



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE PLANNING COMMITTEE

MONDAY 4TH DECEMBER 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 6th November 2017 (Pages 1 - 4)
4. Updates to planning applications reported at the meeting (to be circulated prior to the start of the meeting)
5. Tree Preservation Order (7) 2017 - Trees on land adjoining Harris Brush Works and Saxon Business Park, Hanbury Road, Bromsgrove. (Pages 5 - 40)
6. Tree Preservation Order (11) 2017 - Trees on land adjacent to 73 Linthurst Newtown, Blackwell (Pages 41 - 152)
7. 2017/00459/FUL - Conversion of existing barn to form two bedroom dwelling - Stoney Lane Farm, Stoney Lane, Broad Green, Bromsgrove, Worcestershire, B60 1LZ - Mr P. J. Whittaker (Pages 153 - 156)
8. 2017/00701/OUT - Hybrid application comprising: Outline planning application (with matters of appearance, landscaping, layout, scale and details of internal circulation routes reserved) for the development on a phased basis of 32ha of employment land for business/industrial uses (Use Classes B1, B2, B8). The development shall include: landscaping, parking, associated infrastructure, utilities, drainage (including SUDS) and ground engineering works; and Full planning application for Phase 1 Ground Engineering works, and details of means of access to the site from the A4023 - Redditch Gateway, Land Adjacent to the A4023, Coventry Highway, Redditch, Worcestershire - Redditch Gateway Infrastructure Ltd (Pages 157 - 210)
9. 2017/00786/FUL - Conversion and extension of two existing dwellings houses to create 10 x 2 bed apartments - 77 Lyttleton Avenue, Bromsgrove, Worcestershire, B60 3LH - Mr Jeremy Kimberley (Pages 211 - 218)
10. 2017/01160/FUL - Two-storey extension to original front of dwelling (retrospective) - Allandale Cottage, Redhill Road, Kings Norton, Birmingham, Worcestershire, B38 9EW - Mr D. Sanderson (Pages 219 - 222)
11. 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

24th November 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.

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 Pauline Ross, Democratic Services Officer, at p.ross@bromsgroveandredditch.gov.uk, or telephone (01527) 881406

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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE PLANNING COMMITTEE

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

PRESENT: Councillors R. J. Deeming (Chairman), P.L. Thomas (Vice-Chairman), C. Allen-Jones, M. T. Buxton, C.A. Hotham, S. R. Peters, S. P. Shannon, M. A. Sherrey, C. J. Spencer and L. J. Turner (substituting for Councillor S. J. Baxter)

Officers: Mr. D. M. Birch, Mr. G. Boyes, Ms. C. Flanagan, Mr. D. Kelly, Mrs. T. Lovejoy, Mrs. P. Ross and Mrs. J. Smyth

37/17 **APOLOGIES**

Apologies for absence were received on behalf of Councillors S. J. Baxter and P. J. Whittaker. Councillor L. J. Turner was confirmed as Councillor Baxter's substitute for the meeting.

38/17 **DECLARATIONS OF INTEREST**

Councillor M. T. Buxton declared an Other Disclosable Interest in respect of Agenda Item 6 (Application 2017/00950/FUL – The Greyhound (ph), 30 Rock Hill, Bromsgrove, Worcestershire, B61 7LR), due to her previous involvement with Whitford Vale Voice. She advised that, in view of this, she would withdraw from the meeting for the item.

Councillor M. T. Buxton withdrew from the meeting and was not present during the public speaking process nor the Committee's debate and voting on the matter.

39/17 **MINUTES**

The minutes of the meeting of the Planning Committee held on 2nd October 2017 were received.

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

40/17 **TREE PRESERVATION ORDER (11) 2017 - TREES ON LAND ADJACENT TO 73 LINTHURST NEWTOWN, BLACKWELL**

Officers provided additional information in relation to the consideration of Tree Preservation Order (No11) 2017, as detailed in the published Update Report 2.

Agenda Item 3

Planning Committee
6th November 2017

Due to the late arrival of a significant amount of additional information, the Committee agreed for this matter to be deferred until the next meeting of the Planning Committee.

RESOLVED that the matter be deferred to the next meeting of the Planning Committee.

41/17

2017/00950/FUL - DEMOLITION OF EXISTING 2 STOREY BUILDING, THE GREYHOUND (PH), 30 ROCK HILL, BROMSGROVE, WORCESTERSHIRE, B61 7LR - GREYHOUND INN DEVELOPMENTS LTD

Officers reported on an additional representation that had been received from Whitford Vale Voice, as detailed in the published Update Report 1, copies of which were provided to Committee Members and the public gallery prior to the commencement of the meeting.

At the invitation of the Chairman, Mr. Roy Dixon, on behalf of Whitford Vale Voice, addressed the Committee objecting to the Application. Councillor L. C. R. Mallett, in whose Ward, the application site was, addressed the Committee and Mr. David Morris, for the Applicants also addressed the Committee.

The Committee then considered the Application, which Officers had recommended for approval. Having considered all of the information, including the public speaking representations, Members were concerned that the proposed demolition could have a detrimental impact on the local area should the building be demolished. Whilst the building was not currently listed as a local heritage asset, Members considered that there was the potential for the building to become one and be of benefit to the people of Bromsgrove. Members also considered that there was insufficient evidence to outweigh the potential for alternative uses for the site should the Whitford Road planning application not go ahead.

RESOLVED that Planning Permission be refused for the following reason, the building is a non-designated heritage asset and there are no public benefits that would outweigh the loss of the building. The demolition of the building was therefore contrary to Policy BDP1 and BDP20 of the Bromsgrove District Plan and the provisions of the National Planning Policy Framework.

42/17

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 MANEGE - NEWHOUSE FARM, LEA END LANE, HOPWOOD, BIRMINGHAM, WORCESTERSHIRE, B48 7AX - MR PHILIP MICHELL

At the invitation of the Chairman, Mr. P. Michell, the Applicant addressed the Committee.

Agenda Item 3

Planning Committee
6th November 2017

RESOLVED that Planning Permission be refused for the reasons as detailed on page 143 of the main agenda report.

The meeting closed at 6.40 p.m.

Chairman

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PLANNING COMMITTEE

4th December 2017

TREE PRESERVATION ORDER (NO. 7)2017 – Trees on land adjoining Harris Brush Works and Saxon Business Park, Hanbury Road, Bromsgrove.

Relevant Portfolio Holder	Peter Whittaker
Portfolio Holder Consulted	No
Relevant Head of Service	Head of Planning and Environmental Services
Ward(s) Affected	Stoke Prior
Ward Councillor(s) Consulted	No
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Committee is asked to consider the confirmation with modification of Tree Preservation Order (No.7) 2017 relating to trees on land adjoining Harris Brush Works and Saxon Business Park, Hanbury Road, Bromsgrove.

2. RECOMMENDATIONS

- 2.1 It is recommended that provisional Tree Preservation Order (No.7) 2017 relating to trees on land adjoining Harris Brush Works and Saxon Business Park, Hanbury Road, Bromsgrove Is confirmed with modification from the provisional order as raised and shown in appendix (1) to that as shown on the plan and described in the schedule of trees in appendix (2).

3. KEY ISSUES

Financial Implications

- 3.1 There are no financial implications relating to the confirmation of the TPO.

Legal Implications

- 3.2 Town and Country Planning (Trees) Regulations 2012 covers this procedure.

Service / Operational Implications

Back Ground:

- 3.3 The provisional order was raised on the 11th July 2017 due to the land containing the woodland blocks of the order being offered for sale. The woodlands and group of trees within the order add greatly to the general landscape character of the area offering a high level of visual amenity and habitat value to users of the site and passers-by. Therefore it was felt prudent

PLANNING COMMITTEE

4th December 2017

to raise an order on the site due to the uncertainty in regard to the new owner's potential management of the trees that a change of ownership could bring.

- 3.4** The site is subject to an active Forestry Commission (FC) approved felling licence that expires in 2023 as shown in appendix (3). The Council would look to support positive proactive management of the woodland as already agreed by the FC and therefore would have no objection to this work being carried out should the new owner wish to do so. The owner has also highlighted through his agent that he intends to apply to the Forestry Commission for a Woodland Planning Grant to help develop a 20 year Woodland Management Plan taking guidance from United Kingdom Woodland Assurance Scheme (UKWAS) as verified in appendix (4) the email from the owners Forestry Consultant. This is all very positive information that confirms that the new owner has a responsible intension towards the welfare of the woodlands. The best practice guidance on making tree preservation orders commonly known as "The Blue Book" highlights in paragraphs 2.8 – 2.11 shown in appendix (5) " There are limitations to the making of TPOs on land in which the Forestry Commission have an 'interest'. The act states that the Forestry Commission have an 'interest' in the land if, in respect of it: (1) there is an existing forestry dedication covenant in force, or (2) they have made a grant or loan under section 1 of the Forestry Act 1997. If (1) or (2) applies the Forestry Commission must give their consent before a TPO may be made." Therefore as there was a felling licence in place which confirmed a Forestry Commission interest in the site I contact the FC to see if they had any object to the raising and of the order by phone which they confirmed verbally they did not which was later confirmed in writing by the email appendix (6).

The Following two objections have been received in respect of the provisional TPO having been raised.

1. Email received from the owners Forestry Consultant on behalf of the owner of woodland blocks W1, W2 and W3 of the order shown in appendix (4)

My comments in relation to this objection are as follows:

Semi mature - Mature woodlands do ideally require proactive management to ensure the longevity of the woodland is assured and that they mature containing high quality trees. Therefore due to the semi mature age class of the woodlands within this order I would be in favour of a proactive management plan being adopted and implemented. There is a current felling licence in place which the owner was unaware of when informed of such on a site meeting on the 9th November. It is possible to fell 5 cubic metres of timber per calendar quarter without requiring an FC felling

PLANNING COMMITTEE

4th December 2017

licence. Therefore the TPO would provide a more robust level of protection as TPO approval would be required for such a level of work. The TPO would also create another line of consultation between the FC and the Council should any works be applied for but would not be expected to prevent positive proactive management applied for and agreed through the FC.

2. Letter received from the owner of woodland block W4 & W5 dated 25th July 2017 see appendix (7)

My comments in relation to the issues raised are shown in the response sent 17th November 2017 see appendix (8).

- 3.5 Policy Implications- None
HR Implications- None
Council Objective 4- Environment, Priority C04 Planning
- 3.6 Climate Change / Carbon/ Biodiversity- The Proposal in relation to confirming the TPO can only be seen as a positive impact on the environment.

Customer / Equalities and Diversity Implications

- 3.7 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.
- 3.8 Equalities and Diversity implications- None

4. RISK MANAGEMENT

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

5. APPENDICES

List Appendices.

- Appendix (1) Plan & Schedule of Provisional Order
- Appendix (2) Plan & Schedule of Modified Order
- Appendix (3) Active Forestry Commission Felling Licence.
- Appendix (4) Email of Objection from owners of W1,W2 & W3 Forestry Consultant
- Appendix (5) Extract from the Tree Preservation Order Best Practice Guide

PLANNING COMMITTEE

4th December 2017

Appendix (6) Email Response of Support Forestry Commission
Appendix (7) Letter of Objection from the owner of woodland blocks W4 & W5
Appendix (8) Letter of Response to owner of woodland blocks W4 & W5

6. BACKGROUND PAPERS

None

7. KEY

TPO - Tree Preservation Order

7.1 Conclusion and recommendations:

The woodlands and trees covered by this order are all highly prominent and of very good quality. They offer a high degree of visual amenity and habitat value to the area and particularly users of the Hanbury Road, local footpath network and workers at the local industrial areas while adding greatly to the character of area in general.

Therefore I would recommend to the committee that the order is confirmed and made permanent with the modifications as shown in appendix (2) of this report.

AUTHOR OF REPORT

Name: Gavin Boyes

Email: gavin.boyes@bromsgroveandredditch.gov.uk

Tel: (01527 64252 Extension 3094)

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

Town and Country Planning Act 1990

Tree Preservation Order (7) 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 (7) 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,

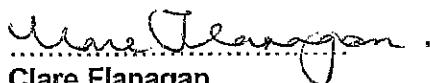
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

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 11th July 2017

Signed on behalf of Bromsgrove District Council



Clare Flanagan

Authorised by the Council to sign in that behalf

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>
NONE			

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>
NONE			

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>
G1	6 X Sycamore 7 X Beech 1 X Lime 2 X Larch 1 X Norway Maple	395371-266806	Edge of main drive Harris Brush Works By Football Pitches

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 species Woodland Mainly Beech, Sycamore, Pine, Birch, Alder Hawthorn.	395194-266883	Western frontage of site boundary of Hanbury Road.
W2	Mixed species Woodland Mainly Beech, Sycamore, Ash, Cherry, Alder Hawthorn, Oak.	395359-267056	Northern boundary of site boundary of Canal to around Eastern side of Football pitches
W3	Mixed species Woodland Mainly Sycamore, Hawthorn Oak, Alder, Ash, Pine Birch	395828-266825	Eastern side of site rear of Harris Brush works

Agenda Item 5

W4	Mixed species Woodland Mainly Beech, Ash, Hawthorn	395232-266520	Woodland adjoining Southern side of Saxon Business Park.
W5	Mixed species Woodland Mainly Beech, Ash, Hawthorn Sycamore.	395171-266436	Woodland adjacent to Southern side of Saxon
W6	Mixed species Woodland Mainly Sycamore, Ash, Cherry.	395399-266606	Woodland adjoining the Southern side of Harris Brush Works

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>
NONE			

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>
NONE			

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>
G1	6 X Sycamore 7 X Beech 1 X Lime 2 X Larch 1 X Norway Maple	395371-266806	Edge of main drive Harris Brush Works By Football Pitches

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W2	Mixed species Woodland Mainly Beech, Sycamore, Ash, Cherry, Alder Hawthorn, Oak.	395359-267056	Northern boundary of site boundary of Canal to around Eastern side of Football pitches
W3	Mixed species Woodland Mainly Sycamore, Hawthorn Oak, Alder, Ash, Pine Birch	395828-266825	Eastern side of site rear of Harris Brush works

Agenda Item 5

W4	Mixed species Woodland Mainly Beech, Ash, Hawthorn	395232-266520	Woodland adjoining Southern side of Saxon Business Park.
W5	Mixed species Woodland Mainly Beech, Ash, Hawthorn Sycamore.	395171-266436	Woodland adjacent to Southern side of Saxon
W6	Mixed species Woodland Mainly Sycamore, Ash, Cherry.	395399-266606	Woodland adjoining the Southern side of Harris Brush Works



Notes:

NO.	DATE	DESCRIPTION

Project:
Bromsgrove District
Tree Preservation Order
(7) 2017

Drawing:
Land Adjoining
Harris Brush Works
And
Saxton Business Park
Hambury Road, Bromsgrove

Drawn: G.B. Scale: 1:2500 @ A3
 Surveyed: AAA Date: 20/11/2017

Drawing No: **P00000/0**

Engineering and Design Services
 Town Hall
 Walker Street Square
 Redditch
 Worcestershire B98 8AH

REDDITCH BOROUGH COUNCIL
www.redditch.gov.uk

Bromsgrove District Council
www.bromsgrove.gov.uk

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English Woodland Grant Scheme Contract for [REDACTED]

Contract Number [REDACTED] Case Reference [REDACTED]

SBI Number [REDACTED]

Date of Approval 04-DEC-2013

End of Felling Approval 11-JUN-2023

Forestry Commission Contact	Bullers Hill Admin Hub Forestry Commission Bullers Hill Kennford Nr Exeter EX6 7XR Tel 0300 067 4960 email adminhub.bullershill@forestry.gsi.gov.uk

English Woodland Grant Scheme contract for [REDACTED]

Contract Number [REDACTED]

Case Reference [REDACTED]

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This contract details the following types of felling. By accepting this contract you will be awarded a Felling Licence to carry out this felling work

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EWGS Terms & Conditions

Introductory Statement

This contract defines the work, grant aid and permissions that have been agreed by Forestry Commission England and the Applicant as part of the English Woodland Grant Scheme.

1. Parties to this Contract

This contract is made between the Forestry Commissioners (in all parts of this contract called "us" or "we") and the person or persons listed in the contract (in all parts of the contract called "you" or "the applicant").

2. Signing this contract

By signing this contract you agree to be bound by these conditions. We also agree to be bound by the conditions.

3. Permission for Felling Areas

Where you have proposed felling trees as part of the contract, the Forestry Commission has considered the felling proposals as a Felling Licence Application. By signing this contract, you agree to carry out any restocking which the Forestry Commission may specify in the contract as a condition of the Felling Licence. The Felling Licence will become active when you approve the contract on-line or receive a paper copy approved and signed by the Forestry Commission on behalf of the Forestry Commissioners.

If the Felling Licence relates to trees that are covered by a Tree Preservation Order (TPO) and the existence of the TPO was not declared by you, then the Felling Licence will not cover the felling of these trees and you may commit an offence by felling them.

4. Information

Any general information that you need to give the Forestry Commissioners under this Contract can be given either in writing (and be delivered or sent by post), or by electronic communication to the Forestry Commission at the regional Grants & Regulations offices or National Office Bristol.

If the Forestry Commissioners need to give you general information we will send it either in writing or by electronic communication to you. Unless the Forestry Commissioners have agreed otherwise, they will send it to your address(es) set out in this contract, or to the first of the Applicants named in this contract at the address given for that person.

5. Notice

Any formal notice that you need to give to the Forestry Commissioners under this Contract must be given in writing (and be delivered or sent by post, or via electronic means) to the Forestry Commission at the regional Grants & Regulations offices or National Office Bristol.

If the Forestry Commissioners need to give you formal notice, they will send it in writing to you. Unless the Forestry Commissioners have agreed otherwise, they will send it to your address(es) or via electronic means as set out in this Contract, or to the first of the Applicants named in the Contract at the address given for that person.

6. Entire Agreement

It is accepted by us and by you that no statement or representation of any nature made prior to the Approval Date, as defined in paragraph 12, will form a term or condition of this contract unless set out in writing in this contract.

By signing this contract, you agree to abide by the conditions and undertakings required to comply with the Rural Development Programme for England, as approved by the European Commission or any EC legislation, in particular Council Regulation 1698/2005.

General conditions and other permissions

7. Restrictions on the land

You must tell us if there are any legal or other restrictions affecting the land, which could prevent you from completing the work or maintaining the work. It is your responsibility to find out whether any such restrictions exist and to obtain any necessary approvals or consents.

If you do not tell us about any restriction that may affect the work proposals then we may terminate the contract, pay no further grants and may reclaim grants paid for work already carried out.

8. Funding from other sources

You must tell us if any other public body (including the Heritage Lottery Fund and the European Union) has agreed to fund the work or maintenance or if you are claiming funding from any such body for other work on the land covered by this contract. All grant applications and claims will be "Cross Checked" against other publicly funded grant payments. Where incompatible payments are identified on an area of land, the grant payment or area may be reduced to prevent incompatible payments being made to you. If this happens we will contact you to explain the reasons for any reduction.

9. Historic and Archaeological sites

The work you do must not damage or destroy sites identified in the contract as being of historic or archaeological importance. This contract only provides permission to carry out the operations specified in the Plan on sites of historic or archaeological importance.

There is additional protection for Scheduled Ancient Monuments. If English Heritage have identified the need for Scheduled Monument Consent for certain operations in the contract, or you wish to carry out other operations not specified in the contract, you must secure consent from English Heritage before starting any work.

10. Sites of Special Scientific Interest, National Nature Reserves, Special Protection Areas, Special Areas of Conservation

You must only carry out operations on these sites that we have agreed in the plan. If you want to carry out other operations that are not agreed in the plan then you must get the necessary permission from Natural England.

11. Public access

You must protect all public rights of way over the land. Unless we have agreed otherwise, or the land is "access land" within the meaning of the Countryside and Rights of Way Act 2000, you need not provide any other public access.

EWGS Terms & Conditions

Timescale for the contract

12. "Approval Period" to carry out the work

The approval period is the period when work can be carried out. It starts when we sign the contract (the "Approval Date") and expires 5 years after the Approval Date. In order to claim grant, you must carry out our grant-aided work as agreed and submit your claim form to us for that work, together with a map of the area by 31st March of the claim year agreed in the Work Details.

The approval period to carry out tree felling work starts when we sign the contract (the "Approval Date") and expires five years after the Approval Date. Felling permission is granted for ten years from approval date where it is part of an FC approved woodland management plan. Woodland cover must have been re-established within 10 years of tree felling. If you wish to receive any grants that are associated with the felling and restocking approval, you must adhere to the approved financial years for grant payment as set out in the Work Details.

For Woodland Management Grant, operations are approved for the 5 calendar years in which the grant instalments are paid i.e. 1st January to 31st December each year.

13. "Contract Period"

The "Contract Period" is the period of maintenance that you must carry out to meet the conditions of this contract. It starts on the date each grant is paid or, if the grant is to be made in several payments, on the date when the first of those payments is made. The "Contract Period" ends after the following periods, or on such earlier or later date as we may notify to you following an inspection or review of the work to which the payments made under this contract relate.

- * *Woodland Creation Grants* (for new planting and natural colonisation) - 10 years from the date a first instalment is paid;
- * *Additional Contributions to Woodland Creation Grants expressly for Public Access* - 30 years from the date a first instalment is paid;
- * *Farm Woodland Payments*
 - a) For work areas awarded 10 annual payments (new woodland comprising 50% or less by area of broad-leaved trees) - 20 years
 - b) For work areas awarded 15 annual payments (for creating new woodland comprising more than 50% by area of broad-leaved trees) - 30 years;
- * *Woodland Regeneration Grant* (for restocking by planting or natural regeneration) in respect of each payment - 10 years from the date the payment is made;
- * *Woodland Improvement Grant*
 - a) Where the contract includes Woodland Improvement Grant payments for public access and the total of these is less than or equal to £10,000 - 10 Years
 - b) Where the contract includes Woodland Improvement Grant payments for public access and the total of these exceeds £10,000 but is less than or equal to £20,000 - 20 Years
 - c) Where the contract includes Woodland Improvement Grant payments for public access and the total of these exceeds £20,000 - 30 Years
 - d) All other Woodland Improvement Grant payments - 5 years;
- * *Woodland Management Grant* (five annual instalments) - 5 years from the contract Approval Date.
- * *Interim Woodland Creation Grant* (both establishment and maintenance) – 5 years after the last payment.

Claiming Grant

14. Woodland Management Grant

For contracts that include Woodland Management Grant, we take signing this contract as your claim for all 5 instalments of Woodland Management Grant. There will be no need to claim for the grant using a claim form. Each year you may need to declare, by 15th May at the latest, continued compliance with the Woodland Management Grant conditions to ensure ongoing payment.

15. Standards of work expected and maintenance

All work must be done in accordance with this contract. If essential operations i.e. work vital for achieving the stated outcomes of the contract, are not completed in accordance with the Plan then we may withhold grants for other operations or terminate the contract.

You must carry out the operations specified in the contract and all subsequent maintenance to achieve the expected or desired outcomes with due care, skill and diligence in line with advice given in our current best practice guidelines and the UK Forestry Standard published at the time that the work was approved by us. You must ensure that the work carried out is maintained to the end of the "Contract Period".

It will be your responsibility to carry out any necessary maintenance to ensure that the work specified in the contract is successful.

We will not be held liable for any advice that may be given to you (other than that given by us) in this respect during the period of the contract.

We will not be liable for the effects of adverse weather, fire, pests or acts of God. It is your responsibility to utilise suitable skills and resources to complete the operations agreed in the contract.

16. Rates of grant to be paid

Subject to Conditions 22-27 and to your compliance with the remaining conditions, we will pay you grants of the types specified in this contract, so long as the work is done to our reasonable satisfaction. We will work out the payments using the rates quoted in this contract, except:

- * In the case of Farm Woodland Payments where the rate payable will be that which is current at the time of each payment. On set-aside land the Farm Woodland Payment rate will be reduced by an amount equal to the set-aside payment rate;
- * For Farm Woodland Payments, non-farmers will be capped at a maximum payment of €150 per hectare per year, based on the sterling-euro exchange rate on the 31st December each year;
- * The area over which grant may be paid could be adjusted either up or down to account for more accurate land measurement such as Rural Land Register updates.

17. Who will be paid grant

Any grants we decide to pay you will be paid to you or your agent via BACS, as set out in the Paying Grants section of this contract.

18. Area over which we will pay grant

The area over which we will pay grant will be based on the area we measure when we receive your grant claim, provided the claim is on land approved in the contract and the area does not exceed that approved in the contract.

EWGS Terms & Conditions

19. Date by which you must claim grants

You must carry out the work agreed in the Work Details and submit your claim form to us for that work, together with a map of the area by 31st March of the claim year agreed in the Work Details, unless we agree a change to this contract. If you do not submit your claim by this date, no right to payment will arise under this contract and we will only pay grant at our absolute discretion.

20. Changes to the work

You cannot change the work approved in this contract unless we agree and approve the change with you in advance, in writing or by e-mail. Approval of any requested changes to the approved contract is at our discretion.

21. Inspection

You must let us, our officers, Rural Payments Agency officers or other persons authorised by us to enter the land at all reasonable times during the Contract Period to check that you are keeping to this contract. Failure to allow or obstructing an inspection may result in refusal to pay grant or reclaim of grants already paid with interest.

Termination of the Contract

22. Terminating the contract - general grounds

We may terminate this contract immediately if:

- * You do not keep to any Condition of this contract;
- * You have not repaid any grant within three months of a written demand;
- * Any material information you gave us when you made this contract is false, misleading or incomplete;
- * Any material information you gave us when you make your claim for grant is false, misleading or incomplete;
- * You are declared bankrupt or make a composition or arrangements with, or grant a trust deed for your creditors, or go into liquidation (other than a members voluntary liquidation).

Before we terminate the contract or ask you to repay grant, we will give you notice of the reasons for termination of your contract. If we consider that the situation can be put right, we will give you the opportunity to put the situation right, within the time that we specify.

It will be possible to terminate the contract at other times by mutual agreement. If you wish to terminate the contract during the contract period described in paragraph 13 but the work you have done will not achieve the purpose for which it was grant aided, we may, before we agree to termination, require you to repay part or all of the grant paid to you together with interest at the rate set from time to time by HM Treasury.

23. Stopping occupying the land

You must inform us if you stop occupying the land, or any part of it to which the contract applies. This contract may not be assigned to a subsequent owner (or anyone else) without our permission.

New occupiers must notify their interest to take on the contract within three months of purchase. After that, agreement to take on the contract is at our discretion and we reserve the right to alter the work details and contract conditions with the new occupier.

In the event that the contract conditions are not fulfilled, we will reclaim grant with interest from the grant recipient, irrespective of whether they occupy the land or not. We recommend outgoing occupiers set up private agreements to transfer liabilities during land sale.

24. Terminating the contract if the approved work will have an adverse effect on the environment

If, following the Approval Date, we become aware of information or there is a change of circumstances as a result of which it appears to us that any work, which has not been completed, should no longer be approved for the purposes of this contract because:

- * the work is not permitted by, or would only be permitted if formally approved under environmental law; or
- * giving a grant towards the carrying out of the work would not be consistent with our statutory duties with regard to the environment,

and we notify you accordingly; then the contract shall apply, with any necessary adaptation, only to the work completed at the date of their notice.

If we give you the option of either making changes to the work or maintenance or terminating the contract, we shall notify you of the changes we are asking you to make. We will provide you with details of how future grant payments would be calculated if you choose to make the changes requested. We will tell you the amount of grant that will be paid to you in respect of works already carried out if you choose to terminate the contract.

If you do not notify us that you either wish to carry out the specified changes or to terminate the contract within 28 days of our notification to you of the information described in the preceding paragraph, we may terminate the contract with immediate effect.

In accordance with this Condition, if either you or us terminate the contract, grant will be paid to you in respect of work carried out before the date of termination but no further payments will be made under this contract.

If the work does not meet the conditions of the contract

25. Withholding grant payment

If you do not carry out the work or maintenance to the standards and timescale set out in Conditions 15 and 19, we may withhold payment of grant. Where we withhold the grant, we will explain our reasons for doing so and give you an opportunity to put it right (where reasonable to do so) before re-submitting the grant claim.

26. Repayment of grant

Where you do not carry out the work or maintenance to the standards and time scale set out in Conditions 15 and 19 and cannot or have not put the situation right, we will require you to repay grant with interest for areas that have not been successful. The interest will be charged from the date the problem was first identified to the date the repayment invoice is raised.

If you are asked to repay grant, we may deduct this amount from any grants you are due now or in the future under this or any other agreement or contract with us.

EWGS Terms & Conditions

27. Repayment of grant on termination

If this contract is terminated we will not pay any more grant to you under this contract.

If the contract is terminated because you stop occupying the land or any part of it for any reason and the work is not successful for what would have been the rest of the contract period, you will be liable to repay any grant you have received together with interest at the rate set from time to time by HM Treasury. The interest will be charged from the date the payable order was issued until the date that we write to seek reclaim unless we agree otherwise.

Liability for grant repayment remains with the grant recipient until the end of the contract period, even if they no longer have an interest in the land.

28. Withholding grant against other RDPE Schemes

If you are required to repay grants under any other grant scheme within the Rural Development Plan for England, part or all of your EWGS grant claim may not be paid to you but may be used to repay what you owe to the Rural Payments Agency.

Similarly, if you have to repay grant under this contract, it may be collected via other grant schemes under the Rural Development Plan for England.

29. Penalties

In addition to the withholding or repayment of grant under conditions 25 to 28, a penalty may be applied in the following circumstances:

- * Intentional false declaration during the application or grant claim - will result in exclusion from support under the EAFRD and any grants paid under the scheme will be recovered;
- * Over-claiming grants by <3% of the correct amount - the grant payment will be reduced by the difference between the amount claimed and the correct amount;
- * Over-claiming grants by 3-20% of the correct amount - the verified amount of grant due will be reduced by twice the difference between the claim and the correct amount;
- * Over-claiming grants by >20% of the correct area - no grant payment will be made for grants due that year under this contract.

You can correct an obvious error in the application or claim at any time after submission. The obvious error must be recognised as such by us and will be detected from information given in the application or claim form. Cases that meet these criteria will not result in a reduction of payment. Errors discovered after notification of an inspection or during an inspection will not be treated as obvious errors.

30. Cross Compliance

Breaches of cross-compliance requirements as set out in the Cross Compliance Handbook may result in a reduction of Farm Woodland Payment and / or Woodland Management Grant, even if the breach occurs on another part of the holding. The level of reduction will depend on the severity, extent and permanence of the breach as set out in the cross compliance regulations.

31. Order in which penalties will be applied

Penalties will be applied in the following order, with each successive reduction being based on the amount resulting from the previous reduction:

- * Over-claiming land area;
- * Non-respect of eligibility criteria;
- * Cross compliance.

Grants for Public Access

32. Public Access

If grants are paid for public access you must, from the date of payment of that grant let the general public, free of charge, have access to walk between dawn and dusk over the part of the land the grant is paid for. This access must be permitted for the following periods, dependant on the type and value of grant paid:

(a) Public access Additional Contribution under the Woodland Creation Grant - 30 years;

(b) Woodland Improvement Grant for public access:

- * Up to and including £10,000 - 10 years;
- * Up to and including £20,000 - 20 years;
- * Over £20,000 - 30 years.

Appropriate signage must be provided and/or maintained to ensure that members of the public are aware of this access permission. The public can only be excluded in circumstances agreed in the Plan of Operations.

Details of the public access agreed may be published in written or electronic form by the FC, or anyone we approve to do so.

General Contract Clauses

33. Compliance with Rural Development Regulations

The English Woodland Grant Scheme is partly funded by European Agricultural Fund for Rural Development (EAFRD) as part of the Rural Development Plan 2007-2013 and is therefore subject to the associated EU regulations including Cross-Compliance.

The regulations may change during the life of this contract. If any changes affect you, we will contact you and let you know what you need to do. If changes to the regulations are not acceptable to you, then you have the right to terminate the contract subject to you informing us within 28 days of the notification. If you terminate you must meet all your obligations in respect of grant aid received to date, and any felling licence conditions included within the contract.

34. Disputes

If we disagree with you about whether or not you have kept to the contract, or about the standard or extent of the work done, either party may ask for the matter to be decided by an arbitrator chosen from a panel of arbitrators agreed jointly by you, us and the Institute of Chartered Foresters. You or we must give notice of this action to the other party. If you and us cannot agree to a suitable person within one month after notice, the President of the Institute of Chartered Foresters will appoint the arbitrator. Any other dispute shall be submitted to the courts in accordance with clause 37.

EWGS Terms & Conditions

35. Force Majeure

You must tell us within 10 days of an incident if, as a result of an act of war, terrorism, an epidemic, a disease affecting woodlands or catastrophic weather (which could not reasonably have been expected to take place during the period of the contract) you are unable to complete or maintain the work set out in the contract. We will then discuss and agree with you certain measures such as:

- * a longer period in which to complete the work;
- * a reinstatement plan where this is possible;
- * acceptance by us of a lower standard of work.

We will not seek repayment of grants for work that was carried out satisfactorily but which is subsequently adversely affected by events described above, providing that you have made a reasonable effort to minimise the impact or make good the damage.

Where the events described above mean that we are unable to pay grants, we reserve the right to reschedule the years in which grants can be claimed.

If the event that storms, fire or disease have a significant impact on the woodland(s) covered by the Plan, we reserve the right to review the Plan with you and to modify or remove operations that are no longer appropriate.

36. Disclosure of information and publicity

Defra is the data controller in respect of any personal data that you provide to the Rural Payments Agency. Your personal information will be protected in line with the Data Protection Act 1998. The information will be used mainly to support the application to which it relates. The information may also be used in line with the Data Protection Act, for other purposes as explained in scheme guidance and on the Access to Information pages on the RPA website. If you have any questions please contact the Customer Service Centre.

EC legislation (Council Regulation (EC) No. 1290/2005 and Commission Regulation (EC) No. 259/2008) requires the UK to publish details of recipients of CAP subsidy payments on a single website containing:

- * trading title (ie the name in which the claim is made);
- * payments for the year broken down into SPS and related payments, and Rural Development Programme payments, local town and the first three or four digits of the recipient's postcode.

You agree that all information about participation in the English Woodland Grant Scheme and this Contract, including information in your application and grant claims and any other relevant information may be made public.

A list of all the beneficiaries receiving EU grant aid will be published annually. The list will include the name and address of the beneficiary, the operations supported and the amount of grant received.

Any promotional information you produce must acknowledge the grant aid received from the Forestry Commission.

Contracts with a total value over £30,000 for all grants except Farm Woodland Payments and Woodland Management Grant must have plaques erected on site. The plaques will acknowledge the grant aid received from the Forestry Commission via English Woodland Grant Scheme and acknowledge that the EU and Defra provide the funding. We will provide the plaques and agree where they must be located.

Contracts with a total value over £250,000 for all grants except Farm Woodland Payments and Woodland Management Grant must have a board of minimum size A2 erected on site. The board must include details of the scheme, acknowledge the grant aid received from the Forestry Commission via English Woodland Grant Scheme and acknowledge that the EU and Defra provide the funding. We will agree the design and location of the board before it is produced and erected.

37. Governing law

This contract will be governed by the Law of England and subject to the jurisdiction of the courts of England.

Property Name [REDACTED]

Contract Numb [REDACTED]

Case Reference [REDACTED]

GENERAL DETAILS

This scheme contains only a felling licence permission in the form of thinning. All operations will be delivered in adherence to those set out in the UKFS approved management plan EWGS31347.

Property Name

Contract Number

Case Reference

GRANT DETAILS

Felling

Thinning				
Cpt/ Sub-Cpt	Total Area (Ha)	Area of Work (Ha)	Conditional/ Unconditional	End of Felling Approval
1	1.11	1.11	Unconditional	11/Jun/2023
<p>The areas detailed for thinning in this table are 98% broadleaf/ 2% conifer. They will be thinned to promote the retention of trees of best form but will also keep an existing range of native tree and shrub species and to maintain a mix of ages within each species in the compartment. Where old trees are present these will be given additional space by removing competing trees from under their canopy to provide sufficient room to promote a healthy crown.</p> <p>Overall the thinning should retain 65/70% of a fully stocked canopy.</p>				
Cpt/ Sub-Cpt	Total Area (Ha)	Area of Work (Ha)	Conditional/ Unconditional	End of Felling Approval
2	2.45	2.45	Unconditional	11/Jun/2023
<p>The areas detailed for thinning in this table are 98% broadleaf/ 2% conifer. They will be thinned to promote the retention of trees of best form but will also keep an existing range of native tree and shrub species and to maintain a mix of ages within each species in the compartment. Where old trees are present these will be given additional space by removing competing trees from under their canopy to provide sufficient room to promote a healthy crown.</p> <p>Overall the thinning should retain 65/70% of a fully stocked canopy.</p>				
Cpt/ Sub-Cpt	Total Area (Ha)	Area of Work (Ha)	Conditional/ Unconditional	End of Felling Approval
3	2.91	2.91	Unconditional	11/Jun/2023
<p>The areas detailed for thinning in this table are 100% broadleaf. They will be thinned to promote the retention of trees of best form but will also keep an existing range of native tree and shrub species and to maintain a mix of ages within each species in the compartment. Where old trees are present these will be given additional space by removing competing trees from under their canopy to provide sufficient room to promote a healthy crown.</p> <p>Overall the thinning should retain 65/70% of a fully stocked canopy.</p>				
Cpt/ Sub-Cpt	Total Area (Ha)	Area of Work (Ha)	Conditional/ Unconditional	End of Felling Approval
4a	4.25	4.25	Unconditional	11/Jun/2023
<p>The areas detailed for thinning in this table are 100% broadleaf. They will be thinned to promote the retention of trees of best form but will also keep an existing range of native tree and shrub species and to maintain a mix of ages within each species in the</p>				

Agenda Item 5

Property Name [REDACTED]

Contract Number [REDACTED]

Case Reference [REDACTED]

compartment. Where old trees are present these will be given additional space by removing competing trees from under their canopy to provide sufficient room to promote a healthy crown.

Overall the thinning should retain 65/70% of a fully stocked canopy.

Cpt/ Sub-Cpt	Total Area (Ha)	Area of Work (Ha)	Conditional/ Unconditional	End of Felling Approval
4b	0.73	0.73	Unconditional	11/Jun/2023

The areas detailed for thinning in this table are 100% conifer. They will be thinned to promote the retention of trees of best form and 65/70% of a fully stocked canopy.

Cpt/ Sub-Cpt	Total Area (Ha)	Area of Work (Ha)	Conditional/ Unconditional	End of Felling Approval
6a	1.33	1.33	Unconditional	11/Jun/2023

The areas detailed for thinning in this table are 98% broadleaf/ 2% conifer. They will be thinned to promote the retention of trees of best form but will also keep an existing range of native tree and shrub species and to maintain a mix of ages within each species in the compartment. Where old trees are present these will be given additional space by removing competing trees from under their canopy to provide sufficient room to promote a healthy crown.

Overall the thinning should retain 65/70% of a fully stocked canopy.

Cpt/ Sub-Cpt	Total Area (Ha)	Area of Work (Ha)	Conditional/ Unconditional	End of Felling Approval
6b	1.91	1.91	Unconditional	11/Jun/2023

The areas detailed for thinning in this table are 100% broadleaf. They will be thinned to promote the retention of trees of best form but will also keep an existing range of native tree and shrub species and to maintain a mix of ages within each species in the compartment. Where old trees are present these will be given additional space by removing competing trees from under their canopy to provide sufficient room to promote a healthy crown.

Overall the thinning should retain 65/70% of a fully stocked canopy.

Cpt/ Sub-Cpt	Total Area (Ha)	Area of Work (Ha)	Conditional/ Unconditional	End of Felling Approval
7	1.24	1.24	Unconditional	11/Jun/2023

The areas detailed for thinning in this table are 100% broadleaf. They will be thinned to promote the retention of trees of best form but will also keep an existing range of native tree and shrub species and to maintain a mix of ages within each species in the compartment. Where old trees are present these will be given additional space by removing competing trees from under their

Agenda Item 5

Property Name [REDACTED]

Contract Number [REDACTED]

Case Reference [REDACTED]

canopy to provide sufficient room to promote a healthy crown.

Overall the thinning should retain 65/70% of a fully stocked canopy.

Cpt/ Sub-Cpt	Total Area (Ha)	Area of Work (Ha)	Conditional/ Unconditional	End of Felling Approval
8	1.42	1.42	Unconditional	11/Jun/2023

Cpt/ Sub-Cpt	Total Area (Ha)	Area of Work (Ha)	Conditional/ Unconditional	End of Felling Approval
9	0.42	0.42	Unconditional	11/Jun/2023

Property Name: [REDACTED]
Ref: [REDACTED]

WORK SCHEDULE

Only the first seven years of grants will be shown but totals will be correct.

Fund	Work Item Desc.	SubCpt	Parcel Ref	Payment	Total
Felling License Application	Thinning	7, 9, 4b, 2, 3, 4a, 6a, 6b, 8, 1			

Annual Totals



Case Ref


Map 1/1

SO956668

0 20 40 80 120 160
Meters

Scale
1:5,000
on A3 paper

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Ordnance Survey 100021242

	Property Name	[REDACTED]
	Agreement Number	[REDACTED]
	Case Reference	[REDACTED]

Licence To Fell Growing Trees

1. This Licence gives you permission, under section 10 of the Forestry Act 1967 (as amended), to fell only the trees specified for felling and shown on the maps in the agreement document bearing the same case reference as this licence. Trees specified for felling in the agreement document are detailed under the heading Felling.

2. In England, a Felling Licence will not cover the felling of trees to which a Tree Preservation Order applies or which are in a Conservation Area if you have not declared the existence of the Order or Area in the application.

3. This licence is valid until 11/Jun/2023

4. Tree felling marked as **Unconditional** in the agreement bearing the same case reference as this licence is unconditionally approved by this licence.
5. Tree felling marked as **Conditional** in the agreement document bearing the same case reference as this licence will require restocking in accordance with the schedule below.
6. You must tell others involved with the felling about the details in this licence by giving or showing them a copy of this licence along with the felling section and map from the agreement document. If you sell the land you must also tell the new owner about this licence.
7. If a Tree Preservation Order is placed on these trees after this licence is issued you must get the consent of the Local Authority before felling the trees

Signed by Tracy Beattie on 04/DEC/2013

Schedule

1. The land on which the felling takes place or other land specified in the agreement document must be restocked in accordance with the rules and practice of good forestry using:
 - (a) The planting and regeneration operations; and
 - (b) The species of tree specified for the area of land in the Felling section of the agreement
2. Condition 1 above will be carried out by the end of the first full planting season after felling or such other time as specified in the agreement document.
3. For a period of 10 years after planting:
 - (a) The trees will be adequately protected and weeded; and
 - (b) The losses will be replaced to provide a stocking of no less than the minimum required by or otherwise specified in the agreement document

* The normal planting season runs from autumn to spring the following year

THIS IS YOUR
FELLING LICENCE

Rasma Sultana

Legal Officer

Legal, Equalities and Democratic Services

Bromsgrove District Council
Parkside
Market Street
Bromsgrove
Worcestershire
B61 8DA

Redditch Borough Council
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PLEASE NOTE: MY WORKING DAYS ARE TUESDAY - FRIDAY

From: Mike B
Sent: 01 August 2017 09:13
To: Rasma Sultana
Cc:
Subject: Bromsgrove District Council Tree Preservation Order (No 7) 2017

Dear Mrs Sultana

has given me a copy of your letter and Notice of Making a Tree Preservation Order for the trees on land adjoining Harris Brush Works. The areas on the map attached to your letter, which are owned by are W1, W2 and W3. I am the Forestry Consultant for and he has asked that I contact you to explain what our proposals for these woodlands are. The woodlands have only recently been purchased by and I have only had one brief visit to the property. Following my visit I have made the following suggestions to regarding the future management of the woodlands.

Apply to the Forestry Commission for a Woodland Planning Grant. This helps with the cost of drawing up a 20 year Woodland Management Plan which will include all the proposed work programmes in the woodland during that period. As the trees within the wood are relatively young, one of the main operations will be silvicultural thinning, which is urgently required. All thinning operations have to be approved by the Forestry Commission and a Felling Licence will be issued. As well as this the plan will include all other aspect of managing the wood as guided by the United Kingdom Woodland Assurance Scheme (UKWAS) Within the plan there is a section regarding stake holders and obviously you will be a included in this. This means that you will receive a copy of the draft plan which will give you the opportunity to make any comments, before it is approved by the Forestry Commission. Other stakeholders will include the relevant Parish Council and neighbours. This is a very robust system and one that I would recommend as it will ensure positive management of the woodland in the future and I feel that this will be of great benefit to the woodland, rather than a blanket TPO.

If you require any further information then please do not hesitate to contact me. I will send you a hard copy of this e-mail.

Yours sincerely
Mike

Mike Box
Director

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Crown Land

2.4 A TPO may only be made for trees on Crown land¹⁰ with the consent of the appropriate authority.¹¹ In most cases the 'appropriate authority' will be either the Government department managing the land or the Crown Estate (see Annex 1). Section 300 of the Act makes special provision for the making of TPOs on Crown land in anticipation of that land being transferred to a private interest, although again the prior consent of the appropriate authority is required. A TPO made under section 300 takes effect provisionally as soon as the land ceases to be Crown land, but must then be confirmed by the LPA in the normal way (for guidance on confirming TPOs see [Chapter 3](#)).

2.5 Before requesting consent to make a TPO, LPAs are advised to make telephone enquiries to identify the person or office responsible for managing the Crown land in question. Government departments have no objection in principle to the making of TPOs on Crown land, and their consent will not be unreasonably withheld. Any TPO made with the necessary consent applies only to those who hold a private interest in the land and does not bind the Crown. Nevertheless, Government departments will normally consult the LPA before carrying out any work which would otherwise require consent, and take into consideration any comments the LPA wish to make.¹²

2.6 Crown immunity from the planning system will be removed when a suitable legislative opportunity arises. This will include removing the Crown's present immunity from TPO controls. Provision will be made, however, to ensure that Forest Enterprise, the operating arm of the Forestry Commission, are treated in the same way as private landowners who manage their woodlands in accordance with an approved plan of operations, and that Crown bodies continue to be able to meet their statutory obligations.

2.7 Although crown immunity was removed from health authorities in April 1991,¹³ immunity may in fact continue to apply in relation to land which is vested in the Secretary of State for Health.¹⁴ NHS Trusts do not themselves have any crown immunity but, again, where the freehold interest in the land is held by the Secretary of State, crown immunity may apply. Before making a TPO on NHS land, therefore, LPAs are advised to consult the appropriate health authority and seek their consent where necessary. Health authorities will not unreasonably withhold consent, nor seek to defer consent pending disposal of the land.

The Forestry Commission's 'Interest' in Land

2.8 There are limitations to the making of TPOs on land in which the Forestry Commission have an 'interest'. The Act states that the Forestry Commission have an 'interest' in land if, in respect of it:

- (1) there is an existing forestry dedication covenant in force, or
- (2) they have made a grant or loan under section 1 of the Forestry Act 1979.¹⁵

If (1) or (2) applies the Forestry Commission must give their consent before a TPO may be made.

2.9 The main grants currently available from the Forestry Commission for the planting, restocking or management of woodlands are under the Woodland Grant Scheme. In running their schemes the Forestry Commission have proper regard for environmental and amenity considerations, and proposals are assessed by reference to the UK Forestry Standard, incorporating Forest Guidelines, Forest Practice Guides and other standards of good forestry practice.

2.10 The LPA and the Forestry Commission should, where appropriate, liaise closely. If the Forestry Commission wish to accept an area of land into the Woodland Grant Scheme and that land is already the subject of a TPO, they will consult the LPA. If that land is subsequently accepted into the Scheme any felling in accordance with an approved plan of operations or working plan would override the usual requirement to obtain the LPA's consent under the TPO.¹⁶

2.11 For their part, LPAs must consult the Forestry Commission (see [Annex 1](#)) before making a TPO on land in which the Commission have an 'interest', as defined in paragraph 2.8 above. If the LPA identify trees which they would have made subject to a TPO but for the Forestry Commission's 'interest' in the land, they may wish to consider asking the Commission to let them know when that 'interest' in the land is likely to cease.

Local Authority Land

2.12 LPAs may make TPOs in respect of their own trees or trees under their control. Sometimes they acquire land which is already the subject of a TPO. If the LPA (ie any department of the Council as a whole and not just their planning department) propose to cut down or carry out work on protected trees, they may grant themselves consent (for more details see paragraphs [6.76-6.78](#)).¹⁷ In the Secretary of State's view it would very rarely be appropriate for one LPA to make a TPO for trees on land owned by another LPA in their area. Where such a TPO exists the latter would generally have to make an application to the former before cutting down or carrying out work on the trees.

7 See *Bullock v Secretary of State for the Environment* (1980) 40 P&CR 246, where recently coppiced trees were held to be 'trees' under the Act: 'Bushes and scrub nobody I suppose would call 'trees', nor indeed shrubs, but it seems to me that anything which ordinarily one would call a tree is a 'tree' within ... the Act.' (Phillips J.)

8 A view accepted by the Court of Appeal in *Evans v Waverley BC* [1995] 3 PLR 80.

9 See section 97 of the Environment Act 1995 and the Hedgerows Regulations 1997 (SI 1997, No 1160). See also the Department's Guide, *The Hedgerows Regulations 1997: A Guide to the Law and Good Practice*.

10 'Crown land' is defined in section 293 of the Act. Church land is not Crown land.

11 See section 296(2)(a) of the Act.

12 See Part I of the memorandum to DOE Circular 18/84, paragraph 1012.

13 Under section 60 of the National Health Service and Community Care Act 1990.

14 On 1 April 1996, for example (under the Health Authorities Act 1995), regional health authority land was vested in the Secretary of State.

15 See section 200(2) of the Act.

16 See section 200(3) of the Act.

17 See regulation 17 of the 1999 Regulations, which amends the Town and Country Planning General Regulations 1992 (SI 1992, No 1492), bringing to an end the requirement for LPAs to apply to the Secretary of State for consent.

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Bromsgrove District Council

Ref. Tree Preservation order (no 7) 2017
On land adjoining Harris Business Park & Saxon Park

Dear Mrs Sultana,

I am in the process of purchasing plots W4 & W5 on the enclosed plan.

I have no intention of removing trees but wish to manage the area in accordance with Woodland Management Scheme practices ie. Clearing scrub that is blocking rides between now mature trees & coppicing where necessary. If your tree preservation order prevents this I would most strongly object to this order being made permanent.

There is no public access through the area W4 & W5. A public footpath runs along the northern boundary of W4 onto land we already own. Therefore the woodland in question is not a public amenity as such.

Yours faithfully,

11.07.2017
Mangan

BROMSGROVE DISTRICT TREE PRESERVATION ORDER (T) 2017

Drawings

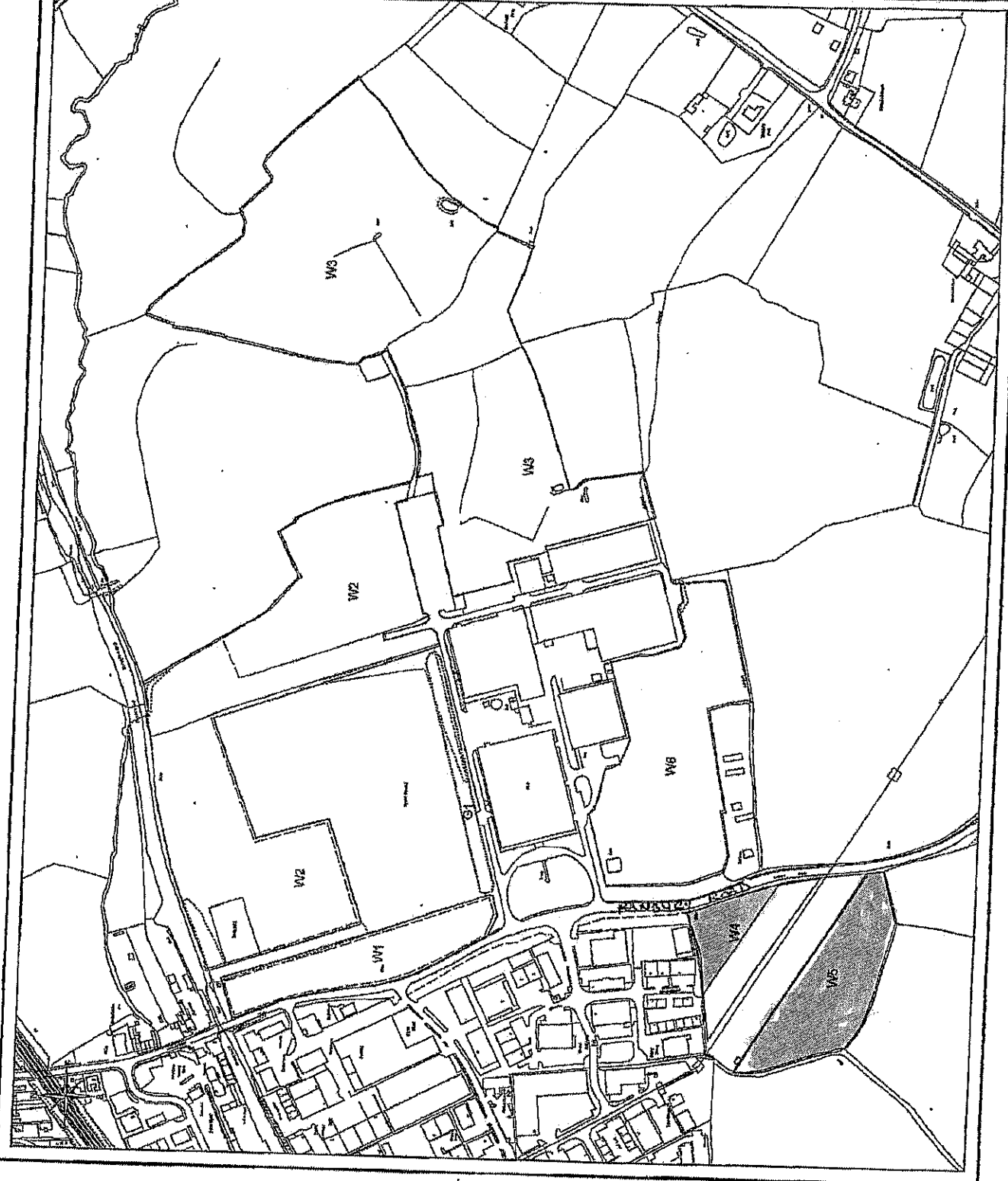
LAND ADJOINING HARRIS BRUSH WORKS AND Saxon BUSINESS PARK HANLEY ROAD, BROMSGROVE

Drawn:	DA	Revised:	1/20/17
Checked:	AM	Date:	20/07/17
Drawing No:	PR00019		

Engineering and Design Services
 100a High Street
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Bromsgrove
District Council

www.bromsgrove.gov.uk

Please contact: Gavin Boyes
Extn: 3094

gavin.boyes@bromsgroveandredditch.gov.uk

17th November 2017

Dear

Re: Tree Preservation Order (7) 2017 on Land adjoining Harris Brush Works and Saxon Business Park.

Firstly my apologies for the delay in sending this response to the concerns you highlighted in your letter dated 25th July 2017. I appreciate your concerns and agree that woodlands ideally need proactive management to ensure that the quality and longevity of the woodland is maintained and assured. Therefore I would look favourably on a Woodland Management Plan being developed for woodland blocks W4 & W5 of this order which you have highlighted are within your ownership. We would wish to work closely with any owner of protected woodlands to achieve such an aim and would therefore not anticipate the tree preservation order on the site unduly preventing this although the Council consent would need to be gained before any work can be undertaken on the sites. We would also look to work closely with the Forestry Commission in supporting a level of work that they feel is required in the best interest of the woodlands management should you approach them for consent to do so.

I fully agree that there is no public access to the woodland blocks W4 & W5 but both woodland blocks are highly visible from the Hanbury Road. Therefore they offer a high degree of visual amenity value to passers-by using this road as well as those using the public footpath to the Northern boundary of block W4. Therefore they I feel they are worthy of being included within this order.

I hope this has allayed your concerns regarding the issues you raised regarding the tree preservation order being raised.

Yours sincerely

Gavin Boyes
Senior Tree Officer

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PLANNING COMMITTEE

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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 with modifications as shown on the plan and schedule attached at Appendix 2.

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. The landowners have indicated, in their letters attached at Appendix 3, that there is a likelihood of statutory challenge.

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.

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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 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 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.**

(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.”

3.4 As set out in 3.3 above, the power to make a TPO is found in section 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 to confirm the order.

The National Planning Practice Guidance (PPG) provides guidance on what ‘amenity’ and ‘expedient’ mean in practice and is attached at Appendix 7. Members are invited to consider this guidance carefully.

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Service / Operational Implications

Background

- 3.4 TPO 11 of 2017 consists of a woodland area, 6 groups and 19 individual trees as shown in the schedule to the order (Appendices 1 and 2). A previous tree protection order (TPO 13 of 2016 – which I will refer to as the ‘2016 TPO’) was made on this site on 3rd August 2016 and confirmed by this committee on 9th January 2017. The 2016 TPO, which is attached at Appendix 10, covered a wider area and was made because of the risk of trees within the TPO being felled. The risks were assessed on the basis of reports from people in the area, actual felling of trees, site visits and a desktop assessment of the landowners.
- 3.5 The 2016 TPO was challenged in the High Court by the landowners, under section 288 TCPA 1990. The 2016 TPO was quashed by consent order, meaning officers, using their delegated powers, agreed that the TPO should be quashed before the courts had a chance to hear the matter. The order was quashed for the reasons stated in the consent order (see Appendix 11) and explained further below:
- (a) 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.
 - (b) Also although it is the Council’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 Council that the attendance of the site visit by the tree officer without the Development Control Manager, as is the usual practice of the Council, was sufficient in the circumstances of this case to give the impression of procedural unfairness.
- 3.6 Officers are still of the view that trees should be protected on the site and TPO 11 of 2017, the current order, was made on 4th of July 2017. Members are asked to confirm the order with modifications, having considered the officer’s assessment of the statutory test, PPG extract, the objections and the letters of support.

Amenity (First Statutory Test)

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- 3.7 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.
- 3.8 Apart from the visual amenity, the trees offer a high level of habitat and biodiversity value to the area as they include a woodland and small group of orchard trees and have great present and future potential amenity to residents and visitors (both present and future) of the site. The trees are also valuable in their own right as can be seen on the site visit and in the TEMPO Tree Evaluation attached at Appendix 13.
- 3.9 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)

Woodland is defined by the Forestry Commission and the UK Government in the UK Forestry Standard and national Forestry Statistics (2016) 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’

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. The woodland area chosen for the current TPO (11 of 2017) is relevant to the nature and density of valuable tree stock on the site.

Expediency (Second statutory test)

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3.10 Expediency relates, as shown in the PPG extract in Appendix 7, to the risk of trees being felled, pruned, or damaged in ways that would have a significant impact on the amenity of the area. Protection of trees on this site started in July/August 2016. As stated the 2016 TPO was instigated as a result of reports from residents in the area about cutting down of trees. Officers researched the landowners and the site, and concluded that a provisional tree preservation order was justified. Visits to the site following the provisional order showed that trees had been felled on site (see for example the photographs taken in August 2016 which appear to show freshly cut trees - Appendix 12) and members were asked to confirm the 2016 TPO, which they did.

3.11 The current order is a continuation of the process started in 2016 to protect the trees on this site and nothing has happened to change the officers' view of the risk of the loss of the trees. Officers are of the view confirmation of the order, subject to the modifications requested and, in light of the statutory test and national guidance, is justified.

Modifications

3.12 The modifications are made to avoid the risk of non-compliance with the consent order attached at Appendix 11. The consent order was made on the basis that the tree preservation order following the 2016 TPO would be no more restrictive than the plan and schedule attached to the order. Provisional TPO 11 (2017) is less in extent than the plan attached to the consent order but contains a group of trees (formerly labelled G2) which was not on the plan attached to the consent order. Officers were initially of the view that this addition did not breach the terms of the consent order but, to avoid the risk of breach of the consent, ask members to agree to the removal of trees at the confirmation stage.

3.13 Other modifications have also been made to clarify the plan and schedule.

4.0 Representations Received (Objections)

4.1 The following objections/representations have been received in respect of the Bromsgrove District Council TPO (11) 2017 see appendix (3).

4.2 Objections and representations on behalf of Access Homes Limited, the owners of the site, during this process:

(a) Letter from Harrison Clark Rickerbys Solicitors dated 6th July 2017.

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- (b) Letter from Harrison Clark Rickerbys Solicitors dated 4th August 2017.
 - (c) Letter from Harrison Clark Rickerbys Solicitors dated 2nd November 2017 containing a draft letter before action.
 - (d) Letter from Harrison Clark Rickerbys Solicitors dated 6th November 2017.
 - (e) Letter before action from Harrison Clark Rickerbys Solicitors dated 16th November 2017.
 - (f) Report objection from Barton Hyett Associates dated 28th July 2017.
- 4.3 An e-mail objection dated 4th August 2017 has been received from Mr Fell, the occupier of 73 Linhurst. See appendix (4)
- 4.4 The letters from Harrison Clark Rickerbys address a number of legal points which will be summarised, along with the officers' responses below. My comments in relation to the substantive tree-related points raised in the objection from Barton Hyett Associates and Mr M Fell are as follows:
- (a) The large proportion of trees within the site are visible from a number of public vantage points around the site including Linhurst Road, Foxes Close and Public Foot Path to the North of the site (see the map attached at Appendix 6 highlighting the location of the public footpath to the North of 73 Linhurst Newtown, Appendix 9 photographs of site and Appendix (8) showing the locations from which the photographs were taken). They are also visible from a number of local properties and gardens. Therefore, I feel that the trees do offer an acceptable level of public visual amenity value and it is appropriate and in the interest of the amenity of the area to make the order.
 - (b) 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 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. The PPG indicates that these other factors are relevant to an assessment of

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amenity but they are not alone sufficient to warrant making an order. The 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. 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.

- (c) 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 photographs and plan and Appendices 6,8 and 9). 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 the order in the interest of amenity.
- (d) 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. The PPG states:

“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. The 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”.

- (e) 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

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visible from a public place or individually visible there is justification for their inclusion within the order in view of their size and form, present value and future potential as an amenity and contribution to the landscape and the character of the area.

- (f) The TEMPO assessment chart showing how the trees were graded in terms of condition, longevity, visibility, expediency and other factors are attached in appendix 13. The TEMPO assessment was sent to Access Homes Limited on 22 August 2017 further to an information request.

4.5 Email received from Mr Matt Fell dated 4th August 2017 as shown Appendix 4. My comments in relation to the points raised within the letter are as follows:

- (a) 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.
- (b) 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.
- (c) 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 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.
- (d) 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, contribution to and relationship with the landscape and benefit they provide to the character of the area.

4.6 Officers' (legal and environmental) responses to the legal objections in Harrison Clark Rickerbys Solicitors are as follows:

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- (a) Service: the service on the wrong company was an error and does not appear to have prejudiced the landowners in any way since they have submitted several objections during this process. The landowner was sent the current order immediately the officers became aware of the error.
- (b) Whether the order is more restrictive than the plan attached to the Consent Order dated 20th June 2017 (Appendix 11): This point is dealt with in paragraph 3.12 of this report and the requested modifications.
- (c) Legal fees: The legal fees have now been paid and this issue is not relevant to committee's considerations.
- (d) Lack of reasons for the current order: This complaint has been superceded as the officer has sent the landowner a copy of the TEMPO report and through the November report, the landowner is well aware of the Council's reasoning for the provisional order. The Council has invited comments from the landowner even outside the 28 day statutory period.
- (e) Selection of consultees: Officers consider this point to be without merit and note that it is not pursued in subsequent correspondence. The complaint appears to be aimed at the fact that the Council notified neighbouring occupiers of the TPO. As demonstrated by the extract below, this is entirely in accordance with the regulations and guidance.

"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;

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(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.

From the PPG:

Who must the local authority inform?

The 'persons interested in the land affected by the Order' are every owner and occupier of the land on which the protected trees stand and every other person the authority knows is entitled to carry out certain works to any of those trees or in relation to the affected land.

The authority may decide to notify other people, groups, authorities and organisations (such as parish councils and the Forestry Commission). It can also consider displaying site notices.

Paragraph: 032 Reference ID: 36-032-20140306

Revision date: 06 03 2014

- (f) Various freedom of information requests and complaints: These have been dealt with and continue to be dealt with by the Freedom of Information team. The plan requested in the letter of 2nd November 2017 and other letters is considered relevant to the committee's considerations and is attached at Appendix 8.

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4th December 2017

- (g) Material errors of fact (tree felling): The level of threat to the trees is summarised in paragraphs 3.4, 3.10 and 3.11 of this report. Also, the threshold for deciding whether there are risks to the trees is contained in the PPG at appendix 7 of the report of the report. Although some of the detail in the last report has been streamlined especially excessive detail about the 2016 TPO, which has now been quashed, officers consider that there is sufficient threat for the current TPO to be confirmed.
- (h) Material errors of fact (Identity of landowner and speculations about its intentions): This has largely been removed from the report as stated the threat to the trees is summarised in paragraphs 3.4, 3.10 and 3.11 of the report to be considered along with the guidance in the PPG.
- (i) Material errors of fact (previous legal challenge): This has been accurately reported in the report (see paragraph 3.12). Members are reminded that the 2016 TPO has been quashed by consent and that they are being asked to consider a new order.
- (j) Visibility from private gardens, TEMPO assessments and Guidance: The first two of these points are substantive tree-related points rather than legal or procedural points. The amenity test, including the TEMPO assessment, have been dealt with in paragraphs 3.7 to 4.5 of this report. The definition of woodland is contained in the Forestry Commission's Forestry Statistics (2017) is contained in Appendix (14) of this report and does not differ from the guidance contained in paragraph 3.6 of this report or from last month's report.
- (k) Photographs taken on 10th August 2016 attached to November 2017 update (and appendix 13 of this report): This point appears in Harrison Clark Rickerbys letter of 16th November 2017 and is, in the officers' view, without merit. I visited the site, in relation to the 2016 TPO, and concluded that there was no risk. The part of the site I visited was immediately area immediately around the driveway entrances to 73 Linthurst Newtown and gated entrance to the adjoining field, where work was reportedly being under taken to improve the access to 73 Linthurst Newtown. My colleague, Andrew Bucklitch visited the site on 10th August, following further complaints and after the making of the 2016 order and saw and photographed evidence of tree cutting. There is no 'mislabelling' of the photographs.

Officers consider that allegations of bias, deliberate frustration of the process and failure to advise the committee properly are untrue and unsubstantiated.

PLANNING COMMITTEE

4th December 2017

Amendments have been made to officer's report for the purpose of streamlining the information given to members and condensing it, as much as possible, to information relevant to the decision to confirm the TPO and information required by legislation.

5.0 Representations Received (Support)

- 5.1 We have received 21 correspondence of support for the order from local residents as summarised in Appendix 5.
- 5.2 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 with modification set out in Appendix 2.

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 Proposed Modified order and schedule

PLANNING COMMITTEE

4th December 2017

- Appendix 3 – Copy of Objections to BDC TPO (11) 2017 from Harrison Clark Rickerbys Solicitors and Barton Hyett Arboricultural Consultants
- Appendix 4 – Copy of Objection from Mr Fell Dated 4th August 2017
- Appendix 5 – Summary of positive representations
- Appendix 6 – Plan showing location of Public Footpath
- Appendix 7 – Copy of National Planning Policy Guidance: extract on Tree Preservation Order
- Appendix 8 - Plan of vantage points from which photographs were taken
- Appendix 9 – Photographs of trees from local vantage points
- Appendix 10 – Copy of TPO 13 (2016)
- Appendix 11– Copy of consent order dated 20 June 2017
- Appendix 12 – Photographs of trees which had been cut on site taken on 10 August 2016
- Appendix 13 – TEMPO Assessment
- Appendix 14 – Forestry Commission Statistics Information.

10. BACKGROUND PAPERS

Copy of representations summarised in Appendix 5 – please contact Gavin Boyes or see representations in this link - <http://svmodern.gov.bromsgrove.gov.uk:9072/documents/s34582/Appendix%206%20-%20Messages%20of%20Support.pdf>

11. KEY

TPO - Tree Preservation Order

AUTHOR OF REPORT

Name: Gavin Boyes
Email: 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 4th July 2017

Signed on behalf of Bromsgrove District Council


.....
CLARE FLANAGAN

Authorised by the Council to sign in that behalf

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

Groups of trees

(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
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

Trees specified by reference to an area

(within a broken black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>NGR</u>	<u>Situation</u>
-------------------	--------------------	------------	------------------

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

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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
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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

Groups of Trees

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

Trees specified by reference to an Area

(within a broken black line on the map)

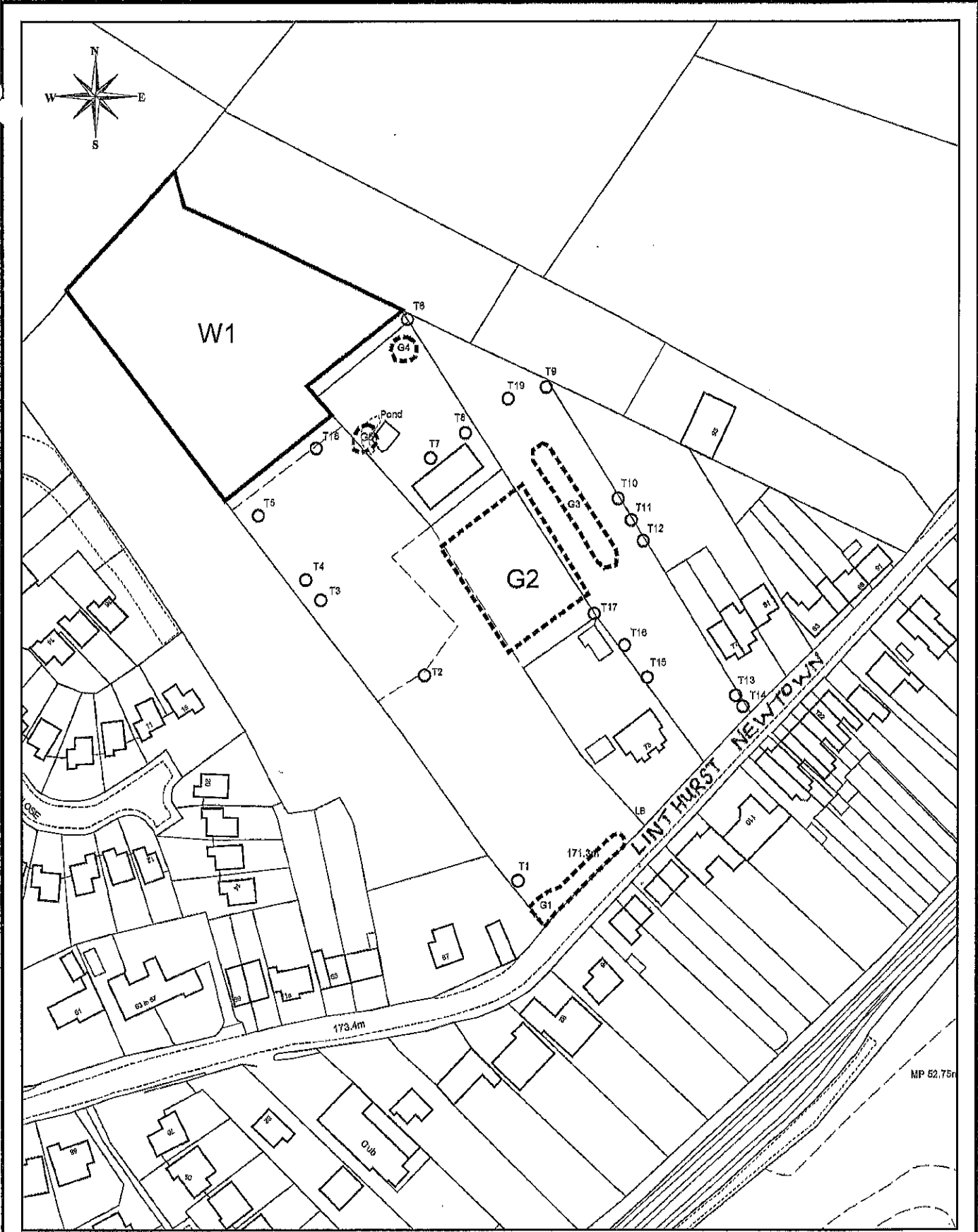
<u>No. on Map</u>	<u>Description</u>	<u>NGR</u>	<u>Situation</u>
-------------------	--------------------	------------	------------------

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



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Project: **Bromsgrove District Council Tree Preservation Order (11) 2017**

Drawing: **Land Adjoining 73 Linthurst Road Blackwell**

Drawing No: **P0000/0**

Drawn: **G.B.**

Scale: **1/1250 @ A4**

Date: **06/11/2017**

Engineering and Design Services
Town Hall
Water Straz Square
Redditch
Worcs B98 8AH

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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



**Institute of
Chartered Foresters**
registered



**Arboricultural
ASSOCIATION**
Professional Member
MEMBER PR989

Unit 5E, Deer Park Business Centre, Eckington, Pershore, WR10 3DN
Tel: 01386 576161
Email: enquiries@barton-hyett.co.uk
Website: www.barton-hyett.co.uk

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3.	GROUNDS FOR OBJECTION	4
4.	CONCLUSIONS	8

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.

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

Instead, the Council appears to have served the TPO on the previous owners, Freefield Investments Limited, who have no legal interest in the land affected by the TPO.

We are also aware that, despite the omission to serve the landowners with copies of the TPO in accordance with the statutory requirements, the Council has served adjoining landowners with copies of the TPO.

In the circumstances, we require:

1. The Council provides us with copies of the correspondence sent to the adjoining landowners and any other parties, with a list of all parties served with a copy of the TPO.
2. The Council pays our client's legal costs in accordance with the Consent Order within the next two working days.

We also reserve our client's position with regard to the TPO being, in part, more restrictive than the form of tree preservation order annexed to the Consent Order, in breach of the Consent Order. In particular we draw your attention to the trees identified as "G2" on the TPO Schedule and Plan, being three Ash Trees which were not identified in the document annexed to the Consent Order.

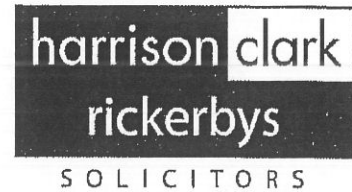
We look forward to receiving the copies of correspondence requested and payment of legal costs by return.

Yours faithfully

Harrison Clark Rickerbys

HARRISON CLARK RICKERBYS LIMITED

Your reference:
Our reference: RA03.ACC0014-0001
Direct email: randrews@hcrlaw.com



4th August 2017

FAO Mrs R Sultana
Bromsgrove District Council
Legal Services
Market Street,
Bromsgrove,
Worcestershire
B61 8DA

5 Deansway, Worcester WR1 2JG
Telephone: 01905 612001
Fax: 01905 744899
DX: 716260 Worcester 1
Direct Line: 01905 744888
PLANNING TEAM

DELIVERED BY HAND AND EMAIL: r.sultana@bromsgroveandredditch.gov.uk

Dear Sirs,

OBJECTION to Bromsgrove District Council Tree Preservation Order (11) 2017 dated 4th 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 4th 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 Colthorpe 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 6GF
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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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 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 20th 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;

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 21st 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

HARRISON CLARK RICKERBYS LIMITED

Encl - Barton Hyett objection

Your reference:

Our reference: RA03.ACC0014-0001.RA

Direct email: randrews@hcrilaw.com



2 November 2017

BY SPECIAL DELIVERY BY 1PM

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PLANNING TEAM

BY POST AND EMAIL

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Dear Sirs

LETTER BEFORE ACTION – CONTEMPT OF COURT AND SECTION 288 CHALLENGE

**TREE PRESERVATION ORDER (NO. 11) 2017
TREES ON LAND ADJACENT TO 73 LINTHURST NEWTOWN, BLACKWELL**

We are instructed by Access Homes LLP in relation to Bromsgrove District Council's ("the Defendant") unlawful actions in reporting to its Planning Committee on the merits of Tree Preservation Order (No. 11) 2017 ("the TPO").

The consent order dated 20 June 2017 ("the Order") includes a requirement that any replacement TPO "*shall be no more restrictive than the plan and schedule attached to [the Order] at Schedule 3*". As such, any new TPO is required by the Order to be no more restrictive than the TPO quashed as a result of that Order. However, the proposed new TPO seeks to include three Ash trees within group 'G2' which were not included on the quashed TPO. As such, the new TPO includes additional trees which were previously not protected and is accordingly 'more restrictive' in direct contravention of the Order.

Breach of a court order is a serious matter and renders the Council in contempt of court. Any adoption of the proposed new Order would therefore put the Council at risk of an application by Access Homes LLP for committal for contempt of court.

Additionally, the Council has failed to advise the Committee in a way which is impartial, transparent, fair, or provides adequate (or any proper) reasoning for the recommendation made. The Council is promoter of the TPO and is also determiner of the TPO and therefore has an enhanced duty to act judiciously and without prejudice, which it has not.

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Agenda Item 6

In addition to the potential liability for contempt, should the Council proceed to adopt the TPO on the basis of the officer's report as written, any decision based upon such a report would be vulnerable to challenge pursuant to s.288 of the Town and Country Planning Act 1990 on the bases set out within the draft letter below.

What follows is a draft letter before claim in accordance with the pre-action protocol under the Civil Procedure Rules. Should the Council proceed to make the TPO on Monday 6 November, the letter will be issued formally and Access Homes will also consider service of an application based on the Council's contempt of court.

In any event, Access Homes also requests disclosure of the following documents which are considered to fall well within the Council's duties under the Environmental Information Regulations 2004 and will in any event become disclosable under the Council's duty of candour should proceedings be issued:

- (a) All written reports and site notes regarding the TPO and / or Bromsgrove District Council Tree Preservation Order (No. 12) 2016 – Tree/s on land at side and rear of 73 Linthurst Newton, Blackwell dated 12th January 2017, and the provisional Tree Preservation Order relating to the same site served in August 2016, relating to the visits made to site by tree officers Gavin Boyes and Andy Bucklitch or other officers involved. In particular, documentation relating to the assessment of the trees at the site as suitable for a tree preservation order (sometimes referred to as an amenity value assessment). The above request is for the disclosure of all written reports and site notes which are not annexed to the Report or the Committee Report dated 9th January 2017.
- (b) Any letters and emails sent to and received from the above officers and notes of any meetings or telephone conversation by or with the above officers in relation to the TPO and / or Bromsgrove District Council Tree Preservation Order (No. 12) 2016 – Tree/s on land at side and rear of 73 Linthurst Newton, Blackwell dated 12th January 2017, and the provisional Tree Preservation Order relating to the same site served in August 2016, and in particular communications to and / or from planning officers, local councillors (District and Parish), their clerks or staff, and residents. The above request is for the disclosure of all written reports and site notes which are not annexed to the Report or the Committee Report dated 9th January 2017.
- (c) A plan showing the locations from where all the photographs provided at Appendix 9 of the Report were taken, and confirmation of who took each of the photographs in question.

Given the proposed site visit and Planning Committee meeting are due to take place on Monday 6th November, the Council is required to confirm by no later than noon on Friday 3 November 2017 that this item will be withdrawn from the Planning Committee agenda for 6 November 2017 and that if the Council wishes to proceed to protect the trees on the site, steps will be taken to support any such new TPO with a legally compliant officer's report.

Yours faithfully

Harrison Clark Rickerbys

HARRISON CLARK RICKERBYS LIMITED

BY SPECIAL DELIVERY BY 1PM

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PLANNING TEAM

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Dear Sirs

LETTER BEFORE ACTION – CONTEMPT OF COURT AND SECTION 288 CHALLENGE

TREE PRESERVATION ORDER (NO. 11) 2017

TREES ON LAND ADJACENT TO 73 LINTHURST NEWTOWN, BLACKWELL

1. THE CLAIMANT

Access Homes LLP, The Exchange, Haslucks Green Road, Shirley, Solihull, West Midlands, B90 2EL.

2. DEFENDANT'S REFERENCE DETAILS

Defendant's reference: Tree Preservation Order (11) 2017

Defendant's Legal Officer: Tracy Lovejoy

3. DETAILS OF THE CLAIMANT'S LEGAL ADVISERS

Harrison Clark Rickerbys Limited, 5 Deansway, Worcester, WR1 2JG.

Reference: RA03.ACC14-1

4. DETAILS OF THE MATTER BEING CHALLENGED

The decision taken by Bromsgrove District Council ("the Defendant") to report to its Planning Committee on the merits of Tree Preservation Order (No. 11) 2017 ("the TPO") in a way which is not impartial, transparent, nor fair, nor which provides adequate reasoning for the recommendation made.

5. DETAILS OF ANY INTERESTED PARTIES

None.

6. THE ISSUES

The Defendant has published a report to its Planning Committee to consider the confirmation of the TPO without modification ("the Report"), however the Report has not been prepared to the standard required by law.

The Report contains a number of misleading statements, inaccuracies, omissions, irrelevant and misleading photographs, and fails to provide adequate reasons for the recommendation made. Further, the Report clearly demonstrates that the applicable law has been misinterpreted and misapplied.

These legal errors include:

(a) Inaccurate and misleading statements:

- a. Tree Felling: At paragraph 3.6, the Report states that trees had been felled on the site prior to the making of the provisional Tree Preservation Order in August 2016. This is factually incorrect: it was primarily scrub clearance on the land and no mature trees had been felled, as was confirmed by the Defendant's Tree Officer on a site visit. Trees had been felled within the garden of 73 Linthurst Newtown, however this property is in separate ownership, and does not form part of the site covered by the TPO. This statement, together with the similar statement at paragraph 4.3, and the reference in paragraph 4.6 of the Report to the "**level of work that was being gradually undertaken**" is designed to mislead the Planning Committee in relation to the justification for the TPO and to justify the Tree Officer's perception of a 'threat' to any trees on the site as discussed below.
- b. Identity of landowner: At paragraph 3.6 the Report states that the owner of the site 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**'. This statement is made without any evidential foundation and is extremely misleading. Although the Defendant is an investment company owning real estate, it primarily owns let residential properties. It has not applied for planning permission nor sold sites on for development. The Report also claims that the Defendant is '**under the management of the Fell Family**', which is a false statement – the Defendant is a partnership where 50% is owned by an unrelated party.
- c. Speculation about landowner and its intentions: Although the Planning Practice Guidance confirms that local planning authorities may consider development pressures and landowner's intentions when considering whether it is expedient to make a tree preservation order, the statements in paragraph 4.3 of the Report that "**the nature of the companies owning the land are understood to specialise in acquisition of land for then onward sale once outline planning permission has been granted**" and that "**it was reasonable to assume the site would be largely cleared of tree**

stock to accommodate development on the site" are without evidential basis. The Report also justifies the making of the TPO at paragraph 4.6 by reference to "*the known nature of the companies who own the land*", and so this speculation has clearly played a large part in the Officer's decision-making process. The Report fails to mention the fact that the landowners have cooperated and engaged with the Claimant throughout, and were prepared to accept a tree preservation order over a number of trees on the site. These statements and omissions are designed to mislead the Planning Committee and to taint the Planning Committee's perception of landowner.

- d. Previous legal challenge: The description of the previous legal challenge in paragraph 3.8 of the Report fails to note that the previous Tree Preservation Order was quashed as it was unlawfully made, and the Council paid the Claimant's costs of bringing the challenge. It must be made clear to the Planning Committee that the Claimant's actions in bringing the previous legal challenge were correct and justified due to the Defendant's legal errors. The wording of paragraphs 3.6 to 3.8 of the Report suggest that the Claimant was unjustified in bringing the legal challenge, which serves to further mislead the Planning Committee.

Moreover, the report is materially misleading in failing to draw the Committee's attention to the serious consequences should the Council adopt a TPO which is in breach of a court order. Far from being "not a relevant matter" (per paragraph 4.8 of the Report), this is a material consideration of considerable weight. Committee members should be made aware of the grave consequences of proceeding in contravention of a court order.

(b) Misinterpretation of law and planning policy:

- a. Visibility from private gardens: The Report refers to views of the trees proposed to be protected from private gardens in a number of places, including paragraphs 4.4, 4.7, 4.10, 4.17, and a number of the photographs provided at Appendix 9 to the Report. The merits of the TPO must be considered on the basis of the public amenity, and any amenity provided to private properties cannot provide a lawful consideration for the confirmation of the TPO. The Report is misleading the Planning Committee and there is a significant risk of the Planning Committee taking unlawful considerations into account as a result.
- b. Tempo Assessment: All the trees are marked in the Tempo Assessment has having an 'expediency' score of 3, which is the equivalent of a 'foreseeable threat'. If the threat were marked accurately, the 'expediency' score should be reduced, which would push a number of the trees below the threshold for suitability for inclusion in the TPO. Additionally, a degree of visibility is given to trees T5, T6, T7, T8, T9, T18, and T19, where these trees are not visible at all from public places.
- c. Guidance: Paragraph 3.5 of the Report provides a quote from the UK Forestry Standard and National Forestry Statistics which refers to the definition of woodland including '*woodland scrub*'. This is an incorrect quote, and this reference is in neither the 2011 nor 2017 versions of the guidance.

- (c) Failure to justify the extent 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, particularly in view of the clear and reasoned objection made on behalf of the Claimant by Barton Hyett Associates (attached at Appendix 3 to the Report). It has been admitted at paragraph 4.18 of the Report that "***not all the trees are visible from a public place***", but the Report concludes that the trees merit protection by reason 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***". Any justification on these grounds must be explained to the extent that the reasoning cannot be adequately determined from the public documents prepared for the Planning Committee, which reasoning has not been provided in the Report.

It is further materially misleading to introduce the concept of 'rarity', 'cultural or historic value' and 'contribution to the landscape' within the conclusions of the Report without any evidence whatsoever to support an assertion that the trees are in any way rare, have cultural or historic value or make a contribution to the landscape (as distinct from visual amenity). The inclusion of this paragraph suggests to the Committee that some assessment has been made of these criteria, which does not appear to be the case, or in any event such assessment is not before the Committee.

The Planning Committee is due to consider the Report at its Committee Meeting on Monday 6th November 2017, however for the reasons set out above the Report is legally flawed. The errors made go to the heart of the matter which the Planning Committee will be considering, and so any decision made on the basis of the Report will be unlawful.

The effect of the Report is to significantly mislead the Planning Committee about material matters and the law relating to the TPO. The way the Report has been drafted, together with the photographs taken from neighbouring properties, raises questions about the impartiality of the author, and gives the appearance of bias.

The Court may properly exercise a higher degree of scrutiny of the Defendant's conduct in relation to tree preservation orders and apply an enhanced duty to deal with objectors fairly and openly on the basis that the Defendant is both promoting the TPO and determining objections made against it, in accordance with the case of *Wilkson Properties v Royal Borough of Kensington and Chelsea [2011]*.

There is a duty for the Defendant to give reasons for the recommendation given in the Report where the reasoning cannot be adequately determined from the public documents prepared for the Planning Committee, as was established by the case of *Oakley v South Cambridgeshire District Council [2017]*.

If the Report were presented in a lawful way, it is highly likely that the Planning Committee would come to different decision.

7. ACTION THE DEFENDANT IS EXPECTED TO TAKE

The Council is expected to sign a consent order agreeing to the quashing of any new TPO made on 6 November 2017.

Given the clear prejudice shown by Tree Officers, Andy Bucklitch and Gavin Boyes, whose independence as promoters of the TPO is irrevocably tainted, any further TPO should be supported by a report authored by an alternative Tree Officer or alternatively an independent and appropriately qualified expert.

8. DETAILS OF ANY DOCUMENTS THAT ARE CONSIDERED RELEVANT AND NECESSARY

The Claimant asks the Defendant to provide within one week of the date of this letter (and before any consideration of this matter by Planning Committee):

- (d) All written reports and site notes regarding the TPO and / or Bromsgrove District Council Tree Preservation Order (No. 12) 2016 – Tree/s on land at side and rear of 73 Linthurst Newton, Blackwell dated 12th January 2017, and the provisional Tree Preservation Order relating to the same site served in August 2016, relating to the visits made to site by tree officers Gavin Boyes and Andy Bucklitch or other officers involved. In particular, documentation relating to the assessment of the trees at the site as suitable for a tree preservation order (sometimes referred to as an amenity value assessment). The above request is for the disclosure of all written reports and site notes which are not annexed to the Report or the Committee Report dated 9th January 2017.
- (e) Any letters and emails sent to and received from the above officers and notes of any meetings or telephone conversation by or with the above officers in relation to the TPO and / or Bromsgrove District Council Tree Preservation Order (No. 12) 2016 – Tree/s on land at side and rear of 73 Linthurst Newton, Blackwell dated 12th January 2017, and the provisional Tree Preservation Order relating to the same site served in August 2016, and in particular communications to and / or from planning officers, local councillors (District and Parish), their clerks or staff, and residents. The above request is for the disclosure of all written reports and site notes which are not annexed to the Report or the Committee Report dated 9th January 2017.
- (f) A plan showing the locations from where all the photographs provided at Appendix 9 of the Report were taken, and confirmation of who took each of the photographs in question.

The Defendant is reminded of its strict duty of candour in this respect.

9. THE ADDRESS FOR REPLY AND SERVICE OF COURT DOCUMENTS

Harrison Clark Rickerbys Limited, 5 Deansway, Worcester, WR1 2JG. Correspondence to be sent for the attention of Mrs R. Andrews, quoting reference: RA03.ACC14-1

Yours faithfully

HARRISON CLARK RICKERBYS LIMITED

Your reference:

Our reference: RA03.ACC0014-0001.RA

Direct email: randrews@hclaw.com



6 November 2017

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PLANNING TEAM

BY EMAIL

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Dear Sirs

**TREE PRESERVATION ORDER (NO. 11) 2017
TREES ON LAND ADJACENT TO 73 LINTHURST NEWTOWN, BLACKWELL**

We refer to your letter of today's date, received by email at 1pm.

Thank you for confirming that the group of trees named 'G2' will be removed from the TPO (11) of 2017, however your letter and the update to Committee published on the Council's website this afternoon fail to address the vast majority of legal issues raised in our letter of 2nd November 2017.

The update to Committee does, in fact, raise a number of new issues about the way this matter has been dealt with by the Council, including the inclusion of a number of new photographs taken on 10th August 2016. These photos are extremely misleading as the titles suggest they relate to works carried out in August 2016, where this is not the case.

The reason for the inclusion of these photographs is not explained in the update to Committee, however we presume that this is intended to be some sort of evidence of that works were taking place on the site which warranted the original TPO being imposed. In fact, these photographs show the works carried out in July 2016 prior to any TPO being made, which were entirely lawful and primarily scrub clearance, as was noted in Gavin Boyes' Statement appended to the Committee Report in January (copy annexed hereto for ease of reference), where he states the works carried out had "*no detrimental influence on tree stock in the area*".

The inclusion of these photographs is, again, intended to mislead the Planning Committee as to the nature of works carried out on site, which is unlawful.

It is also noted that this new information was only provided a few hours before the Committee Meeting, and after the site visit had taken place, and so did not give sufficient opportunity for our

clients to respond on the new documents provided. This clearly prejudices our client and its ability to take advice and respond.

We also note that Gavin Boyes is due to be present at the Committee Meeting which shows a total disregard for the issues we have raised in relation to the independence of the Council's Officers as promoters of the TPO and the TPO being irrevocably tainted as a result.

It is also noted that the photographs had failed to be disclosed as part of our client's previous request for information under the Environmental Information Regulations 2004, in breach of those regulations.

The Committee Report and Committee Update remain legally flawed for the reasons set out in the draft letter before claim attached to our letter of 2nd November 2017. The site visit made by the Planning Committee this morning is also legally flawed as a result of the errors, and any decision made by the Planning Committee based on the Report, the Update, and the site visit would also be unlawful and susceptible to legal challenge.

Yours faithfully

Harrison Clark Rickerbys

HARRISON CLARK RICKERBYS LIMITED

Appendix A

Statement of events on 29th July 2016 reference land / vegetation management works on land adjoining the South-Westerly side of 73 Linthurst Newtown, Blackwell B60 1BS

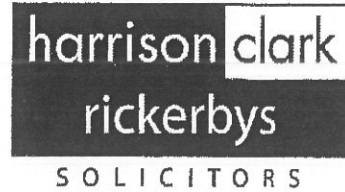
Statement by: Mr Gavin Boyes, Senior Tree Officer, Bromsgrove & Redditch Councils

- We received an enquiry recorded on M3 reference number 201628462 on the 29th July 2016 from a concerned local resident of Linthurst Newtown reporting that a digger was working on land to the side of 73 Linthurst Newtown. The reporting resident was concerned that work may be being carried out to clear the land ready for development.
- Having checked the status of the land it was clear that there were no active TPO or conservation area restrictions on the site but it was under Green Belt designation.
- I therefore visited the site to investigate what work was being carried out, arriving at the site at approximately 11am on the 29th July 2016. I found a single workman on a small tracked 360 degree turn digger spreading type one grade road stone on a gateway entrance to the land immediately adjoining the South-Westerly side of the drive way serving 73 Linthurst Newtown. In addition to this work there was evidence of other work having taken place in light shrub and small tree clearance within the main body of the land immediately beyond the gated entrance to the field. This also appeared to be very recent and most likely undertaken that morning.
- On approaching the digger driver to gain information on the level and reason for the work he informed me that he was carrying out the work on behalf of the owner of 73 Linthurst Newtown who he advised was at home. I knocked on the door of this property with but no response came. The digger driver then phoned the resident on his mobile phone who then came out of the property to discuss the works.
- The owner was a Mr Fell who advised me he was only carrying out some work, partly to improve the entrance area to the field but mainly to improve the access to the driveway of 73 Linthurst Newtown as his wife particularly had found the entrance very tight to access and with low visibility when exiting the property. He indicated that the level of work intend was that which had been already carried out and was near to completion.
- This seemed a perfectly plausible explanation for this work and the level of work carried out had not had any detrimental influence on the major tree stock in area so the appeared no reason to pursue the matter further at that time.
- On return to the office I raised M3 enquiry number 201628462 to record my finding on site. Also as I was due to be on leave for the following two weeks I made my colleagues in the tree team aware of the enquiry and results of my site visit in case any additional issues may arise.

Your reference:

Our reference: RA03.ACC0014-0001.RA

Direct email: randrews@hclaw.com



16 November 2017

BY SPECIAL DELIVERY BY 1PM

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PLANNING TEAM

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Dear Sirs

LETTER BEFORE CLAIM – SECTION 288 CHALLENGE

TREE PRESERVATION ORDER (NO. 11) 2017

TREES ON LAND ADJACENT TO 73 LINTHURST NEWTOWN, BLACKWELL

We are instructed by Access Homes LLP in relation to Bromsgrove District Council's ("the Defendant") unlawful decision to rely on its report and update to its Planning Committee on the merits of Tree Preservation Order (No. 11) 2017 ("the TPO") in its Planning Committee Meeting on 6th November 2017.

The Defendant has failed to advise the Planning Committee in a way which is impartial, transparent, fair, or provides adequate (or any) reasoning for the recommendation made, and fails to accurately map and identify trees to be protected (and not protected). Further, the Defendant is promoter of the TPO and is also determiner of the TPO and therefore has an enhanced duty to act judiciously and without prejudice, which it has not.

Although the Defendant's Planning Committee resolved to defer the consideration of the merits of the TPO to a future Committee Meeting, we consider it to be firmly within the aims of the pre-action protocol to serve a formal letter before claim at this stage give the Defendant the opportunity to:

- a) understand and properly identify the issues in dispute in the proposed claim and share information and relevant documents;
- b) make informed decisions as to whether and how to proceed;

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Cheltenham F. 01235 822000
Hereford T. 01432 366000
Thames Valley T. 01895 200000
Worcester T. 01905 744000
Wye Valley T. 01938 546000

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- c) try to settle the dispute without proceedings or reduce the issues in dispute; and
- d) avoid unnecessary expense and keep down the costs of resolving the dispute.

This is a formal letter before claim in accordance with the pre-action protocol under the Civil Procedure Rules.

1. THE CLAIMANT

Access Homes LLP, The Exchange, Haslucks Green Road, Shirley, Solihull, West Midlands, B90 2EL.

2. DEFENDANT'S REFERENCE DETAILS

Defendant's reference: Tree Preservation Order (11) 2017
Defendant's Legal Officer: Tracy Lovejoy

3. DETAILS OF THE CLAIMANT'S LEGAL ADVISERS

Harrison Clark Rickerbys Limited, 5 Deansway, Worcester, WR1 2JG.
Reference: RA03.ACC14-1

4. DETAILS OF THE MATTER BEING CHALLENGED

The decision taken by Bromsgrove District Council ("the Defendant") to report to its Planning Committee on the merits of Tree Preservation Order (No. 11) 2017 ("the TPO") in a way which is manifestly not impartial, transparent, nor fair, nor which provides adequate (or any) reasoning for the recommendation made, nor accurately identifies the trees to be protected (and not protected).

5. DETAILS OF ANY INTERESTED PARTIES

None.

6. THE ISSUES

The Defendant has published a report to its Planning Committee to consider the confirmation of the TPO without modification ("the Report"), however the Report has not been prepared to the standard required by law.

The Report contains a number of misleading statements, inaccuracies, omissions, irrelevant and misleading photographs, and fails to provide adequate (or any) reasons for the recommendation made, and fails to accurately map and identify trees to be protected (and not protected). Further, the Report clearly demonstrates that the applicable law has been misinterpreted and misapplied.

The Claimant considers the following flaws within the Report are sufficient to amount to arguable grounds of challenge under the following headings

- (1) Material error(s) of fact
- (2) Misinterpretation of relevant guidance and policy
- (3) Failure to provide adequate reasons

Having considered the update to the Report published by the Defendant on the afternoon of the 6th November 2017 ("the Update"), just hours before the Committee Meeting, the Claimant also considers the following grounds of claim are made out:

- (1) Further material errors of fact
- (2) Apparent bias.

Grounds relating to the Report:

(1) Material errors of fact

- a. Tree Felling: At paragraph 3.6, the Report states that trees had been felled on the site prior to the making of the provisional Tree Preservation Order in August 2016. This is misleading: it was primarily scrub and light tree clearance on the land and no major tree stock had been felled. This was confirmed by the Defendant's Tree Officer on a site visit on 29th July 2016 and recorded in a Statement appended to the Committee Report for the Committee Meeting in January 2017. This Statement confirmed that "***the level of work carried out had not had any detrimental influence on the major tree stock in the area***". It is understood that tree works had been carried out within the garden of 73 Linthurst Newtown, however this property is in separate ownership, and does not form part of the site covered by the TPO. The statement at paragraph 3.6 of the Report, together with the similar statement at paragraph 4.3, and the reference in paragraph 4.6 of the Report to the "***level of work that was being gradually undertaken***" is designed to mislead the Planning Committee in relation to the justification for the TPO and to justify the Tree Officer's perception of a 'threat' to any trees on the site as discussed below.
- b. Identity of landowner: At paragraph 3.6 the Report states that the owner of the site 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***'. This statement is made without any evidential foundation and is extremely misleading. Although the Claimant is an investment company owning real estate, it primarily owns let residential properties. It has not applied for planning permission nor sold sites on for development. The Report also claims that the Claimant is '***under the management of the Fell Family***', which is a false statement – the Claimant is a partnership where 50% is owned by an unrelated party.
- c. Speculation about landowner and its intentions: Although the Planning Practice Guidance confirms that local planning authorities may consider development pressures and landowner's

intentions when considering whether it is expedient to make a tree preservation order, the statements in paragraph 4.3 of the Report that "*the nature of the companies owning the land are understood to specialise in acquisition of land for then onward sale once outline planning permission has been granted*" and that "*it was reasonable to assume the site would be largely cleared of tree stock to accommodate development on the site*" are without evidential basis. The Report also justifies the making of the TPO at paragraph 4.6 by reference to "*the known nature of the companies who own the land*", and so this speculation has clearly played a large part in the Officer's decision-making process. The Report fails to mention the fact that the landowners have cooperated and engaged with the Defendant throughout, and were prepared to accept a tree preservation order over a number of trees on the site. These statements and omissions are designed to mislead the Planning Committee and to taint the Planning Committee's perception of landowner.

- d. Previous legal challenge: The description of the previous legal challenge in paragraph 3.8 of the Report fails to note that the previous Tree Preservation Order was quashed as it was unlawfully made, and the Council paid the Claimant's costs of bringing the challenge. It must be made clear to the Planning Committee that the Claimant's actions in bringing the previous legal challenge were correct and justified due to the Defendant's legal errors. The wording of paragraphs 3.6 to 3.8 of the Report suggest that the Claimant was unjustified in bringing the legal challenge, which serves to further mislead the Planning Committee.

Mistake of fact giving rise to unfairness is an established ground of challenge. The planning authority has a duty to ensure that its decisions are taken on the correct factual basis. The Report contains a number of misleading statements which amount to mistakes of fact if adopted by the Committee. These erroneous 'facts' form an important part of the factual matrix being taken into account by the Committee and used by the officer to justify the proposed TPO. Their inclusion within the Report gives rise to unfairness and so amounts to an error of law within the Report.

(2) Misinterpretation of relevant law and policy:

- a. Visibility from private gardens: The Report refers to views of the trees proposed to be protected from private gardens in a number of places, including paragraphs 4.4, 4.7, 4.10, 4.17, and a number of the photographs provided at Appendix 9 to the Report. The merits of the TPO must be considered on the basis of the public amenity, and any amenity provided to private properties cannot provide a lawful consideration for the confirmation of the TPO. The Report is misleading the Planning Committee and there is a significant risk of the Planning Committee taking unlawful considerations into account as a result.
- b. Tempo Assessment: All the trees are marked in the Tempo Assessment as having an 'expediency' score of 3, which is the equivalent of a 'foreseeable threat'. If the threat were marked accurately, the 'expediency' score should be reduced. Additionally, a degree of visibility is given to trees T5, T6, T7, T8, T9, T18, and T19, where these trees are not visible at all from public places. Similarly, if the visibility was marked accurately, the 'visibility' score would be reduced. Further, some trees are incorrectly marked for 'condition' and 'longevity' and should be reduced. If the trees were marked accurately, a number of them would fall below the threshold for suitability for inclusion in the TPO.

(3) Failure to provide adequate or any reasons for the extent of the TPO/ error of law in failing to apply the correct test:

The reasons given for the decision are inadequate to the extent that it cannot be determined whether the officer applies the correct test; it would appear that he does not.

The Report takes a confused approach to visibility and expediency. The Report accepts at 4.18 that "***not all the trees are visible from a public place***". The Report also reaches the conclusion at paragraphs 4.4 and 4.10 that the trees offer an "***acceptable level***" of visual amenity. These conclusions are then coupled with the officer's (flawed) conclusions as to the level of threat in order to justify the TPO. In doing so, the officer essentially applies the test of "if I can see a tree, and that tree might be removed, it should be protected". That is not the test. Visibility, whilst an essential component of amenity, is not the whole picture. A tree does not have amenity value simply because it can be seen. Otherwise, all visible trees would merit protection and the TPO regime would serve no purpose.

No substantive justification has been given by the Defendant for the extent of the protection in the TPO, other than the Tempo assessment discussed above. No justification or explanation has been given in response to the clear and reasoned objection made on behalf of the Claimant by Barton Hyett Associates (attached at Appendix 3 to the Report). It has been admitted at paragraph 4.18 of the Report that "***not all the trees are visible from a public place***", but the Report concludes that the trees merit protection by reason 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***". Any justification on these grounds must be explained to the extent that the reasoning cannot be adequately determined from the public documents prepared for the Planning Committee, which reasoning has not been provided in the Report. As it stands, this conclusion is wholly disconnected to the remainder of the Report said to justify this conclusion and as such, is without proper reasoning.

It is further materially misleading to introduce the concept of 'rarity', 'cultural or historic value' and 'contribution to the landscape' within the conclusions of the Report without any evidence whatsoever to support an assertion that the trees are in any way rare, have cultural or historic value or make a contribution to the landscape (as distinct from visual amenity). The inclusion of this paragraph suggests to the Committee that some assessment has been made of these criteria, which does not appear to be the case, or in any event such assessment is not before the Committee.

Grounds relating to the Update:

The Defendant allowed its Planning Committee to attend a site visit on 6th November 2017 based on the Report as published, despite the above issues having been raised by the Claimant in a letter dated 2nd November 2017.

Following the site visit on the morning of the 6th November 2017, the Defendant published the Update which was published just hours before the Committee Meeting.

Although the Update changed the Defendant's recommendation such that a modified version of the TPO was recommended for confirmation, which excluded the group of trees 'G2', the Update failed to address the above concerns with the Report, and also created the following additional legal errors:

(1) Further material errors of fact:

- a. Tree Felling: A number of photographs were appended to the Update, marked as taken on 10th August 2016. The photographs were published on the Defendant's website marked as "**Pictures of trees felled August 2016**" and the Update states that "**appended to this update are photographs taken at the time which show some tree felling**". These photographs, although may have been taken on 10th August 2016, relate to works carried out prior to the making of the provisional Tree Preservation Order in August 2016 which were carried out lawfully. As stated above, the Defendant's Tree Officer visited the site on 29th July 2016 and recorded his assessment of the works carried out in a Statement which was appended to the Committee Report for the Committee Meeting in January 2017. This Statement confirmed that "**the level of work carried out had not had any detrimental influence on the major tree stock in the area**". The mislabelling of the photographs on the Defendant's website and the statement in the Update, is designed to mislead the Planning Committee and public in relation to the justification for the TPO and to justify the Tree Officer's perception of a 'threat' to any trees on the site.

(2) Apparent Bias:

In spite of the clear concerns raised in our letter of 2nd November 2017 regarding the prejudice shown by Tree Officers, Andy Bucklitch and Gavin Boyes, and their ability to act independently as promoters of the TPO, the Defendant stated in the Update that "**Mr Boyes will explain the context of those photographs**" and "**Mr Boyes will also answer any further questions from members about the amenity test including the visibility of the trees, the TEMPO assessment, the future potential amenity of the trees, and rarity, cultural or historic value and contribution to the landscape and area**". Given the concerns raised about prejudice and the TPO being irrevocably tainted as a result, a verbal update on these important matters by one of the Officers about which concerns have been raised is sufficient to give rise to an appearance of bias.

A fair minded and informed observer would conclude that there was a real risk of apparent bias in these circumstances. The Claimant relies upon the matters set out within its letter of 2 November 2017 and the following:

- a. The Council has previously accepted that its procedure in allowing the promoting officer unfettered and unaccompanied access to the Committee was sufficient to give rise to procedural unfairness infecting the previous TPO. The same officer and same committee members are now involved in this TPO concerning the same land and substantially the same trees. The bias apparent (and accepted) within the previous decision has not been remedied and continues to infect this decision;
- b. Paragraph 4.3 of the Report and the (it is considered, deliberate) misstatement as to the operations of the Claimant. This inaccuracy appears to have been included as a pejorative reference to the Claimant's business aimed at colouring the Committee's views of the Claimant;

- c. The acknowledged failure to serve the new TPO on the Claimant. The Council had knowledge of the Claimant's involvement due to the previous proceedings and was well aware of its business address and address for service via its legal representatives. The Report makes no attempt to apologise or explain this error and in the circumstances, the failure to serve the TPO on the Claimant can be seen as nothing short of a further deliberate attempt to prejudice the Claimant's position; and
- d. Paragraph 4.6 contains a further erroneous and pejorative reference to the Claimants "known nature"

These matters, taken together with the issues raised in the Claimant's letter of 2 November are sufficient to give rise to an appearance of bias on the part of the two named officers. Their involvement in the promotion of the TPO infects the decision with an appearance of bias, amounting to a legal flaw in the decision.

We understand that the Planning Committee deferred consideration of this matter at the Committee Meeting on the evening of 6th November 2017 as:

1. The documents the Defendant provided to the Planning Committee were barely visible due to the poor quality of the copies provided;
2. The Planning Committee required more time to consider the documents provided at the Committee Meeting; and
3. The Planning Committee had been unable to identify some of the trees to be protected by the TPO during their site visit.

This, in itself, is evidence of the inadequate nature of the Report and the Update.

For the reasons set out above the Report and the Update are legally flawed. The errors made go to the heart of the matter which the Planning Committee will be considering, and so any decision made on the basis of the Report and Update will be unlawful.

The effect of the Report and Update is to significantly mislead the Planning Committee about material matters and the law relating to the TPO. The way the Report and Update have been drafted, together with the photographs taken from neighbouring properties, raises questions about the impartiality of the author, and gives the appearance of bias.

The Court may properly exercise a higher degree of scrutiny of the Defendant's conduct in relation to tree preservation orders and apply an enhanced duty to deal with objectors fairly and openly on the basis that the Defendant is both promoting the TPO and determining objections made against it, in accordance with the case of Wilkson Properties v Royal Borough of Kensington and Chelsea [2011].

There is a duty for the Defendant to give reasons for the recommendation given in the Report where the reasoning cannot be adequately determined from the public documents prepared for the Planning Committee, as was established by the case of Oakley v South Cambridgeshire District Council [2017].

If the Report and Update were presented in a lawful way, it is highly likely that the Planning Committee would come to different decision.

7. ACTION THE DEFENDANT IS EXPECTED TO TAKE

Given the clear prejudice shown by Tree Officers, Andy Bucklitch and Gavin Boyes, whose independence as promoters of the TPO is irrevocably tainted, any further report to the Defendant's Planning Committee in relation to the TPO should be supported by a report authored by an alternative Tree Officer or alternatively an independent and appropriately qualified expert.

The revised report must address the issues raised in this letter, so as to ensure that the Committee are advised in a lawful way.

In the event that the Defendant proceeds to Planning Committee without the issues raised in this letter being addressed, the Defendant is expected to either revoke the TPO or sign a consent order agreeing to the quashing of the TPO made.

8. DETAILS OF ANY DOCUMENTS THAT ARE CONSIDERED RELEVANT AND NECESSARY

The Claimant asks the Defendant to provide within fourteen days of the date of this letter (and before any further consideration of this matter by Planning Committee):

- a. All written reports and site notes regarding the TPO and / or Bromsgrove District Council Tree Preservation Order (No. 12) 2016 – Tree/s on land at side and rear of 73 Linthurst Newton, Blackwell dated 12th January 2017, and the provisional Tree Preservation Order relating to the same site served in August 2016, relating to the visits made to site by tree officers Gavin Boyes and Andy Bucklitch or other officers involved. In particular, documentation relating to the assessment of the trees at the site as suitable for a tree preservation order (sometimes referred to as an amenity value assessment). The above request is for the disclosure of all written reports and site notes which are not annexed to the Report, the Update, or the Committee Report dated 9th January 2017.
- b. Any letters and emails sent to and received from the above officers and notes of any meetings or telephone conversation by or with the above officers in relation to the TPO and / or Bromsgrove District Council Tree Preservation Order (No. 12) 2016 – Tree/s on land at side and rear of 73 Linthurst Newton, Blackwell dated 12th January 2017, and the provisional Tree Preservation Order relating to the same site served in August 2016, and in particular communications to and / or from planning officers, local councillors (District and Parish), their clerks or staff, and residents. The above request is for the disclosure of all written reports and site notes which are not annexed to the Report, the Update, or the Committee Report dated 9th January 2017.
- c. Confirmation of who took each of the photographs appended to the Report at Appendix 9, and the date that the photographs were taken. Additionally confirmation of how access to the properties of local residents was arranged to take such photographs.

- d. Any additional photographs taken by or provided to officers in support of the TPO which have not been disclosed to date. Confirmation of who took each of the photographs, and the date that the photographs were taken. Additionally confirmation of how access to the properties of local residents was arranged to take such photographs, if applicable.

The Defendant is reminded of its strict duty of candour in this respect. In particular, the duty of candour applies as soon as a public body is aware that someone is likely to test a decision or action affecting them; it applies even at the pre-action stage.

9. THE ADDRESS FOR REPLY AND SERVICE OF COURT DOCUMENTS

Harrison Clark Rickerbys Limited, 5 Deansway, Worcester, WR1 2JG. Correspondence to be sent for the attention of Mrs R. Andrews, quoting reference: RA03.ACC14-1

Yours faithfully

Harrison Clark Rickerbys

HARRISON CLARK RICKERBYS LIMITED

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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 (5)

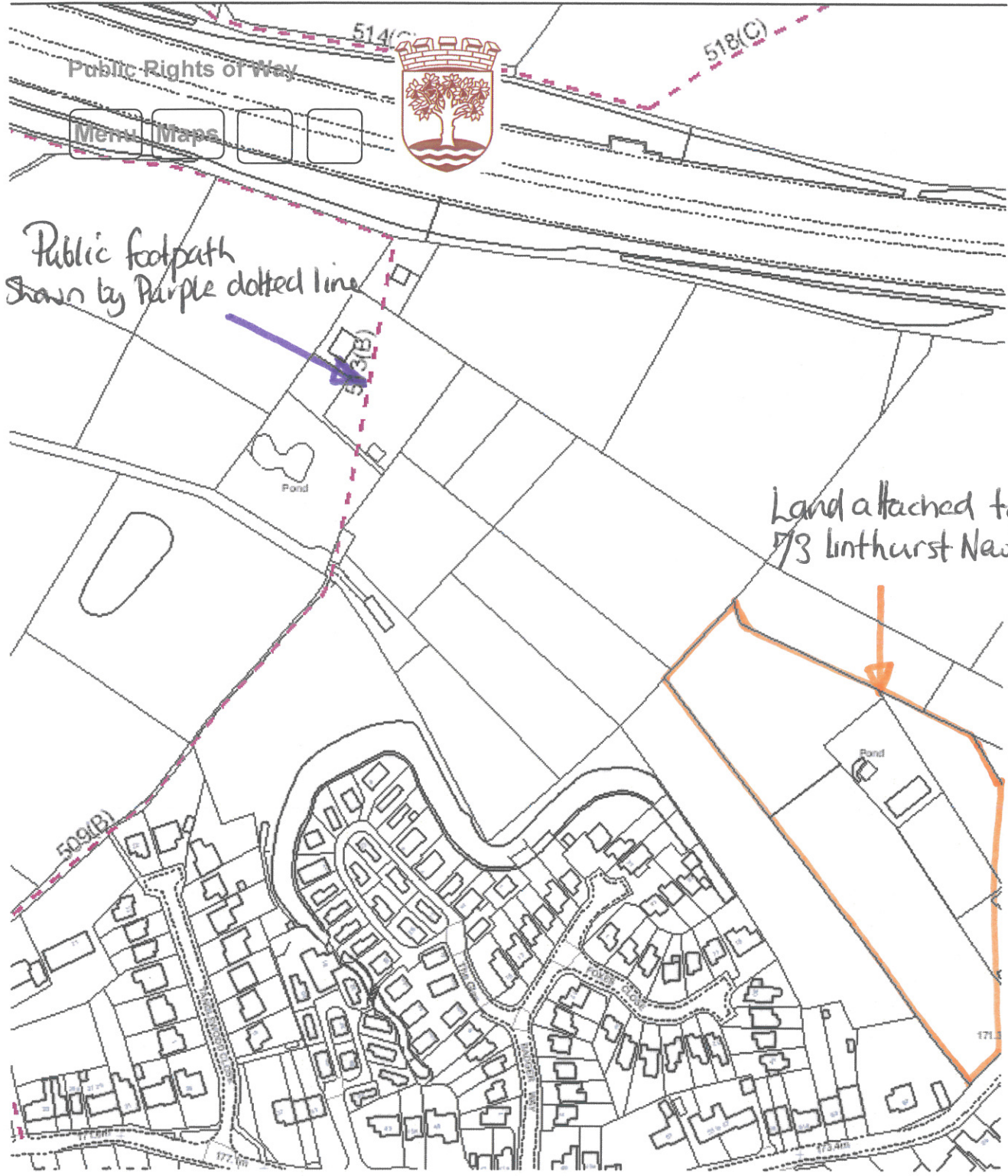
Appendix B Letters / Emails Of Support		
Ref	Address	Reasons
1	Linthurst Newtown, Blackwell, B60 1BS	Concerns any impact on local wildlife and general environment, loss of trees that help manage pollution and carbon from the local M42 motorway
2	Resident of Blackwell Village, No address given	Concerns about any impact on local wildlife and trees including orchard danger of increased traffic from site to road on bend
3	Linthurst Newtown, Blackwell, B60 1BS	Wish to endorse fully the making of the order
4	Badgerway, Blackwell, B60 1EX	Concerns about losing valuable woodland and impact on wildlife of site, noise pollution from motorway
5	Linthurst Newtown, Blackwell, B60 1BS	Concerns about the influence the potential use of land could have on character of Blackwell highlights value of trees, orchard and woodland on site
6	Birkdale Avenue, Blackwell, B60 1BY	Concerned about clearing of woodland and increase threat of noise from M42 due to tree loss and impact on Wildlife
7	Linthurst Newtown, Blackwell, B60 1BS	Removal of Green Belt site contains valuable wildlife and trees
8	No Address Given	Concerned about protection of valuable trees on site including Orchard and wildlife on the site
9	Linthurst Newtown, Blackwell, B60 1BS	Concerned about loss of Green Belt risk to trees and wildlife, risk of increased noise levels from M42
10	Birkdale Avenue, Blackwell, B60 1BY	Concerned about Biodiversity in view of valuable trees and wildlife on the site.
11	Wentworth Drive, Blackwell	Concerned about influence on Wildlife + increased traffic in area.
12	No Address Given	Wish to protect trees and wildlife
13	Linthurst Newtown, Blackwell, B60 1BS	Concerned about welfare of trees, wildlife and noise reduction benefits they provide from M42
14	Linthurst Newtown, Blackwell, B60 1BS	Concerned about welfare of trees, wildlife and noise reduction benefits they provide from M42 and drainage issues should trees be lost
15	No Address Given	Concerned about welfare of trees, wildlife and noise reduction benefits they provide from M42 and drainage issues should trees be lost

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16	No Address Given	Concerned about welfare of trees, wildlife and noise reduction benefits they provide from M42 and drainage issues should trees be lost
17	No Address Given	Concerned about welfare of trees, wildlife and noise reduction benefits they provide from M42 and drainage issues should trees be lost
18	No Address Given	Highlights the visibility of the trees and concnered about welfare of Wildlife and trees
19	Linthurst Newtown, Blackwell, B60 1BS	Concerned land is Green Belt, visibility of the trees and welfare of wild life, trees, habitat and nosie levels benefits of trees
20	Green Hill	Concerned about disruption to trees , wildlife and road traffic issues due to potnetial use of land
21	No Address Given	Concerned about welfare of trees, wildlife and noise reduction benefits they provide from M42 and drainage issues should trees be lost

APPENDIX (6)

Worcestershire County Council



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APPENDIX (7)

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.

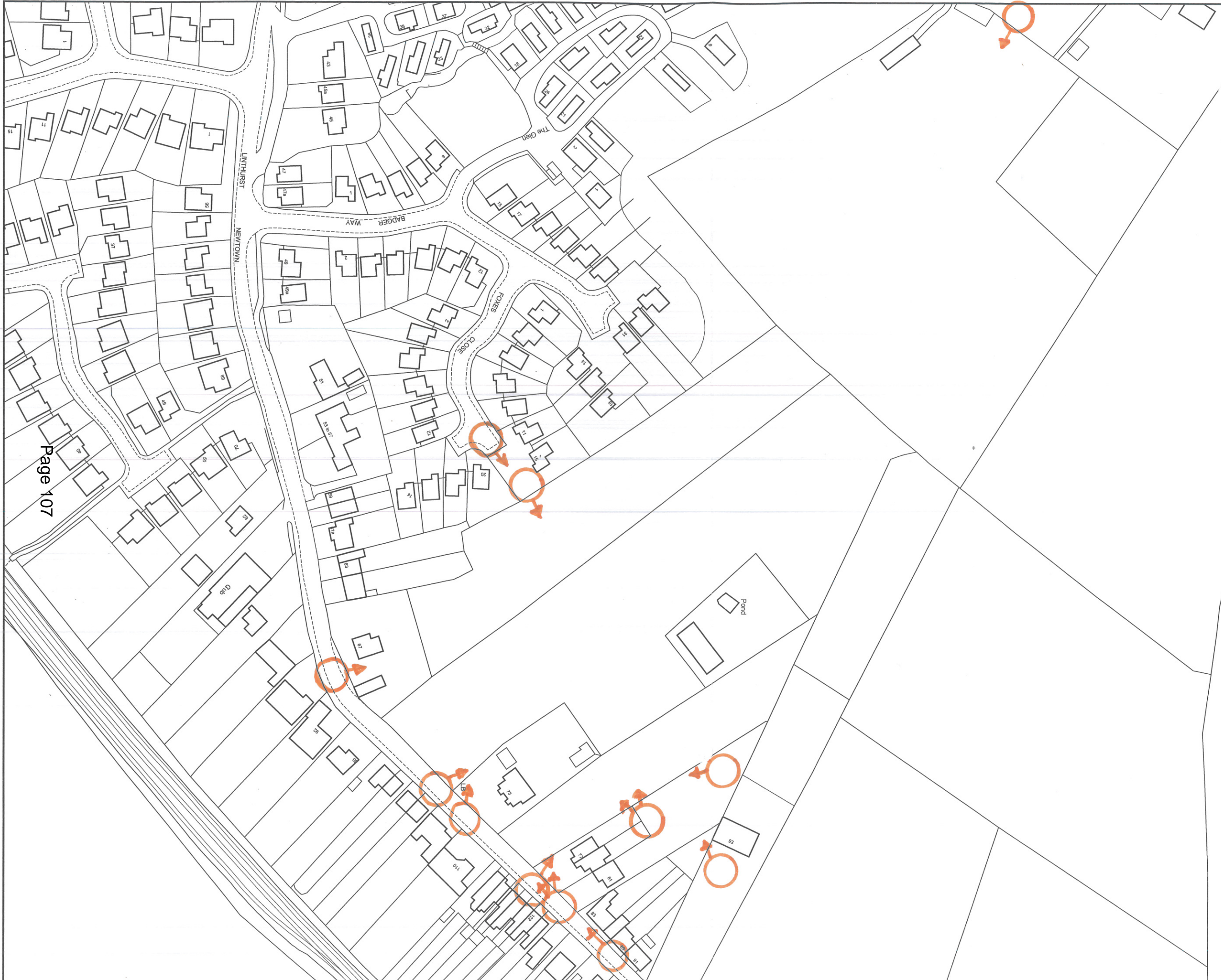
It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases 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

Positions Photographs Were Taken From For Appendix (9)

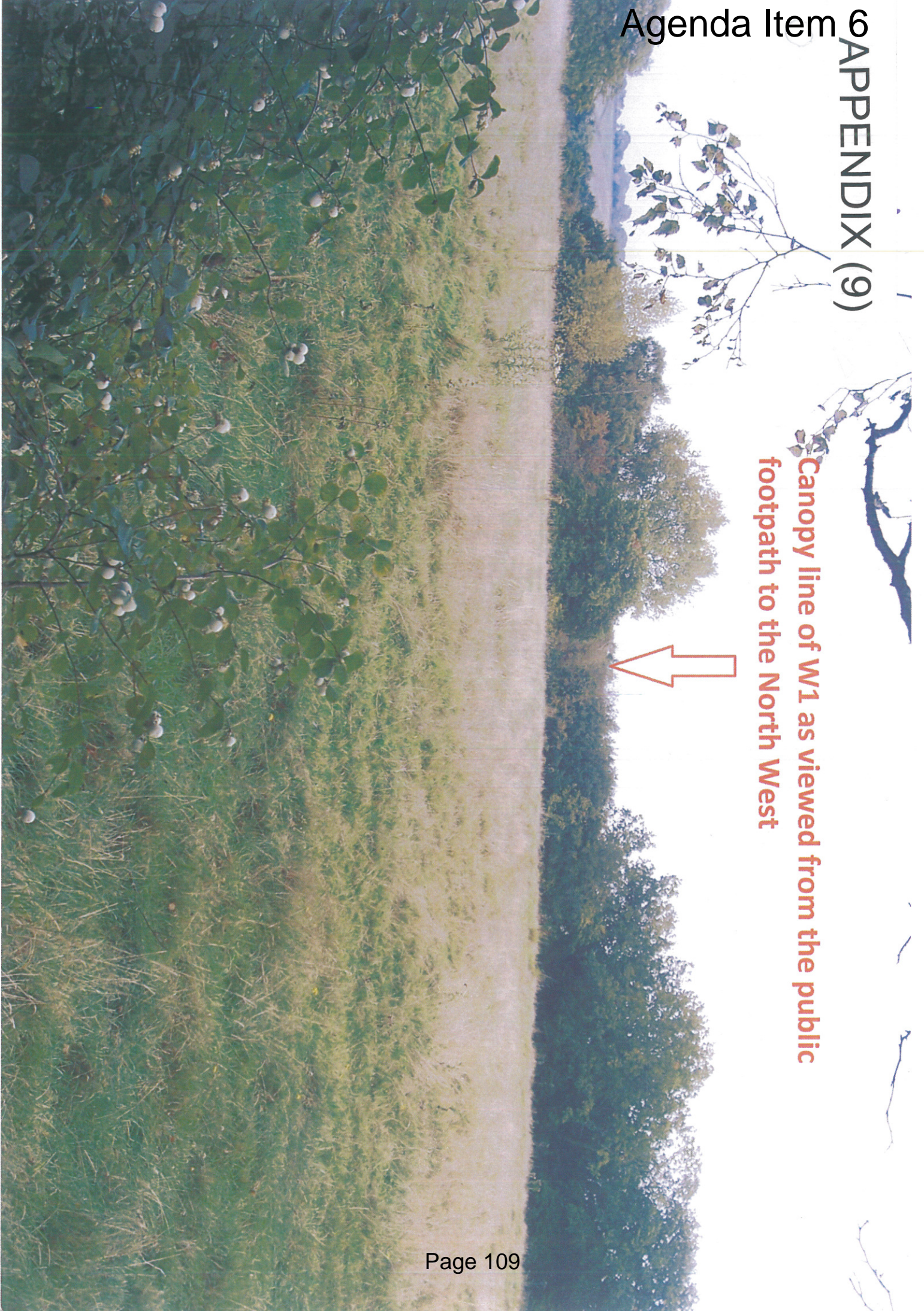
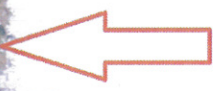
APPENDIX (8)



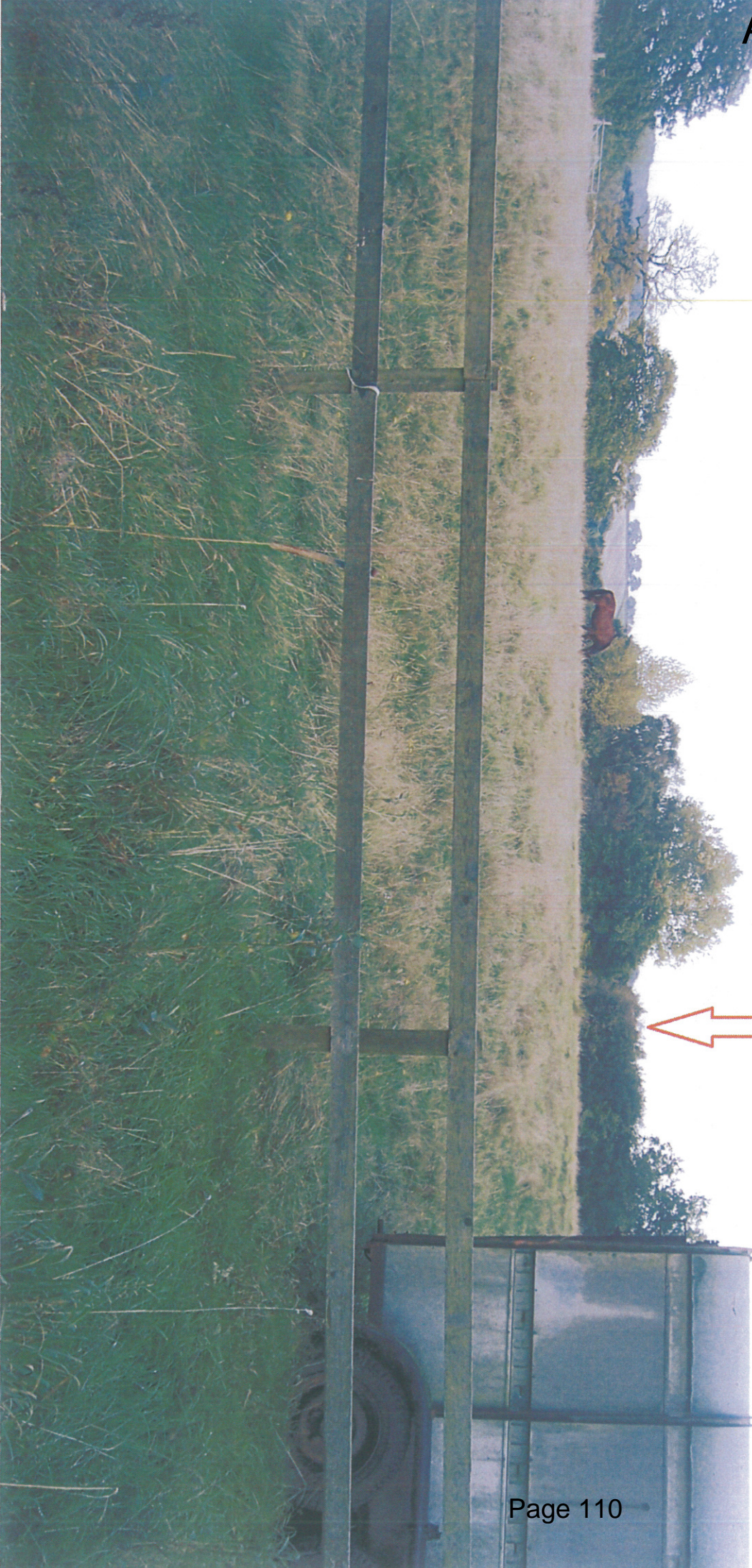
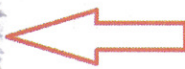
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APPENDIX (9)

**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

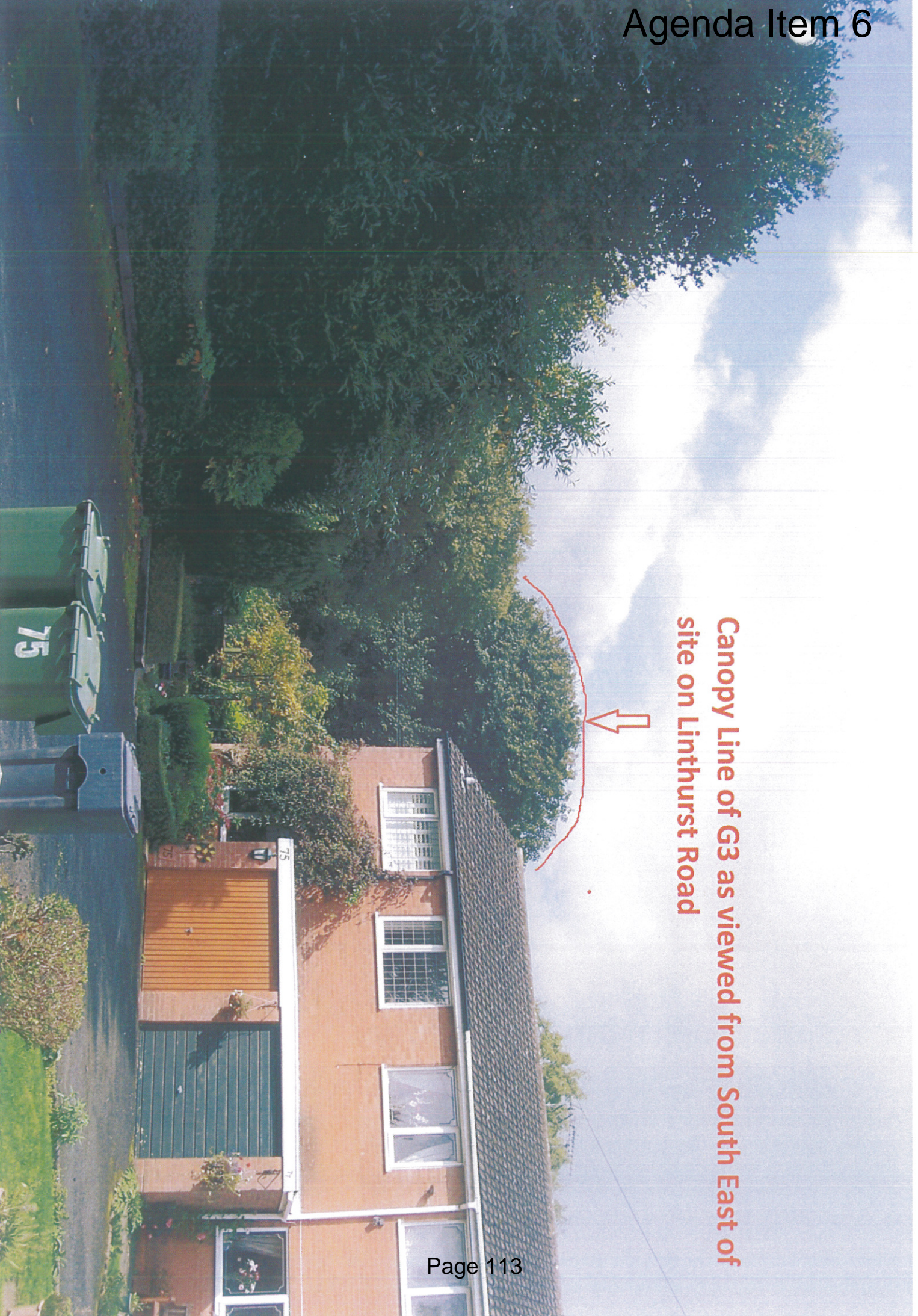




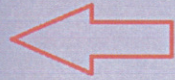
T14 as veiwed from East on Linthusr Road
Newtown Road

T13

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



G2 as viewed from Foxes Close





T4

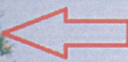
T3

Canopy Line Of G3 as viewed from Foxes Close

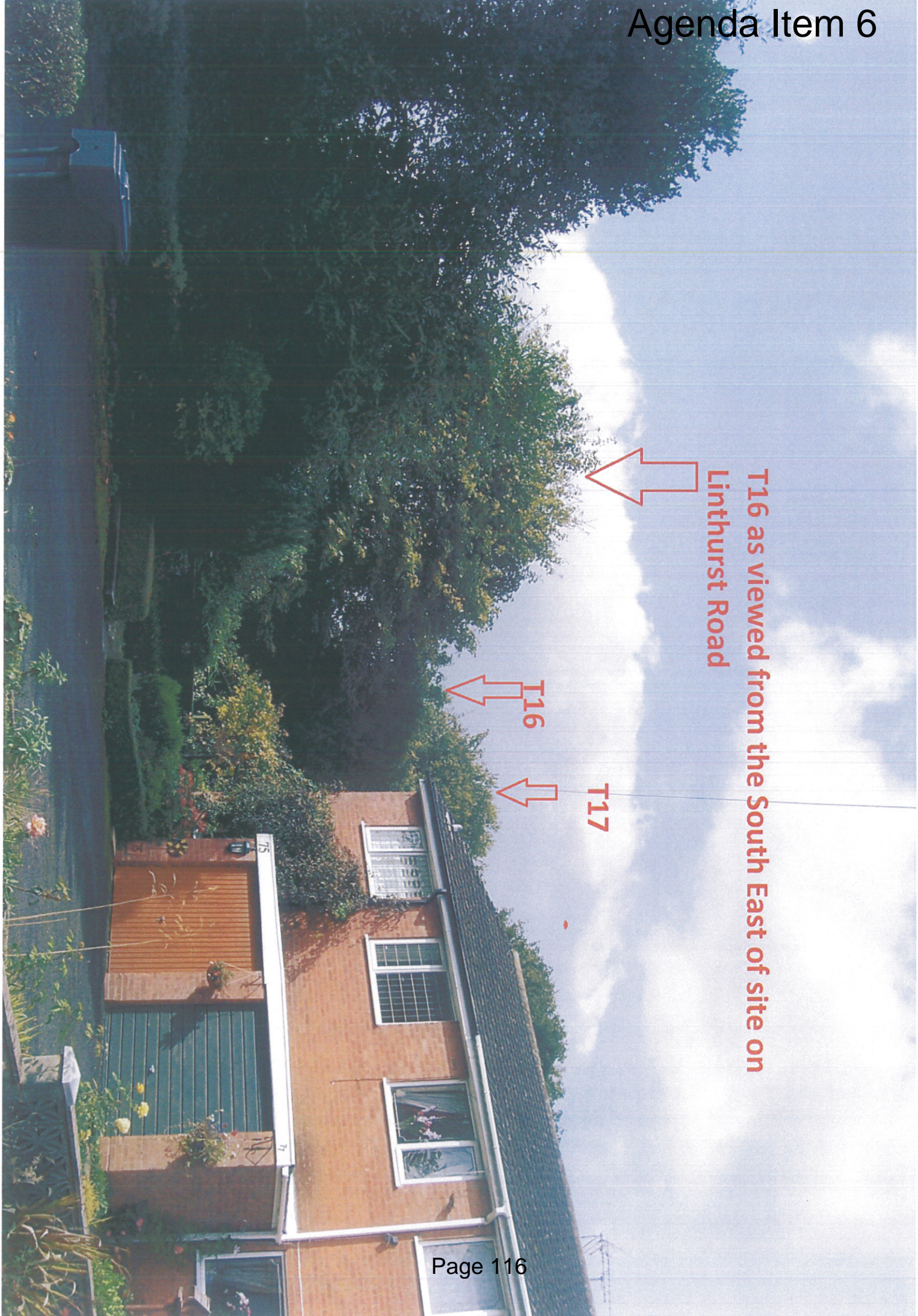
**T16 as viewed from the South East of site on
Linthurst Road**



T16



T17



Agenda Item 6

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



T12

T15 as viewed from rear

garden of 75-77 Linthurst Newtown



T117

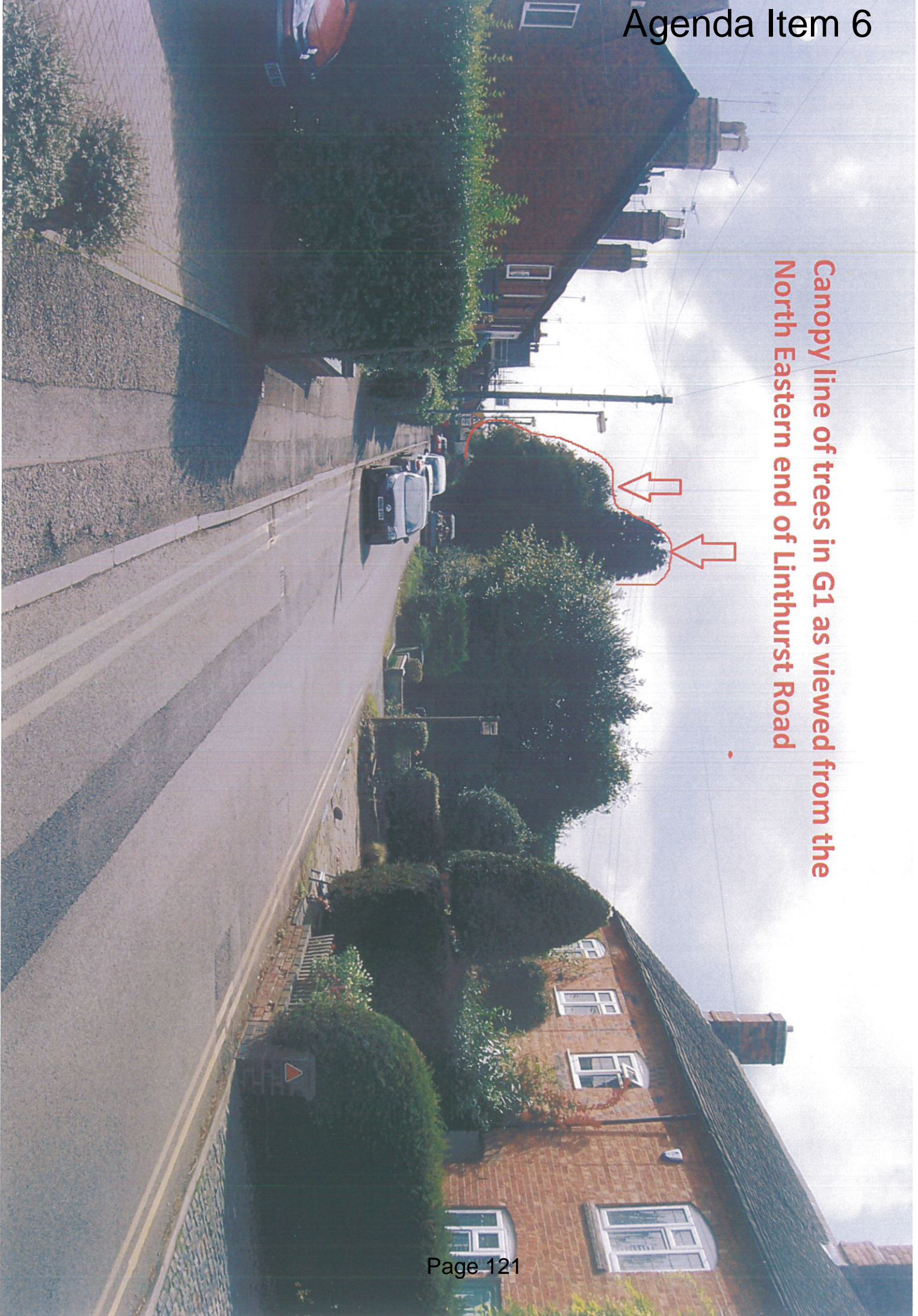
T10, T11, T12 as viewed
From top of garden
75-77 Linthurst
Newtown

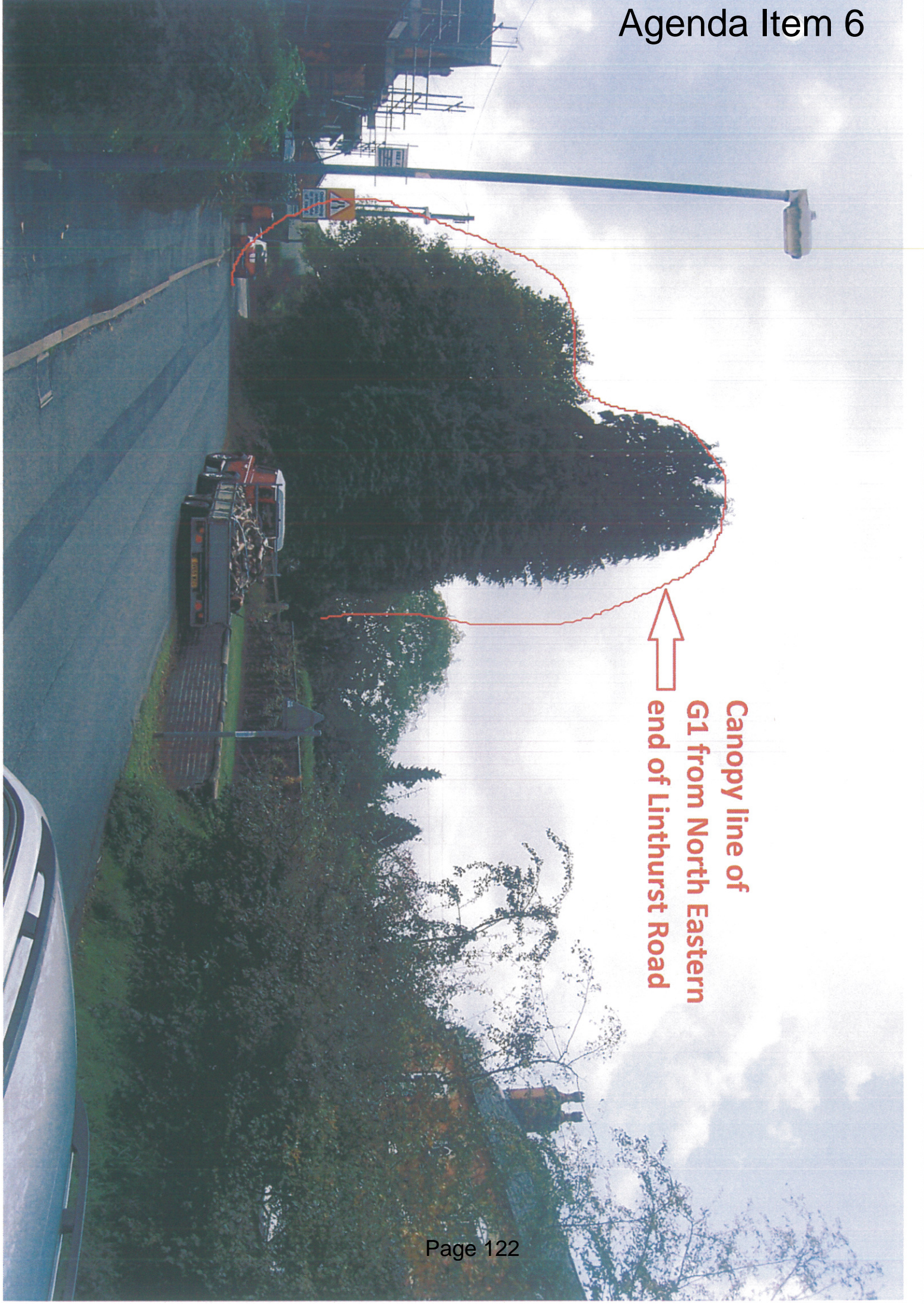


**Canopy line of trees as viewed from front of 93
Linthurst Newtown**



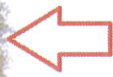
**Canopy line of trees in G1 as viewed from the
North Eastern end of Linthurst Road**





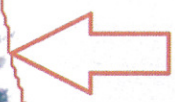
**Canopy line of
G1 from North Eastern
end of Linthurst Road**

G2 as viewed from front of 73 Linthurst Newtown

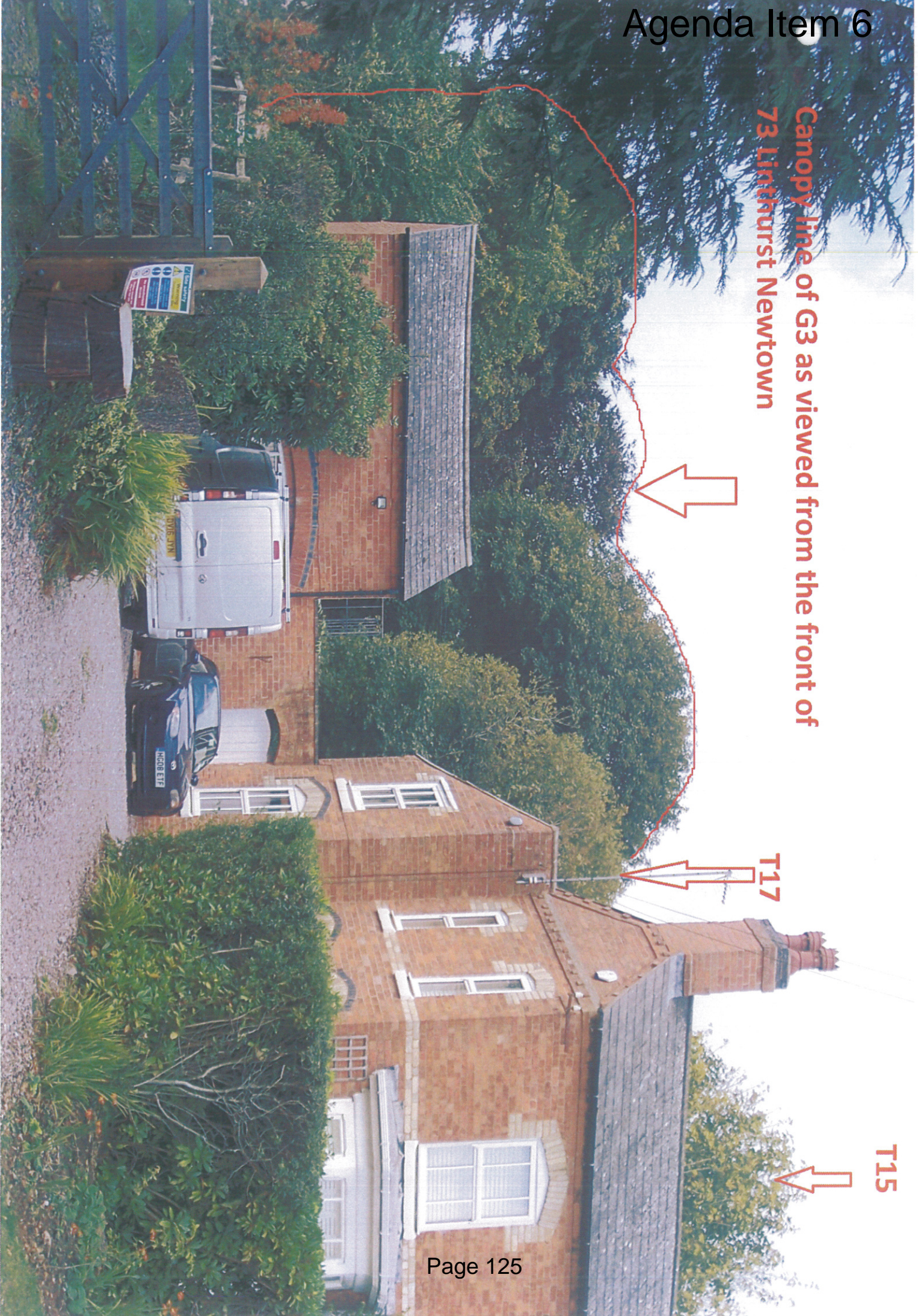


Canopy line of G3 as viewed from the front of
73 Linthurst Newtown.

T2

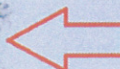


Canopy line of G3 as viewed from the front of
73 Linthurst Newtown



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

G2





Canopy line of G3 as viewed from Foxes Close

T4

T3

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

Town and Country Planning Act 1990

Tree Preservation Order (13) 2016

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 (13) 2016

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 3rd August 2016

Signed on behalf of Bromsgrove District Council



Clare Flanagan
Principal Solicitor

Authorised by the Council to sign in that behalf

SCHEDULE

Specification of trees

Trees specified individually

(encircled in black on the map)

NONE

Trees specified by reference to an area

(within a dotted black line on the map)

NONE

Groups of Trees

(within a broken black line on the map)

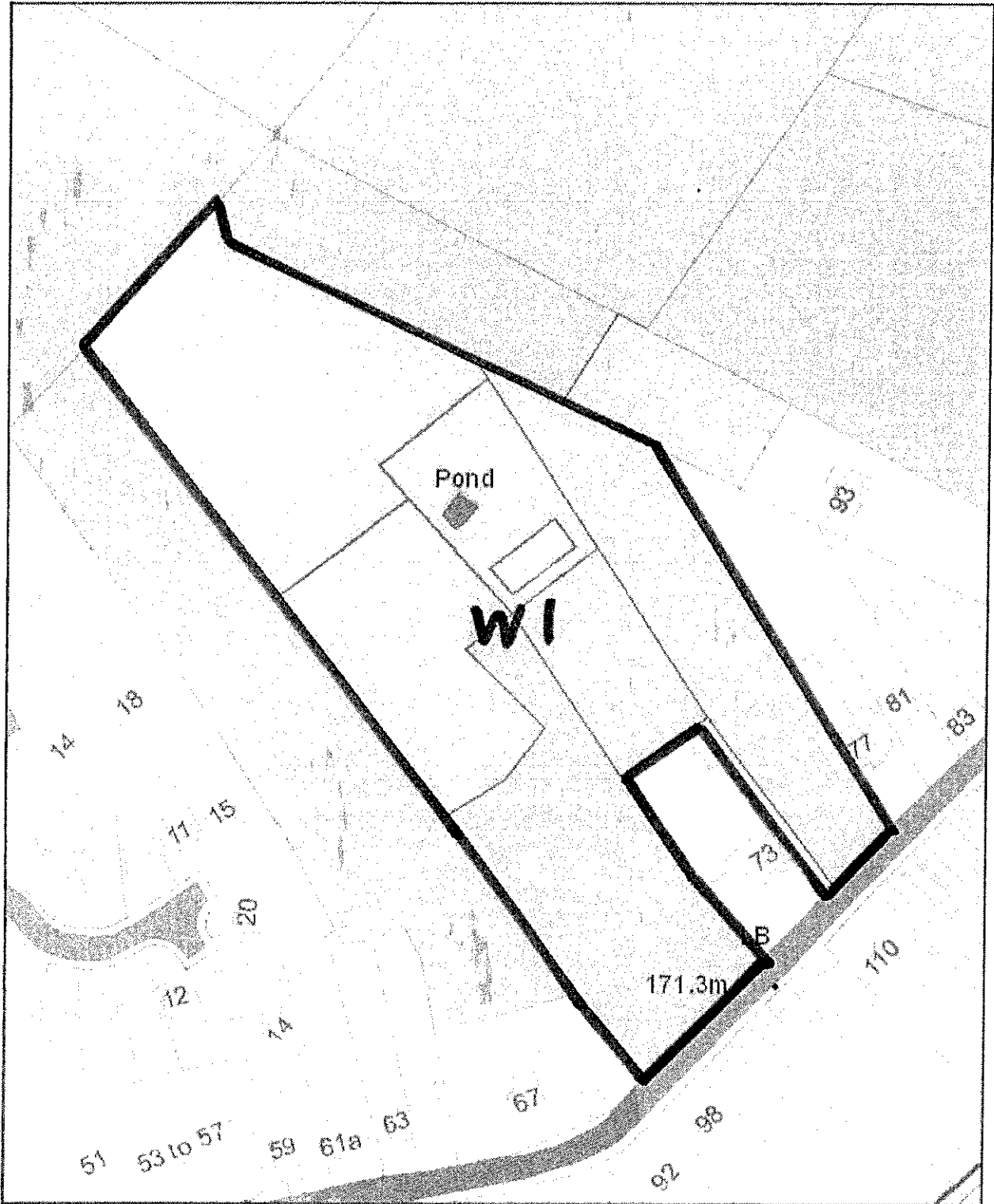
NONE

Woodlands

(within a continuous black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>NGR</u>	<u>Situation</u>
W1	All trees of any size and species within W1 on the plan.	399725, 272531	Land at side and rear of 73 Linthurst Newtown, Blackwell

Tree Preservation Order (13) 2016



Scale 1:1250

This product includes mapping data licensed from Supplier with permission, OS Licence Number 100023519 (2011).
NOTES



DATE TIME

BROMSGROVE\ella.buckfitch

CLARE FLANAGAN

3 AUGUST 2016

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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

Marie Flanagan
.....

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

Name: ROSALIND ANDREWS

Name: MARIE FLANAGAN

Position: SOLICITOR

Position: PRINCIPAL SOLICITOR

Organisation: HARRISON
CLARK RICKERBYS

Organisation: BROMSGROVE DISTRICT
COUNCIL

Dated: *8th June 2017*

*Consent order made
as agreed by the
parties*

[Signature]

*AC Langer
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.

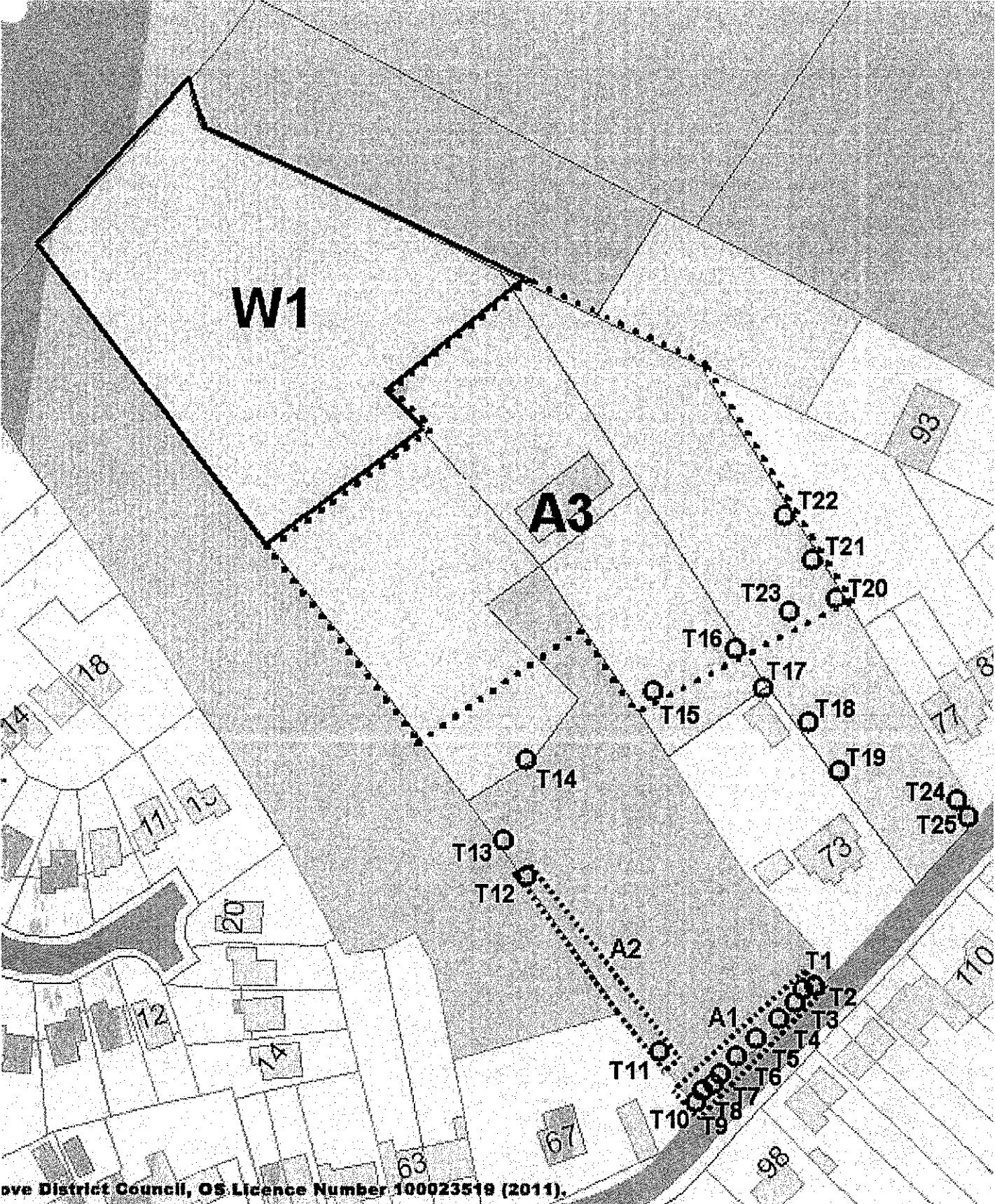
Also pursuant to ground three of the claim, irregular procedure at the site visit such as to give the appearance of procedural unfairness.

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



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 6

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

APPENDIX (12)

10/08/2016 13:06



10/08/2016 13:06



10/08/2016 13:09



10/08/2016 13:05





10/08/2016 13:07

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Agenda Item 6

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

Sheet No. 1 of 2

APPENDIX (13)

Evaluation by: Garvin Boyer

Date: 27th June 2017

Address/ Site Details: 73 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 iency	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	Y	
G2	3x Ash		3	5	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	Y	
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 (highly suitable)
- 5) Good (highly suitable)
 - 4) Fair (suitable)
 - 3) Fair (suitable)
 - 2) Poor (unlikely)
 - 1) Unsafe
 - 0) Dead
- b) Longevity
- 5) 100+
 - 4) 40 - 100
 - 3) 20 - 40 (suitable)
 - 2) 10 - 20 (just suitable)
 - 1) <10 (unsuitable)
- c) Relative public visibility
- 5) Very large trees, or large trees that are prominent features (V_{ige}=200sqm+)
 - 4) Large trees, or medium trees clearly visible to the public (V_{ige}=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/very 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

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

Evaluation by: Gasini Boyes 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	Spruce		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		5/3	4	4	11		1	3	15	Y	
G4	4x Apple		3	4	2	9		1	3	13	Y	
G5	3x Silver Birch		3	4	3	10		1	3	14	Y	
G6	1x Oak, 1x Birch, 1x 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)
 - 2) Unsatisfactory
 - 1) Dead
- b) Longevity
- 5) 100+
 - 4) 40 - 100
 - 3) 20 - 40 (suitable)
 - 2) 10 - 20 (just suitable)
 - 1) <10 (unsuitable)
- c) Relative public visibility
- 5) Very large trees, or large trees that are prominent features (V/ige=200sqm+)
 - 4) Large trees, or medium trees clearly visible to the public (ige=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



First Release

Forestry Statistics 2017

Introduction, Glossary, Sources

Release date: 28 September 2017

Coverage: United Kingdom

Geographical breakdown: Country

Issued by: IFOS-Statistics, Forest Research,
231 Corstorphine Road, Edinburgh, EH12 7AT

Enquiries: Jackie Watson 0300 067 5238
statistics@forestry.gsi.gov.uk

Statistician: Sheila Ward 0300 067 5236

Website: www.forestry.gov.uk/statistics



Forestry Statistics 2017

11.1 Sources: Woodland area and planting

Introduction

The definition of woodland in United Kingdom forestry statistics is land under stands of trees with a canopy cover of at least 20% (or having the potential to achieve this), including integral open space, and including felled areas that are awaiting restocking. There is no minimum height for trees to form a woodland at maturity, so the definition includes woodland scrub but not areas with only shrub species such as gorse or Rhododendron.

There is no minimum size for a woodland. In this report, statistics based on the National Forest Inventory (NFI), refer to woods and forests of at least 0.5 hectares, as mapped through the NFI. Previously, figures based on the 1995-99 National Inventory of Woodland and Trees included sample-based estimates for woods and forests between 0.1 hectares and 2.0 hectares in addition to mapped areas of 2.0 hectares or over.

This is a slightly different definition from that used internationally which is based on 10% canopy cover, a minimum height at maturity of 5m and minimum area of 0.5 hectares. The latest estimate of the effect of the difference in minimum canopy cover threshold, based on the 1995-99 National Inventory of Woodland and Trees, is that there are around 50 thousand hectares of land with 10-20% canopy cover in the UK (or around 2% of the total UK woodland area).

Integral open space is included in woodland area figures derived from the National Forest Inventory if the areas of open space are less than 0.5 hectares; larger areas are mapped out and excluded from the woodland area figures. This differs slightly from the approach used for the National Inventory of Woodland and Trees, where areas of open space of up to 1.0 hectare were included as woodland.

Woodland includes native and non-native trees; semi-natural and plantation areas. Woodland habitat types are not currently differentiated in these statistics.

Most public sector woodland is owned by or managed by the Forestry Commission (FC) in England and Scotland, Natural Resources Wales (NRW) in Wales, or the Forest Service (FS) in Northern Ireland. Woodland owned by local authorities, the Ministry of Defence, and other public sector bodies is included in "private sector woodland".

The Natural Resources Wales woodland areas and land areas shown in this release relate to areas previously owned or managed by Forestry Commission Wales. They exclude any areas previously owned or managed by other parts of Natural Resources Wales, such as the former Environment Agency in Wales and the former Countryside Council for Wales.

The following pages provide more detail on the data sources and methodology used to produce statistics on woodland area and planting. A quality report on Woodland Area, Planting and Restocking is available from our [Quality web page](#).

Forestry Statistics 2017

Chapter 1: Woodland Areas and Planting

Release date: 28 September 2017

Coverage: United Kingdom

Geographical breakdown: Country

Issued by: IFOS-Statistics, Forest Research,
231 Corstorphine Road, Edinburgh, EH12 7AT

Enquiries: Jackie Watson 0300 067 5238
statistics@forestry.gsi.gov.uk

Statistician: Shella Ward 0300 067 5236

Website: www.forestry.gov.uk/statistics



Forestry Statistics 2017

1.1 Woodland Area

Woodland is defined in UK forestry statistics as land under stands of trees with a canopy cover of at least 20% (25% in Northern Ireland), or having the potential to achieve this. The definition relates to land use, rather than land cover, so integral open space and felled areas that are awaiting restocking are included as woodland. Further information, including how this UK definition compares with the international definition of woodland, is provided in the Sources chapter.

Statistics on woodland area are used to inform government policy and resource allocation, to provide context to UK forestry and land management issues and are reported to international organisations. They are also used in the compilation of natural capital accounts.

Increases in woodland area result from the creation of new woodland. This can be achieved through new planting or by natural colonisation of trees on land near existing woodland. Further information is available in the section on New Planting.

Decreases in woodland area result from the conversion of woodland to other land uses. Regulatory approval is usually required before trees can be felled. Felling approval will normally require the area to be restocked, but there are some cases in which trees may be permanently removed, generally for environmental reasons. The permanent removal of trees may also be authorised under planning regulations, to enable development.

Most public sector woodland is owned and managed by the Forestry Commission (FC) in England and Scotland, Natural Resources Wales (NRW) in Wales and the Forest Service (FS) in Northern Ireland. Other public sector woodland (e.g. owned by local authorities) is included with privately owned woodland as "private sector" in this release.

The Natural Resources Wales woodland areas and land areas shown in this release relate to areas previously owned or managed by Forestry Commission Wales. They exclude any areas previously owned or managed by other parts of Natural Resources Wales, such as the former Environment Agency in Wales and the former Countryside Council for Wales.

Agenda Item 7

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr P. J. Whittaker	Conversion of existing barn to form two bedroom dwelling Stoney Lane Farm, Stoney Lane, Broad Green, Bromsgrove, Worcestershire B60 1LZ	30.11.2017	17/00459/FUL

RECOMMENDATION: That planning permission be **Refused**

This application needs to be considered by Planning Committee, since the applicant is an Elected Member of Bromsgrove District Council

Consultations

Ecology Consulted 26.10.2017
No objection

Building Control PP Consulted 26.10.2017
No Objection

Highways - Bromsgrove Consulted 15.11.2017
No objection

Tutnall And Copley Parish Council Consulted 05.10.2017
No comments received

Drainage Engineers Internal Planning Consultation Consulted 05.10.2017
No objection subject to Condition relating to surface water drainage

WRS - Contaminated Land Consulted 05.10.2017
No objection subject to suitable conditions

Publicity

Site notice displayed 6.10.2017 – Expired on 16.11.2017
No comments received

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles
BDP19 High Quality Design
BDP16 Sustainable Transport
BDP15 Rural Renaissance

Others

NPPF National Planning Policy Framework
SPG1

SPG4

Relevant Planning History

08/1032	Proposed Change of use of Former Redundant Agricultural Building to Light Industrial Use and Insertion of Two New Fire Exits.	Approved	04.03.2009
16/1028	Change of use of farmhouse and attached barns to form holiday let accommodation with reinstatement roof works to the attached barns; change of use of detached barn to create dwelling house with single storey extension; creation of new access track and parking area to farmhouse and remediation and reinstatement works to dovecot		15.02.2017
16/1029	Change of use of farmhouse and attached barns to form holiday let accommodation with reinstatement roof works to the attached barns; change of use of detached barn to create dwelling house with single storey extension; creation of new access track and parking area to farmhouse and remediation and reinstatement works to dovecot: Listed Building Consent	Approved	15.05.2017

Assessment of Proposal

The application site consists of an existing building which is located not far from the centre point of the farmyard. It is surrounded by a complex of farm buildings, some of which are traditional and some modern. The farmhouse is 19th century Grade II listed. The site is located in the Green Belt.

The proposal is for the conversion of an existing recently built/repared redundant building to a two bedroom dwelling.

Members will be aware that National Policy on development in the Green Belt is set out in the National Planning Policy Framework which advises that the essential characteristics of Green Belts are their openness and permanence. There is a general presumption against inappropriate development in the Green Belt unless very special circumstances exist. Most new development should be regarded as inappropriate, but for certain defined exceptions.

In order to assess whether or not the proposal would comprise inappropriate development in the Green Belt it is necessary to assess its impact on the openness of the

Green Belt and its purpose. Paragraph 79 of the Framework establishes that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. Paragraph 80 states that the Green Belt serves five purposes including to assist in safeguarding the countryside from encroachment and to check the unrestricted sprawl of large built up areas.

The building is in good condition and does not require substantial structural remedial repairs. I therefore consider the structure to be of a permanent and substantial construction.

The proposal would introduce a residential use into an area characterised by agricultural use. The parking of vehicles associated with such a use and the associated domestic paraphernalia, including garden furniture, structures and play equipment (which in the main, could not be controlled by planning condition) would have an adverse effect on the openness of the Green Belt, in that it would be reduced. Furthermore, the domestic use of the building would encroach into this area of countryside which would conflict with the purpose of the Green Belt. Whilst in isolation, the loss of openness and impact on purpose would be small, it would nevertheless harm the essential characteristics and purpose of the Green Belt. I therefore conclude that because the proposal would not preserve the openness of the Green Belt and would conflict with the purposes of including land within it, it would result in inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The Framework at paragraph 55 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances, including where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside, or where the development would re-use redundant or disused buildings and lead to an enhancement of the immediate setting.

In light of the foregoing, I find that the special circumstances required to justify a new isolated home in this location has not been demonstrated. The location of the new dwelling would not enhance or maintain the vitality of rural communities. This brings the scheme into conflict with the Bromsgrove District Plan and the Framework as a result.

Policy BDP15.1 (c) states that the Council will support proposals that satisfy the social and economic needs of the rural communities by encouraging the conversion of suitably located buildings. The aim of Policy BDP19 is to deliver high quality people focused space. This includes at BDP19.1 (m) providing sufficient functional space in residential developments for everyday activities which meets people's needs and expectations. Due to its poor location it would be harmful to the residential amenity and the day to day living of any future occupiers in terms of the close proximity of the adjacent farm buildings.

In conclusion, the proposal would be inappropriate development in the Green Belt. Further harm would be caused as a result of loss of openness and the conflict that would result with the purposes of including land in the Green Belt. No very special circumstances exist to clearly outweigh the harm the proposed development would cause

to the Green Belt and the other harm identified. The scheme would also lead to unacceptable living conditions for intended future occupiers.

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

1. The proposal results in a dwelling in an isolated location which is remote from services and facilities required for day-to-day living and access from the site would be car dependent. Paragraph 55 of the NPPF states that new isolated homes in the countryside should be avoided unless there are special circumstances. The building is not disused and the development would not lead to an enhancement to the immediate setting of the building. The proposal is therefore contrary to any of the special circumstances contained within paragraph 55 and consequently the proposal is not considered to be sustainable development. The proposal is therefore considered to be inappropriate development in the Green Belt, which is by, definition, harmful. The proposal is therefore contrary to Policies BDP1, BDP15(c) and BDP16 in the Bromsgrove District Plan and the provisions set out in the NPPF.
2. The close proximity of the existing farm buildings would cause an undue overbearing impact and would therefore result in a poor quality living environment for the intended future occupiers of the new dwelling, contrary to Policies BDP15, BDP16 and BDP19 of the Bromsgrove District Local Plan 2017 and the provisions of SPG1 and the NPPF.

Case Officer: Nina Chana Tel: 01527 548241 Ext 3207
Email: nina.chana@bromsgroveandredditch.gov.uk

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Redditch Gateway Infrastructure Ltd	Hybrid application comprising: Outline planning application (with matters of appearance, landscaping, layout, scale and details of internal circulation routes reserved) for the development on a phased basis of 32ha of employment land for business/industrial uses (Use Classes B1, B2, B8). The development shall include: landscaping, parking, associated infrastructure, utilities, drainage (including SUDS) and ground engineering works; and Full planning application for Phase 1 Ground Engineering works, and details of means of access to the site from the A4023. Redditch Gateway, Land Adjacent to the A4023, Coventry Highway, Redditch, Worcestershire	31.10.2017	17/00701/OUT

RECOMMENDATION:

That **DELEGATED POWERS** be granted to the Head of Planning and Regeneration to GRANT planning permission subject to the applicant entering into a suitable legal mechanism to secure the following:

1. £200,000.00 to be paid on first occupation and held for a period of 15 years from its receipt in the form of a bond and management arrangement to support HGV routing.
2. biodiversity offset scheme for each phase of development and biodiversity monitoring contribution.

1.0 Consideration and Determination of Cross Boundary Application

- 1.1 Three identical applications have been submitted which include land within three LPA boundaries (Stratford, Bromsgrove and Redditch).
- 1.2 The consideration of the impacts of a development proposal are not altered by political boundaries and cannot be considered in isolation. Members need to consider the application as a whole, (not just that part of the development within its own administrative boundary) and come to a decision based upon that consideration. However, Members will only be determining the application in so far as it relates to the administrative boundary of Bromsgrove District. For reference this relates to land North of the Coventry Highway and Blacksoils Brook / east of Ravensbank Business Park.

- 1.3 The fact that the development proposal straddles three Local Planning Authority boundaries does however have a bearing upon each authorities responsibilities for enforcement of any planning conditions which may be imposed in the event that permission is granted by each Local Planning Authority. Whilst the purpose of some of the recommended conditions will be common to all three applications, others relating to specific areas of the development or issues which are confined or unique to particular parts of the site will only be imposed by the particular LPA within which those issues arise.

2.0 Consultations

2.1 Beoley Parish Council

Response awaited

2.2 Mappleborough Green Parish Council (Stratford)

Make the following comments:

- Insufficient time to consider the information submitted with the application
- Unable to provide consultation response until the end of October 2017
- Proposed scale was unknown until the public consultation organised by Stoford's
- Government describes site as 'regeneration' despite it being a greenfield site (23.08.2017)

Amended submission:

Object to the application for the following reasons:

- Significant impact
- Change character of area
- Increased traffic in both passenger and HGVs
- Removal of land from Green Belt would diminish open countryside and create an urban landscape
- Impossible to screen all buildings and associated structures – permanent loss of countryside
- Development would distract from nearby listed buildings
- Do not accept no significant change in number of trucks travelling through Mappleborough Green and Studley
- Traffic fundamental issue for various communities on the A435 corridor
- Local District and County Councillors do not support application
- People in Mappleborough Green generally against development
- Three Councils should commission long-term pollution and traffic volume measurements along the A435
- Question need – empty business units in Redditch. Brownfield sites should be developed first
- Low unemployment in Redditch – future employees would travel from outside the local area – increased pollution
- Referred to as 'Regeneration' but it is a greenfield site
- Great crested newts, bats and other species reside on the site
- Site and surroundings subject to flooding, and has a tendency to become waterlogged – associated impact on Ipsley Marsh SSSI
- Quote from North Worcestershire Economic Development and Regeneration, Redditch Eastern Gateway – Economic Impact Study June 2013 (20.10.2017)

2.3 Studley Parish Council (Stratford)

Object to the application for the following reasons:

- Adverse impact on visual amenity due to prominent nature of site
- Lighting visible from all over the district – detracting from open countryside
- Detrimental impact on listed Gorcott Hall and its setting
- No identified users, no identifies employment opportunities and no need for development – no shortage of employment opportunities in Redditch and surrounding area
- Isolated from residential areas in Redditch with no viable pedestrian or cycle access routes and no public transport links
- Redditch has ample brownfield sites within its boundaries which have existing infrastructure to facilitate construction
- Infrastructure not in place to support traffic from proposed development
- No public transport provision for the site
- No measures to reduce inevitable deterioration in air pollution that will impact on the Air Quality Management Area in Studley
- No proposal to alleviate HGV traffic along the A435 through Studley - measures should be put in place to deter HGV traffic along this route. Additional housing development in the area will mean workers travel along this route to the development (16.08.2017)

2.4 Tanworth in Arden Parish Council (Stratford)

No representation (07.08.2017)

2.5 Spennall Parish Council (Stratford)

None received

2.6 Morton Bagot Parish Council (Stratford)

None received

2.7 Ullenhall Parish Council (Stratford)

Object to the application for the following reasons:

- Infrastructure is not in place to support development
- Adverse impact on Ullenhall from excess traffic (04.08.2017)

2.8 Beaudesert Parish Council (Stratford)

None received

2.9 Henley in Arden Parish Council (Stratford)

None received

2.10 Oldberrow Parish Meeting (Stratford)

None received

2.11 Sambourne Parish Council

Object to the application for the following reasons:

- Strong environmental arguments against the development

- Detrimental visual effect on the area – what was Green Belt would disappear and Redditch would extend right up to the A435
- Increase in traffic, particularly of HGV movements along the A435 – increased level of congestion, noise and air pollution
- HGV routing plan is a vain hope – hauliers and carriers would use the most effective route. All discussions of alternative routing are ill-considered
- Minimal need – similar industrial units in Redditch lie empty
- Brownfield sites should be developed first
- Low level of unemployment in Redditch – future workers will travel from further afield - unsustainable
- SDC appears to have 'handed over' land to Redditch for development – when was this decided, by whom and where are the details?
- Unnecessary
- Detrimental effect (22.08.2017)

2.12 Cllr George Atkinson (Stratford)

- No comment

2.13 Cllr Mike Gittus (Stratford)

- No comment

2.14 Cllr Justin Kerridge (Stratford)

- The principle of development for employment purposes has already been agreed by Stratford Council

2.15 Cllr Stephen Thirlwell (Stratford)

- All development traffic should be monitored to ensure that it does not use any of the country lanes surrounding the Warwickshire villages in that area such as Ullenhall. Such village roads and lanes were not designed for the use of large HGVs.

2.16 Cllr Hazel Wright (Adjacent Ward Member Studley with Sambourne, (Stratford) OBJECTION

- Not clear how good design will be secured
- The site has been derived through loss of green belt
- The claim that the development will create jobs for local people is not substantiated
- The development would harm the setting of listed buildings
- Landscaping cannot screen the development
- The A435 will be impacted during the construction phase
- The HGV routing plan will only be as effective as its enforcement and how it will be enforced is unclear

2.17 Worcestershire Highway Authority and Warwickshire Highway Authority

Have prepared a joint response as follows:

Both Highway Authorities have undertaken a full assessment this planning application. Based on the appraisal of the development proposals and the additional information which has been submitted, the Highway Authority has **no objection subject to conditions and financial obligations.**

Worcestershire Highway Authority as no objection to the TA and confirms it accords with national planning policy and guidance.

The document concludes that various mitigation is required to enable modal choice and overcome issues on the highway network, which will be secured and implemented through suitable conditions and financial obligations., which is acceptable. Warwickshire Highway Authority has also identified a need for a Highway Safety Improvement Scheme at the junction of the A435 Southbound / A4023 Coventry Highway. This would be conditioned and delivered under a Section 278 Agreement.

Framework Travel Plan;

The applicants have submitted a Framework Travel Plan, which has been prepared on their behalf by BWB.

The Highway Authorities support the principal shown within the document and will require the measures and incentives to be implemented on first occupation of the development proposals as set out in Section 7 of the document. In addition the Highway Authorities will also require the submission of the first staff travel surveys within 12 months of first occupation of the development, suitable conditions will be worded to this effect.

The Framework Travel Plan will be overseen and managed by Worcestershire County Council.

Heavy Goods Vehicle (HGV) Routing Strategy;

The applicants have submitted a potential HGV Routing Strategy as part of the Transport Assessment in Appendix H. The aim of this plan is to prevent HGVs routing south down the A435 impacting on Mappleborough Green and Studley, the latter which forms part of an Air Quality Management Area.

Both Highway Authorities support the principal shown within the document and will require a full HGV Routing Strategy to be submitted and approved in writing by the Local Planning Authorities and to be implemented on first occupation of the development. In addition, both Highway Authorities will also require the submission of the first HGV routing surveys within 12 months of first occupation of the development, suitable conditions will be worded to this effect.

In addition, the Highway Authorities require a contribution of £200,000.00 to be secured via a s106 agreement to be submitted prior to first occupation and held for a period of 15 years, to allow the mitigation of HGVs on each Highway Authorities networks should they be deemed necessary.

*The TA has been independently reviewed by Transport Consultants Mott MacDonald commissioned by Bromsgrove District Council. The findings of Mott MacDonald are discussed in Section 17 of this report.

The TA states that the impact of the proposed development is minimal. The review by MM finds no reason why this shouldn't be the case. MM note that Warwickshire County Council and Worcestershire County Council have been engaged throughout the process and has led to a well scoped assessment. MM agree with the findings of the Transport Assessment based on the information included within the TA. It should be noted that MM have not undertaken an independent review of the VISSIM or Paramics modelling; however, they understand that these models have been approved by Highways England and Warwickshire County Council respectively.

2.18 Highways England

NO OBJECTION. Following comments raised:

- Following a review of the submitted Transport Assessment, the traffic arising from the development would have limited implications for the operation of the Highways England network
- Improvements to Junction 3 of the M42 is being Government funded and are currently under development (11.08.2017)

2.19 Coal Authority

NO COMMENT. The site does not fall within the defined coalfield (08.08.2017)

2.20 CPRE (Warwickshire)

OBJECTION

- The development would ruin the setting and approach to the town of Redditch on the A4023
- The proposal conflicts with Policies CS1 and CS9 of the SDC Core Strategy
- The proposed development would have an adverse impact upon the residents of Winyates Green as industrial development is not compatible with residential development
- The northern part of the site should remain open countryside
- There is no shortage of employment land for Redditch, so the development is not required

2.21 CPRE (Worcestershire)

OBJECTION

- Loss of natural or semi-natural species rich meadow. No planted (or seeded) resource can ever properly replace a natural one. Any planted resource is inevitably artificial.
- Loss of hedgerows which are themselves an element of the historic environment

- Appropriate buffer zones will be needed along the edge of the wood to the northeast of the Ravensbank portion of the site to ensure that the wood (with protected species is not damaged)
- The Ravensbank bridleway along the edge of the site should be preserved.
- The site is upstream of Ipsley Alders Marsh Nature Reserve and particular care will be needed to prevent pollution of Blacksoils Brook which passes through the site.
- The setting of Gorcott Hall which is a Grade II* listed building
- The northern part of the site is adjacent to the existing Ravensbank and Moons Moat industrial areas. If it is to be developed, industrial uses would be appropriate. This has long been acknowledged through the designation of the Bromsgrove part as an Industrial ADR. The northern part of the Winyates Triangle is a natural extension to this.
- Conversely the southern part of the Winyates triangle adjoins the Winyates Green housing area but could be developed for housing (provided the environmental and other constraints could be overcome)

2.22 Environment Agency

NO OBJECTION subject to conditions (summary of main comments below)

- Flood risk - Although EA Flood Maps indicate that the site falls in Flood Zone 1, detailed modelling indicates that parts of the site lie within Flood Zones 3a and 3b – through rerouting and redesigning channels and removing structures, vast majority of site would be in Flood Zone 1 post-development with no increase in flood risk downstream
- Biodiversity - Biodiversity information lacking – content that this could be secured by condition
- Construction Environmental Management Plan - No impact from development in terms of groundwater pollution or levels subject to Construction Environment Management Plan and surface water drainage scheme secured by condition
- Groundwater and connectivity with SSSI – unlikely that development would significantly impact groundwater levels within SSSI
- Water resource and efficiency – encourage careful consideration of water use and sustainable water consumption during construction (26.09.2017)

2.23 Forestry Commission

No objection (28.07.2017)

2.24 Historic England

Make the following comments:

- A number of heritage assets close to the site – the most important being the Grade II* listed Gorcott Hall which has historic fabric from the early 16th century onwards. There are also associated Grade II listed structures
- The Built Heritage Assessment provided as part of the application concludes that the development would cause less than substantial harm to the significance of the Grade II* listed building – the harm is described as ‘moderate’, which is a reasonable assessment and a conclusion that HE endorse

- Involved in discussions at pre-application stage – the scheme was considerably improved at that stage; mainly by moving new buildings further away from Gorcott Hall and ensuring that they are kept as low as possible within the landscape
- However, further scope to reduce the impact of the proposals on the setting of the listed buildings which would be desirable in lessening their impact on the significance of these buildings
- Harm needs to be balanced against public benefits (16.08.2017)

Amended submission:

Do not wish to offer any comments (26.10.2017)

2.25 Natural England

NO OBJECTION –

subject to appropriate mitigation being secured. Following comments raised:

- Without appropriate mitigation, the development would damage or destroy the interest features for which Ipsley Alders Marsh Site of Special Scientific Interest has been notified
- Water quality and quantity implications for Ipsley Alders Marsh should be taken into consideration which addressing site design, drainage and attenuation
- Construction Environmental Management Plan should be conditioned to avoid damage to SSSI
- Surface water drainage scheme should be conditioned
- Development should comply with CS.7
- Impact on public rights of way should be considered
- Agricultural Land Classification report submitted does not fully follow ALC Revised Guidelines and conclusion that the land is subgrade 3b and 4 is un-evidenced – new ALC survey should be submitted to include soil survey of the land (22.08.2017)

2.26 NWEDR (North Worcestershire Economic Development SUPPORT

2.27 Ramblers Association

NO OBJECTION in principle. There will be matters of detail upon which we may wish to comment but that may be best left until the reserved matters stage.

2.28 Worcestershire County Council Strategic Planning

Object to the application for the following reasons:

- Minerals and Waste – full justification and detail of any bunds will be required at reserved matters stage and visual impact considered in any LVIA. Full planning application for Phase 1 does not appear to include any details of the amount of material to be deposited or heights of bunds created, nor any justification for requirement. Any bunds proposed should be treated as a proposal for landfilling. Holding objection until such time as sufficient information is provided to enable the landscaping proposals to be assessed in more detail. Levels should be

conditioned. Areas for waste collection should be incorporated at reserved matters stage

- Minerals – site is not in an area of identified mineral deposits. No formal comments to make
- Public Rights of Way – no objection in general however some existing public rights of way do not appear to be shown on submitted plans on their definitive lines, or are missing. Proposals incorporate diversion of PROW – application should be made to LPA. Clarification required on how footpaths around new road junction works are to be incorporated – conflict with landscaping works (pond and retaining wall). If PROW are to be shared with cycles, would normally require a width of 5m provided
- Ecology – clarification required prior to determination. Insufficient information to demonstrate no-net-loss of biodiversity. Biodiversity Impact Assessment required to demonstrate that offsetting is practical, deliverable and securable. The 'Hydrology Review Report'/'Eco-Hydrology Report' which is referenced has not been submitted – cannot be confident in conclusions drawn. No reference to Worcestershire Green Infrastructure Partnership's GI Concept Plan. Queries raised regarding author of ES Ecology chapter, reference to 'over-mature' trees, diversion of water channels, impacts on downstream SSSI, impacts on Ravensbrook Drive Bridle Track LWS, impacts on county boundary hedgerow, assertion that GCN unlikely to use grassland, creation of mammal pass
- Water Environment – essential that mitigation specifications proposed by hydrological expert have been evaluated and are supported by appropriately qualified and experienced ecologist. No evidence to support assertion that SSSI is fed from local spring water. Disconnect between Water Environment and Ecology chapters of ES. Unclear what 'moderate adverse impact' on groundwater contamination of SSSI is based on. De-culverting of Blacksoils Brook is welcomed but opportunity missed in achieving ecological betterment
- Draft Mitigation Enhancement Summary – provided in draft format which is inappropriate for a planning application. Queries raised regarding authors, specific mitigation measures, use of vague language, mitigation required for each bat species, implications of hedgerow clearance, 30 year habitat management plan. Lighting should be conditioned. Insufficient information to demonstrate 'no significant impact' on Alders Marsh SSSI or 'no significant impact on retained and newly created habitats'.
- Key recommendations, prior to determination:
 - Ecological Constraints and Opportunities Plan should be prepared and submitted
 - Biodiversity offsetting should be explicit
 - Suitably competent and experienced ecologist engaged which cohesively takes into account drainage recommendations
 - ES should be revised to address valuation of habitats (25.08.2017)

Additional comments:

- Satisfied that final detail of bunds could be considered at reserved matters stage
- Generally satisfied with proposals set out in outline element, subject to clarification on approach to screening of service yards for the Phase 1 part of development (12.09.2017)

2.29 Warwickshire Fire and Rescue Service

NO OBJECTION

subject to a condition which secures provision of water supply and fire hydrants necessary for fire fighting purposes at the site. (16.08.2017)

2.30 Warwickshire Police (Crime Reduction and Community Safety)

NO OBJECTION

- Subsequent reserved matters should ensure the specification for openings, roller shutters, doors and windows, are designed to deter crime.
- Introduction of features within road layout to discourage car cruising events
- Security of site offices, plant and equipment during the construction phase.

Amended submission:

No further observations (16.10.2017)

2.31 Worcestershire Regulatory Services (Bromsgrove and Redditch)

Contaminated Land

Make the following comments:

- Contaminated land – assessment, which has been carried out in accordance with current guidance and best practice, considers site to be low risk in terms of risk from contaminated land. Agree with recommendation within submitted report that further investigation is required and this could be secured by condition
- Air quality – a number of shortcomings associated with submitted Air Quality Assessment (AQA). However, when considering the nature of the proposed development, its location and current air quality in the local area within Worcestershire, it is unlikely that refining the model further would result in different conclusions. The AQA concludes a “negligible” impact on air quality within Worcestershire which is considered to be reasonable. Conditions recommended (31.08.2017)

Amended submission:

Previous recommendations still apply (18.10.2017)

2.32 Woodland Trust

OBJECTION to the application for the following reasons:

- Loss of two veteran oak trees T73 and T74 and proximity of development to two veteran oaks T46 and T92 whose root protection zones will be impacted
- All four veteran oaks are verified on the Ancient Tree Inventory
- Essential that no trees displaying ancient/veteran characteristics are lost as part of the development
- Intensification of recreational activity of humans
- Fragmentation as a result of separation of adjacent semi-natural habitats
- Noise and light pollution during both construction and operational phases
- Lopping/fellings where trees overhang public areas

- Safety issues threatening longer-term retention of trees
- Removal of T73 and T74
- Documentation incorrectly states that only one veteran oak tree is present on site (24.08.2017)

2.33 Worcestershire Wildlife Trust

OBJECTION for the following reasons:

- Detrimental impact on Ipsley Alders SSSI and nature reserve – direct groundwater links between development site and the SSSI. Concern that some of the assumptions about the effectiveness of drainage and SUDS in the ES are incorrect. Potential impact on the main water source to the SSSI. Actual groundwater strikes as a result of land forming would open a direct pathway for pollution of the SSSI. Further clarification required
- Alter hydrology of adjacent Ravensbank Drive Local Wildlife Site – loss of two small watercourses which currently feed the LWS and the impact this would have. Further clarification required
- Habitat losses and impacts do not appear to be mitigatable onsite given the indicative layout – insufficient information to evidence that biodiversity offsetting can be done effectively. Value of some habitat features including grassland and over-mature trees have been undervalued in the ES. Further clarification required
- Surveys have shortcomings leading to inaccurate results – for example, assessment of species rich grassland, treatment of over-mature trees, bat survey methodology and great crested newt mitigation strategy (24.08.2017)

Amended submission:

Continue to object to the application for the following reasons:

- Insufficient detail on biodiversity offsetting
- Insufficient detail on proposals to mitigate harm to protected species
- Insufficient detail to determine impacts on Ravensbrook Drive LWS
- Additional information addresses previous concerns relating to SSSI
- Pleased to note species rich grassland is being retained
- Robust Construction Environmental Management Plan required (31.10.2017)

2.34 Warwickshire Flood Risk Management

NO OBJECTION subject to conditions
(29.08.2017)

Amended submission:

No additional comments (31.10.2017)

2.35 North Worcestershire Water Management (LLFA)

NO OBJECTION subject to conditions. Following comments raised:

- Flood risk
 - Site specific modelling indicates that the channels on site typically become overwhelmed readily
 - Modelling following mitigation indicates that overland flows across the site would be virtually eliminated, exception being the 1000 year storm would still see some inundation from the Brooksoils Brook channel just upstream from Coventry Highway embankment. At lower return periods almost no overland flow at all, and almost all water held within proposed water course network
 - Hydrograph provided within model indicates that overall discharge post development is reduced compared to pre-development rates
- Groundwater and hydrology
 - Addendum to ES requested to clarify location of trial pits to establish extent to which infiltration from site contributes to groundwater
- Sustainable drainage scheme
 - As outline, no specific detail on design and layout of SUDs, however indicated features considered to be acceptable (26.09.2017)

2.36 Worcestershire Water Officer

NO OBJECTION subject to condition (16.08.2017)

2.37 **Warwickshire Wildlife Trust** **OBJECTION**

- Loss of priority habitat: lowland meadow – ecological survey of the grassland was carried out in September which is sub-optimal time of year given that many of the wildflowers have finished flowering and it can be very difficult to identify them. Survey still found relatively high diversity in wildflowers present. Warwickshire is lacking in lowland grassland
- Proposed mitigation for protected species: great crested newt and badger – developable area should be reduced to retain pond 3 and its surrounding habitat. Insufficient information to evidence that off-site mitigation can be achieved
- Mitigation and compensation for overall loss of biodiversity – Biodiversity Impact Assessment has not been submitted. EIA states that biodiversity offsetting will be required but no detail has been provided
- Impact on nearby Ipsley Alders Marsh SSSI – development site linked to SSSI via groundwater rather than by direct flow from onsite watercourses. Any changes to groundwater levels may adversely affect SSSI
- Mitigation for the impacts on neighbouring Local Wildlife Site – Ravensbrook Drive Bridle Track is a LWS that runs along the western boundary of the southern site area. Negative impact through adjacent road and diversion of watercourses
- Survey effort regarding protected species – bat surveys have not followed best practice guidance. EIA fails to consider the impact of light spill from the site affecting off-site roosts (24.08.2017)

Amended submission:

Maintain objection. Following comments raised:

- Retention of meadow grassland to south of site addresses one of the reasons for objection
- Maintains that insufficient information submitted to evidence that off-site mitigation can be achieved
- Insufficient information on proposed biodiversity offsetting (19.10.2017)

2.38 Stratford on Avon District Council Conservation Officer

Make the following comments:

- Extensive pre-application discussions – the application now submitted is broadly in line with the end product of the pre-application discussions
- Historic England involved with pre-application discussions and agree entirely with the consultation response received from them – further mitigating measures could further reduce the level of harm, and there may be some cope for this as part of any subsequent reserved matters process
- Significant degree of success in achieving, through those discussions, a lower level of harm with regard to the setting of the Grade II* listed Gorcott Hall
- Main difference with last provisional plans discussed at pre-application stage is increase in height of units A and AA from 18m to 21m – they have an adverse impact on the setting of Gorcott Hall and increase in height exacerbates this adverse impact – slightly higher from a mid-point within the ‘less than substantial harm’ spectrum
- Agree with conclusions within the submitted Heritage Assessment – development will result in less than substantial harm to the significance of Gorcott Hall in the middle of the less than substantial threshold, low level of less than substantial harm to associated buildings and very low levels of less than substantial harm for other listed buildings
- Only building considered which is not focused on in the submitted Heritage Statement is the Grade II listed Church of the Holy Ascension – very low level of less than substantial harm
- Very significant public benefits required to outweigh less than substantial harm identified (25.08.2017)

Amended submission:

Make the following comments:

- Amendments slightly positive in that they would increase the distances from
 - a) Designated heritage assets (within SDC remit) to the southeast of the southern part of the site
 - b) Built form within nearest part of development site
- Assuming that there would not be an associated increase in height of the realigned built form, removals of substantive built form in the very south of the site is helpful in terms of ameliorating any adverse impacts on the setting of nearby listed buildings (18.10.2017)

2.39 Bromsgrove District Council Conservation

Make the following comments:

- Gorcott Hall, a Grade II* listed building, comprises a small country house dating back to the 15th century, but with substantial additions and alterations taking place in the 16th, 17th and 18th centuries
- The Heritage Statement submitted with the application concludes that the harm to the significance of Gorcott Hall is less than substantial, falling within the middle of that assessment, and would therefore be described as moderate
- Detailed pre-application discussions took place between Conservation Officers for Bromsgrove, stratford upon Acon and Hisotirc England
- The scheme largely mirror the draft scheme discussed in September 2016
- Development to the southwest of Gorcott Hall would be restricted to 9-12m in height and ground levels would be redcued to sink the units down into the landscape
- Combined with the landscape buffer visibility and impact on Gorcott Hall would be reduced
- Zone to the north of the brook has been increased to 21m from pre-app discussions at 18m which is disappointing
- Agree that harm to significance of Gorcott Hall would be less than substantial, and within that assessment, is at the very least moderate
- Imperative that at the reserved matters stage a great deal of thought is given to; materials and especially colour schemes, specifics of ground profiling, soft landscaping, hard landscaping, security, lighting, land management and photomontages from Gorcott Hall (25.08.2017)

2.40 Warwickshire Flood Risk Management

NO OBJECTION subject to conditions to control discharge of surface water and mitigate risk of its contamination.

2.41 SDC Governance and Community Safety

NO COMMENTS on the basis of the application being for industrial units (30.08.2017)

2.42 Warwickshire County Council ECOLOGY

Initial response

Objects to the application unless concern about the nationally important habitat of UK Priority Lowland Meadow is resolved. All other ecological concerns can be resolved through conditions and/or obligations:

- Protected species
 - – Bat surveys do not conform to the Bat Conservation Trust Guidelines, however indicate that hedgerows and brook are important flight-lines. Essential to ensure unbroken and unlit commuting routes from woodland.
 - Badgers on site would have reduced foraging areas – acceptable subject to landscaping planted to maximise foraging potential and connectivity for mammals in road junction layout.

- Barn owl, soldierfly and great crested newt can be resolved through landscaping reserved matters and conditions (constructional environmental management plan and lighting scheme)
- Protected habitat
 - Southernmost fields are Lowland Meadow UK Priority Habitat which is a rare and declining habitat that is of county importance where all remnant pastures need to be secured and enhanced. The retention and enhancement of these fields would reduce the ecological impact of the development
 - County important Ravensbrook Drive Bridle Track adjacent to the western boundary of the southern site and onsite Blacksoils Brook (both Local Wildlife Sites) would need to be buffered and secured from impacts from development including light spill
 - Veteran trees should be protected unless this cannot be avoided
- Biodiversity offsetting
 - Northern area has potential to provide a net biodiversity gain for habitats but a loss of linear features
 - Southern area would result in a significant loss of habitat and potential gain for linear features
 - Actual losses/gains unknown
 - Biodiversity impacts would need to be monitored throughout the build through biodiversity offsetting schedule within S106 legal agreement (25.08.2017)

List of recommended conditions and obligations provided (13.09.2017)

Amended submission:

OBJECTION REMOVED. Following comments raised:

- Conditions provided in initial response still applicable
- Suggested wording for legal agreement to secure biodiversity offsetting provided (31.10.2017)

2.43 Worcestershire County Council ARCHAEOLOGY

NO OBJECTION subject to standard condition relating to scheme and programme of site investigation and recording

- Broadly concur with approach suggested in section 8 of Cultural Heritage chapter of the ES but recommends that the standard percentage-based sampling approach form the basic requirement for the field evaluation strategy and should include an appropriate programme of geoarchaeological works and environmental/palaeoenvironmental sampling (04.09.2017)

2.44 SDC Environmental Health

Makes the following comments:

- Contaminated land – site considered to be ‘low risk’ based on assessments carried out to date. Further site investigation recommended, but could be dealt with by conditions

- Air quality – conclusions of applicant’s transport consultant’s noted in that traffic generated by development would be dispersed across the network and impacts on air quality in Studley are unlikely to be significant. Recommends that a quantitative air quality assessment be carried out so as to have a robust understanding of the impacts of the development on the Studley AQMA. Concerned with the advisory status of the HGV Routing Strategy and practicalities of implementation. Recommended that a robust HGV Routing Strategy be submitted which includes the construction phase of development
- Noise – Worcestershire Regulatory Services will take lead on noise and vibration matters on behalf of three Authority areas affected (05.09.2017)

Makes the following comments:

- As Studley is an AQMA, appropriate for impact to be robustly assessed prior to determination
- Report should include an assessment of impact without the proposed mitigation as concerned about alternative route in the VRMP – could potentially impact on air quality in Studley if impractical and therefore should be considered prior to determination (28.09.2017)

Amended submission:

No objection. Following comments raised:

- Maintains previous response with regards to air quality (24.10.2017)

2.45 Publicity

541 letters sent on the 28th July 2017 (expired 24th August 2017)

18 site notices were posted on the 31st July 2017 (expired 24th August 2017)

Press adverts in the Bromsgrove Redditch Standard newspapers on 28th July 2017

541 re-consultation letters sent on the 13th October 2017 (expired 27th October)

2.46 Neighbour Representations

466 representations were received from local residents in Objection.

The following issues have been raised:

- **Principle/Need**

No need for the development

Brownfield land and vacant premises should be utilised first

Development should be located adjacent a motorway

Site should be developed for housing in preference to employment uses

The end users are not identified

- **Loss of Green Belt/Greenfield**

The development would result in the loss of greenfields, green belt and trees

- **Ecology/Biodiversity**

The proposal would have a detrimental impact upon ecology / wildlife
Reports are out of date
Harm to Ipsley/Alders SSSI

- **Transport/Highways**

The proposal would result in traffic congestion on roads which are already heavily congested
The A4023 and A435 cannot cope with extra traffic
HGV's will use inappropriate roads
A bypass should be built for Studley
HGVs should be banned from Studley
Enforcement of HGV routing
No vehicular access should be allowed from Farm Moor Lane
The development would encourage 'rat running'
Insufficient parking is proposed
The development would lead to overspill parking in Far Moor Lane
There is a lack of connections to public transport
The new junction will cause traffic chaos
The development would prejudice road safety

- **Amenity/Pollution**

The development would result in noise nuisance and consequent loss of amenity during and following construction
The development would have an adverse impact upon air quality (especially in Studley)
The development would have an adverse impact upon the quality of life of the local community
The development would adversely affect health
The development would cause light pollution
The development would be visually intrusive and detract from the outlook enjoyed by occupiers of the adjacent residential development
The development is too high and too close to Longhope Close
The development would result in litter
The buildings are too high
There is no timescale of the development
The hours of operation of the development should be restricted

- **Heritage**

The development would have an adverse impact upon the setting of listed buildings (particularly Gorcott Hall)

- **Flooding**

The development could cause or exacerbate local surface water flooding issues
Surface water drainage is inadequate

- **The other following issues have also been raised:**

The proposal would result in an influx of migrant workers
Precedent for further development
The development would have an adverse impact upon house prices

Petition with 35 signatures received. Grounds for objection:

- Lasting impact
- Development would inevitably bring:
 - more heavy goods traffic
 - more pollution
 - more noise
 - effect the hydrology of the area
 - further development of green spaces

Petitions objecting to the application on the same grounds as above received for each of the following roads:

- Hollyberry Close – 101 signatures
- Illshaw Close – 73 signatures
- Kingham Close – 56 signatures
- Gateley Close – 21 signatures
- Flaxley Close – 47 signatures
- Furze Lane – 5 signatures
- Jays Close – 18 signatures
- Prestbury Close – 21 signatures
- Hindlip Close – 8 signatures
- Various – 140 signatures

3.0 Relevant Policies

- 3.1 The adopted Development Plan setting out the planning policy provisions relevant to development on the site as a whole comprise the following:

Stratford-on-Avon Core Strategy (2016)
Bromsgrove District Plan (2017)
Redditch Local Plan No.4 (2017)

3.2 Bromsgrove District Plan

- BDP1 Sustainable Development Principles
- BDP5B Other Development Sites
- BDP6 Infrastructure Contributions
- BDP13 New Employment Development
- BDP14 Designated Employment
- BDP16 Sustainable Transport
- BDP19 High Quality Design
- BDP20 Managing the Historic Environment
- BDP21 Natural Environment
- BDP22 Climate Change
- BDP23 Water Management
- BDP24 Green Infrastructure
- BDP25 Health and Well Being

3.3 Stratford-on-Avon Core Strategy (2016)

Relevant Policies in the Development Plan for this application are

- CS.1 Sustainable Development
- CS.2 Climate Change and Sustainable Construction
- CS.3 Sustainable Energy
- CS.4 Water Environment and Flood Risk
- CS.5 Landscape
- CS.6 Natural Environment
- CS.7 Green Infrastructure
- CS.8 Historic Environment
- CS.9 Design and Distinctiveness
- CS.10 Green Belt
- CS.15 Distribution of Development
- CS.22 Economic Development
- REDD.1 Redditch
- REDD.2 Redditch
- CS.25 Healthy Communities
- CS.26 Transport and Communications
- CS.27 Development Contributions

3.4 Redditch Local Plan No.4 (2017)

Policy 16 Natural Environment

Policy 22 Road Hierarchy

Policy 24 Development within Primarily Employment Areas

3.5 Others

- NPPF National Planning Policy Framework
- NPPG National Planning Practice Guidance

- Worcestershire County Council Local Transport Plan 3 (LTP3)
- Stratford on Avon District Design Guide (information guidance)
- Historic England Good Practice Notes 2105:
 - GPA 1 – The Historic Environment in Local Plans
 - GPA 2 – Managing Significance in Decision-Taking in the Historic Environment
 - GPA 3 – The Setting of Heritage Assets
- Air Quality Action Plan for Alcester Road, Studley
- Warwickshire Local Transport Plan (2011-2026)
- Warwickshire Landscape Guidelines 1993
- Planning and Community Safety – Design and Crime Reduction 2006: Planning Advice Note (informal guidance)
- Green Infrastructure Study for Stratford on Avon District Council (2011)
- Stratford on Avon Employment Land Assessment 2011

- Corporate Strategy 2015-2019
- Stratford on Avon Business and Enterprise Strategy 2012-2015
- Stratford District Partnership 2026 Vision – Sustainable Community Strategy
- Guidelines for Landscape and Visual Impact Assessment (GLVIA3)
- National Character Areas 17.07.2012
- Guidance on Transport Assessment published jointly by Department for Transport and Department for Communities and Local Government 2007

3.6 Redditch Borough Plan

- 3.6.1 The Redditch Borough Local Plan 4 was adopted on 30 January 2017 for the period 2011-2031
- 3.6.2 Only a small part of the site providing pedestrian access into the main area of development lies within Redditch borough. However, the justification for the allocation of Redditch Gateway with Bromsgrove and Stratford-on-Avon is derived from the objectively assessed needs of Redditch. Redditch Gateway is therefore identified on the plan's key diagram.
- 3.6.3 BoRLPNo.4 Policy 23 identifies the employment land requirements for Redditch and notes that Redditch Gateway *is "a key initiative for employment provision to meet Redditch related employment needs."* Around 10ha is therefore allocated with Bromsgrove District adjacent to the existing Ravensbank development and further land in Stratford-on-Avon at Gorcott (c 7ha) and Winyates Green (c 12ha).
- 3.6.4 The policy continues that the development will provide a significant enhancement to the employment land supply through the creation of a "high profile and highly accessible" employment scheme that will benefit from links to the M42/M40 corridor, able to help support existing business in Redditch and provide opportunity to diversify the employment base.
- 3.6.5 Development requirements include the need for a comprehensive development on the basis of a phased Masterplan that provides for high quality employment in a landscaped setting and have a co-ordinated, Masterplan approach to delivering a new primary access.

4.0 Relevant Planning History

This application has also been submitted to Redditch Borough Council and Stratford District Council

4.1 Redditch

17/00700/OUT (Redditch) PENDING Consideration by Redditch Borough Council
Scheduled committee date: 13th December 2017

4.2 **Stratford**

17/01847 (Stratford) Pending Consideration by Stratford District Council
Scheduled committee date: 6th December 2017

89/00702/FUL (northern parcel) A435 And A4023 Interchange Land to the north west of Adam Lane Mappleborough Green - Business And Science Park within Use Class B1 Withdrawn 07.02.1990

00/02173/OUT (southern parcel) Residential development (outline)
Withdrawn 12.03.2002

4.3 **Bromsgrove**

There is no relevant planning history for that part of the proposed site within Bromsgrove District.

ASSESSMENT OF PROPOSAL

5.0 **Site Description**

- 5.1 The site extends to approximately 31.5 ha (78 acres) and is within two main land parcels to the north and south of the A4023 Coventry Highway, a main dual carriageway arterial road linking from the A435 which forms the eastern boundary of both parcels.
- 5.2 The site lies on the edge of the built-up area of Redditch, approximately 2.5 miles from the town centre. The land is presently in agricultural use.
- 5.3 To the north of the A4023, the northern parcel (10.28ha) increases in level in a north/easterly direction and is formed from a series of fields, currently grazed and defined by semi/mature hedgerows. Trees are generally confined to the hedgerows except for a few isolated specimens. The Blacksoils Brook bisects the northern parcel along an approximately north-east / south-west alignment. A former chalk pit is evident within one of the fields.
- 5.4 To the south of the A4023, the southern parcel (21.24 ha) is relatively flat and in a broadly triangular shape. As with the northern parcel, it is formed by a series of fields defined by hedges.
- 5.5 Land both immediately north and south of the A4023 is set lower than the level of the road. The A435, part of the strategic highway network, linking Birmingham and Evesham (via the A46 and crossing the M42) forms the eastern boundary. It changes from a dual carriageway to single carriageway towards the southern boundary of the site as it approaches Mappleborough Green.
- 5.6 Two public rights of way, namely 585(C) and 588(D) cross the northern part of the application site, (within Bromsgrove's jurisdiction), and emerge on the northern side of the A4023 Coventry Highway, where they intersect with rights of way

799(C) [running north west towards Ravensbank Drive] , 800(C) [running south east along the western edge of the site], and 641(C) [which links to Far Moor Lane just south of the Blue Inn].

- 5.7 The site is neither within nor adjacent to a Conservation Area and does not include any statutorily or locally listed buildings. The site is not subject to any Tree Preservation Orders.
- 5.8 The majority of the land to the north of the northern land parcel is formed by agricultural land and mature woodland. The exception to this is Gorcott Hall, a Grade II* listed building and associated grounds (containing related listed structures) whose boundary with the site is formed by a mature hedge. The northern parcel is bounded to the west by existing employment developments including the Ravensbank Business Park. The southern boundary to the northern development land is formed by the A4023.
- 5.9 The A4023 and A435 also form the respective northern and eastern boundaries to the southern, development land parcel. To the west lies existing commercial development (hotel and car showrooms) and established residential development off Far Moor Lane. A pedestrian footpath 800(C) runs along the western and southern site boundaries, south of which is Longhope Close, including Lower House, a Grade II listed building. A screen of mature trees and hedgerow also runs along the eastern boundary. To the southeast of the site and on the other (eastern) side of the A435 are the School and Yew Tree and Church Cottages and the School House (formerly 1 and 2 School Cottages), which are Grade II Listed.

6.0 Proposal

- 6.1 The application is a hybrid application through which:
- outline planning permission is sought for the whole site for the development of up to 90,000sqm of employment floorspace falling within Use Classes B1, B2 and B8. B1 use will be restricted to 10% of the total floorspace and will be a combination of ancillary floorspace within the B2/B8 buildings and freestanding smaller units
 - full planning permission is sought for Phase 1 of the ground engineering works

Outline

- 6.2 A series of employment zones are proposed, accessed in the northern parcel from a central spine road that would run alongside a retained ecological and landscape corridor including the Blacksoils Brook. In the southern parcel, the development zones would be accessed from a new road that will run parallel to the western boundary. The proposed zones are identified on the Parameters Plan (ref 5372-205C), the Plot Area Plan (ref 2372-066E) and the Illustrative Masterplan (ref 5372-203 rev A).

- 6.3 Ground engineering works would be required to create the development plateau for each employment zone in the northern area. The precise levels changes would be dependent upon the size of the eventual buildings. The final ground levels are not therefore confirmed at this stage. Notwithstanding this, through the pre-application discussion with the three Councils there has been a requirement to ensure that the buildings do not exceed a certain height in order to ensure that the setting of Gorcott Hall is protected. The Parameters Plan therefore sets a maximum level above AOD beyond which the building heights will not be able to project.
- 6.4 The Parameters Plan also identifies that the building heights would be restricted to between 9m and 21m above development plateau ground level. The lower buildings would be sited at sensitive locations in relation to existing surrounding development.
- 6.5 The Parameters Plan also identifies zones for landscaping, planting and new features to be created as part of the sustainable drainage as well as green corridors between development plots. Principal amongst these green zones will be the area retained to the south west of Gorcott Hall to retain the setting of this listed building. Boundary hedgerows and trees plus the Blacksoils Brook and associated vegetation will be retained and enhanced through additional tree and hedge planting. Trees and hedges within the proposed development plots would be required to be removed. Compensatory planting would be secured as part of the future detailed landscaping proposals.
- 6.6 The proposal would require a diversion of public right of way number 585(C) under section 257 of the Town and Country Planning Act.
- 6.7 Internal roads do not form part of the current application proposals. Detailed designs for these would come forward as part of the subsequent submissions for reserved matters, if this application is approved. An illustrative layout plan (not for determination at this stage) shows an example of how the quantum of development might appear, if constructed within the tolerances proposed on the parameters plan.

Full Planning Permission

- 6.8 Approval is sought for the access into the site and the initial length of carriageway within the site. Access is proposed from a new signal controlled crossroads junction on the Coventry Highway (drwgs BMT/2116/100-01 rev P9 and 100-02 rev P2). The new junction would provide for all movements and require modification to the exiting lanes of the A4023 to create relevant lanes to access/egress the site.
- 6.9 The engineering works are required to facilitate the access into both the northern and southern parcels and to undertake the works necessary to create the first development phase. The overall area of works is approximately 2.47ha. Drawing BWB-HGT-01-DR-D-612 rev P1 outlines the extent of the area of works required, notably for the development platform and identifies the resulting contour levels. These would result in banking being created around the edges of the development

platform. The banking would be composed of soil with no requirement for retaining structures.

- 6.10 Drawing BWB-HGT-01-DR-D-637 rev P1 provides a north-south and east-west section through the proposed platform showing the existing and proposed profile. It is expected that 6336m³ of soil will be disturbed by the cut and fill. Surplus material from the operation would be used to create the support for the proposed access. There would be no requirement for soil to be disposed of off-site.

7.0 Planning Judgement

The main issues for consideration in this case relate to the following:

- 8.0 Principle of Development
 - Economic Impact
 - Visual Impact
 - Residential Amenity
 - Air Quality
 - Traffic
 - Parking
 - Surface Water Drainage
 - Built Heritage
 - Biodiversity
 - Public Rights of Way / Accessibility
 - Loss of Agricultural Land

Each matter will be given consideration under a separate heading below along with any other material considerations.

8.0 Principle of Development

- 8.1 The site is allocated for employment use in the Bromsgrove District Local Plan (adopted January 2017), the Redditch Borough Plan (adopted January 2017) and the adopted Stratford District Core Strategy.
- 8.2 The need for the development has been established through the preparation and Examination of the Redditch Local Plan.
- 8.3 BDC and its neighbouring Local Planning Authorities are required to identify sites to meet the employment needs during their respective plan periods.
- 8.4 The objective is to assist in meeting the employment requirements of Redditch.
- 8.5 The BDP includes a site specific policy BDP5 – Strategic Site Allocations, in particular, BDP5B – Other development Sites, which identifies sites outside of the town of Bromsgrove that will contribute towards the development requirements. That part of the application site situated within Bromsgrove is described as Ravensbank expansion site (for Redditch's needs)

8.6 The SADCCS and BDP are up-to-date adopted local plans and both allocate the site for employment development within classes B1, B2 and B8. The proposals therefore accord with the principal provisions of the land use allocation and SADCCS policies CS.22, REDD.1 and REDD.2 and BDP policy BDP5B

8.7 The site is allocated for employment uses within each of the three authorities' local plans, as follows:

Redditch Local Plan 4 (Adopted January 2017)

8.8 Only a small portion of the site providing pedestrian access to the development is contained within the administrative area of Redditch; however the justification for the allocation of the 'Gateway' is in order to meet the employment needs of Redditch.

8.9 BoRLP Policy 23 outlines the employment land requirements for Redditch and notes that the Redditch Gateway is a key initiative for employment provision to meet Redditch related employment needs.

8.10 The western edge of the site within Redditch Borough is a designated Special Wildlife Site to which BoRLP Policy 16 applies.

Bromsgrove District Plan (Adopted January 2017)

8.11 The Bromsgrove District Plan includes a site specific policy on the Redditch Gateway. Policy BDP5B, identifies that 10.3ha of employment land is allocated in order to meet Redditch's needs. The reasoned justification in Para 8.50 identifies that "This site is located to the South/East of the existing Ravensbank site and is approximately 10 hectares in area. The original employment site caters for Redditch Borough's needs and it is envisaged that this expansion site will provide additional capacity for Redditch's future needs on a similar basis."

Stratford-on-Avon Core Strategy (Adopted July 2016)

8.12 The Core Strategy provides the strategic context for development with the District up until 2031 and includes two site specific policies pertaining to this particular site. The policies are REDD.1: Winyates Green and REDD.2: Gorcott Hill. These two policies reflect the areas of land to the north and south of the A4023 and comprise the balance of the 'Gateway' site. These site specific policies also seek the following from the development of the site:

- Provide for a minimum of 15% of total floorspace within Class B1(a) and Class B1(b) research and development uses;
- Vehicle access off A4023;
- Protect character and setting of Gorcott Hall
- Retain mature hedgerows and trees on the site
- Traffic management and mitigation measures on A435 as appropriate
- Pedestrian and cycle links across A4023 to adjacent residential areas
- Protect and enhance the Pool and Blacksoils Brook
- Protect priority habitats within the site

- 8.13 Whilst the proposed application is considered to be in broad conformity with the adopted policies and designations of all three plans; one of the areas where there is considered to be some inconsistency is in relation to the amount of office space required by the policy within the Stratford Plan. It is worth noting that the allocations within the Redditch and Bromsgrove Plans are for developments within the use classes B1, B2 and B8 and there are not any further restrictions placed on the site in terms of thresholds.
- 8.14 The submitted proposals will provide for circa 10% of office floorspace to be for B1 use, and it is likely that this use will come forward as office space as a component of larger industrial manufacturing or warehouse buildings where typically at least 10% of the space is for office use.
- 8.15 Given the departure from the adopted policy position, the applicants have submitted further market evidence (undertaken by Savills) to identify why the 15% office requirement is not deliverable and this has been independently assessed by Stratford, via the report prepared by Cushman and Wakefield in March 2017. The conclusions of both reports are as follows:

Savills:

“The adopted policy requirement of 15% office floorspace is unlikely to deliver office floorspace due to the market conditions described. Areas of this important site may therefore not be developed and will not make a meaningful contribution to the employment land supply, precluding the development of B1c/B2/B8 floorspace for which there is a very strong demand and potential to generate high quality and varied employment opportunities.”

Cushman and Wakefield :

“It is therefore our opinion that the information provided by Savills in their report is consistent with the market, and that stand-alone offices are very unlikely to be developed on Redditch Eastern Gateway. In our view, reserving land specifically for this use would sterilize the land so reserved, resulting in the creation of fewer jobs.

- 8.16 *However, a significant amount of office space will be developed as part of a more B1c, B2 and B8 focussed scheme, with the proportional element of the building built as office increasing compared to historic levels. On this basis, the take up of the site will be quicker, with the consequent earlier creation of jobs.”*
- 8.17 I agree with the market assessments and subsequent conclusions provided within these documents. With this evidence in mind, it is considered appropriate to take a view that does not strictly accord with policies REDD.1 and REDD.2 of the adopted Core Strategy for Stratford. This would enable the site to come forward at an appropriate pace to meet market demand and will ensure that is not sterilized and left undeveloped.
- 8.18 As explained above, the site is allocated for development under Policies REDD.1 and REDD.2 of the Core Strategy. Prior to the adoption of the Core Strategy and associated allocation of this site, the northern development parcel (covered by REDD.2) was located within the Green Belt.

- 8.19 Policy CS.10 of the Core Strategy removed this section of land (which extended to approximately 9.8 hectares in area) from the Green Belt.
- 8.20 The Exceptional Circumstances for this (as outlined within the explanatory text to CS.10) being that, through joint working with RBC and BDC, land in Stratford on Avon District should be identified for employment uses to meet the needs of Redditch. The employment Land Review Update for Redditch identifies a shortfall of 27.5 hectares of land that cannot be accommodated within its boundaries.
- 8.21 A study commissioned by North Worcestershire Economic Development and Regeneration identified land at Winyates Green (southern development parcel), and Gorcott Hill (northern development parcel), as the best option available to meet this shortfall. The southern development parcel is outside the Green Belt but is only 12 hectares in size. Furthermore, a new access of the A4023 Coventry Highway is required to gain access to both sites. The cost of this would not be viable unless both areas are made available for development.
- 8.22 In light of the above exceptional circumstances, the northern development parcel was removed from the Green Belt under Policy CS.10 of the Core Strategy.

9.0 Economic Impact

- 9.1 It is important to note the wider economic context in which this site is viewed. The site is identified within the Worcestershire Local Enterprise Partnerships' (LEP) Strategic Economic Plan, highlighted as one of four 'Game Changer' sites within Worcestershire. The focus for this site is to:

“Create a high quality business park to attract and safeguard investment and employment, with a target being advanced engineering businesses.”

- 9.2 The site is also referenced as a key economic growth and regeneration project in the Greater Birmingham and Solihull Strategic Economic Plan, as follows:

“Redditch Eastern Gateway is an identified employment site situated on the outskirts of Redditch. The Gateway’s strategic location takes full advantage of the M40/M42 motorways and just a 20 minute drive time to Birmingham International Airport and railway station, with the potential for 100,000 square metres of high-profile employment development, 2,000 jobs and an additional £90 million of GVA. GBSLEP is working closely with Worcestershire LEP on this opportunity.”

- 9.3 The site is, therefore, a key development opportunity for both Worcestershire and Greater Birmingham and Solihull LEP's that will help to attract and safeguard investment within the Redditch area. There is strong support for these proposals from both Local Enterprise Partnerships recognising that the site will provide important space for new commercial development, which is in short supply within the area.

Economic Development Priorities for Redditch

9.4 Whilst the proposal lies substantially within Stratford upon Avon and Bromsgrove administrative areas, the site was primarily identified to meet the employment needs of Redditch. In this regard the proposal will contribute to the key aims and objectives identified in the adopted '*Economic Priorities for Redditch*'. Some of the key priorities identified within the Strategy that are pertinent to this proposal, include:

- Ensuring that sufficient land for employment is allocated;
- Provide support for growing businesses
- Keep employment land provision under review to ensure that we have an adequate supply to meet business growth requirements.

9.5 The current application would enable Redditch to meet some of its key economic aspirations for the Borough and this should be taken into account in the determination of this application.

10.0 Design Principles and Parameter Plans

10.1 The parameters plan provides land uses, building heights, indicative internal circulation routes, pedestrian/cycle access points and green infrastructure (to include perimeter planting, landscaping buffer zone adjacent to Gorcott Hall and retained grassland to the southern tip). Assessing each of these in turn:

Land use – the location and maximum extent of land proposed for development is shown. Being proposed for employment use only, the vast majority of the site is shown as employment zones to comprise buildings with associated car parking and servicing areas. An employment zone for parking only lies adjacent to its north boundary, with a landscaping buffer zone to its northeast boundary and retained grassland to its southern tip.

Building heights – the plan prescribes the maximum heights of buildings within the site, also providing a height as measured from AOD to ensure that the heights are complied with if any regarding occurs. The southern development parcel proposes a maximum height of 21m, not to exceed AOD 124.75. The western part of the northern development parcel also proposes a maximum height of 21m, not to exceed AOD 128.0. The middle section of the northern development parcel proposes a maximum height of 15m, not to exceed AOD 124.0, whilst the eastern section of the northern development parcel proposes a maximum height of 9m, not to exceed AOD 122.0 or 123.0 (depending on the specific location). In general the heights do not vary significantly across the site, with the exception of the north-easterly corner where lower heights are proposed to respond to the Grade II* listed Gorcott Hall and its associated Grade II listed structures/buildings.

Access and movement – the plan shows the primary access point off the A4023 Coventry Highway, as well as the initial length of carriageway within the site. Indicative internal circulation routes are shown, as are pedestrian and cycle access points. The access arrangements would allow for sufficient vehicular,

pedestrian and cycle routes that link the development to surrounding routes and rights of way.

Green infrastructure – the plan shows the provision of perimeter planting to all boundaries of the site, with a landscaping buffer zone to its northeast and retained grassland to its southern tip. Potential areas for SUDS are also shown on the plan.

11.0 Visual Impact

- 11.1 Policy BDP1 (1.4f) states that *“In considering all proposals for development in Bromsgrove District regard will be had to the following : The impact on visual amenity”*
- 11.2 Policy BDP19 (High Quality Design) provides a set of principles to safeguard the local distinctiveness of the District and ensure a high quality, safe and distinctive design throughout the development.
The proposed development would inevitably and permanently change the existing character and appearance of the site, which is presently a series of fields interspersed with trees and hedgerows. The form and scale of development proposed means that buildings will be visible from some public vantage points. This harm has to be balanced against the benefits of the development.
- 11.3 Ground engineering works would be focussed on the northern site. Existing ground levels do not enable the optimal development of the site and remodelling of contours is therefore necessary. This would be achieved through the creation of level development platforms that would create a series of development zones set into the wider landscape and require the creation of retaining structures around the north-eastern edges of the development zones. Those retaining structures would not be evident in views from Gorcott Hall as they would sit lower than the land to the north where the hall is situated. The new buildings would screen the retaining structures when viewed from the south. The Parameter Plan 5372-205C identifies the maximum building heights above AOD for each zone and have been defined to ensure that the visual impact of the development would be mitigated in short and longer views.
- 11.4 The full planning permission element of the application seeks consent to undertake the first phase of the ground engineering works. The submitted drawings identify the areas of cut and fill in order to create a level development platform. The edges to the platform will be formed by contoured banks. The proposals (including the creation of the banks for the proposed access) will not require any soils to be removed from the site.
- 11.5 The main development proposals are in outline only. Consequently, matters of detailed design, layout and appearance (including proposed external facing materials for the buildings) would be subject to the approval of reserved matters and subject to conditions on any approved outline permission. The submitted Illustrative Masterplan identifies a potential layout and the subsequent detailed proposals may take a different form dependent upon the requirements of future occupiers.

- 11.6 Nevertheless, the Parameters Plan, clearly identifies areas for development and areas that will form new landscaped buffers and ecological opportunities. The zones have been identified to provide for the efficient use of the land whilst seeking to minimise impacts on surrounding land uses and establish the potential height and proximity of building to adjoining development.
- 11.7 If permission is granted for the development, I would wish to ensure that the key parameter plans and some of the details and principles of the DAS be “fixed” by way of conditions to guide future developments at the reserved matters stage. Given that this development is likely to be built over a 15 year period, greater flexibility is required to enable future developers to respond to changing standards, requirements and aspirations as the development progresses. On this basis, I consider that a condition could be imposed, requiring reserved matters applications to encompass the principles and parameters set out in the application and supporting documents, thereby providing greater clarity and certainty of the design and layout standards required, whilst acknowledging that national and local standards and requirements may vary over time and thus allow for the potential review of the approved documents.

12.0 Residential Amenity

- 12.1 Policy BDP1 (1.4e) states that *“In considering all proposals for development in Bromsgrove District regard will be had to the following : Compatibility with adjoining uses and the impact on residential amenity”*
- 12.2 A number of existing residential properties are located within close proximity to the site, the closest being those on Longhope Close adjacent to the southwestern tip. The Wynyates Green estate lies to the western side of Far Moor Lane with properties backing onto that road. There are a small number of residential properties dispersed along the opposite edge of the A435 which forms the eastern boundary.
- 12.3 I have had regard to the height details on the submitted parameters plan in conjunction with the separation distances which would remain between residential properties and employment zones.
- 12.4 At its closest, the employment zone located within the southern development parcel would be located approximately 23m from the nearest residential property on Longhope Close, beyond an existing soft landscaped boundary to the application site. This soft landscaped boundary is proposed for retention and strengthening and, adjacent to Longhope Close, would extend to a minimum depth of 20m.
- 12.5 Buildings in this zone could be up to a maximum height of 21m, not to exceed AOD 124.75, however, matters of layout and scale which would determine the siting and massing of buildings are reserved. This means that a subsequent application for approval of those details would be required. Accordingly, subsequent consideration of detailed designs, would provide an opportunity for the

Local Planning Authority to consider the proximity of proposed development to nearby residential properties. Consequently it would be possible to ensure that separation distances between dwellings and proposed buildings/associated service yards are sufficient to ensure there would be no unduly adverse impact in terms of overbearance, loss of light and loss of privacy.

- 12.6 The closest dwelling to the west side of Far Moor Lane is located approximately 40m from the development site. Again, development in the nearest employment zone would be 21m in height, not to exceed AOD 124.75. As above, subsequent applications for reserved matters would enable the Local Planning Authority to control matters of layout (including siting of buildings and servicing areas) in addition to scale and appearance which will enable careful consideration to be given to the impact of the detailed design of the development with regard to neighbouring residential development when those proposals come forward.
- 12.7 Subject to consideration of the detailed design of any forthcoming reserved matters submissions, I am satisfied that the proposed development would not have an unduly adverse impact on neighbouring residential amenity.
- 12.8 The application seeks 24 hour operation in order to meet potential occupier requirements. This is to ensure that the development remains competitive and suitable for the widest range of potential occupiers.
- 12.9 In terms of traffic noise impacts from within the development, the Environmental Statement concludes that noise generated will be below the ambient noise background of general traffic noise from surrounding roads. Mitigation measures are suggested in order to reduce noise disturbance arising from the service yards including orientation of buildings and appropriate yard boundary treatment. A condition to ensure these details are submitted as a component of any subsequent reserved matters applications is recommended.
- 12.10 It is envisaged that noise arising during the construction phase would be mitigated through a Construction Environment Management Plan, alongside an hours of working condition.

13.0 Light pollution

- 13.1 As the majority of this application is in outline form, specific lighting detail has not been provided at this stage. The Design and Access Statement confirms that lighting would be the subject of subsequent reserved matters submissions, the specific detail of which would be assessed and subject to LPA control at that stage.
- 13.2 Conditions could be imposed in order to reduce the impacts of lighting both during the construction phase and operational stage. Subject to this, and in conjunction with appropriate lighting design to be submitted at the reserved matters stage, I consider that an acceptable lighting solution would be secured.
- 13.3 I consider that appropriate conditions could control lighting design to mitigate the risk of harm to neighbouring residential amenity.

14.0 Noise and Vibration

- 14.1 Policy BDP19 (19 .1t) *“The Council will deliver high quality people focused space through: t. Development proposals should maximise the distance between noise sources (for example motorways) and noise sensitive uses (such as residential), whilst also taking into account the implications of the existing night time use of the locality”*
- 14.2 A Noise and Vibration assessment forms part of the ES (chapter 12) and refers to the results of noise and vibration assessments carried out on the basis of both the construction and occupation phases of development.
- 14.3 Baseline noise measurements have been taken at four receptor locations that represent the nearest noise sensitive properties to the development site.
- 14.4 The construction noise and vibration activities at the nearest noise sensitive properties vary from a negligible effect to a minor adverse effect during normal daytime operations. Construction works should be undertaken in accordance with ‘best practicable means’ to minimise the construction noise effects.
- 14.5 The vibration arising from the construction works would not be perceptible and no further noise mitigation measures are required to reduce the construction vibration effects.
- 14.6 The change in the daytime road traffic noise levels due to the development is negligible at all receptors with the exception of Gorcott Hall where there is predicted to be a minor adverse effect. The change in night-time level due to the development is less than 1 dB and provides a negligible effect.
- 14.7 The traffic on internal circulation routes within the site is predicted to provide a negligible increase in the ambient noise levels at the nearest receptors. The existing night-time noise level at the nearest receptor indicates that with partially open windows the sleep disturbance criteria is already exceeded and windows would need to be closed to meet the internal target noise level. With open windows the development traffic noise would be below the sleep disturbance criteria within the nearest receptors.
- 14.8 To reduce the noise impact of site activity in the yard areas in the night-time period, a scheme of 3m high noise barriers is proposed around the perimeter of the yards. The barriers provide a small noise reduction such that there are only two receptor sites where the BS4142 assessment exceeds the WRS criteria in the night-time period. However, the highest absolute noise levels at night from site activities, with the scheme of barriers, is well below the threshold for sleep disturbance even with partially open windows. Taking both the BS4142 and sleep disturbance assessments into account the site activity noise level is considered to be a minor adverse effect with the scheme of noise barriers. I consider that this noise attenuation could be secured through conditions and consideration of detailed specifications at the reserved matters stage.

14.9 No objection has been raised by either SDC's Environmental Health Officer or Worcestershire Regulatory Services with respect to noise or vibration and on this basis, I am satisfied that the proposal would not have an unacceptable adverse impact upon neighbouring residential amenity in respect of these issues.

15.0 Ground conditions and land contamination

15.1 Chapter 6 of the ES addresses the effects of ground conditions on the proposal which is supported by a Geo-environmental Assessment Report and Agricultural Land Assessment.

15.2 The Geo-environmental Assessment Report considers the potential for effects relating to ground conditions and contamination surface as a result of the proposed development during both the construction and occupational phases of the development.

15.3 Both the northern and southern development parcels have been used for agriculture, and the contaminative risk is considered to be low.

15.4 WRS have considered the proposal and find the submitted Phase I desk study thorough, includes an appropriate site conceptual model and that the assessment has been carried out in accordance with current guidance and best practice. A preliminary intrusive investigation has also been undertaken comprising general site coverage through the excavation of 29 trial pits. To date the contaminated land risk assessment has not identified any significant risk to end-users of the site.

15.5 Both SDC's Environmental Health Officer and Worcestershire Regulatory Services have raised no objection on the basis of the contamination information submitted with the application. WRS suggest that the above requirements, and any necessary associated remediation, can be successfully dealt with through appropriate planning conditions. I concur with this view.

16.0 Air Quality

16.1 Air quality in Bromsgrove District is predominantly good and the air is mainly clean and unpolluted. There are however a few locations where the combination of traffic, road layout, geography, emissions from plant and machinery such as boilers has resulted in exceedences of the annual average for nitrogen dioxide (NO₂) and fine particulates (PM₁₀). Several areas in the District are closely monitored for their air quality level, and a few are designated as Air Quality Management Areas (AQMA).

16.2 Whilst the application site itself does not lie within an Air Quality Management Area (AQMA), there is one in place in Studley along the Alcester Road A435 (within Stratford-upon-Avon). This AQMA was declared on the 23rd February 2006 for exceedences of the nitrogen dioxide annual mean objective.

- 16.3 The Warwickshire Local Transport Plan (2011-2026) seeks to, amongst other things, improve air quality by improving congestion/reduce traffic and encourage people to use more sustainable modes of transport. This Plan identifies the impact of traffic on the A435 corridor as the most significant environmental problem in Western Warwickshire. It states that the A435 between Alcester was de-trunked in January 2008 between Gorcott Hill near the junction with the A4023 and the A46 near Alcester and that in those settlements lying along the section of the A435 to the north of Alcester, (i.e. Coughton, King's Coughton, Studley and Mappleborough Green), there are serious adverse effects on quality of life due to high traffic volumes containing a large number of HGVs. One of the key objectives of the strategy is to deliver improvements that reduce the environmental impact of traffic within the District and improve local air quality in existing AQMAs.
- 16.4 Chapter 13 of the ES relates to air quality and considers, amongst other things, the impact of the development on the Studley AQMA. It states that the AQMA is located approximately 4km south of the site and it is anticipated that traffic generated by the development would have largely dispersed across the network over this distance. It concludes that the development would not have a significant impact on the Studley AQMA as it is unlikely that the development would significantly affect pollutant concentrations within the AQMA.
- 16.5 The ES goes on to state that operational mitigation measures would be developed, with the aim of reducing traffic to and from the development through encouraging more sustainable transport options. These measures are:
- new signal controlled junction onto the Coventry Highway which would include pedestrian and cycle crossing facilities, located at the existing intersection of the existing public rights of way;
 - new footways and shared footways/cycleways throughout the development that would tie into the existing and new facilities surrounding the site;
 - improved bus service infrastructure comprising of bus stops and laybys on the Coventry Highway to allow the existing 150 bus service to serve the site;
 - the introduction of a HGV routing plan to manage the number of HGVs routing through sensitive areas, including the Studley AQMA
- 16.6 The above would be implemented in addition to a Travel Plan. The report concludes that the significance of air quality impacts would be negligible, and therefore there is no need for any specific and detailed air quality mitigation measures.
- 16.7 The applicants have submitted a potential HGV Routing Strategy at Appendix H of the TA. The aim of the plan is to prevent HGVs routing south down the A435 impacting on Mappleborough Green and the AQMA of Studley. The TA states that the advisory HGV routes would promote the use of the A435 (north) and the A4023 Coventry Highway to access the wider highway network. These links provide direct access to the M42, M40 and M5. The principle of this HGV Routing Strategy is accepted by both Warwickshire and Worcestershire Highway Authorities and I concur that this would be effective in preventing a significant increase in HGV traffic through the Studley AQMA.

- 16.8 A condition requiring the submission and approval of a full HGV Routing Strategy as well as the submission of the first HGV routing surveys within 12 months of occupation has been recommended by both Warwickshire and Worcestershire Highways Authorities. In conjunction with a financial contribution of £200,000.00 which would be paid and held for a period of 15 years to allow for HGV mitigation to be carried out where it is deemed necessary, I am satisfied that the impact on the Studley AQMA would be limited.
- 16.9 Worcestershire County Council Regulatory Services has confirmed that due to the location of the site and the current air quality in the local area (specifically within Worcestershire), the air quality impacts of the development would be acceptable.
- 16.10 SDC's Environmental Health Officer has raised concern on the basis of the air quality impact of the development on the Studley AQMA. Although a HGV Routing Strategy is proposed to minimise additional HGV traffic through Studley, the EHO recommends that additional information is submitted prior to determination to ensure a robust understanding of the impacts of this HGV Routing Strategy on the Studley AQMA.
- 16.11 I am satisfied that the principle of a HGV Routing Strategy, in conjunction with a financial contribution of £200,000.00, would ensure that the impact of the development from HGVs on the highway network, specifically on the A435 through the Studley AQMA would be acceptable. On the basis of this, I do not consider that further investigation on this matter is required. The applicant concludes that, in conjunction with a Travel Plan these measures would lead to a negligible impact on air quality and this is anticipated to result from the few vehicles that would inevitably pass through the Studley AQMA. Subject to conditions, I am satisfied that the impact of the development on this AQMA would be acceptable.
- 16.12 Impacts from the development would arise as dust during the construction phase and traffic during operation. For dust, this would primarily result from the earthworks and construction activity. Impacts would generally decline with increased distance from the site with highest risk of impact being within 20m of the site declining to negligible risk at a distance of 350m. The Environmental Statement (Table 13.8) identifies sensitive receptors within these distances. The location of the site, to the north of the majority of existing development means that prevailing wind directions will help minimise risks to existing development and the SSSI from impact from dust.

17.0 Traffic Impact

- 17.1 Policy BDP1 (1.4a) states that *"In considering all proposals for development in Bromsgrove District regard will be had to the following: Accessibility to public transport options and the ability of the local and strategic road networks to accommodate additional traffic"*
- 17.2 The application is accompanied by a Transport Assessment (TA). In addition to review by the respective County Highway Authorities, this has been reviewed by Mott MacDonald (MM) (Transport consultants acting on behalf of and

commissioned by Bromsgrove District Council) The proposal would result in a change in existing traffic movements.

- 17.3 The Transport Assessment does not utilise the Bromsgrove and Redditch Highways Assignment Model (BARHAM). The TA instead utilises TRICS trip rate data to determine the projected trip generation. These trip rates have been accepted by both Highway Authorities. Despite some concerns about methodology, MM advise that they consider the trip rates satisfactory.
- 17.4 Census Journey to Work data from 2011 has been utilised to determine the assignment of development trips to the network. The assignment of these trips appears satisfactory. Currently, no trips are assigned into and out of the site from the west. It could be argued that some trips heading south may travel west when leaving the site and use the A435 via Studley, but the Census data indicates only a small proportion head in that direction and the difference would be negligible.
- 17.5 An HGV routing plan has also been devised following discussions with the HAs to reduce HGV routing through sensitive areas including the A435 through Studley.
- 17.6 MM have reviewed the proposed site access Linsig model and consider that the junction has been modelled correctly and would operate well within capacity. Whilst the VISSIM Model has not been reviewed, the results indicate that the proposed development has minimal impact in queues and journey times on the surrounding network.
- 17.7 Highways England raised concerns regarding the sensitivity of the M42 junction 3 to fluctuations in development traffic and requested a level of sensitivity testing. The sensitivity testing utilised a VISSIM model developed by JMP covering the M42/M5 corridor for the years 2023 and 2030. The test agreed upon routed an additional 20% of development traffic via the A435 and through Studley.
- 17.8 The modelling of the M42 junction 3 identified that proposed development traffic does not have a significant impact on the strategic highway approaches, but does slightly increase the queueing on the A435 approaches. Highways England have agreed with the conclusions of the modelling and Worcestershire County Council have requested a financial contribution towards a wider improvement scheme.
- 17.9 BDC's highway consultant's – MM, consider the results included within the TA appear to show low level impact.
- 17.10 Warwickshire County Council commissioned Vectos Microsim to undertake a sensitivity test assessment of the development traffic using the Studley area Paramics model. It appears that a significantly greater amount of traffic has been routed through Studley for this sensitivity test. Despite this, it appears that the development does not have a detrimental impact on the Barley Mow junction or through Studley. Warwickshire County Council agree with the conclusions and state that there are no requirements for capacity improvements on the network as a result. However, Warwickshire County Council has requested a financial contribution towards an HGV routing strategy and a wider HGV signage strategy to minimise impact on sensitive areas including Studley.

- 17.11 BDC's highway consultant - MM consider that the results included within the TA appear to show that impact on Studley will be minimal. Concerns were raised during the public consultation exercise and during discussion with the Highway Authorities about the potential impacts of HGV traffic for the site using the A435 through Studley, the centre of which is a declared AQMA. The applicant has responded to these concerns by proposing a routing plan that aims to divert HGVs from the A435 to avoid Studley. This has been accepted in principle by both Highway Authorities, although the final routing plan is subject to the formal approval of the Local Planning Authority.

Opportunities for Sustainable Travel

- 17.12 The TA has examined opportunities for pedestrian, cycle and public transport journeys. The existing issue of a lack of pedestrian access is to be resolved with the installation of a shared cycle/footway connecting into the existing cycle routes to the west of the site.

Parking

- 17.13 Parking provision is a detailed design matter. However, the illustrative layout provides an indication to potential parking locations and has been designed with reference to the amount of potential car parking that could be achieved to accord with the Councils' parking guidance
- 17.14 Parking provision is governed by adopted standards. The illustrative master plan demonstrates that adequate off road parking could be accommodated to serve the quantum of development proposed.
- 17.15 Providing appropriate levels of parking will mean that all parking should take place within the site. During the consultation exercise, questions were raised about on-street parking and how off-site would be prevented. This is a matter of civil enforcement however, at present there are only limited restrictions on parking on adjoining roads. The applicant can do no more than provide the amount of parking that is permitted by the Council's adopted guidance. I consider that there is sufficient space within the site to accommodate the level of parking which would reasonably be required to service the development proposed.
- 17.16 A Framework Travel Plan has also been prepared to encourage sustainable travel choices. This will include promoting alternatives to the car (pedestrian and cycling) and use of public transport by improving access via the 150 bus route by providing new bus stops on the Coventry Highway. Two pedestrian / cycleway linkages onto Far Moor Lane would encourage and facilitate ease of access by those modes.

18.0 Surface Water Drainage and Flood Risk

- 18.1 Policy BDP23 (23.1c) states that *“The Council will deliver safe developments with low environmental impact through: Ensuring development addresses flood risk from all sources, follow the flood risk management hierarchy when planning and designing development, and do not increase the risk of flooding elsewhere. Where inappropriate developments in areas at risk of flooding are necessary after the sequential test is applied, appropriate designs, materials and escape routes that minimise the risk(s) and loss should be incorporated”*
- 18.2 The application site is located within Flood Zone 1 (lowest risk of flooding). Table 2 of the Planning Practice Guidance (PPG) classifies buildings used for financial, professional and other services, general industry and storage and distribution as ‘less vulnerable’. Table 3 of the PPG identifies that a ‘less vulnerable’ development within Flood Zone 1 is ‘appropriate’.
- 18.3 The applicant has also provided site specific modelling of the minor watercourses within the site. From this model, a series of site specific inundation maps have been produced showing the extent of the various flood zones across the site at the typical return periods. The model indicates that the channels on site typically become overwhelmed readily, some at even low return periods, resulting in large amounts of shallow sheet flows across the site, particularly across the northern development parcel. The Environment Agency confirm that on the basis of this modelling, part of the development site falls within Flood Zone 3.
- 18.4 The hydraulic model has defined the baseline flood risk from the Blacksoils Brook and minor watercourses and has been used to test the outline development layout and flood mitigation measures to offset the impacts of development in the floodplain.
- 18.5 A map of the proposed water course diversions are provided at Annex 5 of the model, and the same return periods have been simulated following these alterations. The model outputs indicate that overland flows across the site would be virtually eliminated. The exception to this is at the 1000 year storm which would still see some inundation from the Blacksoils Brook channel just upstream of the Coventry Highway embankment and where the diverted tributary 3 meets the Blacksoils Brook. At lower return periods there is almost no overland flow at all and almost all water is held within the proposed watercourse network. In addition, there is a predicted betterment downstream of the proposed development within Ravensbank Industrial Estate and nearby residential areas.
- 18.6 The impact of these alterations to the site’s watercourses has also been considered downstream. The virtual elimination of surface water flow across the site naturally reduces the opportunity for losses through infiltration and pooling across the surface. The hydrograph provided within the model indicates that overall discharge post development is reduced compared to pre-development rates.

- 18.7 It is important that the development incorporates appropriate surface water drainage, not only to manage potential flood risk on site and to ensure that the risk of flooding is not increased off site, but also to ensure that the quality of the water entering the water course is of sufficient quality to avoid any adverse impact on the Ipsley Alders Marsh SSSI.
- 18.8 The development would be designed to ensure attenuated surface water storage to accommodate the 1 in 100 year storm event plus a 40% allowance for climate change. At present, existing water channels are undersized and therefore incapable of accommodating flows in storm events leading to temporary and short-lived localised areas of flooding within the site. A series of measures are identified in the FRA and the Water Management Strategy that would relieve the flooding within the site primarily through the:
- diversion and replacement of existing water channels which will the flow into the Blacksoils Brook
 - introduction of swales and permanently wet ponds that would filter and store water prior to release in to the brook at a controlled rate equivalent to green field run off; plus
 - attenuation tanks including filter traps under areas of permeable paving (storage volume up to 357m3)
- 18.9 The LLFAs have confirmed that the proposed features, as described within the hydrology chapter of the ES, are acceptable but have requested the attachment of conditions to ensure that the development is carried out in accordance with the submitted FRA, the provision of infiltration testing to ensure appropriate means of managing surface water run-off and the submission of a scheme detailing the management and maintenance of the ditch network during construction.
- 18.10 I note that a number of representations have been received on the grounds that the proposal would potentially exacerbate flooding in the area as well as impact on the Ipsley Alders Marsh SSSI which is located outside the application site. These concerns have been given careful consideration in the assessment of the planning application, but the responses from the statutory undertakers do not support these concerns.
- 18.11 The drainage and water efficiency proposals would be subject of further approval at reserved matters stage. However, based on the consultation responses from the Environment Agency and the Lead Local Flood Authorities (both Warwickshire and Worcestershire), I am satisfied that the final drainage scheme would be in accordance with the Policies of the Core Strategy, specifically Policies CS.4, REDD.1 and REDD.2.
- 19.0 Built Heritage**
- 19.1 Policy BDP20 (20.3) states that *“Development affecting Heritage Assets, including alterations or additions as well as development within the setting of Heritage Assets, should not have a detrimental impact on the character, appearance or significance of the Heritage Asset or Heritage Assets.”*

(20.6) *“Any proposal which will result in substantial harm or loss of a designated Heritage Asset will be resisted unless a clear and convincing justification or a substantial public benefit can be identified in accordance with current legislation and national policy.”*

- 19.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
- 19.3 The NPPF outlines various principles and measures to be considered when assessing proposals that have an effect on the historic environment. Para 128 states that local authorities should require applicants to provide a description of the significance of the assets affected at a level of detail sufficient to enable the potential impacts to be considered. The applicant has provided this assessment through Chapter 8 of the Environmental Statement submitted in support of this application and Appendix 8.2 of the ES provides a Built Heritage Statement. The Built Heritage Statement confirms that there are no listed buildings within the site itself, but that the development has the potential to affect eight listed buildings.
- 19.4 Where any development has an impact on the significance of a designated heritage asset great weight should be given to the assets conservation (para 132 of the NPPF). Substantial harm should generally be avoided. Where development will lead to less than substantial harm of a designated asset, the harm should be weighed against the public benefits of the proposal including securing its optimum viable use.(Para 134).
- 19.5 In this instance, the key asset being considered is Gorcott Hall, a Grade II* listed Building and its setting. Gorcott Hall comprises a small country house dating back to the 15th century, but with substantial additions and alterations taking place in the 16th, 17th and 18th centuries. The earlier ranges were originally constructed in timber framing, with a mix of brick noggin and lime render infill panels, although some of these elements have been replaced with brick, later additions and extensions have been constructed in brick. It represents a building of great interest, with its various phases of development.
- 19.6 The building is located within its own private and relatively extensive grounds, which themselves form a non-designated heritage asset, whilst a further five listed (Grade II) buildings are located within its grounds:
- Stable, Granary, Barn and attached Animal House
 - Right Gatepier and attached Garden Wall approximately 10m se of Gorcott Hall
 - Left Gatepier and attached Garden Wall approximately 10m sw of Gorcott Hall
 - Right Gatepier and attached Garden Wall approximately 30m sw of Gorcott Hall
 - Left Gatepier and attached Garden Wall approximately 30m sw of Gorcott Hall

- 19.7 The Heritage Statement document draws the conclusion that the harm to the significance of Gorcott Hall is less than substantial, falling within the middle of that assessment and would therefore be described as moderate.
- 19.8 Other assets that have been considered are Lower House on Longhope Close (to the south) and a listed church (Church of the Holy Ascension) and listed cottages (School House , Yew Tree and Church Cottages) in Mappleborough Green (to the east). In each case, the development proposals do not have a direct impact on the architectural quality or the historic importance or fabric of the building. The key issue for consideration is therefore whether the proposed development has an acceptable impact on the setting of the buildings.
- 19.9 The setting of the heritage assets has been subject to considerable discussion with the Planning and Conservation Officers for each local planning authority and Historic England during the evolution of the Masterplan proposals. This has resulted in the retention of the fields to the south-west of Gorcott Hall as part of the site wide landscape proposals and the proposed ground engineering and landscape works in the northern site to create development plateaus. This will enable buildings to be set into the wider landscape whilst retaining the existing setting of the building. Intervisibility between the development and the Hall will also be minimised by the creation of a naturalised, landscaped bund.
- 19.10 With the implementation of the mitigation measures outlined in the Built Heritage Statement, the ES and as shown on the parameter plans, I consider that the impact on the setting of Gorcott Hall is considered to be less than substantial.
- 19.11 A similar assessment is made with regard to Lower House and the listed properties in Mappleborough Green. For the latter, the distance of the proposed buildings, proposed landscaping and restriction on building height is considered to mitigate the limited impact on their setting to render the impact at a very low level of less than substantial harm.
- 19.12 For Lower House, the proposed development is not considered likely to affect the way the building is presently experienced. However, I consider that the proposals to restrict the height of the proposed building closest to Lower House and the proposed enhancement of existing landscape screening would render any impact from the development to being of less than substantial harm.
- 19.13 Where harm is less than substantial, this has to be weighed against the public benefits of the proposals (para 134 of the NPPF).
- 19.14 The proposals are considered to have considerable public benefit through the extent of job creation and employment opportunity for Redditch Borough that will help meet the identified requirements of Redditch and contribute to the wider needs of Worcestershire. For this reason, the public benefits are considered to outweigh the less than substantial harm identified.
- 19.15 In terms of archaeology, the ES noted that the site has minimal archaeological importance with any potential likely to be limited to the Blacksoils Brook. Given the

retention of the brook and its immediate environs, as part of the development, disturbance to these areas is likely to be limited. A condition is proposed.

- 19.16 The County and the District has a responsibility to protect, either by preservation or record, cultural remains within its jurisdiction, and this is emphasised by the National Planning Policy Framework section 12, paragraph 128:

"...Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation"; and paragraph 141, "...They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted"

20.0 Biodiversity

- 20.1 Policy BDP21 seeks to achieve better management of Bromsgrove's natural environment by, in addition to other criteria :

f) Deliver enhancement and compensation, commensurate with their scale, which contributes towards the achievement of a coherent and resilient ecological network;

i) Adopt good environmental site practices as appropriate, including in the form of a Construction Environmental Management Plan (CEMP) where appropriate.

- 20.2 The baseline information search and ecological studies commissioned by the applicant noted the following:

The majority of the site comprises semi-improved grassland. Two fields in the southernmost part of the site to the site of the A4023 are of greater value but still not considered to be of sufficient value to qualify as a priority habitat hedgerows are dominated by hawthorn and blackthorn with only sparse ground flora. A hedgerow assessment identifies the hedge along the Blacksoils Brook as being the key hedge in the northern site. For the southern site, hedges along the western boundary are considered the most important. The Blacksoils Brook and another stream are identified in the northern site along with two small streams in the southern site. One pond is identified in the northern site; a disused pit, it is mostly dry. In the southern site, there are two small ponds within or adjacent to the southernmost hedge. A small amount of woodland habit is present around the northern pond. Common species of wetland flies and butterflies were identified as present. The identified ponds vary in value and suitability for amphibians. Newts have been identified in several of the ponds (There are no ponds on site within Bromsgrove). No records of reptiles have been found. There are no records of bats on site but the site does offer foraging and commuting value. Subsequent surveys noted foraging and commuting activity particularly along the hedgerow along the Blacksoils Brook and the site boundaries but no particular evidence of roosts except for the potential of one in a tree in the county boundary hedgerow. Roosting activity is considered to be more likely in off-site woodlands. There was no evidence of dormouse in recent surveys. There is badger activity on site.

- 20.3 There would be some loss of trees and hedgerows both within the site and in order to create the new access from the A4023. This will impact on species at a site level but there remains suitable habitat adjacent to the site. Similarly, loss of hedgerows may impact on foraging routes for bats but the retention boundary hedges and proposed additional planting is considered to off-set the negative impacts. The loss of the habitat and ponds will impact on amphibians. Badgers would be affected by the development.
- 20.4 Warwickshire Ecology has advised that the northern parcel of the site has the potential to provide a net biodiversity gain for habitats but a loss for linear features. With regards to the southern parcel, the development would result in a significant loss of habitat but potential gain for linear features. At this stage, the actual losses/gains are unknown. However, subject to the Biodiversity Impacts being monitored through a Biodiversity Offsetting Schedule secured by way of a legal agreement, Warwickshire Ecology have confirmed that sufficient biodiversity offsetting would be achieved.
- 20.5 The Environment Agency has raised concern on the basis of the ecological impacts of the proposed realignment of the small tributaries. Warwickshire Ecology has confirmed that this would be factored into the calculations for biodiversity offsetting and, on this basis, I am satisfied that this matter would be adequately addressed through this means.
- 20.6 In light of the above assessment, and as a result of amended plans being submitted through the course of the application, Warwickshire Ecology have raised no objection to the scheme subject to suitable conditions and the provision of biodiversity offsetting secured through a S106 legal agreement. I am therefore satisfied that the biodiversity impacts of the development are acceptable in accordance with Policy BDP21 and SDC Policy CS.6 and the NERC Act.
- 20.7 SDC Policies REDD.1 and REDD.2 set a number of ecology based requirements which are detailed above. I am satisfied that, so far as is possible, these are secured through the development as proposed and consequently I am therefore satisfied that these policies are complied with in this regard.

21.0 Public Rights of Way / Connectivity

- 21.1 Policy BDP19 (19.1) states that :
*“The Council will deliver high quality people focused space through: j. Ensuring developments are accessible to all users;
k. Ensuring permeable, safe and easy to navigate street layouts”*
- 21.2 Two public rights of way, namely 585(C) and 588(D) cross the northern part of the application site, (within Bromsgrove’s jurisdiction) Whilst 588(D) which runs alongside Blacksoils Brook would be preserved alongside that feature within a proposed landscaped buffer, the proposal would require the diversion of public right of way number 585(C). The submitted plans show how 585(C) could be

diverted to facilitate development which still providing a viable route and amenity for users of the right of way network.

- 21.3 Proposed connections to the site from existing public footpath number 800(C) would facilitate cycle and pedestrian access into the site and improve its connectivity with the surrounding area.
- 21.4 In light of the above, I consider that the proposal is considered to accord with the criterion j and k of Policy BDP19.

22.0 Crime Prevention

- 22.1 Policy BDP19 (19 .1t) *“The Council will deliver high quality people focused space through: o. Designing out crime and the fear of crime by incorporating measures and principles consistent with those recommended by ‘Secured by Design’”*
- 22.2 Similarly, SDC Policy CS.9 also seeks to ensure high quality design, an element of which includes measures to help to reduce crime and the fear crime.
- 22.3 Warwickshire Police Crime Prevention Design Officer have raised a number of comments in respect of the detailed design of the development, to include boundary treatments, roller shutter doors, windows and road layout. I am satisfied that at reserved matters stage the crime prevention issues raised can be appropriately incorporated into the detailed design of the scheme and.

23.0 Loss of Agricultural Land

- 23.1 Paragraph 112 of the NPPF states that *“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”*
- 23.2 An Agricultural Land Classification (ALC) study has been submitted with the application and this was updated through the course of the application. This evidences that the 32.42% of the application site falls within 3a, whilst 67.58% falls within 3b.
- 23.4 It states that soil wetness is the most significant limitation to the agricultural use of the site, the key effect of which is a reduction in yield of arable crops caused by damage to roots by prolonged periods of saturation. In practical terms, saturated soils also disrupt access with machinery, particularly in autumn and winter. For pasture, soil wetness can restrict the length of the grazing season. Waterlogged soils are vulnerable to structural damage from vehicle traffic, cultivation and livestock, which can be costly and time consuming to remediate. This also further impedes drainage, increasing the risk of additional damage.
- 23.5 The development would involve the loss of 9.65 hectares of Grade 3a land. This land is interspersed between areas of Grade 3b, which is likely to result in

agricultural management of the land under one system, which would be suited to the lower quality grade.

- 23.6 I acknowledge that some harm would arise through the loss of approximately 9.65 hectares of Grade 3a land and this harm needs to be weighed in the planning balance.
- 23.7 The loss of agricultural land is considered to be outweighed by the benefits to be derived to the local economy through development of the site for employment uses.

24.0 Environmental Impact Assessment (EIA) Regulations

Transitional provisions

- 24.1 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 came into force on the 16 May 2017. Section 76 of these Regulations outline the revocation and transitional provisions and states:
- 24.2 “Notwithstanding the revocation in paragraph (1), the 2011 Regulations continue to apply where before the commencement of these Regulations-
- (a) an applicant, appellant or qualifying body, as the case may be, has submitted an environmental statement or requested a scoping opinion; or
 - (b) in respect of local development orders, the local planning authority has in connection with that order prepared an environmental statement or a scoping opinion or requested a scoping direction”
- 24.3 The applicant submitted a Scoping Report to SDC in December 2015 and in response the Council issued a Scoping Opinion on the 22 February 2016 upon which Bromsgrove and Redditch Councils were consultees. In light of the above transitional provisions, I therefore consider it appropriate to continue to assess the application against the 2011 (as amended) Regulations.

Alternatives

- 24.4 The EIA Regulations require an ES to outline any alternatives that have been considered to the proposed development, and to provide an explanation for their choice. The applicant in Chapter 4 of the ES has undertaken this exercise in accordance with the regulations and considers alternative location, a ‘do nothing’ approach, a different design and different construction and operational practices.
- 24.5 No details of specific alternative sites considered by the applicant have been provided within the ES. However it does state that the application site is identified as the best employment site and that it has the greatest potential to attract significant inward investment, providing a major employment site opportunity which is both highly accessible and in an attractive environment.
- 24.6 The ‘do nothing’ alternative considers the future situation without the proposed development. The ES states that if the scheme does not come forward an

opportunity to deliver the employment land needed in the region in a sustainable location would be lost. It states that evidence suggests that some businesses within Redditch are becoming constrained by the lack of new employment floorspace available, and current available sites lack the scale, profile and access to satisfy this employment need. In the applicant's view the 'do nothing' alternative is not a realistic alternative option.

24.7 The ES confirms that the layout of the development has responded to development requirements and an increasing understanding of the site and surroundings. Specifically it states that through design evolution, the site capacity was amended as was the location of development and proposed building heights. In addition, amendments were made to the road junction and provision of car parking area in the northern parcel.

24.8 The Parameters Plan submitted seeks to respond to key constraints which have evolved in resolved to baseline assessments undertaken for all disciplines.

25.0 Phasing

25.1 The Core Strategy anticipates that the development (REDD.1 and REDD.2) would be delivered by 2031, the end of the plan period.

25.2 The Planning Statement submitted with the application states that, given the scale of the proposals, development would come forward on a phased basis and would primarily respond to market requirements as proposed to being a speculative development. On this basis, it states that the standard time limits for outline permission (3 year period in which to submit applications for reserved matters to be begun with 2 years of date of approval) is not appropriate.

The applicant instead requests the following timescales:

- a 10-year period within which to submit reserved matters
- a 2-year period within which to begin development following approval of the last such matter to be approved

25.3 I am satisfied with the principle of this phasing which could be secured by way of condition.

26.0 Community Engagement

26.1 Chapter 5 of the ES outlines the consultation which took place at a pre-application stage to ensure that statutory and non-statutory consultees, as well as the local community, had an influence over the evolution of the design of both the EIA proposals and planning application.

26.2 Public events were held at the Blue Inn, Far Moor Lane, Redditch on Friday 21 October 2016 and Saturday 22 October 2016. This involved the following:

- 1,300 invites sent to addresses within Redditch and Mappleborough Green a week before the events

- local MPs, District and County Councillors, Planning Committee Members and key portfolio holders were issued with letters advising them of the events and invited them to attend
- invites were sent to Beoley, Mappleborough Green, Studley and Tanworth in Arden Parish Councils
- information regarding the site and proposals were displayed on exhibition boards
- members of the project team were in attendance to answer any questions
- website created to enable those attending the events to send comments online
- advertisements were placed in local papers (Bromsgrove and Droitwich Standard, Redditch and Alcester Standard and Stratford Observer)
- press articles generated before events (Redditch Standard, Redditch Advertiser, Insider Media (West Midlands), posting of the new story on Twitter)
- one article appeared in the Redditch Standard following the consultation event

26.3 Articles in the local press have also been published since the submission of the application.

26.4 In addition, all technical consultees for the applications were invited to a consultation event held at Redditch Borough Council offices to assist in the coordination of their responses in light of the cross-boundary nature of the submission. The case officers for the application, as well as the agent and applicant were in attendance.

26.5 I am satisfied that the above events, together with other meetings that have taken place, have given appropriate opportunity for third parties, Parish Councils and key stakeholders to engage with the Local Planning Authority and key parties on matters relating to the proposals. It is envisaged that community engagement and stakeholder meetings could continue throughout the reserved matters, construction and post construction stages of development.

27.0 Developer Contributions / Infrastructure Provision

27.1 Policy BDP6 (6.1) states that *“Financial contributions towards development and infrastructure provision will be coordinated to ensure that growth in the District is supported by the provision of infrastructure, (including Green Infrastructure) services and facilities needed to maintain and improve quality of life and respond to the needs of the local economy. This will be documented in the Infrastructure Delivery Plan.*

(6.2) Irrespective of size, development will provide, or contribute towards the provision of: Measures to directly mitigate its impact, either geographically or functionally, which will be secured through the use of planning obligations”

27.2 Policy CS.27 states that the Council will introduce a Community Infrastructure Level (CIL) to fund infrastructure and community facilities necessary to accommodate growth and to mitigate cumulative impacts.

27.3 There is not an equivalent generic policy for Redditch Borough within the BoRLP.

- 27.4 A multilateral s106 legal agreement is proposed to secure contributions towards off site highway improvements, HGV routing measures and ecological mitigation
- 27.5 The introduction of the CIL Regulations 2010 requires any planning obligations, including financial contributions, sought from developers to be assessed under Regulation 122 of the Regulations. This Regulation states that planning obligations may only constitute a reason for granting planning permission if they are:
1. necessary to make the development acceptable in planning terms;
 2. directly related to the development; and
 3. fairly and reasonably related in scale and kind to the development.
- 27.6 The NPPF and PPF re-affirm the statutory tests set out within Regulation 122.
- 27.7 Requests for the following contributions/obligations have come forward:

Highways

£200,000.00 to be paid on first occupation and held for a period of 15 years from its receipt in the form of a bond and management arrangement to support the HGV Routing Strategy and Annual HGV Surveys to be secured by way of condition.

Ecology

Biodiversity offset scheme for each phase of development and biodiversity monitoring contribution

28.0 Summary of identified Benefits and Harm

28.1 The proposal would result in the following benefits:

- Job Creation
- New landscaping and ecology enhancements
- Improved access to footpaths, cycleways, connectivity and access.

28.2 The proposal would cause the following harm:

- Loss of green field land
- Traffic
- Loss of ecology and biodiversity
- Setting of Heritage Assets
- Loss of Agricultural land

28.3 It is considered that the harm identified could be mitigated through the imposition of planning conditions and any remnant harm would not outweigh the benefits which the development would bring.

29.0 Conclusion

29.1 The NPPF defines sustainable development as having three mutually dependent components. The Framework is clear that there is a presumption in favour of sustainable development and that proposals, where they accord with the development plan, should be approved without delay.

- 29.2 The proposals are considered to contribute to the aims of sustainable development through the following:

Economic Role – the proposals have a significant economic role through job creation and helping to meet the identified needs of Redditch. In doing so it would contribute to the wider need of Worcestershire as recognised by Worcestershire County Council and the Worcestershire LEP through their designation of the site as one of the four “*game changer*” sites for the county. As an allocated site within up-to-date local plans it would provide land for sustainable economic development.

Social role – the proposals would contribute to the social well being of the area through providing jobs for the local community. This would in turn create additional disposable income that has potential to support other local business and retail expenditure helping to contribute to a thriving local community.

Environmental Role – the proposals would create a business development within a landscaped setting that would enhance the local environments through the creation of new improved habitats, increased tree and hedgerow planting, ecological mitigation to protect species and respects the built heritage of the locality. The proposals will be designed to meet the requirements for the efficient use of resources and energy and water conservation.

- 29.3 The site presents a potential ‘Game Changer’ for the Redditch economy. The site will offer new employment opportunities and will help to facilitate growth of existing companies within Redditch that require expansion space, thus freeing up existing units for re-occupation. The site will also be attractive for inward investment bringing new companies and employment opportunities to Redditch.
- 29.4 The site is allocated for employment use within the three adopted Local Plans and there is in principle support for the proposed development.
- 29.5 The site will meet the aspirations set out in the local economic priorities adopted by Redditch, as well as ensuring that both Local Enterprise Partnerships meet their aspirations for new jobs and growth within the area.
- 29.6 The proposals would not result in significant environmental impacts on air quality, noise and vibration, risk of contamination, residential amenity, water resources and flood risk that could not be mitigated by the imposition of conditions and/or legal agreement obligations.
- 29.7 The planning application followed and was informed by extensive pre-application discussion with various stakeholders and consultees, and has been designed to ensure that potential impacts have been addressed or can be satisfactorily mitigated through the appropriate conditions imposed on a planning permission. I consider that the changes proposed through the submission of the amended plans have positively responded to the comments submitted and are considered to comply with the provisions of Stratford-on-Avon Core Strategy (2016), Bromsgrove District Plan (2017) and Redditch Local Plan No.4 (2017).

- 29.8 The applicant has therefore shown that they are a responsible and considerate developer willing to make amendments where appropriate to ensure quality of development and management of any impacts.
- 29.9 As outlined in the main application, the development of the site has been identified as one of the key employment development opportunities in the area that will be bring both short and long term economic benefits.
- 29.10 A review of the Transport Assessment by the Council's transport consultants - Mott MacDonald, concurs with the findings of that assessment that the impact of the proposed development would be minimal. This is consistent with the views of both Highway Authorities.
- 29.11 Given the potential economic benefits of the proposals and the general conformity with the local adopted planning policies and economic aspirations, it is considered that the application should be approved.

30.0 RECOMMENDATION:

That **DELEGATED POWERS** be granted to the Head of Planning and Regeneration to GRANT planning permission subject to the applicant entering into a suitable legal mechanism to secure the following:

1. £200,000.00 to be paid on first occupation and held for a period of 15 years from its receipt in the form of a bond and management arrangement to support HGV routing.
2. Biodiversity offset scheme for each phase of development and biodiversity monitoring contribution.

Conditions:

Please Note: On this occasion the conditions are presented in a summarised form, to adjust the final wording to ensure compatibility across the three Local Authorities and to take into account phasing requirements of the scheme.

Permission definition conditions

1. Details of layout, scale, appearance, landscaping and any means of access that are not hereby approved (the reserved matters)
2. Application for approval of all reserved matters to be made in accordance with set deadlines
3. Expiration deadlines for implementation of approved reserved matters
4. Approved plans and drawings
5. D AND A

Pre-reserved matters submission conditions

6. Prior to reserved matters submission a Site Wide Phasing Strategy for:-
 - i. development phases of land the subject of separate reserved matters applications
 - ii. the type and general alignment/route/linking of carriageways, footpaths, cyclepaths for each phase and measures to ensure appropriate network connectivity between each phase
 - iii. the timing of provision of development and infrastructure and utilities (including 'super-fast' broadband) for each phase
 - iv. a site wide strategy for the implementation of SUDs infrastructure
 - v. a site wide strategy for management and maintenance of open spaces and green infrastructure
 - vi. a site wide strategy for mitigating and adapting to climate change including measures for:-
 - i. designing buildings to cope with more extreme temperatures
 - ii. reducing energy demand through efficiency
 - iii. the provision of energy from renewable or low carbon sources
 - iv. minimising water consumption and accommodating 'grey' water recycling
7. Written scheme of investigation (WSI) to be submitted to and approved
8. Final phase not occupied until site investigation and post investigation assessment completed in accordance with WSI

Pre-commencement/occupation and other conditions

9. Samples/palette of all external materials for each phase
10. Details of parking for persons with mobility impairments/disabilities
11. Details of existing ground levels; proposed finished ground levels; building slab levels and building ridge heights
12. Scheme for provision of adequate water supplies to be submitted and approved

Highways and transport

13. Construction Environmental Management Plan to be submitted and approved (for reasons of Ecology and Drainage also)
14. Detailed design of the Traffic Signalled Access Junction on the A4023 Coventry Highway to be submitted and approved
15. Detailed design of pedestrian/cycleway connection to Far Moor Lane to be submitted and approved (north)

16. Detailed design of pedestrian/cycleway connection to Far Moor Lane to be submitted and approved (south)
17. Detailed design of A435 slip road mitigation to be submitted and approved
18. HGV Routing Strategy to be submitted and approved
19. Annual HGV Surveys to be submitted and approved (first submission 12 months from first occupation)
20. Employment Travel Plan to be submitted and approved
21. Details of secure cycle parking facilities to be incorporated in design of reserved matters submissions (for reason of residential amenity also)
22. Details of scheme of electric charging points to be incorporated in design of reserved matters submissions (for reason of residential amenity also)

Drainage and water

23. In accordance with Flood Risk Assessment submitted
24. Detailed flood mitigation scheme to be submitted and approved
25. Details of surface water drainage works to be submitted and approved (for reason of Ecology also)
26. Scheme to manage and maintain construction materials to prevent them entering or silting up the ditch network to be submitted and approved

Protection of residential amenity

27. The carrying out, submission, and approval of the following related to contaminated land to include
 - i. further site investigation
 - ii. detailed site investigation and risk assessment undertaken
 - iii. where site investigation identified remediation required, detailed remediation scheme to be submitted and approved
 - iv. remediation undertaken
 - v. validation report demonstrating effectiveness of remediation carried out
 - vi. any contamination not previously identified to be reporting to LPAs; investigation and risk assessment undertaken and remediation scheme prepared; validation report submitted and approved
28. Details of scheme of low emission boilers to be incorporated in design of reserved matters submissions

Ecology/protected species/landscape

29. Scheme for new watercourse channels diverted around the north of the site to be submitted and approved
30. Scheme for provision and management of buffer zone alongside watercourses on site to be submitted and approved
31. Details of all external light fittings and external light columns to be submitted and approved (for reasons of residential amenity also)
32. Landscape and ecological management plan to be submitted and approved
33. Scheme for the provision of a wildlife tunnel under the A4023 to be submitted and approved

Case Officer: Simon Jones Tel: 01527 548211
Email: simon.jones@bromsgroveandredditch.gov.uk

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Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr Jeremy Kimberley	Conversion and extension of two existing dwellings houses to create 10 x 2 bed apartments 77 Lyttleton Avenue, Bromsgrove, Worcestershire, B60 3LH,	11.10.2017	17/00786/FUL

RECOMMENDATION:

- (1) Minded to **APPROVE FULL PLANNING PERMISSION**
- (2) That **DELEGATED POWERS** be granted to the Head of Planning and Regeneration Services to determine the planning application following:
 - (b) The receipt of a suitable and satisfactory legal mechanism in relation to financial contributions for:
 - (i) Improvements to Charford Recreation Ground: £19,520
 - (ii) Provision of bins: £614

Consultations

Drainage Engineers Internal Planning Consultation Consulted 26.07.2017
No objection

Highways - Bromsgrove Consulted 26.07.2017
No objection subject to conditions

Waste Management Consulted 26.07.2017
The bin store will need to accommodate 20x 240ltr wheeled bins or 4 x 1100ltr Euro bins.

Leisure Services Manager Consulted 26.07.2017
With regard to the attached planning application Leisure Services would seek an off site contribution for any under provision of play and open space within the development.

Off site contributions calculated should be used within the Charford Recreation Ground to improve qualitative provision for appropriate under provision of open space and / or play provided on site.

Ecology Officer Consulted 26.07.2017
No objection subject to conditions

Arboricultural Officer Consulted 26.07.2017
No objection

Publicity:

Plan reference

18 letters sent on the 26th July 2017 (expired 16th August 2017)
18 letters of re-consultation sent on the 3rd October 2017 (expired 17th October 2017)
1 site notice posted on the 28th July 2017 (expired 18th August 2017)

Neighbour Responses:

3 objections have been received and the following issues have been raised:

- Over-intensive development;
- Insufficient parking;
- Already too much on-street parking; and
- Over-looking of rear gardens

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles
BDP7 Housing Mix and Density
BDP16 Sustainable Transport
BDP19 High Quality Design
BDP21 Natural Environment

Others

NPPF National Planning Policy Framework
SPG1 Residential Design Guide

Relevant Planning History

11/0056	Demolition of part of No77 and No 79 Lyttleton Avenue and erection of 4 dwellings (As augmented by plan received 02.03.2011).	Approved	09.03.2011
11/0439	Demolition of part 77 Lyttleton Avenue and creation of one additional dwelling (plans as amended 12/09/2011)	Approved	16.09.2011

Assessment of Proposal

Site Description

This application relates to two dwellings, both of which are semi-detached and have extensive residential curtilages. The site is located within a residential area and is bounded by residential dwellings on three sides with Lyttleton Avenue providing the boundary to the south west of the site.

Proposed development

This application seeks planning permission for the extension and conversion of the dwellings to create an apartment block. This would consist of 6 x 2bed properties and 4 x 1 bed properties. The existing accesses off Lyttleton Avenue would be retained.

Planning Judgement

The principal issues for consideration in this case relate to the following:

- The principle of the proposed development;
- Character and Street Scene Impact;
- Impact on Neighbour Amenity;
- Access and parking;
- Landscape and trees;
- Biodiversity; and
- S106 Contributions

Each matter will be given consideration under a separate heading below along with any other material considerations.

Principle of Development

Paragraph 53 of the NPPF sets out that local planning authorities should consider setting out policies to resist inappropriate development of residential gardens where it would cause harm to a local area. This has been incorporated into the recently adopted Bromsgrove District Plan (BDP). Criteria n of Policy BDP19 states that the development of garden land will be resisted unless it fully integrates into the residential area and is in keeping with the character and quality of the environment.

Other key policies in the Plan include BDP1 (Sustainable Development) states under criteria e) that regard will be had to residential amenity. BDP7 (Housing Mix and Density) seeks to achieve the best use of land whilst maintaining character and local distinctiveness.

The Council cannot currently demonstrate a 5 year supply of housing land. Paragraph 49 of the National Planning Policy Framework (NPPF) says that in such circumstances relevant policies for the supply of housing should not be considered up-to-date. Therefore, in this case, the presumption in favour of sustainable development, as set out at paragraph 14 of the NPPF applies. Where relevant policies are out of date paragraph 14 advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted. The policies which set out the restrictions are listed at footnote 9 of the NPPF, none of which apply in this case. The NPPF at paragraph 7 defines sustainable development as having three dimensions: economic, social and environmental. Following the consideration of all the relevant planning merits of the scheme a balancing exercise will be undertaken whether there are any adverse impacts in this case that significantly outweigh the presumption in favour of sustainable development.

The application site is located within the residential area of Bromsgrove Town as defined on the Bromsgrove District Plan Proposals Map. There is general presumption in favour

of residential development in urban areas however it is necessary to assess whether the proposals meets the specific criteria within the adopted plan and SPG1.

Character and Street Scene Impact

The area is characterised by traditional 2 storey dwellings which are a mix of terraced, semi-detached and detached properties. It is also noted that some apartment developments have been introduced on corner plots in the last 10 years.

In this case, the substantial gap between the two semi-detached property would be infilled to create the appearance of terraced dwellings. This is helped by the inclusion of 3 front doors and a projecting gable feature that matches that of the existing dwellings. The infilled section does not exceed the height of the existing dwellings ensuring the 2 storey appearance is retained. An access is provided through the development to a parking court yard at the rear ensuring that views of the large area of hardstanding are minimised. Hardstanding is also required at the front of the site for 6 spaces, although much of this is already in existence.

It is noted that in mathematical terms the density is high for this residential area however due to the careful design of the scheme, the scale and appearance give the impression of a series of terraced dwellings which retain the character and appearance of the street scene in accordance with Policies BDP7 and BDP19 of the BDP and SPG1.

Residential Amenity

SPG1, Residential Design Guide, provides guidelines with regards to criteria that should be met in order to ensure acceptable implications of designs in terms of residential amenity.

The infilling taking place is sited away from the boundary of neighbouring properties, Hannily Place (apartment building on corner of Flavel Road) and 36 Hewell Avenue. This ensures that there is no breach of the 45 degree guideline and the development would not appear over-bearing when viewed from the neighbouring properties. A minimum distance of 12m is retained between the rear elevation of the proposed building and the shared boundary fence with No. 34 Hewell Avenue. This exceeds the minimum standards within SPG1 ensuring that no substantial loss of privacy would occur.

It is also necessary to consider the amenity levels that would be experienced for the occupiers of the proposed dwellings. All apartments are of a sufficient size with habitable rooms having windows that provide an acceptable outlook.

The guidance within SPG1 suggests 30sqm of amenity space per flat should be provided. In this case approximately 110sqm has been provided in total whilst provides only 36% of the requirement. However it is important to note that those purchasing flats generally do not require a garden and it is unlikely many children would be present due to the size of the units. Some useable private space has been provided which can be used to provide space for the drying of washing and the general enjoyment of occupiers.

Overall it is considered that the proposed dwellings would have an acceptable amenity impact in accordance with the guidance within SPG1 and Policy BDP1 of the BDP.

Access and parking

The scheme provides a total of 16 parking spaces with 6 located at the front with the remaining 10 located in a rear courtyard. This level of provision accords with the County Council's parking standards. The scheme utilises 2 existing accesses the County Highways Officer raises no concerns to the development subject to the imposition of planning conditions. The proposal therefore accords with Policy BDP16 of the BDP.

Biodiversity

In accordance with the relevant legislation the local planning authority has a duty to ensure any proposal will not impact adversely upon protected species. A bat survey was submitted with the application which shows no signs of bats and limited potential for bats in the future. Subject to the imposition of appropriate conditions there would be no undue harm to protected species in accordance with the NPPF.

Planning Contributions

In accordance with paragraph 204 of the NPPF and section 122 of the CIL planning obligations have been sought to mitigate the impact of this major development, if the application were to be approved. The obligations would cover open space improvements to Charford recreation ground and the provision of bin storage. Financial contributions on these matters have been informally agreed with the applicant and work on the legal agreement is underway. Subject to the signing of the S106 agreement the proposal would have no adverse impact on infrastructure in the local area.

Conclusion

As stated previously there are 3 strands to sustainable development. In relation to the economic dimension the development would provide some benefit to the local economy in terms of providing employment for construction trades and increasing demand for building materials. With reference to the social dimension the proposal would make a positive contribution towards the supply of housing in the locality in a location defined as being appropriate for residential development. In terms of environmental considerations the proposal would respect the character of the local area and not result in any harm to protected species. As such the proposal represents a sustainable form of development that in accordance with paragraph 14 of the NPPF should be granted permission.

RECOMMENDATION:

- (1) Minded to **APPROVE FULL PLANNING PERMISSION**
- (2) That **DELEGATED POWERS** be granted to the Head of Planning and Regeneration Services to determine the planning application following:
 - (b) The receipt of a suitable and satisfactory legal mechanism in relation to financial contributions for:

- (i) Improvements to Charford Recreation Ground: £19,520
- (ii) Provision of bins: £614

Conditions:

- 1) The development hereby approved shall be carried out in accordance with the following plans and drawings:

3174_001
3174_002 Rev D

REASON: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

- 2) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of the grant of this permission.

Reason: In accordance with the requirements of Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3) All new external walls and roofs shall be finished in materials to match in colour, form and texture those on the existing building, or if a near match cannot be found, the written approval of the Local Planning Authority should be obtained for materials prior to development commencing. The development shall then be carried out in accordance with the approved details.

Reason: To ensure that the development is satisfactory in appearance, to safeguard the visual amenities of the area and in accordance with Policies in the Local Plan.

- 4) Before any other works hereby approved on the application site are commenced, the new entrance shall be set back 2 metres from the rear of the adjoining footway. On each side of the set back entrance splays shall be formed at an angle of 45 degrees with the highway boundary and the whole of the splayed areas shall be graded and cleared so that no part thereof exceeds a height of 0.6m above the relative level of the adjoining carriageway.

Reason: In the interest of highway safety.

- 5) Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6m above ground level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 43 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be

planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety

- 6) For its first 5m measured back from the footway edge the access shall be constructed in a bound material.

Reason: In the interests of highway safety.

- 7) The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with the approved plans 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.

- 8) 16 car parking spaces shall be provided on site and shall be reserved solely for that purpose and such spaces be made available for the use before the development hereby approved is occupied.

Reason: To comply with parking standards

- 9) Prior to the first occupation of the dwelling hereby approved secure parking for 16 cycles to comply with the Council's standards shall be provided within the curtilage of the dwelling and these facilities shall thereafter be retained for the parking of cycles only.

Reason: To comply with the Council's parking standards

- 10) The development hereby permitted shall not be brought into use until one of the new parking spaces has been equipped with an electric vehicle rapid charging point (32 Amp, 7 KW) and once provided it shall be retained and maintained as such at all times.

Reason: To comply with parking standards

- 11) Prior to occupation details of the siting and specification of 1 bat box shall be submitted to and approved in writing by the Local Planning Authority. The bat and bird boxes shall be installed in accordance with the approved details and shall remain for the lifetime of the development.

Reason: To secure biodiversity enhancements in accordance with the NPPF and Policy BDP21 of the Bromsgrove District Plan.

Informatives

- 1) Your attention is drawn to the provisions of the Section 106 Agreement which accompanies this permission.
- 2) The attention of the applicant is drawn to the need to keep the Highway free from any mud or other material emanating from the application site of any works pertaining thereto.
- 3) This permission does not authorise the applicant to carry out works within the publicly maintained highway.

Dropped kerbs to enable access onto properties for vehicles must only be constructed by Ringway Infrastructure Services, Worcestershire County Councils approved contractor. The applicant is solely responsible for all costs associated with construction of the access. For further information, please contact Ringway direct on 01905 751651 or email : worcestershirevehicle.crossing@ringway.co.uk

- 4) This permission does not authorise the applicant to carry out works within the publicly maintained highway since such works can only be carried out by the County Council's Approved Contractor following the issue of a license under Section 184 and 278 of the Highways Act, 1980.

Please contact Ringway Infrastructure Services, Worcestershire County Councils approved contractor. The applicant is solely responsible for all costs associated with construction of the access. For further information, please contact Ringway direct on 01905 761160 or email: worcestershirevehicle.crossing@ringway.co.uk

- 5) Drainage arrangements shall be provided to ensure that surface water from the driveway and/or Vehicular turning area does not discharge onto the Public Highway. No drainage or effluent from the proposed development shall be allowed to discharge into any Highway drain or over any part of the Public Highway.

Case Officer: Andrew Fulford Tel: 01527 881323
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Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr D Sanderson	Two-storey extension to original front of dwelling (retrospective). Allandale Cottage, Redhill Road, Kings Norton, Birmingham, Worcestershire B38 9EW	05.12.2017	17/01160/FUL

This application is for consideration by Planning Committee due to the requirement for a legal agreement.

RECOMMENDATION: That planning permission be **GRANTED** subject to conditions and a unilateral agreement.

Consultations

Alvechurch Parish Council Consulted 23.10.2017

Objections; this application may set a precedent with extensions being more than 40% in Green Belt. There are no exceptional circumstances to warrant an extension of more than 40%.

Public notifications

One site notice was posted 27.10.2017 and expired 17.11.2017: No response received. Two neighbour letters sent 23.10.2017 and expired 13.11.2017; No response received. Press notice published in The Bromsgrove Standard 03.11.2017 and expired 17.11.2017; No response received.

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles
BDP4 Green Belt
BDP19 High Quality Design

Others

NPPF National Planning Policy Framework
NPPG National Planning Practice Guidance
SPG1 Residential Design Guide

Relevant Planning History

16/0923	2 storey side extension with porch and dormer windows	Granted	18.08.2017
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Assessment of Proposal

The application site is a semi-detached property which lies within an isolated, rural location within an area designated as Green Belt.

There are no records showing that the dwelling has previously been extended however the property benefits from an extant planning permission (16/0923) for a two storey side extension, which is yet to be implemented. A condition was attached to this permission to remove Permitted Development Rights for further extensions; however as the permission has not been implemented, the condition is yet to be triggered.

Allandale Cottage is an unusual property in so much as the original principal elevation does not front the highway, but instead faces towards the garden. This assessment has been made on the basis of the layout of the dwelling, where the porch leading through to the hallway are located on this side of the property.

This application seeks retrospective permission for a two storey extension which extends beyond the original front asymmetric gable.

The main considerations for this application are whether the proposal would constitute inappropriate development within the Green Belt, whether there would be an adverse impact to the openness of the Green Belt, the impact of the proposal on the character of the dwelling and the local area, neighbouring amenity, and whether Very Special Circumstances exist that would outweigh the harm arising by reason of inappropriateness and any other harm.

Green Belt

There is a presumption against development within the Green Belt; however paragraph 89 of the National Planning Policy Framework (NPPF) lists a number of exceptions that may not be inappropriate within the Green Belt, which includes a proportionate addition to an original building. Policy BDP4.4c of the Bromsgrove District Plan states that an extension of up to a 40% increase of the original dwelling may be appropriate provided it had no adverse impact on the openness of the Green Belt. In this case the property benefits from planning permission for a two storey side extension, which in view of its expiry date, 18th August 2020, is reasonably likely to be constructed. This extension would amount to a 36.7% increase in floor space above the original, and the current proposal would amount to a further 17.2%. Taken together, extensions would total 53.9%, which would constitute disproportionate additions and thus inappropriate development.

In accordance with the NPPF inappropriate development is harmful by definition and should not be approved except in Very Special Circumstances. A case has been put forward for a Permitted Development “fall back” at the original rear of the property, which would provide the same amount of accommodation as the proposal.

In view of this, both the proposal scheme and fall back scheme have been measured to provide an increase in floor space of 27 sqm. However consideration is also given to the relative impact to the height and volume of buildings. In this case the ridgeline of the two storey extension is set lower than the potential fall back scheme, and would be no greater in volume.

With regards to the reduced height of the proposal scheme compared to the fall back scheme, there would also be slightly less impact to the visual openness of the Green Belt.

Given the permitted development fall back scheme would be more harmful than the proposal scheme for the reasons above, it is considered that Very Special Circumstances exist that would outweigh the harm arising through inappropriateness. It is therefore considered that the proposal is acceptable subject to the removal of Class A Permitted Development Rights, which would ensure that the fall back scheme could not also be implemented.

Impact on the Character of the Dwelling and Local Area

Policy BDP19 of the Bromsgrove District Plan requires development to be of a high quality design that will enhance the character and distinctiveness of the local area. The proposal scheme is not considered to dominate the original dwelling in terms of its scale and manages to retain the cat slide detail of the gable, which forms an important part of the character of the dwelling. The fall back scheme would include both a two storey element and single storey element, which again, given their scale would remain subordinate to the original dwelling. However the two storey element of the fall back scheme would partly conceal the original chimney feature on this elevation which would detract from the character of the dwelling. It is also noted that the fall back scheme would be far more prominent from views of the street scene.

Overall it is considered that the proposal scheme would have a greater detrimental impact to the character of the original dwelling and the local area.

Neighbouring amenity

Given the siting of the proposal in relation to the adjoining neighbour, no harm arises to the amenities of the neighbouring occupiers, and thus the proposal complies with policy BDP1 of the Bromsgrove District Plan.

Conclusion

The proposed development would constitute disproportionate additions, which would be inappropriate development within the Green Belt. Inappropriate development is harmful by definition and should only be approved if Very Special Circumstances exist that would outweigh the harm arising through inappropriateness. In this case a permitted development fall back scheme has been put forward which would provide the same amount of floor space. Furthermore the fall back scheme would be taller in height and therefore would have a greater impact to the visual openness of the Green Belt. The fall back scheme would also have a greater detrimental impact to the character of the dwelling and the street scene.

Given the permitted development fall back scheme would be more harmful than the proposal scheme for the reasons above, it is considered that Very Special Circumstances exist that would outweigh the harm arising through inappropriateness. It is therefore considered that the proposal is acceptable subject to the removal of Class A Permitted Development Rights, which would ensure that the fall back scheme could not also be implemented.

A Legal Officer was consulted as part of the process and considered that a Unilateral Agreement was the most suitable mechanism to remove permitted development rights in this particular case.

RECOMMENDATION: That planning permission be **GRANTED** subject to conditions and a unilateral agreement to remove Part 1, Class A permitted development rights.

Conditions:

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of the grant of this permission.

Reason :- In accordance with the requirements of Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be in accordance with the Approved Plans/ Drawings listed in this notice:

Location Plan - Drawing no. Allandale Cottage - 01K

Proposed Floor Plans and Elevations - Drawing no. Allandale Cottage - 05K

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

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