of Blackwell Village to give my full support to B.D.C & urge them to make the temporary TPO permanent on the above mentioned site & save a long & established woodland with Poplar, Silver Birch, Sycamore, Oak, Horse Chestnut, Cooper Beech, just a few of the many trees it is home to & the Wildlife residents, Bats, Badgers, Deer & Roe Deer, Gold Finches, Green & Spotted Wood Peckers, Wrens, Nuthatchers & Bullfinches that live there from further disruption & also the Orchard with Pear & Apple trees & pond with newts that have also been seen in my neighbours garden & safe guard & protect for future generation's to come by keeping it as Green Belt land & having the Woodland removed from the local SHLAA & re-listed correctly as Woodland, which it has been. For the last 20 year's I have lived in the village & many more year's before that & like it's sister Site in Tanglewood Close, that to was saved & which I'm very proud to say, I was part of that campaign

Where this Site is located the road is very narrow & continues on to a very sharp bend (blind spot), where there have been some bumps, some near misses, cats, dogs either killed or injured, daily problems for local residents with off road parking, buses, school buses, delivery vans at peak times, traffic mounting the pavement to get past one

# Agenda Item 5

another. This part of the village already struggles at the present time to try & cope with the every day traffic because access is extremely limited so if ever planning permission was granted for any development, I can not see how it would be able to take any more traffic & because we already had a large development build about 30 year's ago of over 200 houses & any further development would be devastating & change the whole status of Blackwell Village for ever & it wouldn't be for the better.

## Gavin Boyes

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**From:** Tree Enquiries  
**Sent:** 02 August 2017 15:00  
**To:** Gavin Boyes  
**Subject:** FW: TPO (11) 2017

Also logged to M3

Thanks  
Ange

Angela Akers  
Support Services Officer – Environmental Services.


-----Or

**From:**  
**Sent:** 02 August 2017 13:50  
**To:** Tree Enquiries  
**Subject:** TPO (11) 2017

FAO Clare Flanagan

Dear Clare,

Re TPO (11) 2017

 I understand that the above Order has been made on 04/07/2017 on a number of trees on land opposite my property - I live at Linthurst Newtown, Blackwell, B60.

This note is to endorse fully this Order and hope that, in the event of any appeals from the landowner or other parties, my views can be represented in support of the Order.

If there are any processes or consultations on this matter could you please let me know so that I may further represent my views.

Many thanks

**Gavin Boyes**

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**From:** Tree Enquiries  
**Sent:** 07 August 2017 09:32  
**To:** Gavin Boyes  
**Subject:** FW: TPO 73 Linthurst Newtown Blackwell

fyi

Regards

Angela Akers  
Support Services Officer – Environmental Services.

**Redditch Borough Council**  
Town Hall  
Walter Stranz Square  
Redditch  
B98 8AH  
Website: [www.redditchbc.gov.uk](http://www.redditchbc.gov.uk)

**Bromsgrove District Council**  
Parkside  
Market Street  
Bromsgrove  
B61 8DA  
Website: [www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)



**From:**  
**Sent:** 04 August 2017 11:15  
**To:** Tree Enquiries  
**Subject:** TPO 73 Linthurst Newtown Blackwell

we are writing to put our comments in about development of the above property :

We live next to the field in question and are really upset that we could be losing valuable woodland. We see foxes, badgers, roe deer daily.  
Birds of prey are seen regularly and we feel if the trees are gone most of the wildlife would be lost.  
We are also concerned about motorway pollution and noise, as the trees act as a buffer.  
We are really upset that the council could consider this decision as we thought preservation of woodland and wildlife is important for our future and our children's future.



**Gavin Boyes**

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**From:** Andrew Bucklitch  
**Sent:** 27 July 2017 11:31  
**To:** Gavin Boyes; Rasma Sultana  
**Subject:** FW: Tree Preservation Order 11 2017

I am writing to support TPO (11) 2017, which was made on 4<sup>th</sup> July by Clare Flanagan, to preserve a number of named trees on land at 73, Linthurst Newtown, Blackwell B60 1BS. Please forward this email to whoever it may concern.

Freefield Investments, the owners of the land, had begun to fell some of the trees on this land before a blanket TPO was made successfully to permanently protect the whole area. An appeal by the landowner, appropriately called Mr Fell, was successful but this new order gives me some hope that at least some of the land will be saved from bricks and mortar.

Small scale housing development in Blackwell, a small settlement, is likely and the Neighbourhood Development Plan, which is nearing completion, acknowledges that this can benefit the village but this is not the place for a development of more than 10 to 20 new dwellings if the rural character of Blackwell is to be retained. Such a small development with the retained trees would be a very attractive place to live but a larger estate devoid of woodland and orchard would be suburban and soulless. The SHLAA target of 40+ dwellings would put at least 80 more cars on Linthurst Newtown, a narrow winding road with two difficult bends where accidents do happen. The road opposite the land is virtually a car park narrowing the road even further.

The small orchard on the right of the site is particularly valuable as is the woodland of native trees to the rear of the land. Both provide wild life habitats and surely help to mitigate the air pollution from the nearby M42. The woodland is visible from a public footpath, which links Linthurst Newtown to Linthurst Road and is well used. I know that residents of Linthurst Newtown have sent photographs of the site to support the previous TPO and I hope they will be taken into consideration to support this new order.

There are other sites in Blackwell without woodland or orchard which, in my opinion, would be much more suitable for housing development so please let's protect the trees on Linthurst Newtown and look elsewhere for housing.

**Gavin Boyes**

---

**From:** Andrew Bucklitch  
**Sent:** 04 August 2017 14:33  
**To:** Gavin Boyes; Rasma Sultana  
**Subject:** FW: Tree protection order no 13 2016 - 73 Linthurst Newtown

Andy Bucklitch  
Tree Officer  
Environment Services – Bromsgrove District & Redditch Borough Council Crossgate Depot, Crossgate Road,  
Redditch, Worcestershire. B98 7SN Tel 01527 548348 email [a.bucklitch@bromsgrove.gov.uk](mailto:a.bucklitch@bromsgrove.gov.uk)

<http://www.bromsgrove.gov.uk/my-place/environment/managing-your-trees.aspx>

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From  
Sent: 04 August 2017 11:48  
To: Andrew Bucklitch  
Subject: Tree protection order no 13 2016 - 73 Linthurst Newtown

To whom it may concern,

I would like to raise my concerns regarding the proposed clearing off the wooded area detailed in the tree preservation order at the rear of 73 Linthurst Newtown.

I'm concerned that the noise from the M42 would be increased where at present this wooded area provides a sound screen to absorb the noise and as traffic increases so will the noise which will then be amplified if this wooded area has been lost.

Another issue that may also arise if these trees are removed is that the wildlife that dwells in this area will be displaced if not killed off, this will be a terrible loss to the village.

There is also potential for localised flooding as the heavy rainfall could then run from the inclined area running straight off the land should the trees be removed as is often the case from the field at the end of Blackwell Road. This would have an impact on the cottages & houses facing no 73 Linthurst Newton.

I therefore think it is imperative that these well established trees are persevered to provide a unique habitat, sound screen & drainage system to both enhance and protect the village.

Yours Sincerely

Gavin Boyes

**From:**  
**Sent:** 04 August 2017 13:34  
**To:** Gavin Boyes  
**Subject:** Fwd: REFERENCE TPO (No 11) 2017 - LAND SURROUNDING 73 LINTHURST NEWTOWN

----- Forwarded -----

**From:** Antony Col [REDACTED]  
**Date:** Fri, Aug 4, 2017 at 1:17 PM  
**Subject:** REFERENCE TPO (No 11) 2017 - LAND SURROUNDING 73 LINTHURST NEWTOWN  
**To:** r.sultana@bromsgroveandredditch.gov.uk, andrew.bucklitch@bromsgroveandredditch.gov.uk, [REDACTED]

4th August 2017

REFERENCE TPO (No 11) 2017 - LAND SURROUNDING 73 LINTHURST NEWTOWN

To whom it may concern,

I write to support keeping and making permanent the above TPO and feel that any removal of this site from Green Belt protection, leading to possible planning permission being considered for housing development would be disastrous for this quiet little village. This forms a 'perceived threat to these trees', whilst I would argue the sites presence on the local SHLAA would constitute a 'foreseeable threat to these trees'

The land is currently listed on SHLAA as Agricultural Scrubland, and currently has a temporary Tree Protection Order served on it. This was imposed after I alerted the Council to the rapid clearing of the land by the owner, using mini diggers and dump trucks. I thank the council for placing the temporary TPO so speedily and sincerely request that it is made permanent

I have lived in this area for 13 years, and this land has always been undisturbed woodland. It is NOT scrubland, as listed on the SHLAA. It links with a site at the head of Tanglewood Close via hedgerow, providing a wildlife corridor between the two. It is pretty much identical to the land in Tanglewood Close, which was re-classified as woodland and saved from development a few years ago.

The site is full of trees, many are large mature specimens, others are young and ensuring continuity of the woodland.

There are ;

Several Oaks – which look roughly 100 years old (200-300 year retention span)

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Copper beech's (150-200 year retention span)

Poplar's (50-70 year retention span)

Silver birch's (50-70 year retention span)

Sycamore's (200-300 year retention span)

Horse chestnut's (100-150 year retention span)

to name but a few. The individual specimens are impressive due to their size and good condition, however their true value is as an entirety. There is an unbroken line of trees that form this woodland, visible from the village at several points, due to their position and also their great size. These provide pleasure to the villagers, and are an important part of the characteristic of the entire village. If it were removed a part of what makes Blackwell special would be lost. All trees are visible from the public footpath and from various angles on Linthurst Newtown, they form part of the very first view as you enter the village over the railway bridge when coming from Barnt Green.

The trees effectively make a boundary to the village towards the North-East.

There is also evidence of the old orchard at the top end.

The wooded area forms a continuous boundary with the oak trees that link to the woodland area around Tanglewood (i.e. a wildlife corridor). As such shouldn't the same criteria that saved Tanglewood also apply to the site I am writing about too?

This TPO is full of wildlife, including Badgers, Deer(including Roe) and Bats coming out of it. It is filled with nesting birds – Green and Spotted Woodpeckers often come into my garden from there, also Nuthatches, Goldfinches, Wrens and Bullfinches are seen coming from there. There is a large pond within the TPO, which really needs a biodiversity study as it will almost certainly be full of wildlife, there are reports of newts spreading from there into neighbouring gardens (reported from number 75 LinthurstNewtown).

The trees also serve the purpose of masking noise from the M42 motorway, which I believe is already way over the acceptable level and is often a major problem at this end of the village. If this road noise increases it will detract from the quality of life within the village by persons living there, yet another detrimental effect of losing the woodland.

This site is totally unsuitable for development due to access and traffic problems, sitting as it does in a very narrow section of the road, already a hazard for parking, school buses, delivery vehicles etc. There is no potential to widen the road here and there have been a number of accidents and near misses on the bend closest to the site. More houses will mean more traffic, affecting the oldest properties built closest to the road very badly. Yet more development would ruin the whole feel of the village, which is small and friendly. Locals have all paid a premium for this major selling point of the village, which development would decimate. Around 30 years ago the village was developed and almost doubled in size whilst other neighbouring villages have evaded development, when assessing the need to convert green belt to building land, a TPO may help Blackwell avoid further erosion, surely it's time for other villages to shoulder the burden of meeting housing requirements.

As a brief additional point, the council would need to consider the risk of flooding, as the village has already suffered badly in recent years from water running down from the land in that direction, and altering the land on this scale may well have catastrophic consequences on future flooding issues!

To conclude, I would like to thank the Council for the temporary protection offered to the site by the imposition of the TPO. I would strongly urge you to make the TPO permanent, and in view of concerns relating to Badger setts, Bats and Newts would also expect the council to do everything within its power to halt the further destruction of wildlife habitat by way of a Biodiversity-study. Regardless of the current listed status, this is not a worthless piece of agricultural scrubland, but a much-valued woodland, and should be re-classified

# Agenda Item 5

as such. It is a great environmental asset to the village, as demonstrated by the levels of emotion and upset as have already been expressed by a great many villagers at the initial actions by the current landowners.

It has clearly taken well over a hundred years for the woodland to grow and establish and it obviously has a great retention span ahead of it, please help us to stop external forces coming and bulldozing overnight the very thing that marks out this local popular beauty spot, the woodland makes this corner of Bromsgrove special, its destruction would be a travesty.

The above represents the formal side of our support for retention of the TPO....

There are many other more specific and personal reasons which in our view should be taken into consideration. These are listed below in no particular order;

1>The TPO is linked moving forwards to housing development and highways issues. We live in a house which dates back to approximately 1800. We have lived here since December 1992 and have put our hearts and souls into renovating a piece of local history. We are led to believe at one point the house was a public house for the navvies building the railway/lickey incline. We have very limited off road parking, due to double-yellow lines. Our fear is that once any large scale development was built Linthurst Newtown would become a double-yellow lined race track, ruining the character of what is a beautiful village and ruining our and our friends enjoyment of our house and neighbourhood. It is bad enough already.

2>We purchased our house from a lady who had lived here since 1939. She is no longer with us but spoke passionately about the changes in water drain off caused by the building of the M42 motorway. Our road has flooded badly 2 or 3 times since 1992 (I have pictures), removal of the trees covered by the TPO and the pond which is an integral feature of the wooded TPO area would create awful flooding issues for the road/village. I wonder what the drive would be for developers to build/maintain a flood culverts as per the new development in Norton on the Old Birmingham Road in Bromsgrove. My fear is no drive at all....very much cram as many properties in as possible and move on. If the trees and pond are removed and development occurs, flooding will become a major issue.

3>The wooded area support an astonishing amount of wildlife. We feed 25 plus types of birds, sparrows, bullfinches, gold finches, wrens, thrushes, dunnock, blackbirds, robins, blue tits, long-tailed tits, great tits, starlings, collared doves, wood pigeon, magpies, sparrow hawks, buzzards, woodpeckers etc etc. Yesterday I witnessed a sparrow hawk feasting on a dove in my back garden. The area also supports innumerable mammals.....foxes, badger, muntjac and roe deer and hedgehogs...to name just a few

4>The trees provide noise insulation from the M42. If you need to check this out. Listen to the difference in noise along the Blackwell Road....first from the Blackwell side and then from the Barnt Green side.

5>Over the last few weeks there have been periods of time where ground clearance and associated fires have been on-going almost 24/7. Far from supporting habitat for wildlife, the wood and scrub cleared has simply been burnt, with no consideration or thought for households in the vicinity of the TPO or support for the TPO/local wildlife. I consider this behaviour to be a good indication of intent and desire to work with local people from the landowner and /or his/her agents

6>I very much hope the Council is able to support maintenance of the local character and natural assets of this lovely area and is bold enough to see that England is a big place. Fly in a plane to Birmingham from Europe and it can only convince planning authorities that there is no need to panic and in fill every small green space. We are not short of land for housing. We are short of desire and common sense to implement a more sensible management of what we do have.

Yours sincerely and hopefully,



**Gavin Boyes**

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**From:**  
**Sent:** 04 August 2017 22:06  
**To:** Gavin Boyes  
**Subject:** Fwd: TPO 73 Linthurst Newtown

To: Gavin.Boyes <[Gavin.Boyes@bromsgroveandredditch.gov.uk](mailto:Gavin.Boyes@bromsgroveandredditch.gov.uk)>  
Sent: Fri, 4 Aug 2017 22:04  
Subject: TPO 73 Linthurst Newtown

Dear Mr Boyes.

I understand that a new TPO is under consideration for the trees on land around property 73 Linthurst Newtown Blackwell, I would like to register my support for the TPO as I feel that the loss of the trees on this land namely Ash, Oak, Silver Birch, Sycamore, Yew, Horse Chestnut, Spruce, Lawson Cypress, Beech to name but a few together with and old orchard would be a considerable loss to the area and to the various animals, birds and wild life.

Kind Regards



**Gavin Boyes**

To:

Subject:

RE: Support for the TPO Blackwell village

Dear [redacted] to confirm we have received your email in support of this TPO and will take it into consideration during the further evaluation process of this order.

Best Regards  
Gavin Boyes

{  
}

Sent: 27 July 2017 09:32

To: Gavin Boyes

Subject: Support for the TPO Blackwell village

26 July 2017

**REFERENCE TPO (No 11) 2017 - LAND SURROUNDING 73 LINTHURST NEWTOWN**

To whom it may concern,

I write to support keeping and making permanent the above TPO and feel that any removal of this site from Green Belt protection, leading to possible planning permission being considered for housing development would be disastrous for this quiet little village. This forms a 'perceived threat to these trees', whilst I would argue the sites presence on the local SHLAA would constitute a 'foreseeable threat to these trees'

The land is currently listed on SHLAA as Agricultural Scrubland, and currently has a temporary Tree Protection Order served on it. This was imposed after I alerted the Council to the rapid clearing of the land by the owner, using mini diggers and dump trucks. I thank the council for placing the temporary TPO so speedily and sincerely request that it is made permanent

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The site is full of trees, many are large mature specimens, others are young and ensuring continuity of the woodland.

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Horse chestnut's (100-150 year retention span)

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This TPO is full of wildlife, including Badgers, Deer(including Roe) and Bats coming out of it. It is filled with nesting birds – Green and Spotted Woodpeckers often come into my garden from there, also Nuthatches, Goldfinches, Wrens and Bullfinches are seen coming from there. There is a large pond within the TPO, which really needs a biodiversity study as it will almost certainly be full of wildlife, there are reports of newts spreading from there into neighbouring gardens (reported from number 75 LinthurstNewtown).

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This site is totally unsuitable for development due to access and traffic problems, sitting as it does in a very narrow section of the road, already a hazard for parking, school buses, delivery vehicles etc. There is no potential to widen the road here and there have been a number of accidents and near misses on the bend closest to the site. More houses will mean more traffic, affecting the oldest properties built closest to the road very badly. Yet more development would ruin the whole feel of the village, which is small and friendly. Locals have all paid a premium for this major selling point of the village, which development would decimate. Around 30 years ago the village was developed and almost doubled in size whilst other neighbouring villages have evaded development, when assessing the need to convert green belt to



# Agenda Item 5

building land, a TPO may help Blackwell avoid further erosion, surely it's time for other villages to shoulder the burden of meeting housing requirements.

As a brief additional point, the council would need to consider the risk of flooding, as the village has already suffered badly in recent years from water running down from the land in that direction, and altering the land on this scale may well have catastrophic consequences on future flooding issues!

To conclude, I would like to thank the Council for the temporary protection offered to the site by the imposition of the TPO. I would strongly urge you to make the TPO permanent, and in view of concerns relating to Badger setts, Bats and Newts would also expect the council to do everything within its power to halt the further destruction of wildlife habitat by way of a Biodiversity-study. Regardless of the current listed status, this is not a worthless piece of agricultural scrubland, but a much-valued woodland, and should be re-classified as such. It is a great environmental asset to the village, as demonstrated by the levels of emotion and upset as have already been expressed by a great many villagers at the initial actions by the current landowners.

It has clearly taken well over a hundred years for the woodland to grow and establish and it obviously has a great retention span ahead of it, please help us to stop external forces coming and bulldozing overnight the very thing that marks out this local popular beauty spot, the woodland makes this corner of Bromsgrove special, its destruction would be a travesty.

Yours sincerely



Sent from my iPad

10

Gavin Boyes

To:  
Subj

RE: TPO (No 11) 2017 - 73 Linthurst Newtown

Dear  
durir

to confirm we have received your email in support of this TPO and will take it into consideration  
of this order

I

**Sent:** 27 July 2017 10:17

**To:** Gavin Boyes

**Subject:** TPO (No 11) 2017 - 73 Linthurst Newtown

I am writing this email in support of the TPO at 73 Linthurst Newtown.

The removal of this woodland area behind number 73 will have a detrimental impact on biodiversity in the area and to nature conservation. There is a rich variety of trees in this woodland all of which will support an eco-system where wildlife can thrive. This woodland also contributes to the area's landscape and enjoyment of Blackwell residents.

All trees are visible from the public footpath and from various angles on Linthurst Newtown including the very first view as you enter the village over the railway bridge.



**Gavin Boyes**

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**To:**

**Subject:**

RE: TPO (no 11) 2017

Dear            thank you for getting in touch regarding this matter. We have raised a new TPO on the site and it is our intension at this point to take this order forward to make it permanent. I will of course take your comments in to account as we give this matter further consideration.

Best Regards  
Gavin Boyes  
Senior Tree Officer  
Bromsg

**From: (**

**Sent:** 01 August 2017 21:41

**To:** Gavin Boyes

**Subject:** TPO (no 11) 2017

Dear Mr Boyes.

I am writing to ask you to preserve the TPO at 73 Linthurst Newtown, Blackwell.

For her 11th birthday this year, we bought our daughter an outdoor wildlife camera. We have been to different locations within 1 mile of our house in Blackwell and so far have pictures of Fox, Badger, Deer, rabbits, squirrel, and a mouse. I fear that the destruction of yet more wildlife habitat will drive these animals away.

I would also suggest that the inevitable building of more houses should the TPO be withdrawn, would be a very bad thing for Blackwell, causing even more chaos on Greenhill every morning and evening.

I realise that in Blackwell we are lucky to have some areas that are naturally beautiful. Please don't allow them to be spoilt.

Yours sincerely,

**Gavin Boyes**

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**To:**

**Sub**

RE: TPO (No11) 2017

Dear \_\_\_\_\_, to confirm we have received your email in support of this TPO and will take it into consideration during the further evaluation process of this order.

Best Regards  
Gavin Boyes  
Senior Tree Officer  
Brox

**From**

**Sent:** 27 July 2017 17:41

**To:** Gavin Boyes

**Subject:** TPO (No11) 2017

Hello Gavin

I would like to lodge my support for the TPO at 73 Linthurst Newtown. I want to protect the trees, the wildlife and deter large scale building work that is not appropriate for this setting.

Many thanks

**Gavin Boyes**

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**From:**  
**Sent:** 03 August 2017 20:29  
**To:** Gavin Boyes  
**Re:** TPO No 11 2017. Land surrounding 73 Linthurst Newtown, Blackwell, B60 1BS

Bromsgrove,  
Worcestershire,  
B60 1BS

3<sup>rd</sup> August 2017

RE: Site of Tree Protection Order (TPO No 11 2017) and land surrounding 73 Linthurst Newtown, Blackwell, B60 1BS

Dear Mr G. Boyles,

I am writing in support of the above TPO (No11) 2017.

The area this TPO stands on is a beautiful wildlife reservewhich gives a clear boundary to the village and allows our wildlife to travel undisturbed around us.

I understand from the TPO that they are a great variety of tress on this land, many of which are national treasures. The area is teeming with wildlife and it gives such a delightful backdrop to our village.

Since the previous TPO was quashed the land owners have been constantly burning and cutting down trees. I can now see properties that I have never seen before, and more alarming is the increased noise level from the motorway which the trees and bushes used to serve as a barrier from. The woodland area aids with noise pollution reduction from the nearby M42 and the trees further aid to the cleansing of the air from this heavily trafficked motorway.

This area also serves to act as a flood barrier, my previous property at 122 Linthurst Newtown was flooded, as were many properties along this road. To reduce the number of trees and hedges will only serve to make flooding more likely again in the future.

The area is highly visible from a number of areas of Blackwell, namely on your immediately access to the village from the Barnt Green end, over the railway bridge, from looking over the road to number 73 and from the public footpath to the side of the area. This has a clear visual impact on arriving to the village, adding to its appeal.

To conclude, I would strongly urge that the revised TPO be made permanent, to enable this in the preservation of a highly valued environmentally rich and diverse area.

# Agenda Item 5

My family and I and the surrounding community would really appreciate your serious consideration of the above.

Yours sincerely

Sent from my iPad

**Gavin Boyes**

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**To:**

**Subject:**

RE: TREE PRESERVATION ORDER 11/2017 LINTHURST NEWTOWN BLACKWELL

Dear Mr [redacted], thank you for letting know your views in relation to the land adjoining 73 Linthurst Newtown and I assure you we will take them into consideration in any future matters regarding this site. To hopefully reassure you at further at this point although we did agree to dissolve the original order raised we have raise a replacement order covering trees on the site.

Best Regards

Gavin Boyes

Senior Tree Officer

Broms

**From**

**Sent:** 27 July 2017 17:55

**To:** Gavin Boyes

**Subject:** TREE PRESERVATION ORDER 11/2017 LINTHURST NEWTOWN BLACKWELL

I am writing to say how appalled and horrified I am to learn that the Tree Preservation Order issued last year in respect of trees on land adjoining 73 Linthurst Newtown has been appealed successfully. I am strongly opposed to the cutting down of these trees for a number of reasons, *inter-alia*, the damage to wildlife that would without doubt occur and the threat to drainage. The trees also provide an invaluable source of sound insulation from the M42 apart from enhancing air quality which I consider to be of the utmost importance.

In the event of permission being granted for the trees to be cleared, I contend that this would pave the way for any developers to build. Linthurst Newtown is already a busy and potentially dangerous highway and I would submit would be incapable of dealing with any increased volumes of traffic that would inevitably follow. Furthermore, the local infrastructure, schools, doctors and other medical services are already operating at near maximum capacity and would be incapable of absorbing more residents.

For all of the above reasons I sincerely hope that the trees are allowed to remain and that no further development will be approved.

**Gavin Boyes**

**To:**

**Subje**

RE: TREE PROTECTION REAR OF 73 LINTHURST NEWTOWN

Dear I thank you for letting know your views in relation to the land adjoining 73 Linthurst Newtown and I assure you we will take them into consideration in any future matters regarding this site. To hopefully reassure you at further at this point although we did agree to dissolve the original order raised we have raise a replacement order covering trees on the site.

Best Regards  
Gavin Boyes  
Senior Tree Officer  
Bromsgrove & Redditch Councils

**From:**

**Sent:** 28 July 2017 15:24

[net]

**To:** Gavin Boyes

**Subject:** Fw: TREE PROTECTION REAR OF 73 LINTHURST NEWTOWN

Original

From: [REDACTED]

Date: 24/07/2017 15:02

To: <rasmasultana@bromsgroveandredditch.gov.uk>

Subj: Fw: TREE PROTECTION REAR OF 73 LINTHURST NEWTOWN

Hi i am resubmitting my objection to the proposed tree felling at 73 Linthurst Newtown Blackwell my circumstances have'nt changed so my objection is still relevant

To: <rasmasultana@bromsgroveandredditch.gov.uk>

Subj: TREE PROTECTION REAR OF 73 LINTHURST NEWTOWN

Objection for the felling of trees/clearing of land 73 Linthurst Newtown

Dear Sir/Madam

I am writing in connection with the proposal of felling of trees and clearing of the woodland and ancient orchard at the rear of 73 Linthurst Newtown, Blackwell.

My property sides on to the woodland and it makes up 100% of my vista. The woodland and orchard are the boundary for Blackwell and not only look beautiful but also play an important role in many other ways.

The tree formation act as a sound barrier for the M42 and railway, they form part of the village surrounds and they protect the village by reducing the noise from the motorway and from the pollution that the motorway causes.



# Agenda Item 5

The trees and woodland area link to surrounding fields which are homes to wildlife and link to woods at the rear of Tanglewood Close where a previous application was submitted for the felling trees and clearance of woodland and the application was previously refused.

The wildlife which are housed by the woodlands include Roe Deer, Woodpeckers (both green and lesser spotted), Badgers, Rabbits, and various other bird species. Bats also appear regularly in the locality although we are unsure as to whether they are housed here. There are a range of trees which we feel should be protected for the future of countryside and green areas and not felled.

The importance of the countryside has a high amenity value to residents whom enjoy walking the footpaths and the green areas and feel the trees and woodland form a huge part in what makes Blackwell a village.

We feel, as residents, that the preservation order should be made permanent, not only for the reasons above but to protect our countryside and green areas for the villagers and outside villagers to enjoy countryside walking and scenery.

Please consider this protection order as a matter of concern to conserve our future environment.

P.S I will be forwarding photographs of families of Roe Deer that have been taken from my premises and they live in the fields which developers are proposing to clear. How can we make such wildlife homeless!!

Gavin Boyes

**From:**  
**Sent:** 03 August 20. 19:33  
**To:** Gavin Boyes  
**Subject:** TPO (No11) 2017

Dear Gavin

I am writing to you to register my support for the tree preservation order currently in place on the 4 acres of land surrounding 73 Linthurst Newtown, Blackwell.

My support for this are in line with the majority of the villagers and feel that losing this crucial field and woodland would have a significant impact upon the village.

The M42 runs behind this land and the trees provide valuable protection from both noise and pollution. This area resides at the base of the Lickey hills, and during heavy rain the run off from the hills is directed towards the village. Several cottages in front of this land have flooded in the past from this water run-off, felling any trees in this woodland will exacerbate this problem not only causing flooding of the houses but also causing a potential flood risk to the railway that runs at the bottom of the gardens of Linthurst Newtown (that is currently being electrified).

Upon entering the village over the railway bridge, one of the most striking features of the village is the surrounding field and woodland, that was among the key features that had Linthurst Newtown voted the most favoured place to live in 2015.

In addition to the aesthetic aspect of the woodland and field in question we know that it is home to a vast array of animal species. I live directly opposite the field and frequently see Roe deer grazing. The loss of this wood would have a serious negative impact on these animals- this is a key corridor for these animals which are isolated by the M42 motorway and the railway at either end of their habitat. Additionally loss of this woodland would affect a very old orchard that makes up one of the key public footpaths of the area, enjoyed by walkers and likely providing a key habitat for many animals.

Along the front edge of the land adjoining Linthurst Newtown is a very old oak tree that makes up a row of trees for birds and other wildlife as protection from the road and adds value to Blackwell's village plan of maintaining roadside trees and hedgerows.

I sincerely hope that all of this is taken into consideration when the decision is made over the permanent nature of the tree preservation order and the future of this site as a preserved area of greenbelt.

Kind regards

Gavin Boyes

**From:**  
**Sent:** 03 August 2017 23:19  
**To:** Gavin Boyes  
**Subject:** TPO 11 2017 Linthurst Newtown Blackwell

Dear Gavin

I am writing in support of the tree preservation order currently in place that covers trees on the land surrounding 73 Linthurst Newtown, Blackwell (TPO 11 2017).

Many of my thoughts and observations are undoubtedly the same as those you have already received, but perhaps I can bring some additional insight into what I believe is a strong case for the protection of all or many of the trees on this land.

As I understand from the guidance notes concerning tree protection, an important consideration is the character that trees impart to an environment and the way that they influence the overall appearance. There are many mature trees of several species and collectively these can be seen from several key viewpoints, perhaps most importantly approaching the village from Barnt Green crossing the railway bridge, and as a backdrop along a significant length of Linthurst Newtown. Trees on the northern part of the land are also a major part of the view of the village from the public footpath that can be accessed from Tanglewood Close, and form a continuum with a large wooded area (mainly oaks) that surrounds the top end of Tanglewood Close.

The northern aspect of the woodland effectively represents a boundary to the village, and standing in the field adjacent to the public footpath it is quite clear that the combined wooded area serves as an effective barrier to the sound of traffic, which at that point rolls down the hill from the M42. Moreover, from an ecological perspective, and in addition to the many species that live within the wooded area, it can be seen that the woodland creates a very necessary wildlife corridor between the M42 and the railway line, linking rural areas around Barnt Green to Linthurst and beyond. One species in particular that is known to rely on such corridors is the Roe Deer, many of which I have sighted on or coming from the land in question.

I hope that my comments are of some use and look forward to hearing the outcome of your deliberations on this matter.

Kind regards

**Gavin Boyes**

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**From:**  
**Sent:** 03 August 2017 21:51  
**To:** Gavin Boyes  
**Subject:** TPO 73 Linthurst Newtown, Blackwell

Dear Mr. Boyes,

I write with regards to Tree Protection Order at land at 73 Linthurst Newtown, Blackwell, Bromsgrove.

The protection of trees on this site will bring a high degree of public benefit:

1. 1. From a 'visibility' point of view, trees at the site are of **public benefit** to residents; not only to those living immediately next to the site, but surrounding areas also. Trees at the site can be seen and enjoyed from Linthurst Newton, Badger Way, Foxes Close and The Glen, as well as the top end of Tanglewood Close. Circa 60 properties benefit from these trees in addition to users the public footpath to the rear of Tanglewood Close which forms part of a wider network of public footpaths.
2. The removal of trees at this site would completely change the character of Linthurst Newtown, Badger Way, neighbouring Foxes Close and the aforementioned footpath. The mature and well-established trees provide a visual backdrop to Badger Way and Foxes Close and are directly in the line of sight when walking down Foxes Close; (they are visible in the extensive gap at the end of the road between numbers 15 and 20).
3. Further to the visibility factor, trees at the site also have a collective wider impact to the local community. They contribute to the character of the local area. Blackwell is a rural village with other trees and forested areas having tree preservation orders placed upon them. If a preservation order was not placed on trees at the above site, this site could become not in keeping with its surrounding landscape.
3. 4. The site is of a size that is significant – circa 4 acres. Given the size of the site, the trees upon it provide wildlife with valuable habitats.
4. 5. Some of the trees at this site are of substantial maturity. If a preservation order was not placed upon trees at this site, trees that could be assessed to be noteworthy in terms of their age could be felled.

Many thanks for considering the submission.

Yours faithfully,

**Gavin Boyes**

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**From:** [  
**Sent:** 04 August 2017 10:54  
**To:** Gavin Boyes  
**Subject:** TPO by 73 Linthurst Newtown Blackwell, Bromsgrove

we are writing to put our comments in about development of the above property:

we live next to the field in question and are really upset that we could be losing valuable woodland, we see foxes, badgers, roe deer daily.

Birds of prey are seen regularly and we feel if the trees are gone most of this wildlife would be lost.

We are also concerned about motorway pollution and noise, as the trees act as a buffer.

We are really upset that the council could consider this decision as we thought preservation of woodland and wildlife is important for our future and our children's future.

20

Linthurst Newtown  
Blackwell  
Worcestershire  
B60 1BS  
27/7/2017

## REFERENCE TPO (No 11) 2017 - LAND SURROUNDING 73 LINTHURST NEWTOWN

To whom it may concern,

I would like to voice my concerns regarding the ongoing clearing of land and trees around 73 Linthurst Newtown in preparation for a development. Thank you for supporting us with our original TPO and I ask you to continue to represent our community.

I understand the land remains greenbelt and listed as SHLAA and scrubland. I have lived alongside this piece of land for 19 years and can say it is not scrubland but a well-developed mature woodland which is very visible to many of the residents especially as you enter the village. It is a village and the trees are an integral part of our village.

I understand the initial TPO has been overturned and a temporary TPO has been awarded. Has this notification been displayed locally as it would be very important for the residents in our village to have access to the revised document to determine which trees have been earmarked in order to continue monitoring the situation?

At present aggressive clearing is in progress within the woodland area which I feel needs to be monitored. Large bonfires have been burning and I feel this has been going unchecked.

My concerns to date are:

1. The progressive burning and clearing of this land when it remains greenbelt
2. I am also concerned that felling these trees will alter the drainage characteristics of the land as we have been exposed to flooding in the past. I would be concerned how a development would have added impact.
3. The woodland supports a variety of wildlife which I have witnessed and photographed over the years. The list includes badgers, roe deer, muntjac, foxes, owls, pipistrelle bats ( which nest in the apex of my house every year facing the land), newts and hedgehogs and a variety of birds nesting in the woodland including a rookery. There is a large pond situated on the land within the TPO, which really needs a biodiversity study. Prior to the sale of the land I have seen newts in this pond. I am concerned that these areas are being 'cleansed of wildlife' as I have witnessed a fox being chased off the land by a man wielding a large stick.
4. Noise pollution is another concern with the proximity of the M42 and the impact of removing trees and building houses.
5. I wonder how the site will be accessed given that it leads off a very narrow road with sharp bends and has been the site of accidents in the past

So in conclusion my concerns for the environment by removing the trees and developing the land include:

# Agenda Item 5

i) A visible well established woodland, ii) flooding , iii) wildlife habitat, iv) noise shielding (v) access

Thank you so much for your support and I ask you lodge my concerns.

Yours sincerely

**Gavin Boyes**

---

To:

Subject:

RE: TPO (no 11) 2017

Dear [redacted] thank you for letting know your views in relation to the land adjoining 73 Linthurst Newtown and I assure you we will take them into consideration in any future matters regarding this site.

Best Regards

Gavin Boyes

Senior Tree Officer

Bromsgrove & Redditch Councils

-----Original Message-----

From: [redacted]

Sent: 28 July 2017 22:01

To: Gavin Boyes

Subject: TPO (no 11) 2017

Dear Mr Boyes,

Whereas we appreciate that more houses need building we are of the view that houses should not be build on the land at 73 Linthurst Newtown in Blackwell. This plot is situated very close to a dreadful bend in the road for starters which will only add to problems on that narrow stretch of the road, The houses would add to the ever increasing traffic going through Blackwell, Burcot and Barnt Green. It will put strain on the local school and of course total disruption to trees and wildlife.

Yours sincerely,



**Gavin Boyes**

---

**From:**  
**Sent:** 04 August 2017 15:54  
**To:** Gavin Boyes  
**Subject:** Clearing work at 73 Linthurst Newtown Blackwell

Dear Sir

We would like to add our concern regarding the clearing work around 73 Linthurst Newtown Blackwell.

We live opposite, on the bend, and have some real concerns re traffic:-

- Many people take the corner way too fast and we hear several near misses every day not to mention the actual crashes.
- People take the bend whilst on their mobile phones, again causing near misses.
- People often park on the bend or outside the cottages (due to a absence of parking spaces in the front gardens) so the road is even further restricted.
- I know the number of cars was monitored (a guage in the road) but that does not show how dangerous that corner is.
- Line of sight is bad, depending on where the entrance to the potential new development may be, an increase of the cars belonging to
- 45 houses (amount detailed in Shlaa) entering and exiting will only make this problem much worse.
- The road is way too narrow and obscured for mass entrance/exit.

We have had to call Bromsgrove council at least 10 times re flooding on the bend, our own house was flooded twice. We have had to have ground works undertaken to compensate. Should there be the concrete/bricks etc relating to 45 houses, this will increase.

The trees bordering the property are shielding us all from the noise from the M42 as well as keep the character of the rural village.

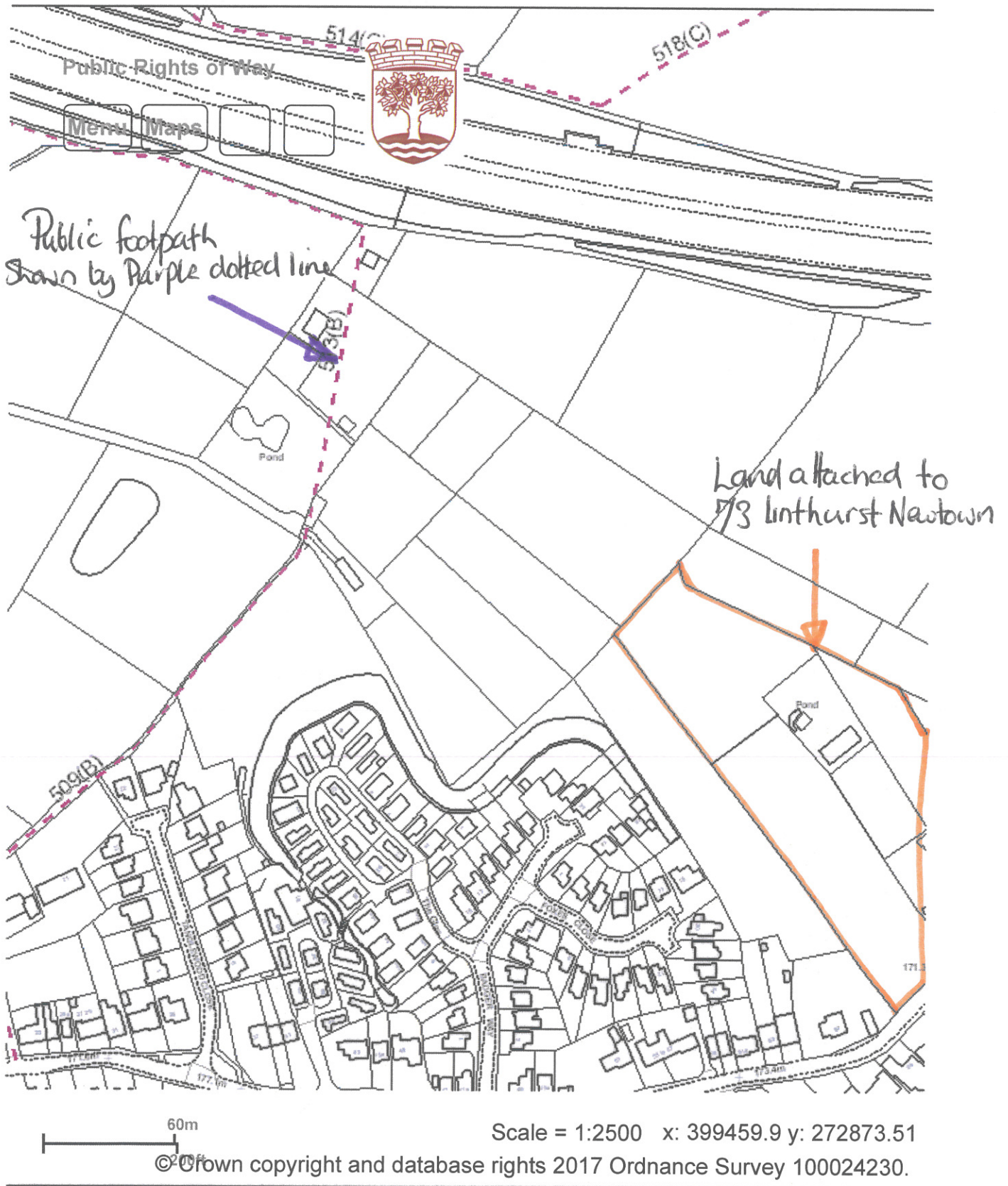
We used to see deer/rabbits/pheasants in the grounds weekly and lately have not seen any wildlife.

This work is being undertaken by a developer with a history of such projects purely for profit and does not consider the welfare of Blackwell or its residents. As a representative voted in by the community that will remain, I hope you share this concern.

Many thanks

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## Worcestershire County Council



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# APPENDIX (8)

## **What does ‘amenity’ mean in practice?**

‘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.

Paragraph: 007 Reference ID: 36-007-20140306

Revision date: 06 03 2014

## **What might a local authority take into account when assessing amenity value?**

When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

### **Visibility**

The extent to which the trees or woodlands can be seen by the public will inform the authority’s assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

### **Individual, collective and wider impact**

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

### **Other factors**

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

Paragraph: 008 Reference ID: 36-008-20140306

Revision date: 06 03 2014

## **What can help local authorities identify trees that may need protection?**

An authority's tree strategy may identify localities or populations of trees as priorities for the making or reviewing of Orders. Authorities may also refer to existing registers, recording trees of particular merit, to assist in their selection of trees suitable for inclusion in an Order.

Paragraph: 009 Reference ID: 36-009-20140306

Revision date: 06 03 2014

## **What does 'expedient' mean in practice?**

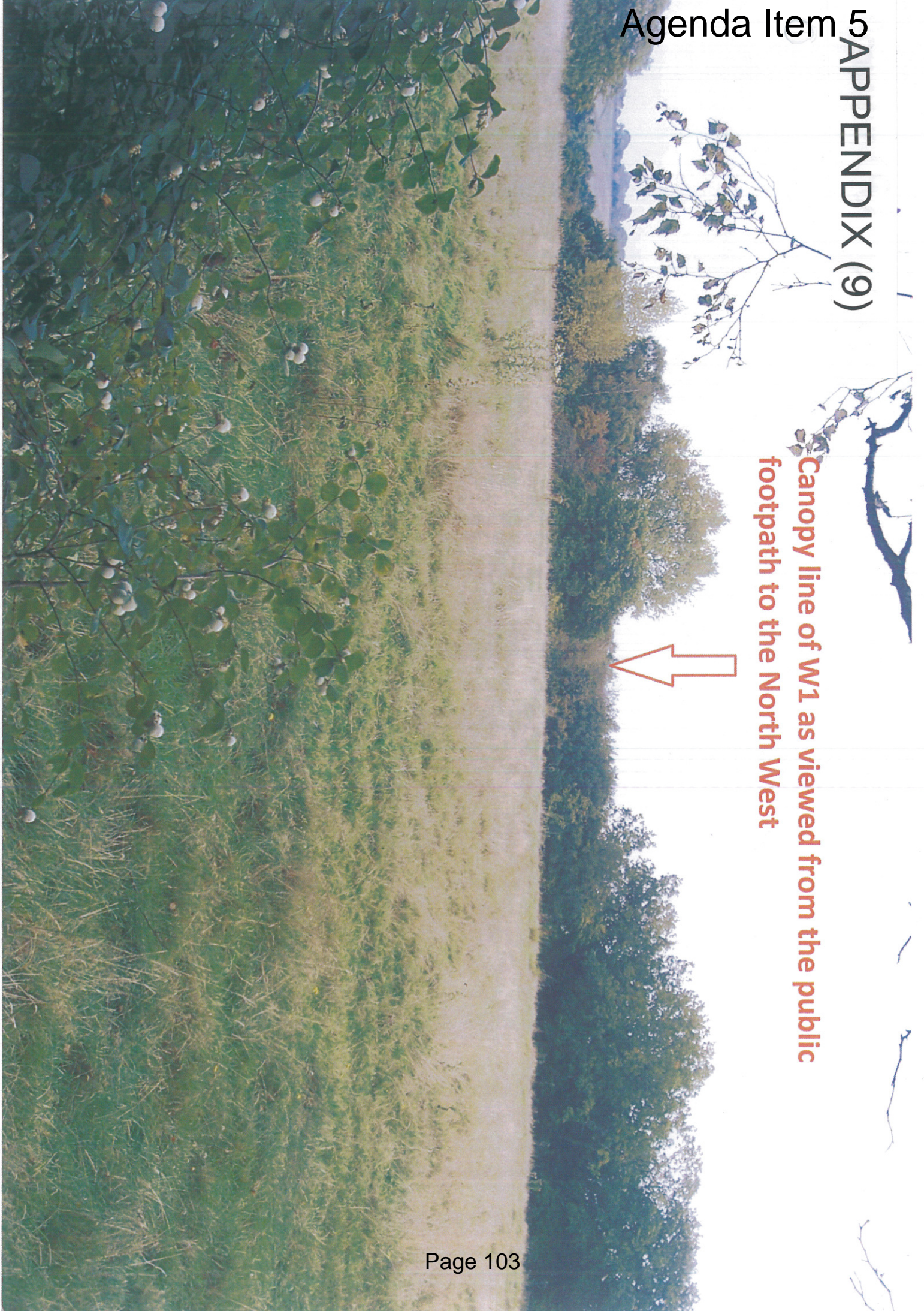
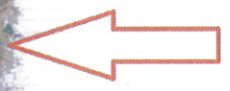
Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management.

It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.

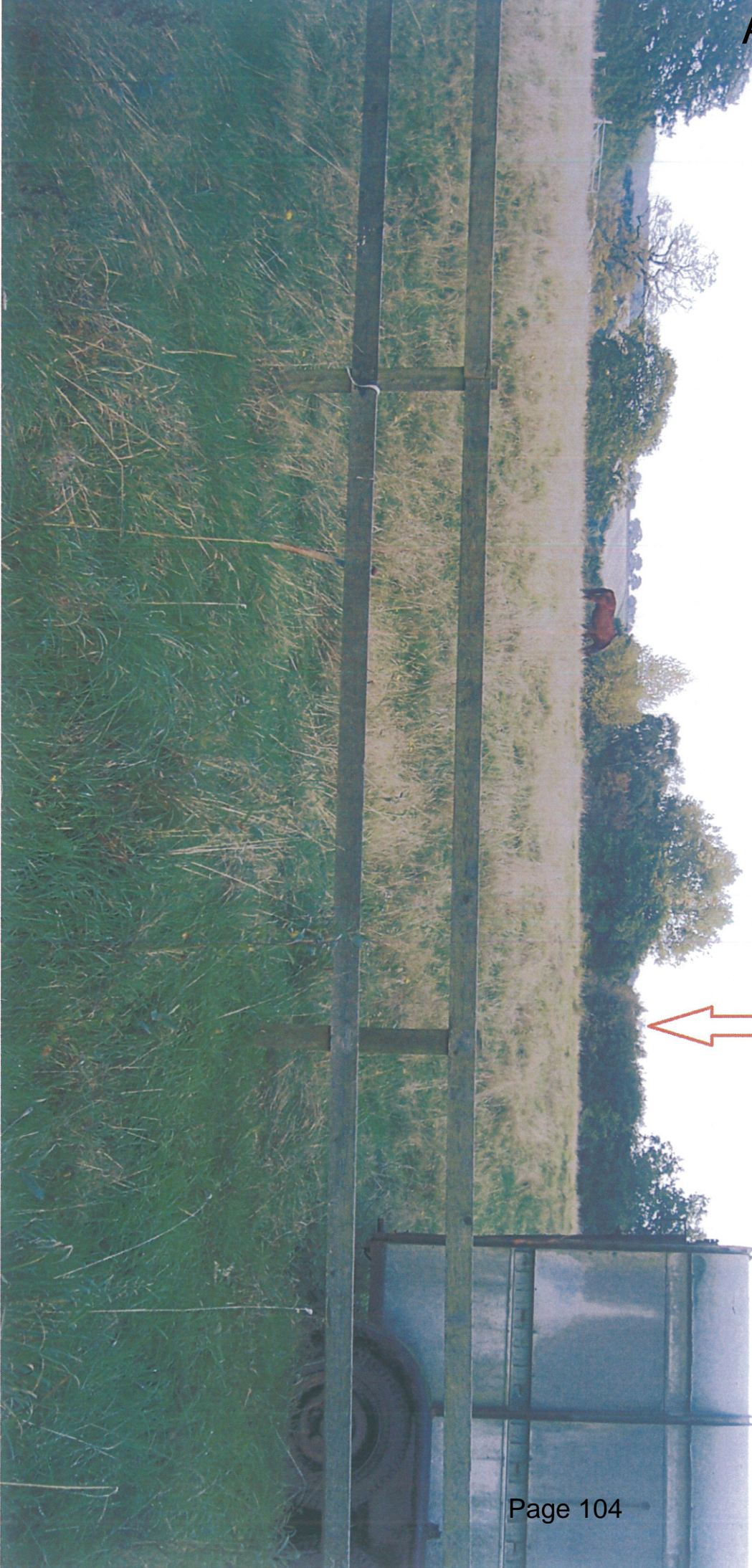
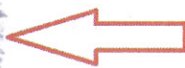
Paragraph: 010 Reference ID: 36-010-20140306

Revision date: 06 03 2014

**Canopy line of W1 as viewed from the public  
footpath to the North West**



**Canopy line of W1 as viewed from the public  
footpath to the North West**





**G2 as viewed from a property in Foxes Close**

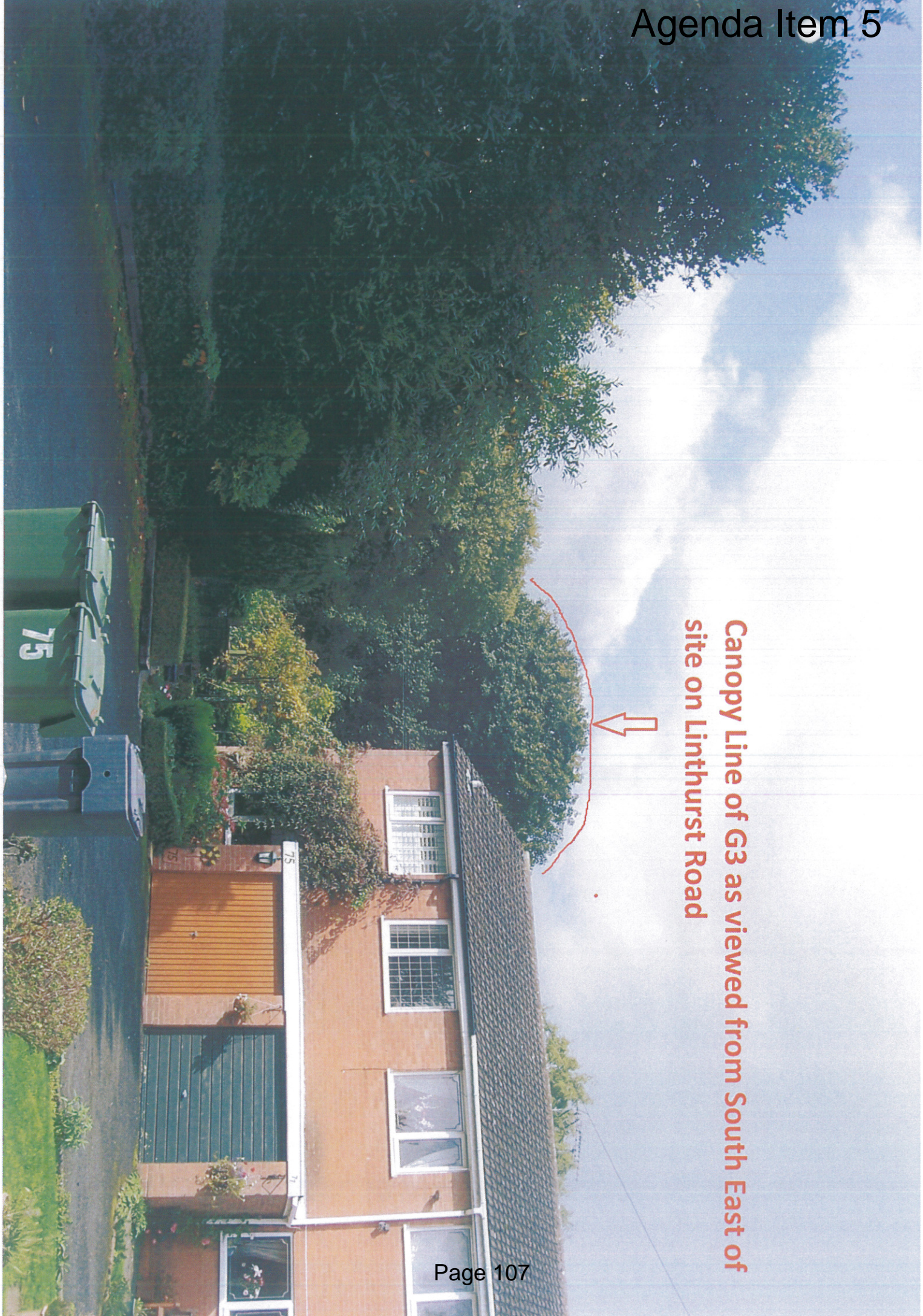




**T14 as veiwed from East on Linthurst  
Newtown Road**

**T13**

**Canopy Line of G3 as viewed from South East of site on Linthurst Road**



G2 as viewed from Foxes Close



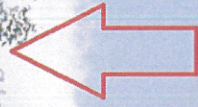


T4

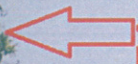
T3

Canopy Line Of G3 as viewed from Foxes Close

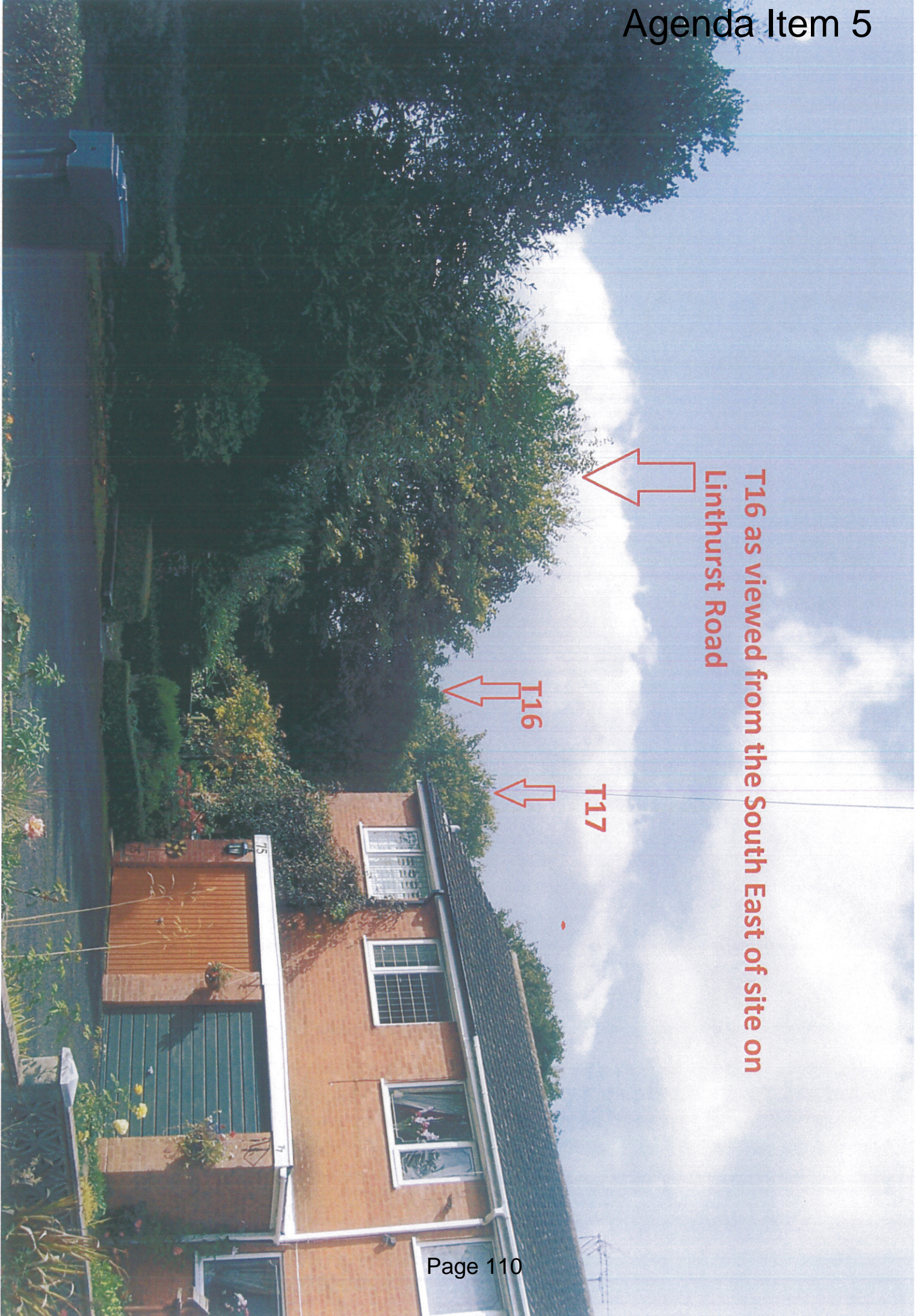
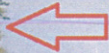
T16 as viewed from the South East of site on  
Linthurst Road



T16



T17



# Agenda Item 5

Canopy line G3 as veiwed from  
rear garden 75-77 Linthurst Newtown



T12

T15 as viewed from rear

garden of 75-77 Linthurst Newtown



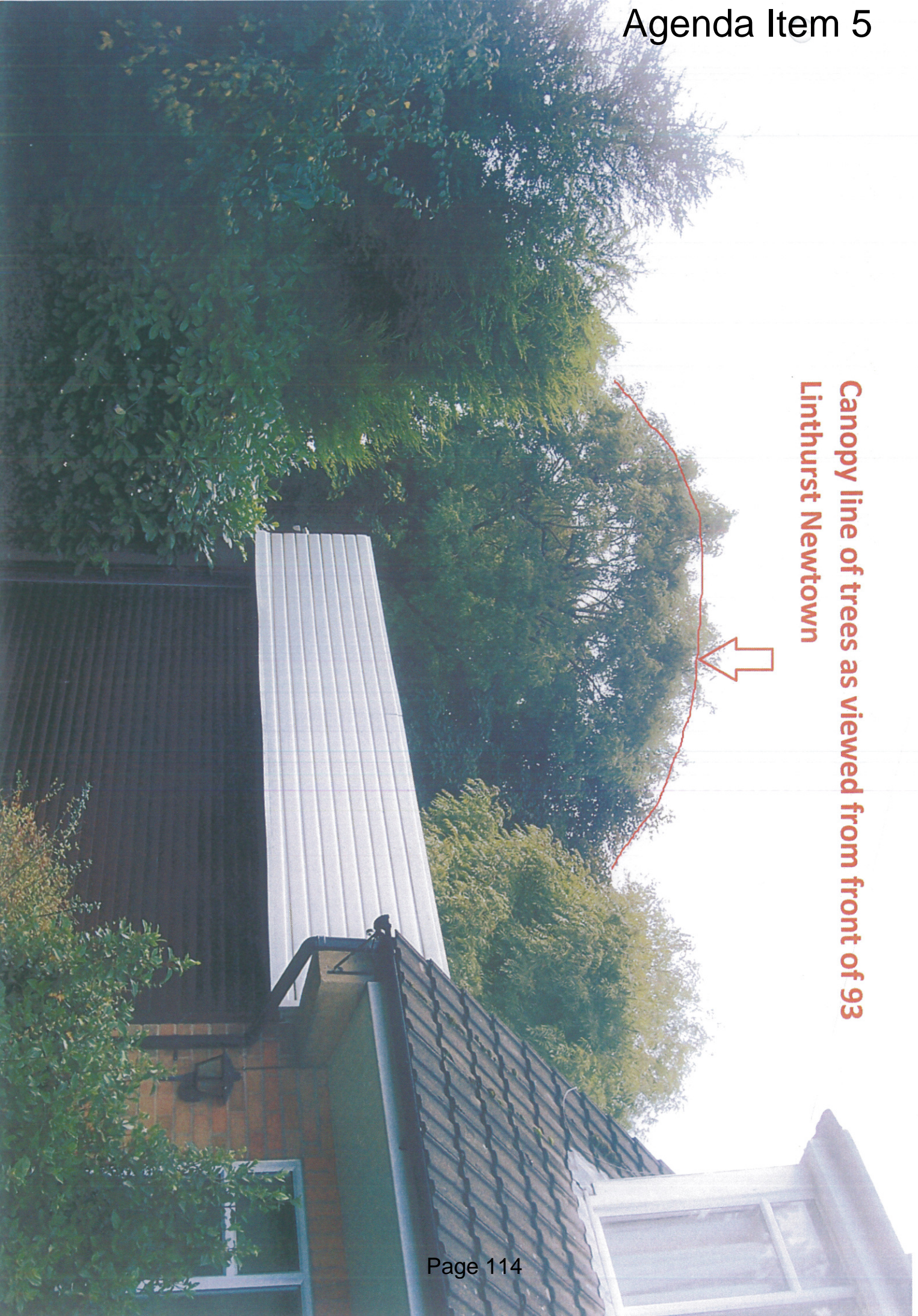
T17



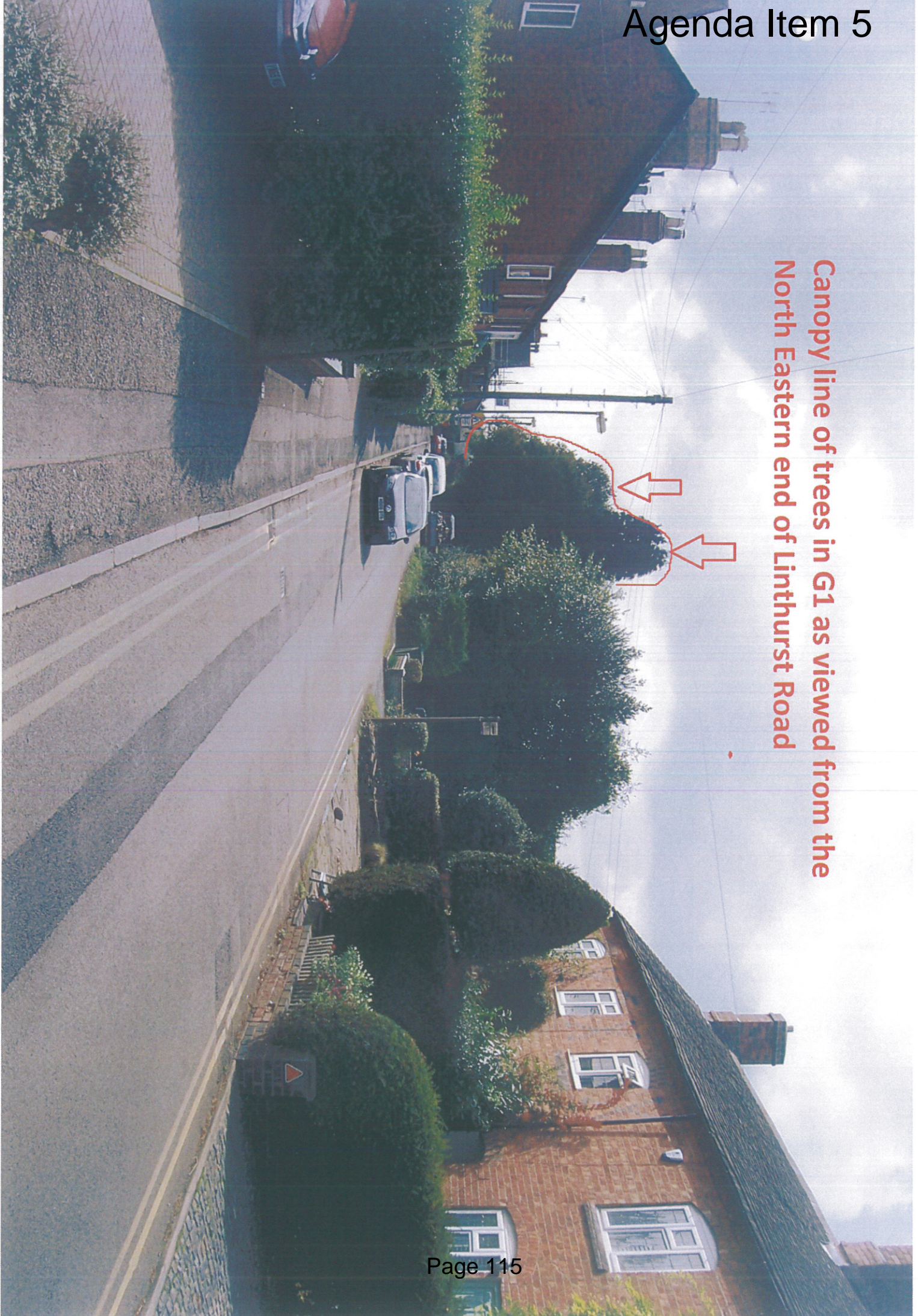
T10, T11, T12 as viewed  
From top of garden  
75-77 Linthurst  
Newtown

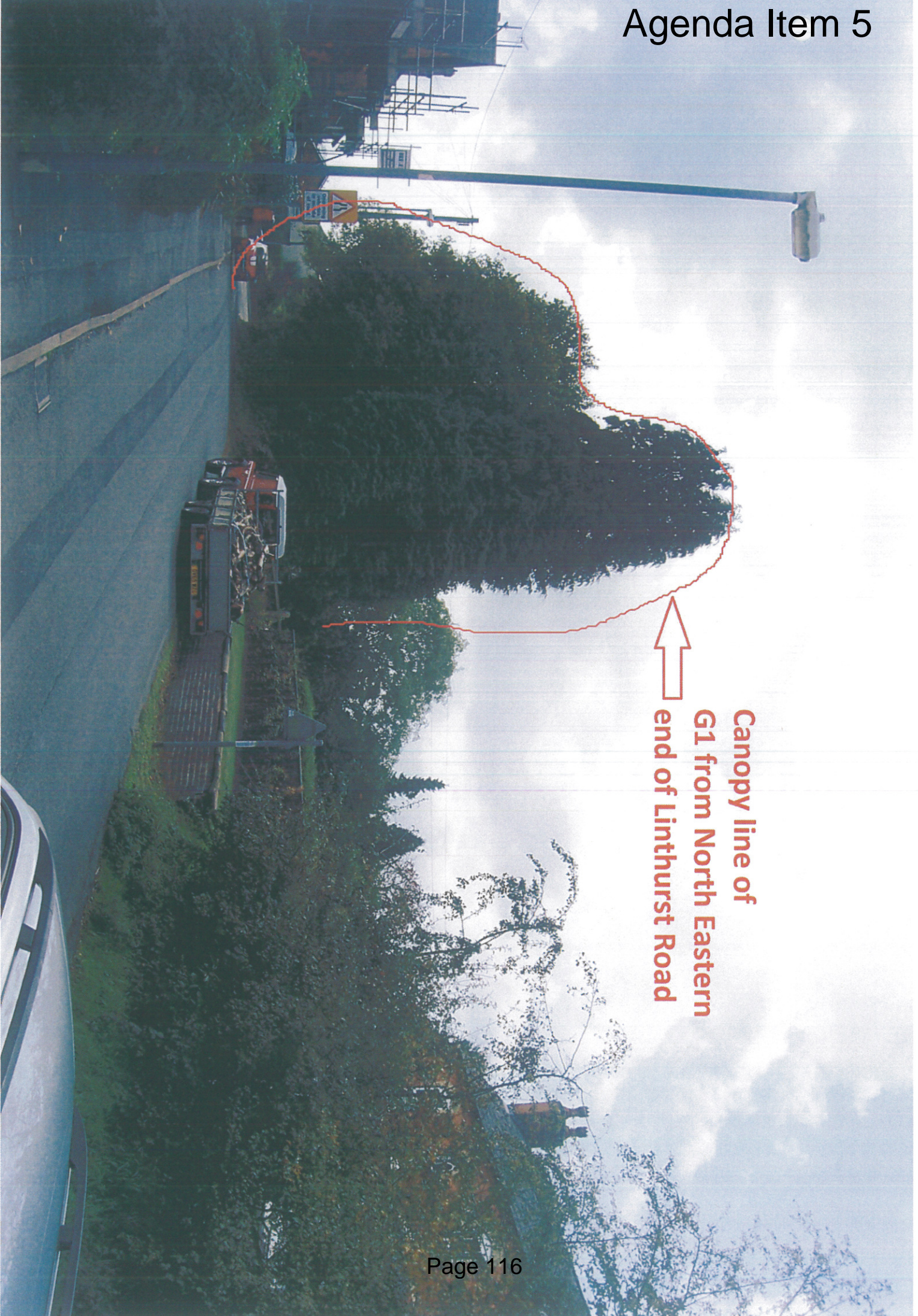


**Canopy line of trees as viewed from front of 93  
Linthurst Newtown**



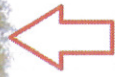
Canopy line of trees in G1 as viewed from the  
North Eastern end of Linthurst Road





**Canopy line of  
G1 from North Eastern  
end of Linthurst Road**

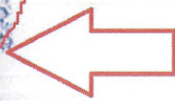
G2 as viewed from front of 73 Linthurst Newtown



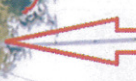
Canopy line of G3 as viewed from the front of  
73 Linthurst Newtown.



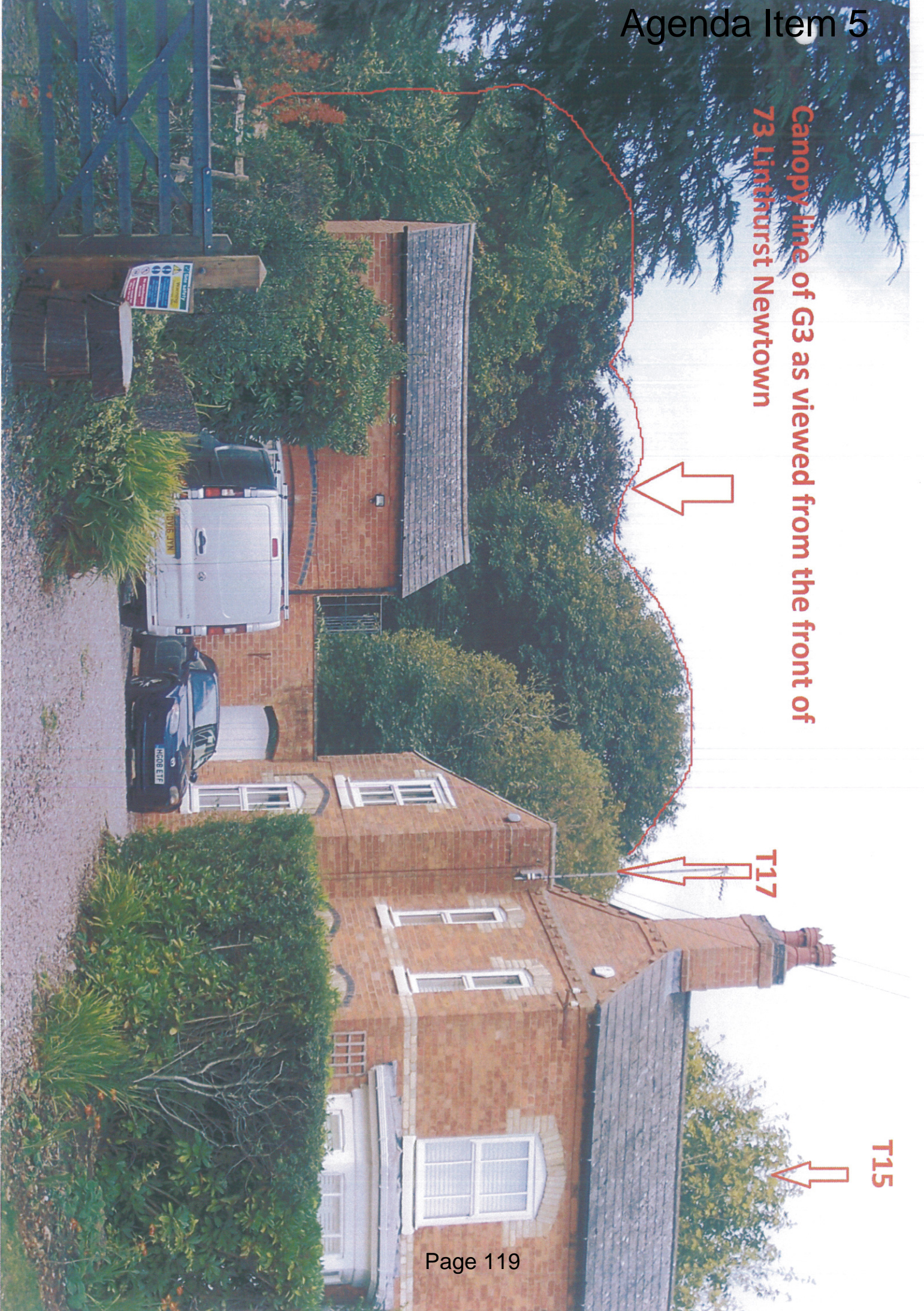
Canopy line of G3 as viewed from the front of  
73 Linthurst Newtown



T117



T115



T1 as viewed from the South West of the site on Linthurst Road







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# APPENDIX (10)

## T.E.M.P.O Tree Evaluation Sheet

Evaluation by: Gavin Borge Date: 27th June 2017 Sheet No. 1 of 2

Address/ Site Details: T3 Lymhurst Newtown Land adjoining

Tree Ref	Species	DBH (mm)	Amenity Assessment			Sub	Trees must have accrued 7+ points (& no zeros) to qualify	d - other factors	Exped lency	Score	TPO Y/N?	Notes
			a - Condition	b - Longevity	c - Visibility							
G1	Mixed Species		3	4	5	12		4	3	19	Y	
T1	Ash		3	5	3	11		1	3	15	X	
G2	3x Ash		3	3	2	10		1	3	14	Y	
T2	Ash		3	5	2	10		1	3	14	Y	
T3	Ash		3	5	2	10		1	3	14	Y	
T4	Ash		3	5	2	10		1	3	14	X	
T5	Ash		3	5	2	10		1	3	14	Y	
T6	Oak		3	5	3	11		1	3	15	Y	
T7	Silver Birch		3	4	2	9		1	3	13	Y	
T8	Silver Birch		3	4	2	9		1	3	13	Y	
T9	Ash		3	4	2	9		1	3	13	Y	
T10	Ash		3	4	3	10		1	3	14	Y	
T11	Sycamore		3	4	3	10		1	3	14	Y	
T12	Ash		3	4	3	10		1	3	14	Y	

**Part 1: Amenity assessment**

**a) Condition**

- 5) Good (highly suitable)
- 4) Fair (suitable)
- 3) Poor (unlikely)
- 0) Unsafe
- 1) Dead

**c) Relative public visibility**

- 5) Very large trees, or large trees that are prominent features (Vige=200sqm+)
- 4) Large trees, or medium trees clearly visible to the public (lge=100-200sqm)
- 3) Medium trees, or larger trees with limited view only (Suitable, med=25-100sqm)
- 2) Small trees, or larger ones visible only with difficulty (unlikely, small = 5-25sqm)
- 1) Young/v.small or not publicly visible regardless of size (prob unsuitable, <5sqm)

**Part 2: Expediency assessment**

- 5) Known threat to tree
- 3) Forseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only
- 0) Known as an actionable nuisance

**Part 3: Decision guide**

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 Possibly merits TPO
- 12-15 Definitely merits TPO
- 16+

# Agenda Item 5

## T.E.M.P.O Tree Evaluation Sheet

Evaluation by: Gustin Boyer Date: 27th June 2017 Sheet No. 2 of 2

Address/ Site Details: 73 Linthunt Newtown (land adjoining)

Tree Ref	Species	DBH (mm)	Amenity Assessment			Sub	Trees must have accrued 7+ points (& no zeros) to qualify	d - other factors	Expediency	Score	TPO Y/N?	Notes
			a - Condition	b - Longevity	c - Visibility							
T13	Holly		3	5	4	10		1	3	14	Y	
T14	Holly		3	4	2	9		1	3	13	Y	
T15	Spangore		3	4	3	10		1	3	14	Y	
T16	Yew		3	5	2	10		1	3	14	Y	
T17	Willow		3	4	2	9		1	3	13	Y	
T18	Oak		3	5	2	10		1	3	14	Y	
T19	Apple		3	4	2	9		1	3	13	Y	
T												
G3	Mixed species group		5/3	4	4	11		1	3	15	Y	
G4	4 x Apple		3	4	2	9		1	3	13	Y	
G5	3 x Silver Birch		3	4	3	10		1	3	14	Y	
G6	1 x Oak 1 x Holly 1 x Ash		3	4	2	9		1	3	13	Y	
U1	Mixed species		3	4	2	9		1	3	13	Y	

**Part 1: Amenity assessment**

- a) Condition**  
 5) Good (highly suitable)  
 4) Fair (suitable)  
 3) Poor (unlikely)  
 0) Unsafe  
 0) Dead
- b) Longevity**  
 5) 100+  
 4) 40 - 100  
 3) 20 - 40 (suitable)  
 2) 10 - 20 (just suitable)  
 0) <10 (unsuitable)
- c) Relative public visibility**  
 5) Very large trees, or large trees that are prominent features (V (age=200sqm+)  
 4) Large trees, or medium trees clearly visible to the public (age=100-200sqm)  
 3) Medium trees, or larger trees with limited view only (Suitable, med=25-100sqm)  
 2) Small trees, or larger ones visible only with difficulty (unlikely, small = 5-25sqm)  
 1) Young/v.small or not publicly visible regardless of size (prob unsuitable, <5sqm)

**Part 2: Expediency assessment**

- 5) Known threat to tree  
 3) Foreseeable threat to tree  
 2) Perceived threat to tree  
 1) Precautionary only  
 0) Known as an actionable nuisance

**Part 3: Decision guide**

- Any 0 Do not apply TPO  
 1 - 6 TPO indefensible  
 7 - 11 Does not merit TPO  
 12 - 15 Possibly merits TPO  
 16+ Definitely merits TPO

CO/867/2017

IN THE HIGH COURT OF JUSTICE  
ADMINISTRATIVE COURT  
PLANNING COURT

IN THE MATTER OF LAND ADJACENT TO 73 LINTHURST NEWTON,  
BLACKWELL

AND

IN THE MATTER OF AN APPLICATION UNDER SECTION 288 OF THE  
TOWN AND COUNTRY PLANNING ACT 1990

BETWEEN:

ACCESS HOMES LLP

Claimant

AND

BROMSGROVE DISTRICT COUNCIL

Defendant



---

CONSENT ORDER

---

Upon the application and grant of permission for statutory review of the Defendant's decision dated 9 January 2017 to confirm Tree Preservation Order No. 13 of 2016 relating to Trees on Land at the side and rear of 73 Linthurst Newtown, Blackwell (the "Existing Tree Preservation Order"),

TAKE NOTICE THAT the Claimant and the Defendant agree to an Order in the following terms:

UPON the Defendant agreeing to consent to judgment on the grounds of the Claim set out in the Schedule 1 hereto

AND UPON the Defendant making a new Tree Preservation Order in a form which shall be no more restrictive than the plan and schedule attached to this order at Schedule 3 ("the New Tree Preservation Order"), SAVE THAT the Claimant does not agree the extent of the proposed Tree Preservation Order and reserves the right to make further objections

AND UPON the Claimant agreeing not to or not to permit or allow any other person to:

- (a) Cut down, top, lop, uproot, wilfully damage, or wilfully destroy or;
- (b) Cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of the trees specified in the Schedule to the Existing Tree Preservation Order (except as is permitted by any application under Part 4 of Town and Country Planning (Tree Preservation)(England) Regulations 2012/605 including the Tree Works Approvals reference TPO17/010 granted conditionally by the Defendant on 5 April 2017 and TPO17/011 granted conditionally by the Defendant on 7 April 2017)

Until the new Tree Preservation Order is made by the Defendant PROVIDED the New Tree Preservation Order is made within 14 days of the date of the deemed service of this Consent Order, endorsed by the Court.

BY CONSENT IT IS ORDERED THAT:

1. Bromsgrove District Council Tree Preservation Order No.13(2016) dated 12 January 2017 shall be quashed;
2. The Defendant shall pay the Claimant's costs in the agreed sum of £11,743.91 (Eleven Thousand, Seven Hundred and Forty-Three Pounds and Ninety-One Pence).

Signed on behalf of the Claimant

*R Andrews*  
.....

Signed on behalf of the Defendant

*Care Flanagan*  
.....

Dated: *7 June 2017*  
.....

Name: ROSALIND ANDREWS

Name: CARE FLANAGAN

Position: SOLICITOR

Position: PRINCIPAL SOLICITOR

Organisation: HARRISON  
CLARK RICKERBYS

Organisation: BROMSGROVE DISTRICT  
COUNCIL

Dated: *8<sup>th</sup> June 2017*

*Consent order made  
as agreed by the  
parties*

*[Signature]*

*AC Lawyer  
14/6/17*

## SCHEDULE 1

Upon further investigation and pursuant to ground two of the claim, the Defendant considers it reasonable and proportionate to amend the extent of the trees and woodlands protected under section 198 of the Town and Country Planning Act 1990 as in the schedule of the New Tree Preservation Area.

Also pursuant to ground three of the claim, irregular procedure at the site visit such as to give the appearance of procedural unfairness.

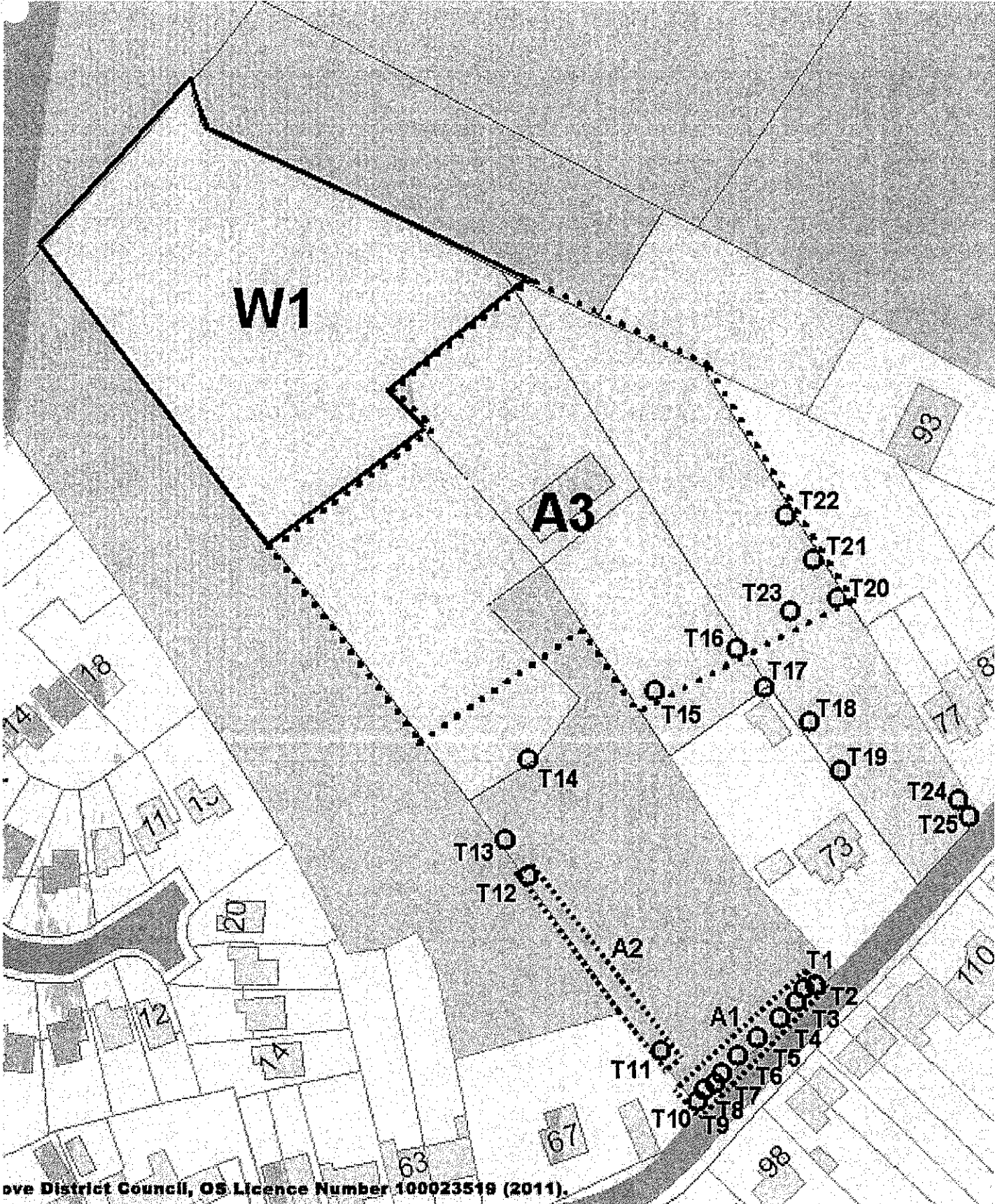
## SCHEDULE 2

### STATEMENT OF MATTERS JUSTIFYING THE PROPOSED AGREED ORDER

1. The parties agree that the attendance of the site visit by the tree officer without the Development Control Manager, as is the usual practice of the Defendant, is sufficient in the circumstances of this case to give the impression of procedural unfairness.
2. In light of further information to and assessments by the Defendant's tree officers, the Defendant agrees that the area protected by a tree preservation officer should be reduced. While most of the woodland designation in the Existing Tree Preservation Order is similarly designated as woodland by the Forestry Commission and Natural England, additional site visits have demonstrated that the amenity value of the southern area can be adequately protected by an area order directed towards the established older trees of the site.



SCHEDULE 3  
PLAN AND SCHEDULE FOR THE NEW TREE PRESERVATION ORDER



# Agenda Item 5

## TPO (13) 2016 – Revised First Schedule

**Trees specified individually**  
(encircled in black on the map)

<u>No. on Map</u>	<u>Description</u>	<u>National Grid Reference</u>		<u>Situation</u>
T1	Cypress	399763	272444	Land adjacent 73 Linthurst Newtown, Blackwell
T2	Cypress	399762	272443	Land adjacent 73 Linthurst Newtown, Blackwell
T3	Spruce	399758	272439	Land adjacent 73 Linthurst Newtown, Blackwell
T4	Cypress	399754	272435	Land adjacent 73 Linthurst Newtown, Blackwell
T5	Oak	399751	272431	Land adjacent 73 Linthurst Newtown, Blackwell
T6	Chestnut	399747	272427	Land adjacent 73 Linthurst Newtown, Blackwell
T7	Spruce	399742	272424	Land adjacent 73 Linthurst Newtown, Blackwell
T8	Cypress	399741	272422	Land adjacent 73 Linthurst Newtown, Blackwell
T9	Chestnut	399738	272420	Land adjacent 73 Linthurst Newtown, Blackwell
T10	Ash	399737	272416	Land adjacent 73 Linthurst Newtown, Blackwell
T11	Ash	399729	272427	Land adjacent 73 Linthurst Newtown, Blackwell
T12	Yew	399703	272464	Land adjacent 73 Linthurst Newtown, Blackwell
T13	Ash	399699	272471	Land adjacent 73 Linthurst Newtown, Blackwell
T14	Ash	399702	272485	Land adjacent 73 Linthurst Newtown, Blackwell
T15	Chestnut	399729	272499	Land adjacent 73 Linthurst Newtown, Blackwell
T16	Maple	399746	272508	Land adjacent 73 Linthurst Newtown, Blackwell
T17	Willow	399751	272501	Land adjacent 73 Linthurst Newtown, Blackwell
T18	Yew	399759	272496	Land adjacent 73 Linthurst Newtown, Blackwell
T19	Maple	399765	272485	Land adjacent 73 Linthurst Newtown, Blackwell
T20	Ash	399767	272519	Land adjacent 73 Linthurst Newtown, Blackwell
T21	Maple	399763	272525	Land adjacent 73 Linthurst Newtown, Blackwell
T22	Ash	399757	272534	Land adjacent 73 Linthurst Newtown, Blackwell

# Agenda Item 5

T23	Apple	399758	272517	Land adjacent 73 Linthurst Newtown, Blackwell
T24	Holly	399790	272479	Land adjacent 73 Linthurst Newtown, Blackwell
T25	Holly	399792	272475	Land adjacent 73 Linthurst Newtown, Blackwell

**Trees specified by reference to an area**  
(within a dotted black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>National Grid Reference</u>		<u>Situation</u>
A1	All Holly, Hazel & Yew trees within A1	399749	272432	Land adjacent 73 Linthurst Newtown Blackwell
A2	All Holly, Hawthorn & Yew trees within A2	399717	272445	Land adjacent 73 Linthurst Newtown Blackwell
A3	All trees of whatever species of trunk diameter 100mm or greater at 1.5m within A3.	399709	272538	Land to the rear of 73 Linthurst Newtown Blackwell

**Groups of Trees**  
(within a broken black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>National Grid Reference</u>		<u>Situation</u>
NONE				

**Woodlands**  
(within a continuous black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>National Grid Reference</u>		<u>Situation</u>
W1	All trees, coppice & understorey of whatever size & species within W1	399647	272575	Land adjacent 73 Linthurst Newtown Blackwell

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Greyhound Inn Developments Ltd	Demolition of existing 2 storey building. The Greyhound [ph], 30 Rock Hill, Bromsgrove, Worcestershire, B61 7LR	11.10.2017	17/00950/FUL

**Councillor Mallett has requested that this application be considered by Planning Committee rather than being determined under delegated powers.**

**RECOMMENDATION:** That planning permission be Granted

### Consultations

#### **Highways - Bromsgrove**

No objection subject to Traffic Management Plan Condition.

The proposed demolition works will have no long term impact on the Highway network in their own right and in fact as a standalone proposal is beneficial as it removes a trip generating use from the local area. The Highway Authority is fully aware of application 16/01132 which also proposes the demolition of this building and its replacement with apartments and a roundabout. The roundabout is part of the mitigation works to address the impact of the Whitford Road housing proposal and the wider growth of Bromsgrove and whilst this application does not provide for that junction or the associated residential development it is considered to be an enabling application to prepare the land for an early delivery of the junction.

The detail of the junction is fully considered in application 16/01132 as is the wider impact. It is however necessary to seek a condition to control traffic movements associated with is application but it is recognised that this impact will be for a relatively short period of time.

#### **Conservation Officer**

The Greyhound is considered to be a heritage asset, and would be eligible for inclusion on the Local Heritage List as it satisfies the criteria in the Local Heritage List Strategy Document 2016.

The existence of the Greyhound from at least the early part of the 19th century, with its original form and later development being reasonably discernible, would clearly indicate that the building is a heritage asset. It is a historical survival from a time when Rock Hill was sparsely developed, and clearly outside the town of Bromsgrove. It marks a clear boundary between the earlier and later character of Rock Hill.

When considering applications in respect of non-designated heritage assets BDP20.14 of the Bromsgrove Local Plan states 'In considering applications that directly or indirectly affect Heritage Assets, a balanced judgement will be applied having regard to the scale of any harm or loss as a result of proposed development and the significance of the Heritage Asset.' This is supported by Paragraph 135 of the NPPF which states 'The effect of an application on the significance of a non-designated heritage asset should be taken

into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'

I am aware that the demolition of this building is required to facilitate alterations to the road system to allow for a major residential development. I cannot support the loss of this heritage asset and would prefer to see the scheme amended to retain this building, however the substantial harm that would obviously be caused to this heritage asset would have to be balanced against the public benefits of the scheme.

20/9/17

Further comments received:

I have read the comments put forward by the Whitford Voice Residents with interest. As you are aware I consider the property to be a heritage asset for the reasons detailed in my response of 25th August, to the recent planning application. The Greyhound will therefore be considered as such by the Case Officer when determining the planning application.

## **Building Control**

No adverse comments

## **Ecology**

No comments received to date

## **WRS - Noise**

In order to minimise any noise nuisance during the demolition operation the applicant should refer their contractor to the WRS Demolition and Construction Guidance (attached) and ensure its recommendations are complied with.

(Document on system)

## **Arboricultural Officer**

1. The large Weeping Willow (T4) FPCR Arboricultural Assessment dated October 2016 and supplied with the application standing to the front of the site close to the junction of Rock Hill and Albert Road is formally protected under Bromsgrove District Tree Preservation Order (15) 2016 which is now a permanent order. Therefore this tree will need to be retained and fully protected in accordance with BS5837:2012 recommendations throughout any demolition, ground or development works on the site. I agree with the assessment of the tree as and proposed protection measure as made within the FPCR Arboricultural Assessment. An awareness of this tree and the required protection it should receive has also been noted within the A.R. Demolition Ltd method Statement & Risk assessment with the Project Details section of the document item (8) & (9) of paragraph 1.1.2.

2. The site contains a number of other mixed species trees including (T3) of the FPCR Arboricultural Assessment another Weeping Willow. However these trees are of generally poor quality many being of self-set establishment or with growth defects and disease issues. Therefore I would have no objection to the loss of the other tree stock within the site.

**Crime Risk Manager** Consulted 20.09.2017

No objection to the Greyhound being demolished.

I am concerned as to how the site would be secured once the pub has been knocked down.

Before planning permission is granted I would like to see detailed plans as to how the site will be secured to prevent unlawful encampments etc.

## **Consultation comments**

**Site notice posted 17/8/17 expired 7/9/17**

**98 Neighbour notification letters/emails sent 16/8/17 expired 6/9/17**

### **10 responses received**

Comments received in support of the demolition from local residents who state that the pub caused issues with regard to anti-social behaviour.

Objections received expressing concern with regard to the demolition aiding the development at Whitford Road and the loss of the heritage asset.

Whitford Vale Voice raised concern with regard to the heritage/historical interest in connection with the Greyhound including the local quarrying industry.

**Councillor Luke Mallett** raised understand whether listing should be considered in the light of the previous submission and the new evidence of historic value.

## **Relevant Policies**

BDP1 Sustainable Development Principles  
BDP 20 Managing the Historic Environment  
BDP 21 Natural Environment  
National Planning Policy Framework

## **Relevant Planning History**

16/1132            Outline Planning Application for: Site A  
(Land off Whitford Road)  
Provision of up to 490 dwellings, Class  
A1 retail local shop (up to 400 sqm),  
two new priority accesses onto Whitford  
Road, public open space, landscaping  
and sustainable urban drainage; and  
Site B (Land off Albert Road)  
Demolition of Greyhound Public House,  
provision of up to 15 dwellings, new  
priority access onto Albert Road,  
landscaping and sustainable drainage.

13/0674            Building of 7 no terraced houses on rear    Refused            03.03.2015  
western car park and opening up of

existing driveway on Albert Road to existing car park

16/0832	Demolition of existing 2 storey public house.	11.11.2016
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15/00014/REF	Building of 7 no terraced houses on rear western car park and opening up of existing driveway on Albert Road to existing car park	Allowed at Appeal	24.09.2015
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## **Assessment of Proposal**

This application relates to the Greyhound Public House located on the corner of Fox Lane and Rock Hill which has an authorised use within Class A4. The building comprises of a predominately two-storey building with single storey elements. There is a large car park on the north side. The willow tree to the east boundary adjacent to Albert Road has a provisional TPO. The surrounding area is predominantly residential in use. The building is currently vacant and boarded. The car park has been fenced off and the boundary hedge cleared.

This application for full planning permission has been submitted following the successful appeal by the applicants Greyhound Inn Developments Ltd to remove the building's status as an asset of community value under the Localism Act 2011. The appellant is a subsidiary company of Catesby Estates Ltd which owns land on Whitford Road which is currently subject of another application for outline planning permission referenced 16/1132. In order to overcome previous reasons for refusal by the Planning Inspectorate, works need to be done to the junction of Fox Lane and Rock Hill in order to alleviate extra pressure on the local highway network generated by the additional vehicle movements that this development would create. Demolition of the Greyhound forms Site B of pending application reference 16/1132.

Dealing with the Greyhound separately, the demolition of this is now the subject of a full planning application given a change in the regulations in that Public Houses can no longer be demolished under the Prior Approval process. The application should therefore be determined in accordance with the relevant policies of the Bromsgrove District Plan along with national planning policies. It should also be considered that within the Judge's decision on whether the pub should be an Asset of Community Value he concluded that it was 'unrealistic' to think that the property could ever be reopened as a public house again. In terms of paragraph 135 of the NPPF, the benefits of demolishing the pub should be weighed against the loss of a non-designated heritage asset and as such Members are requested to consider the applicants' supporting information submitted on 12th October 2017 available to view on the Council's website on Public Access.

BDP1 states that any adverse impacts of granting planning permission should significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework (NPPF).



The overarching theme of the NPPF is that the planning system should contribute to the achievement of sustainable development and therefore Local Planning Authorities (LPA's) should take a presumption in favour of sustainable development. With this in mind and taking into account the pressures on LPA's to reach housing development targets, unless there are other material considerations which would justify refusing a development then approval should be forthcoming.

Members will note the views of the Conservation Officer and third parties in relation to heritage. Whilst I acknowledge that there are some historical qualities to the building which warrant it being considered a Heritage Asset, I cannot give this sufficient weight to warrant refusal of the application given the overall benefits of the demolition of the pub when considering the wider benefits to the area of the District as a whole. The Whitford Road development is featured in the Bromsgrove District Plan as a development site (BROM3) and this should be given substantial weight when considering this application.

There have also been a number of objections from local residents and the Ward Member which I acknowledge but since the removal of its status as an asset of community value, there is less importance in terms of its protection. Even prior to this designation and when the Public House was open for business, it always struggled to be viable even being taken over by a number of franchises and different owners. I do not therefore consider that there is sufficient need for this type of use in this locality otherwise it would have been a success as a business previously.

The Public House as it stands at the present time is unsightly, clearly having a detrimental effect on the visual amenity of the locality and the applicants have provided detailed accounts of anti-social behaviour issues that have arisen and the numbers of calls made to the police. With this in mind, West Mercia Constabulary have been consulted and have no objection to the demolition of the building.

The large weeping Willow Tree (T4 of the FPCR Arboricultural Assessment dated October 2016) standing at the front of the site close to the junction of Rock Hill and Albert Road is formally protected under Bromsgrove District Tree Preservation Order (15) 2016 which is now a permanent order. The Tree Officer has confirmed that this should be retained and given full protection in accordance with BS5837:2012 recommendations throughout any demolition, ground or development works on the site. An awareness of this tree and the required protection it should receive is noted within the submitted Method Statement and would also be a condition attached to any planning permission granted.

A bat survey has been undertaken but concluded that there were no evidence of roosting bats and as such it is considered reasonable unlikely that the building supports a bat roost.

The County Highways Officer has no objections to the proposal subject to conditions being attached to any planning permission granted in relation to the requirement of the submission of a Traffic Management Plan to protect the amenities of the nearby residents during the demolition. Members are also requested to note the observations received by County Highways received as previously detailed.

Considering the above and the resultant benefit to Bromsgrove of the demolition and redevelopment aiding a more efficient highway network, I am of the opinion that this far outweighs the benefits of retaining the pub. This is with particular reference to the given current negative impact on the visual amenity of the locality and anti-social behaviour issues which it is currently resulting in.

**RECOMMENDATION:** That planning permission be Granted

- 1) The proposed demolition should be carried out in accordance with the recommendations within the Method Statement and Risk Assessment dated 26th September 2016.

Reason: To protect the amenities of the neighbouring properties.

- 2) Prior to commencement of demolition a Traffic Management Plan shall be submitted to and approved in writing by the local planning authority, there afterwards the proposed demolition works shall be carried out in accordance with this plan. This shall include but not be limited to the following:-
  1. Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
  2. The times in which HGV arrivals and departures will be undertaken
  3. Routing arrangements of HGV vehicles to and from the site.
  4. Details of site operative / lorries parking areas, material storage areas and the location of site operative's welfare facilities.

The measures set out in the approved Plan shall be carried out in full during the demolition hereby approved. Site operatives' parking, material storage facilities shall only take place on the site in locations approved by in writing by the local planning authority.

Reason - To protect the amenities of nearby properties during the demolition

**Case Officer:** Ruth Lambert Tel: 01527 881373  
Email: r.lambert@bromsgroveandredditch.gov.uk

# Agenda Item 7

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr Phillip Michell	Erection of 12 stable blocks (total 34 loose boxes), 12 sheds, 4 storage containers, 1 pole mounted floodlight and CCTV camera, ancillary office and manège. (retrospective)  Newhouse Farm, Lea End Lane, Hopwood, Birmingham, Worcestershire B48 7AX	29.11.2017	17/00968/FUL

**RECOMMENDATION:** That planning permission be Refused.

## Consultations

### **Highways - Bromsgrove** Consulted 06.09.2017

Recommends that any permission which the District Planning Authority may wish to give include the following conditions: - HC5 - Visibility splays (existing splays to be maintained), HC7 - Access gates and HC25 - Access consolidation.

Reasons: In the interests of Highway safety and to ensure the free flow of traffic using the adjoining Highway.

The applicant to ensure vehicular visibility is not impeded within the visibility splays - anything above 0.6m above ground level to be cut back and maintained at all times.

### **Alvechurch Parish Council** Consulted 06.09.2017

Objections; APC believe this is over intensive use of the site. It is a random development with no clearly defined parking. APC considered this to site to have a mixture of uses leading to a sprawling unplanned expansion.

### **Arboricultural Officer** Consulted 06.09.2017

No objection to the proposed development of the 12 stable units and all other associated elements of the new application in regard to any tree related issues.

### **Drainage Engineers Internal Planning Consultation** Consulted 06.09.2017

The brief statements in the planning statement provide an insufficient level of information in relation to flood risk and drainage, given that this is considered to be a major application the proposals here should be supported by an FRA and a comprehensive drainage plan. This should give an assessment of the risks to the site from the typical sources of flooding and demonstrate where risks exist that they are suitably mitigated for.

The principle of discharging the surface water runoff from the site into the adjacent watercourse is acceptable; however the creation of over 1000m<sup>2</sup> of new roof area will lead to an increase in both the quantity and rate of runoff from the site. As a major application attenuation of runoff from all new buildings will be required. Surface water

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should be attenuated up to the 1 in 100-year storm with an allowance for climate change. Site runoff should not exceed Greenfield runoff rates up to this return period and calculations to demonstrate this should be provided.

It is not clear from the proposed site plan the proximity of the new stable blocks to the watercourse. Policy BDP23 section 8.235 of the Bromsgrove Local Plan requires that an appropriate buffer zone (generally accepted to be 8m) is provided to all watercourses.

Based on the lack of information submitted around flood risk and drainage we would like to raise an objection to this application

## **WRS - Noise** Consulted 06.09.2017

No objection to the application in terms of noise/nuisance.

## **Worcester Regulatory Services- Light Pollution** Consulted 06.09.2017

I have reviewed the objector's comments and spoken to the agent. It would appear that the two floodlights attached to the pole are not directed to where the objector's residence is located, and therefore are unlikely to cause any nuisance. However I would suggest a condition restricting the hours of operation of these floodlights to say 22:00.

## **Sarah Kernon** Consulted 06.09.2017

In summary in my opinion the size of the built development could be considered "essential" and the "minimum necessary" if 34 horses are to be kept on site. However I see no reason why 34 horses need to be kept as this is not the "minimum necessary" for the venture to be viable. There is no reason why the permitted linear development could not operate to an acceptable level.

## **Relevant Policies**

### **Bromsgrove District Plan**

BDP1 Sustainable Development Principles

BDP4 Green Belt

BDP15 Rural Renaissance

BDP 23 Water Management

### **Others**

NPPF National Planning Policy Framework

## **Relevant Planning History**

13/0657	Erection of six new stable blocks (total 20 loose boxes), construction of menage (50m x 20m) and associated works	Approved	16.06.2014
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12/0157/ENF	Appeal against enforcement to cease industrial use of land	Enf notice upheld	16.04.2014
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## **Public Comments**

2 objections received summarised as appropriate:

The proposal harms the Green Belt and residential amenity by virtue of its scale and floodlighting which extends the hours of operation of the site in the winter months. Harm to ecology including bats, barn owls, blackbirds and robins.

The proposal does not appear to include the loose boxes now sited in two separate areas on the opposite side of Lea End Lane or the caravan and container.

## **Assessment**

The development, as constructed is located to the far west of Newhouse Farm, Lea End Lane. The farm comprises a variety of non-agricultural uses including a group of residential barn conversions and industrial use of a former grain store to the immediate east of the site. The site of the stables complex is accessed from Lea End Lane to the north via a track through an area of woodland. It operates as a DIY livery where the owners of the horses are entirely responsible for the welfare of the horses including purchasing feed and cleaning out the horses.

The development relates to a retrospective application for the construction of 12 wooden stable blocks which adjoin 12 timber sheds, the siting of containers, provision of floodlighting, CCTV, associated office and manège. The structures are all of various sizes but most of the timber stables blocks are all in multiples of 3.6 m, with a depth of 3.6 m. The stables measure 2.25 m to eaves with a ridge height of 3.2 m. The four shipping containers measure 6 m by 2 m and the 15 wooden sheds have an average footprint of 24 sqm approximately twice the size of a stable.

## **Green Belt**

The site is located in the Green Belt. Members should note that the recent planning history is of particular relevance in the consideration of this application. On 6th June 2014, planning permission was granted for the 'erection of six new stable blocks (total 20 loose boxes), construction of manège (50m x 20m) and associated works'. The decision notice is attached to this report as Appendix 1 for reference.

The approved scheme comprised a single line of stable buildings (no other buildings) adjoining the hedge which forms the western boundary of the site, the manège was located to the south, some of the existing hardstanding was proposed to be removed for the provision of a paddock. The total floorspace approved under this application was 362sqm.

The previous decision was supported by a Business Plan and Budget, additionally the removal of the hardstanding associated with the previous unauthorised use was

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considered a benefit to the openness of the Green Belt and offset the harm by reason of inappropriateness.

The scheme has not been constructed in accordance with the approved plans and there is substantially more development present than was permitted by the application (12 stable blocks as opposed to 6). The stables, as constructed amount to approximately 606sqm and the sheds and containers are a further 413sqm in floor area. The office comprising a CCTV monitoring station amounts to a further 23sqm. The total floorspace equates to 1042sqm. The development, as constructed is 347% larger by floorspace than the approved scheme. This results in considerably greater movement to and from the site as would have been the case with the approved scheme further conflicting with the openness and purpose of the Green Belt. The provision of floodlighting on the site also negatively impacts on the openness of the Green Belt and character of the rural area.

The development, as constructed, conflicts substantially with policies BDP1, BDP4 and BDP15 of the Bromsgrove District Plan and paragraphs 88 and 89 of the NPPF. There is a significant and demonstrable harm to openness by virtue of the scale and arrangement of the buildings and the level of movement to and from the site. The scale of the proposal is well beyond the requirements of BDP15 that buildings to serve equine uses should be the minimum necessary and preserve the openness of the Green Belt.

At the time of the previous application, the applicant stated that the storage of hay and tack would take place within the proposed stables to avoid the need for additional sheds. However, a large number of sheds and storage containers have now been provided on site.

The considerations put forward in the applicant's planning statement are as follows:

- Planning History - removal of containers but not hardstanding
- the enclosed nature of the site
- closure of riding stables at Bleakhouse Farm, Wythall
- the buildings constructed are appropriate facilities for outdoor sport and recreation
- the paddock proposed was not needed by the business

Members should note that harm to the openness of the Green Belt carries substantial weight in accordance with paragraph 88 of the Framework. In weighing up the impact of the development in respect of the Green Belt and the conflict with the development plan, the matters put forward by the applicant do not amount to very special circumstances which would outweigh the harm to the openness of the site.

## Other Matters

Members should note the views of North Worcestershire Water Management and the request to provide additional details in respect of drainage arrangements has been sent to the applicant and updates will be provided in respect of this point.

The objections received from Alvechurch PC and Third Parties are noted and the matters raised have been addressed within the assessment and recommendation. The views of WRS are awaited in terms of the impact of floodlighting on residential amenity; the impact

on the Green Belt has been taken into account in the assessment. Members should note that there is a substantial number of containers being stored on the land immediately to the east of the application site and a number of caravan/camper vans to the north but these do not form part of the retrospective application and are subject to a separate investigation.

**RECOMMENDATION:** That planning permission be Refused for the following reasons:

- 1) The proposed development comprising a substantial block of stables, sheds, storage containers, floodlighting, CCTV camera and associated office result in significant and permanent harm to the openness of the site, a harm which is augmented by the resultant traffic and movement to and from the site. The development, as constructed, does not fall within any of the exceptions set out in Policy BDP4 of the Bromsgrove District Plan 2017 or in paragraph 89 or 90 of the National Planning Policy Framework. Therefore, it amounts to inappropriate development in the Green Belt, which is, by definition, harmful. The development, as constructed, is substantially larger than that permitted under application 13/0657. The considerations put forward by the applicant in relation to the lack of harm to openness and reference to the planning history of the site do not amount to very special circumstances which would clearly outweigh the identified harm. Thereby, the development as constructed, conflicts with policies BDP1, BDP4 and BDP15 of the Bromsgrove District Plan 2017 and the NPPF.
- 2) The applicant has provided insufficient information to demonstrate that adequate drainage arrangements have been or can be put in place to serve the site. Thereby, the proposal is contrary to policy BDP23 of the Bromsgrove District Plan and the provisions of the National Planning Policy Framework.

## **Informatives**

- 1) The local planning authority is aware of the requirement in the NPPF and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 to work with the applicants in a positive and proactive manner, seeking solutions to problems arising in relation to applications.

However the principle of development in this case was contrary to development plan policy and was not considered to be a sustainable form of development from the outset. This fact has been communicated to the applicant at an early stage in the planning process. The applicant however chose to continue with the proposal.

**Case Officer:** David Kelly Tel: 01527 881345  
Email: d.kelly@bromsgroveandredditch.gov.uk

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<b>PLANNING DECISION NOTICE</b>
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Mr Philip Michell  
 C/O Mr  
 Stansgate Planning  
 9 The Courtyard (ADM/K/6971)  
 Timothy's Bridge Road  
 STRATFORD UPON AVON  
 Warwickshire  
 CV37 9NP  
 United Kingdom



**Bromsgrove**  
 District Council  
[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)

### Approval of Planning Permission Subject to Conditions

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<b>APPLICATION REFERENCE:</b>	13/0657
<b>LOCATION:</b>	Newhouse Farm , Lea End Lane, Alvechurch, Birmingham B48 7AX
<b>PROPOSAL:</b>	Erection of six new stable blocks (total 20 loose boxes), construction of menage (50m x 20m) and associated works
<b>DECISION DATE:</b>	16th June 2014

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Bromsgrove District Council, as the Local Planning Authority, approves planning permission for the proposal described above. This permission is subject to conditions, which must be complied with and are set out below.

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby permitted shall be carried out in accordance with the Approved Plans/ Drawings listed in this notice:

Site Location Plan@1:2500 (Ref: 6971 -100C)  
 Proposed Block Plan@1:1250 (Ref: 6971 - 201 Rev C)  
 Proposed Elevations@ 1:100 (Blocks 1 - 4) (Ref:6971 - 300)  
 Proposed Elevations@1:100 (Blocks 5 - 6) (Ref:6971 - 301)  
 Planning Statement and Flood Risk Statement (Ref: ADM/K/6971)  
 Supplementary Planning Statement in relation to Foundation Method Statement and Drainage (Ref: ADM/K/5407).

Reason: For the avoidance of doubt and in the interests of proper planning.

3. No other development (hereby permitted) shall commence until visibility splays have been provided on each side of the proposed access on a line joining a point 2.4 metres back from the nearside edge of the adjoining carriageway measured along the centreline of the access, to a point 60 metres in each direction measured along the nearside edge of the carriageway from the centre of the new access. Nothing shall be planted, erected and/or allowed to grow which exceeds a height of 0.6metres on the triangular area of land so formed in order not to obstruct the visibility described above.

Reason: In the interests of highway safety and to comply with policy TR11 of the Bromsgrove District Local Plan 2004.

4. No additional barriers including stiles, gates, or fences should be created on, or across, the public right of way (AV-516) without written consent of the Highway Authority.

Reason: In order to protect the public right of way in accordance with policy RAT12 of the Bromsgrove District Local Plan 2004 and the advice of the NPPF.



Ruth Barnford  
Head of Planning and Regeneration

## **Reasons for granting planning permission**

This proposal has been assessed against the following documents:

### **Bromsgrove District Local Plan 2004 (BDLP):**

DS2 Green Belt Development Criteria  
RAT17 Stabling  
SPG5 Agricultural Buildings Design Guide

### **Bromsgrove District Plan Proposed Submission**

BDP4 Green Belt  
NPPF National Planning Policy Framework

## The Site and Surroundings

The site of the proposed development is to the north west of Newhouse Farm, a complex comprising a farmhouse, converted outbuildings and an agricultural building now in industrial use. The proposed site is separate from the main complex and is accessed separately from Lea End Lane through an area of woodland. The site is bordered to the north and west by an existing tree line and to the east by an existing industrial building.

The site has been the subject of enforcement action to secure the termination of unauthorised industrial uses, the storage of containers and other materials. The Enforcement Notice was upheld at appeal and the site today still resembles a waste site but is considerably improved upon the situation when the unauthorised use was in place. However, a number of containers and parked cars remain.

## Proposal

The proposal is for the erection of six new stable blocks (total 20 loose boxes), construction of ménage (50m x 20m) and associated hardstanding.

## Assessment

The key issues in the determination of the application are the impact the proposal would have on the openness and purpose of the Green Belt at this location; the acceptability and sustainability of the site for commercial livery purposes and the impact of the proposal on highway safety.

## Green Belt

The consideration of the Green Belt is the starting point. Policy DS2 outlines the types of development which are acceptable in the Green Belt and which do not conflict with the purposes of including land within it. The provision of facilities for outdoor sport and recreation are one of the exceptions to normal GB restraint policies. Policy RAT17 outlines the standards to be applied to the provision of stables and equestrian facilities. The scheme will consist of 6 stables blocks; the application is accompanied by a Business Plan and Budget and therefore it is evident that the proposal is not for personal equestrian use but for commercial letting of the site and stables for the keeping of horses.

There is no specific policy in the BDLP on the provision of commercial livery facilities apart from a reference in the explanatory text of policy RAT17 which states that commercial liveries may not be acceptable in the Green Belt where there would be excessive traffic movement and extensive new buildings associated with the use.

The NPPF refers to appropriate facilities for outdoor sport and recreation contrasted with the 'essential' definition in the BDLP and previous planning policy guidance in PPG2. In terms of the configuration and design of the stables, I consider these to appropriate in the context of the NPPF and the stables are sited within the wider context of Newhouse Farm fulfilling this criterion of policy RAT17. I also note the emphasis within the NPPF of facilitating all types of urban and rural enterprise to support the economy.

Paragraph 28 of the NPPF states that local and neighbourhood plans should support the sustainable growth and expansion of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings. Whilst I consider that sustainable and expansion are contradictions in this statement, the intention of government is clear and overall the provision of the stables and ménage are

appropriate development in the Green Belt in accordance with paragraph 89 of the NPPF.

The application is accompanied by a Planning Statement and Business Plan. The comments from the agricultural consultant are noted. It is concluded that the proposed scheme is economically viable and the diversified enterprise would generate a modest additional income for the farm holding. There was some concern raised about where the hay storage would be. There are feed/ tack rooms within each of the proposed blocks as outlined in the applicants supplementary statement received 17.02.2014.

Whilst it is noted that the previous use of the land for industrial was unauthorised, the Enforcement Notice required the removal of the containers and cessation of the use but not the removal of hardstanding. The use of the some of this area for a ménage and parking/manoeuvring of vehicles and the remainder for a an enclosed paddock is therefore acceptable and would not give rise to any greater harm to the Green Belt with the proposed use more in keeping with its rural surroundings. I am satisfied that there is sufficient land around the site in the ownership of the applicant to enable the horses to graze.

## Highways

The impact of the proposal on the access and on Lea End Lane is relevant and the original comments from WH have sought a deferral of the application pending further information in relation to the visibility splay and the level of traffic movements. This has been received to the satisfaction of WH. Since a DIY livery is proposed, the agricultural consultant was concerned that there would be additional vehicle movements to that envisaged in the planning statement and the suggested 80 movements per week was considered a very conservative estimate. In the supplementary planning statement, the applicant accepts the higher figure of 80 per day as reliable. There is no objection from WH on the basis of highway capacity, only the suitability of the visibility splay at the access in terms of safety. There will be an impact on the GB arising from the vehicle movements and parking. However, a number of factors mitigate this harm, the site is screened by woodland and the existing farm buildings from Lea End Lane, there is existing hardstanding on the site and this type of proposal is supported in the NPPF in paragraphs 28 and 89. In practical terms, it is also unlikely that all of the stables will be occupied at the same time. On the basis of the information presented and the characteristics of the site, I conclude that the overall effect would be satisfactory. There are wider sustainability implications arising from the travel of the patrons of the site to this isolated location. However, this is partly a matter of conscious choice on their part and the lack of clarity in the NPPF of how much emphasis needs to be given to sustainability and carbon reduction versus the 'expansion of rural business' philosophy.

## Consultee responses and conditions

A supplementary planning statement was received on the 17.02.2014 with additional information in relation to vehicle movements and the impact of the proposal on trees and drainage to enable these matters to be dealt with avoiding unnecessary conditions. There is no objection from the Canal and River Trust (no impact on the canal in any event), no objection from the Drainage Engineer or Tree Officer and sufficient information has been supplied in relation to these aspects to avoid additional conditions being applied.

In terms of neighbours, there is a no objection response from the adjoining barn conversions and no objection from Alvechurch PC. Additional consultation was conducted to include properties further along Lea End Lane and the matters of increased traffic and impact on the public right of way were raised. The former has been addressed in the response from WH and in the case of the latter a consultation with WCC Footpaths Officer raised no objection subject to a condition protecting the right of way.

## Conclusion

The proposal relates to the diversification of activity at Lea End Farm which is supported by the NPPF. There are potential negative impacts in relation to additional vehicle movements in the GB and in terms of sustainability. However, more weight is applied to the factors discussed above which favour the scheme.

Permission should be GRANTED, sftc;

## **For your information**

### **Appealing the planning conditions**

If you feel that the conditions are not acceptable you can appeal to the Secretary of State through the Planning Inspectorate. This appeal should be made by 15th December 2014 unless supported by special circumstances. The appropriate form and further information on how to appeal can be found at

<http://www.planningportal.gov.uk/planning/appeals/planningappeals> or by contacting the planning Inspectorate Customer Services Team on 0303 444 5000.

### **Purchase Notices**

If Bromsgrove District Council or the Secretary of State has refused planning permission or granted it conditionally, the landowner may claim that the land is incapable of reasonable beneficial use, and for this reason may serve the District Council a purchase notice requiring them to purchase the land. In certain circumstances, a claim may be made against Bromsgrove District Council for compensation. Further information about purchase notices can be found at: <http://www.legislation.gov.uk/ukpga/1990/8/part/VI>

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