

# Public Document Pack

Your ref  
Our ref  
Ask for Wendy Johnson  
Email wendy.johnson@lichfielddc.gov.uk



District Council House, Frog Lane  
Lichfield, Staffordshire WS136YU

Customer Services 01543 308000  
Direct Line 01543308075

21 May 2020

Dear Sir/Madam

## PLANNING COMMITTEE

In light of the current Covid-19 pandemic and government advice on social distancing, the Planning Committee meeting to take place on **MONDAY, 1ST JUNE, 2020 at 6.00 PM** will be held as a virtual meeting and streamed online (further information is available on our website).

Yours faithfully

A handwritten signature in black ink, appearing to read 'Christie Tims', is written over a light grey circular stamp.

Christie Tims  
Head of Corporate Services

### To: Members of Planning Committee

Councillors Marshall (Chairman), Baker (Vice-Chair), Anketell, Barnett, Birch, Brown, Checkland, Cox, Eagland, Evans, Ho, Humphreys, Leytham, Matthews and Tapper



[www.lichfielddc.gov.uk](http://www.lichfielddc.gov.uk)



[/lichfielddc](https://www.facebook.com/lichfielddc)



[lichfield\\_dc](https://twitter.com/lichfield_dc)



MyStaffs App

## AGENDA

1. **Apologies for Absence**
2. **Declarations of Interest**
3. **Minutes of Previous Meeting** 3 - 4
4. **Planning Application** 5 - 14
5. **Confirmation of Tree Preservation Order no. 441-2020 -  
Caterham Crescent, Streethay, Lichfield, Staffordshire** 15 - 20
6. **Confirmation of Tree Preservation Order no. 443-2020 - Yoxall  
Way to Buddleia Avenue, Streethay, Lichfield, Staffordshire** 21 - 28
7. **Confirmation of Tree Preservation Order no. 444-2020 - Parkes  
Drive to Hamstall Close, Streethay, Lichfield, Staffordshire** 29 - 36



**PLANNING COMMITTEE**

**5 MAY 2020**

**PRESENT:**

Councillors Marshall (Chairman), Baker (Vice-Chair), Barnett, Birch, Checkland, Cox, Eagland, Evans, Ho, Humphreys, Leytham, Matthews and Tapper

**INTRODUCTION:**

The Chairman welcomed everyone to the first Planning Meeting to be held online and streamed live.

**42 APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Anketell and Councillor Brown.

**43 DECLARATIONS OF INTEREST**

Councillor Baker declared a personal interest in application no. 18/01693/FUL as she knows the Objector, Parish Councillor Simon Roberts.

Councillor Checkland declared a personal interest in application no. 18/01693/FUL as he knows the Applicant's Agent, Mr Christopher Timothy.

**44 MINUTES OF PREVIOUS MEETING**

The Minutes of the Meeting held on 9 March 2020 previously circulated were taken as read, approved as a correct record and signed by the Chairman.

**45 PLANNING APPLICATIONS**

Applications for permission for development were considered with the recommendations of the Head of Economic Growth and Development and any letters of representation and petitions of observations/representations together with the supplementary report of observations/representations received since the publication of the agenda in association with Planning Application 18/01693/FUL

18/01693/FUL – Erection of 8 no. dwellings and associated works  
Land fronting Turnbull Road, Fradley  
For Massey Limited

**RESOLVED:-** That this application be approved subject to the conditions outlined in the report and supplementary report and subject to the applicant first entering into a Section 106 legal agreement. Also, subject to an amendment to condition 13 to include that, "No deliveries shall be undertaken during peak school arrival/departure times; including between 8am and 9.30am and 3pm and 4pm Monday to Friday inclusive.

(Prior to consideration of the application, representations were made by Parish Councillor Simon Roberts (Objector) via written submission, Councillor Cross and Councillor Wilcox (Ward Councillors) and Christopher Timothy of CT Planning (Applicant's Agent))

(The Meeting closed at 7.25pm)

CHAIRMAN

# Agenda Item 4

## Planning Committee

1 June 2020

### Agenda Item 4

Contact Officer: Claire Billings

Telephone: 01543 308171

## Report of the Head of Economic Growth and Development

### LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT, 1985

All documents and correspondence referred to within the report as History, Consultations and Letters of Representation, those items listed as 'OTHER BACKGROUND DOCUMENTS' together with the application itself comprise background papers for the purposes of the Local Government (Access to Information) Act, 1985.

Other consultations and representations related to items on the Agenda which are received after its compilation (and received up to 5 p.m. on the Friday preceding the meeting) will be included in a Supplementary Report to be available at the Committee meeting. Any items received on the day of the meeting will be brought to the Committee's attention. These will also be background papers for the purposes of the Act.

### FORMAT OF REPORT

Please note that in the reports which follow

- 1 'Planning Policy' referred to are the most directly relevant Development Plan Policies in each case. The Development Plan comprises the Lichfield District Local Plan Strategy 2008-2029 (2015), Lichfield District Local Plan Allocations 2008-2029 (2019), any adopted Neighbourhood Plan for the relevant area, the Minerals Local Plan for Staffordshire 2015-2030 (2017) and the Staffordshire and Stoke on Trent Joint Waste Local Plan 2010-2026 (2013).
- 2 The responses of Parish/Town/City Councils consultees, neighbours etc. are summarised to highlight the key issues raised. Full responses are available on the relevant file and can be inspected on request.
- 3 Planning histories of the sites in question quote only items of relevance to the application in hand.

**ITEM 'A'** Applications for determination by Committee - **FULL REPORT**

**ITEM 'B'** Lichfield District Council applications, applications on Council owned land (if any) and any items submitted by Members or Officers of the Council.

**ITEM 'C'** Applications for determination by the County Council on which observations are required (if any); consultations received from neighbouring Local Authorities on which observations are required (if any); and/or consultations submitted in relation to Crown applications in accordance with the Planning Practice Guidance on which observations are required (if any).

## **AGENDA ITEM NO. 4**

### **ITEM A**

#### **APPLICATIONS FOR DETERMINATION BY COMMITTEE: FULL REPORT**

**1 June 2020**

#### **CONTENTS**

Case No.	Site Address	Parish/Town Council
20/00230/FUH	31 Yew Tree Avenue Lichfield	Lichfield

# LOCATION PLAN

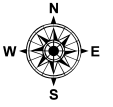
20/00230/FUH  
31 Yew Tree Avenue  
Lichfield

Scale: 1:1,000

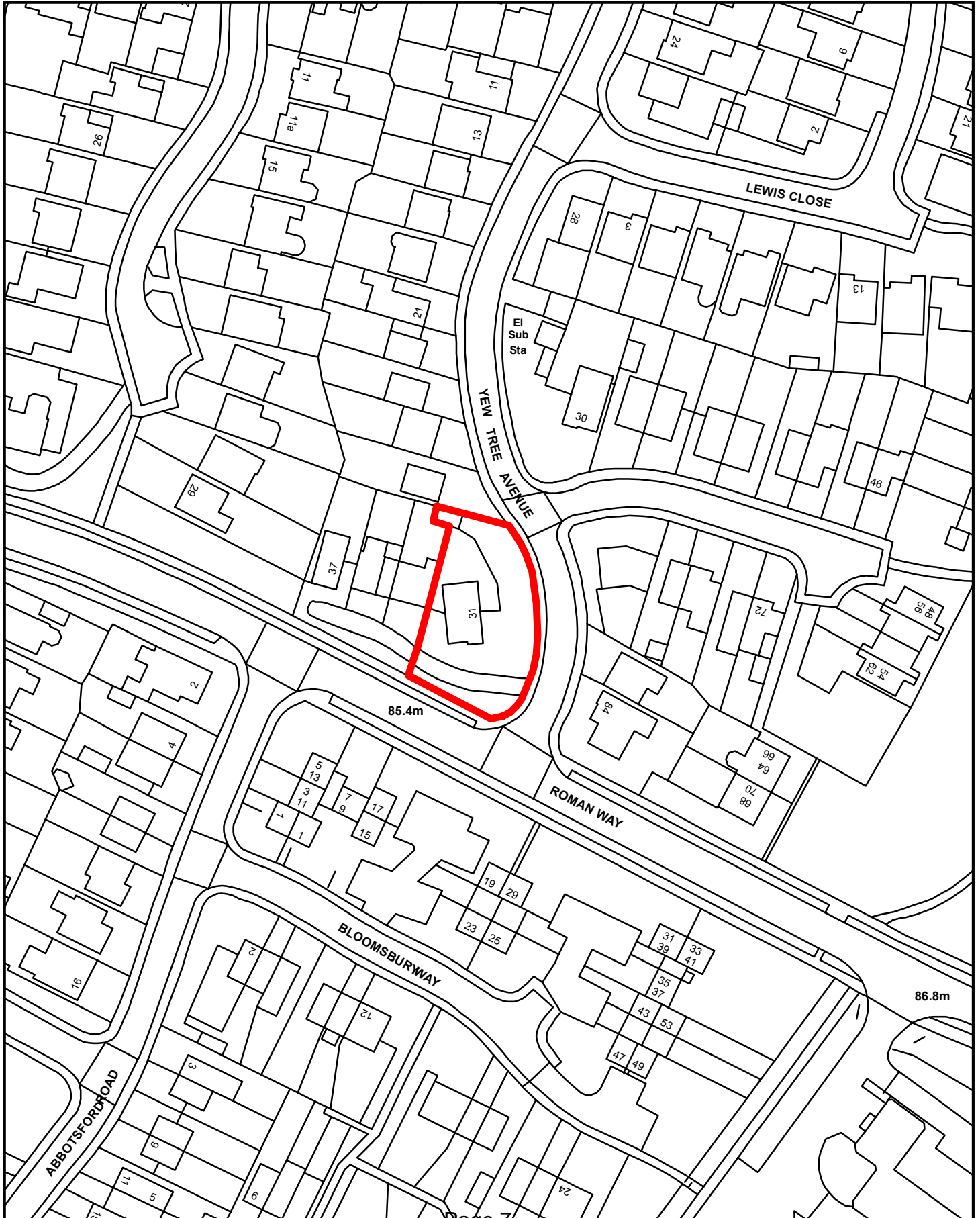
Dated: June 2020

Drawn By:

Drawing No:



© Crown Copyright  
Database Rights 2015  
Lichfield District Council  
Licence No: 100017765



## 20/00230/FUH

### Retention of 2no boundary fences

31 Yew Tree Avenue, Lichfield, Staffordshire, WS14 9UA

FOR Mrs L Keatley

Registered 03/03/2020

Parish: Lichfield

**Note:** This application is being reported to the Planning Committee due to a call-in request by the Ward Councillor (Councillor Mark Warfield) on the grounds that:

- The fence obscures the highway and view from the driveway of No. 29, making it dangerous to highway safety.
- The fence is excessive in height and incongruous in the street scene. Notes that the estate is open plan with no fences and walls and no hedges over 1 metre high.
- Considers the fence has been erected on land not owned by the applicant.

**RECOMMENDATION: Approve, subject to the following conditions:**

#### CONDITION

- 1 The development authorised by this permission shall be retained in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.

#### REASONS FOR CONDITION

- 1 For the avoidance of doubt and in accordance with the applicant's stated intentions, in order to meet the requirements of Policy BE1 of the Local Plan Strategy and the National Planning Practice Guidance.

#### NOTES TO APPLICANT:

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015), Lichfield District Local Plan Allocations (2019) and the Lichfield City Neighbourhood Plan (2018).
2. The applicant's attention is drawn to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2017, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £34 for a householder application or £116 for any other application including reserved matters. Although the Council will endeavour to deal with such applications in a timely manner, it should be noted that legislation allows a period of up to 8 weeks for the Local Planning Authority to discharge conditions and therefore this timescale should be borne in mind when programming development.
3. The development is considered to be a sustainable form of development which complies with the provisions of paragraph 38 of the NPPF.

---

#### PLANNING POLICY

##### National Planning Policy

National Planning Policy Framework



**Local Plan Strategy**

Policy BE1 - High Quality Development  
Policy CP2 - Presumption in Favour of Sustainable  
Policy CP3 - Delivering Sustainable Development  
Policy NR3 - Biodiversity, Protected Species & their habitats

**Supplementary Planning Document**

Biodiversity and Development SPD  
Sustainable Design SPD

**Other**

Lichfield City Neighbourhood Plan (2018)

**Local Plan Review: Preferred Options (2018-2040)**

**RELEVANT PLANNING HISTORY**

77/04144/FUL Development for residential and associated purposes Approve 01/12/1977

**CONSULTATIONS**

**Staffordshire County Council (Highways)** - There are no objections on Highway grounds to this proposal.

No.29 has only ever had a maximum of 22m of clear visibility achievable under land under their control and within adopted highway. This new boundary fence has not reduced that historic splay. Given the nature of Yew Tree Avenue (residential and unclassified) and the likelihood of vehicles not travelling at excessive speeds due to the proximity of a road junction with Roman Way, do not see a legitimate reason within the NPPF for refusal (23.3.2020 & 7.5.2020).

**Lichfield City Council** - No objections. (6.3.2020)

**LETTERS OF REPRESENTATION**

5 letters of representation have been received in respect of this application.

One of these letters of representation objects to the development. The comments made are summarised as follows:

- Highways and visibility, with regards to the safety of road users and pedestrians and the fencing creating a blind drive way for the neighbouring dwelling.
- Character and appearance within the surrounding street scene, with regards to the open appearance and frontages within the surrounding area. It is felt that the development encloses and impacts the character of the street scene.
- Concerns regarding land ownership have been raised. The objector feels that the development is on land within their ownership.

Four letter of representation have been received which support the development. The comments made are summarised as follows:

- Both fences are within the permitted height and distance from the highway.
- The development appears to comply with the General Permitted Development and therefore does not required planning permission.
- The fences blend in with the surrounding street scene.
- The fence provides enhanced security for the residents of 31 Yew Tree Avenue.

- The process has caused great stress to the applicant, and as the development is Permitted Development and should not require planning permission, it is felt that the applicant should be reimbursed for all costs involved with the planning process.

## **OTHER BACKGROUND DOCUMENTS**

N/A

## **PLANS CONSIDERED AS PART OF THIS RECOMMENDATION**

Site Location Plan  
Block Plan  
Post and Rail Fence  
Concrete Posts.

---

## **OBSERVATIONS**

### **Site and Location**

The application site relates to a detached bungalow located on the western side of Yew Tree Avenue, in Lichfield. The property is a corner plot with Yew Tree Avenue to the east and Roman Way to the south. The property has a driveway off a shared access to the south which comes from Yew Tree Avenue and also a second driveway to the north between No. 31 and 29 Yew Tree Avenue, which provides access to a detached garage in the applicant's ownership.

The front door of the property is located in the east facing elevation of the bungalow which faces onto Yew Tree Avenue and a path across the frontage leads on to Yew Tree Avenue to the east. The nearest neighbouring properties are two storey dwellings with bungalows also present within the general vicinity.

A low level hedgerow forms the boundary along Yew Tree Avenue to the east of the property. Hedgerows and planted boundaries form the main boundary treatment, however there is the occasional close boarded fence running back from the highway also present.

### **Proposals**

This application seeks permission for the retention of 2no. boundary fences.

The fences are located to the side of the existing dwelling, set to the front and rear of the property. The fences are labelled on the submitted plans as Fence A and B.

Fence A is located on the northern boundary of the dwelling and forms the boundary along the driveway to the garage with the neighbouring property to the north (29 Yew Tree Avenue). Fence A measures a height of 1.83m and a length of 8.38m. The fence is set back from the public footpath by 1.2m and 3.03m back from the highway.

Fence B is located to the east of the dwelling, adjacent the footpath which runs to the front door, and runs up to an existing wall which encloses the rear garden area. Fence B measures a maximum height of 1.83m and a length of 5.94m. The fence is set back from the public footpath by 1.2m and 3.03m from the public highway.

Fence A is constructed of timber posts and rails with feather edge boarding. Fence B is constructed of concrete posts, concrete gravel boards and feather edge boards. The fences have been stained brown.

The fences are linked by the established low level boundary hedge that runs adjacent to the public footpath.

## Determining Issues

1. Policy & Principle of Development
2. Design and Impact upon the Character and Appearance of the Surrounding Area
3. Access and Highway Safety
4. Other Issues
5. Human Rights

### 1. Policy & Principle of Development

1.1 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise. The Development Plan for Lichfield District comprises the Lichfield District Local Plan Strategy 2008-2019, and the Allocations Document (2019) and the adopted (made) Lichfield City Neighbourhood Plan.

1.2 The proposal relates to the retention of 2No. boundary fences situated within the curtilage of an existing residential property in a residential area of Lichfield. The principle of householder developments such as extensions and alterations including fencing within residential areas is considered acceptable.

### 2. Design and Impact upon the Character and Appearance of the Surrounding Area

2.1 The NPPF attaches great importance to design of the built environment and sets out that high quality and inclusive design should be applied to all development, including individual buildings, private spaces and wider area development schemes. It also states that development should respond to local character and history, and reflect the identity of local surroundings. This sentiment is echoed in Policy BE1 of the Local Plan Strategy which requires new development in terms of layout, size, scale, design and public views. The Policy continues to expand on this point advising that good design should be informed by “appreciation of context, as well as plan, scale, proportion and detail”.

2.2 The character of the surrounding area is formed by single and two storey properties with landscaped frontages and driveways. The two storey properties adjacent and to the north, are of a higher density as in general bungalows tend to take up a greater footprint and larger plot. The applicant’s property is also set on a corner plot which results in a wide frontage to Yew Tree Avenue with the hedgerow forming the boundary and linking the two fences sought to be retained through this application.

2.3 Whilst hedging and vegetation is the main boundary treatment, the boundary between No 29 and No. 27 has timber fencing that is visible within the surrounding street scene, and this also runs in a direction perpendicular to the footpath and highway and as such doesn’t form a prominent screen from the street scene.

2.4 Representation made against the application raises concern about the appearance of the fencing and that the fences will cause harm to the open character and appearance of Yew Tree Avenue, as the area is characterised by wide side gardens. Concerns have also been raised that should the development be approved, then further applications will follow suit and would cause further harm to the area.

2.5 The fencing in situ in both instances is set back from the footpath by 1.2 metres (and 3.03 metres back of the highway) and as such is not considered to be adjacent the footpath or highway. The fencing in both instances also runs back from the street scene and does not form a perceivable barrier too it, which would be the case were the fencing to run directly adjacent the footway and parallel too it and in effect enclosing the frontage. Both fences are set back of the hedgerows position, with fence B set directly behind it.

- 2.6 The fencing due to its siting and the way it is orientated perpendicular rather than parallel to the street scene is not considered to result in any significant or incongruous impact on the character of the area and is considered of acceptable design.
3. Access and Highway Safety
- 3.1 The NPPF states in paragraph 102 that transport issues should be considered from the earliest stages of plan-making and development proposals. Also, in paragraph 109 the NPPF states that any development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 3.2 Representations received raise concerns that the fencing limits the visibility from the neighbouring dwelling when accessing their driveway and limits the visibility of those using the public footpath.
- 3.3 The matter of visibility and impact on highway safety has been considered by the Highway Authority (Staffordshire County Council) as a consultee. The Highway Authority have stated,
- “No.29 has only ever had a maximum of 22m of clear visibility achievable under land under their control and within the adopted highway. The fencing has not reduced that historic splay. Given the nature of Yew Tree Avenue (residential and unclassified road) and the likelihood of vehicles not travelling at excessive speeds due to the proximity of a road junction with Roman Way, the Highway Authority has no valid reason for refusal.”*
- 3.4 The fencing is not therefore considered to restrict visibility for the applicants at No. 31, the neighbouring driveway No. 29, or in general to other road users and as such is not considered to result in any significant impact on highway safety as a result. It is therefore considered the proposals are acceptable on highway grounds.
- 4 Other Issues
- 4.1 Representations have raised concern regarding the location of the fence, as it is felt by the neighbour that the fencing which has been installed is not located on land that is owned by the applicant/No. 31. As a result the applicant was asked to confirm land ownership and they did so by providing a location plan of their deeds for the property. The Local Planning Authority have therefore addressed this matter in terms of the ownership certificate submitted and it is considered that the matter of land ownership and trespass, if still disputed should be pursued as a civil matter outside of the consideration of this application.
- 4.2 It is noted that the fencing was put in situ with the presumption that due to the size and location, it fell under Permitted Development rights. An Enforcement Officer of the Local Planning Authority invited a planning application due to concerns regarding the potential impact on highway safety and the development not complying with paragraph 3 (6) of the General Permitted Development Order. Paragraph 3 (6) of the General Permitted Development Order states, *“that any permissions granted by Schedule 2 does not, except in relation to development permitted by Classes A, B, D and E of Part 9 and Class A of Part 18 of that Schedule, authorise any development which requires or involves the formation, laying out or material widening of a means of access to an existing highway which either a trunk or classified road, or creates an obstruction to the view of persons using any highway used by vehicular traffic and is likely to cause danger to such persons.”*
- 4.3 However, following the submission of a planning application, and consultation to the Highway Authority, they have raised no objections to the development, and consider there is not any obstruction to vehicular traffic that would result in a situation likely to cause danger.

- 4.4 Representations have been received in support of the application stating that the development falls within the parameters of Permitted Development. The General Permitted Development Order states that a fence can be erected using Permitted Development rights subject to there being no adverse impacts upon highway safety and the fence being no higher than 2 metres when not adjacent to a footpath or highway.
- 4.5 As the Highways Authority have not raised any objections to the development, the fencing that has been erected could therefore now be considered as permitted development as they both measure 1.8m in height (under 2 metres) and are set back from the public footpath by 1.2 metres and highway by 3m and as such are not considered to be adjacent.
5. Human Rights
- 5.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with an individual's rights under Article 8 of Schedule 1 to the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report in having regard to the representations received and, on balance, is justified and proportionate in relation to the provisions of the policies of the development plan and national planning policy.

## **Conclusion**

The fencing is located within a residential area where householder development and boundary treatment is acceptable in principle. Given the fencing is set back of the footpath by 1.2 metres and runs in a direction perpendicular too it, it is not considered overbearing or detrimental to the character of the area. The existing frontage hedgerow is retained which runs parallel to the footpath and highway and encloses the front garden area.

The Highway Authority have considered that the retention of the fencing would not have an adverse impact upon highway safety, as the development does not impede the visibility of the applicants, neighbouring properties or other road users and as such does not result in any significant detriment to highway safety.

As such, retention of the fencing is considered to accord with the requirements of the Local Plan and the NPPF. Accordingly, the application is recommended for approval.

This page is intentionally left blank

# Tree Preservation Order No 441-2020

Cabinet Member: Iain Eadie

Date: 01/06/2020  
 Agenda Item: 5  
 Contact Officer: Gareth Hare  
 Tel Number: 01543 308207  
 Email: Gareth.hare@lichfielddc.gov.uk  
 Key Decision? NO  
 Local Ward Members: Cllrs David Leytham, Harry Warburton, Alan White.



## 1. Executive Summary

1.1 To seek members decision regarding the confirmation of Tree Preservation Order 441-2020 at Caterham Crescent, Streethay, Lichfield.

## 2. Recommendations

2.1 That the Committee confirm the Tree Preservation order with modifications.

## 3. Background

3.1 A tree preservation order was made on the 16<sup>th</sup> of January 2020 on several individual trees on Caterham Crescent, Oak Way, Whittle Close and Nightingale Close Streethay. The grounds for the order are as follows:

*The trees within this order stand within or adjacent to the new homes built as part of the Streethay development site. The trees are newly planted as part of the strategic landscaping scheme for the site and combine with those within the larger open spaces to provide an attractive and desirable residential area. All of the trees are visible from public highways and several are visible from public open spaces.*

*Where trees within the schedule are shown as (C) these trees are included within the approved landscaping plan (dwg Bir.2007\_130A of planning application 15/00173/REMM) but are not present at the time of making the order. It is a condition of the planning consent that these trees must be provided and retained. Once they are planted they will be protected by this tree preservation order automatically.*

*The earlier agricultural land use means that there are few existing trees on the site and the new tree planting is important to provide long-term visual amenity and the other benefits that trees provide. Therefore, in order to ensure the successful establishment and long-term retention of the trees, and to maintain the quality the development, it is considered prudent to include the trees within a tree preservation order in the interest of visual amenity.*

The TPO schedule and plan are at **Appendix A**.

3.2 One objection to the order was received and is summarised below:

T1 C (Amelanchier) is to be positioned on a piece of grassland next to the driveway. The objector potentially intends to convert this land into an extended driveway or utilise it for a house extension in

the future. They are concerned that the Tree Preservation Order would stop the land being used for those purposes.

- 3.3 Whilst T1 C has yet to be planted it is an obligation of the planning permission and not planting it would represent a breach of the relevant condition. If the objector wishes to use the land for alternative purposes in the future then either an application to fell the tree can be made under the tree preservation order (for works not requiring planning permission) or the felling of the tree could be considered as part of a an application for full planning permission. In either case there is recourse to an appeal process via the Planning Inspectorate if the application is not satisfied with the outcome. The case relating to the importance of the trees to the site is made at 3.1 in the grounds for the order.
- 3.5 As per 2.1 and taking the above into account it is recommended that Committee confirm the order with the modifications detailed.

<b>Alternative Options</b>	1. The Committee may choose not to confirm the Tree Preservation Order or confirm the order with modifications.
----------------------------	---

<b>Financial Implications</b>	1. Tree Preservation Orders make provision for the payment by the Local Planning Authority, of compensation for loss or damage caused or incurred, within a twelve month period from the date of their decision, as a result of their refusal of any consent under the Tree Preservation Order or their grant of consent subject to conditions. There are no financial implications in the confirmation of a Preservation Order.
-------------------------------	--

<b>Contribution to the Delivery of the Strategic Plan</b>	1. Assists in ensuring that Lichfield remains a clean, green and welcoming place to live.
---	---

<b>Equality, Diversity and Human Rights Implications</b>	1. The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with an individual's rights under Article 8 of Schedule 1 of the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report and on balance is justified and proportionate in relation to the administration of the tree preservation order.
--	--

<b>Crime &amp; Safety Issues</b>	1. N/A
----------------------------------	--------

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	High Court Challenge (after confirmation)	Ensuring that the TPO is within the powers of the Act and that the requirements of the Act and Regulations have been complied with in relation to the TPO.	Green



Lichfield District Council  
 Tree Preservation Order Number 441-2020  
 Caterham Crescent, Streethay, Lichfield  
 Staffs, WS13 8GT  
 Eastings 413277 Northings 310391

All the trees described in this schedule are situated in the Whittington and Streethay ward in the District of Lichfield. All plot numbers referred to are Ordnance Survey numbers on 1:10000 sheets.

**TREES SPECIFIED INDIVIDUALLY**  
 Encircled in black on the map

Reference on Plan	Description	Situation
T1 (c)	Amelanchier	side of 26 Caterham Crescent,  Streethay, Lichfield WS13 8GS
T2 (c)	Silver Birch	front of 26 Caterham Crescent, and 53 Oak Way, Streethay, Lichfield WS13 8GS
T3	Rowan	side of 43 Oak Way, Streethay, Lichfield WS13 8GH
T4	Ornamental Pear	outside 11 Whittle Close, Streethay, Lichfield WS13 8GT
T5	Ornamental Pear	entrance to Whittle Close, Streethay, Lichfield WS13 8GT
T6	Ornamental Pear	Car parking area Nightingale Close, Streethay, Lichfield WS13 8GR
T7	Ornamental Pear	car parking area Nightingale Close, Streethay, Lichfield WS13 8GR

**TREES SPECIFIED BY REFERENCE TO AN AREA**  
 Within a dotted line on the map

Reference on Plan	Description	Situation
	None	

**GROUPS OF TREES**

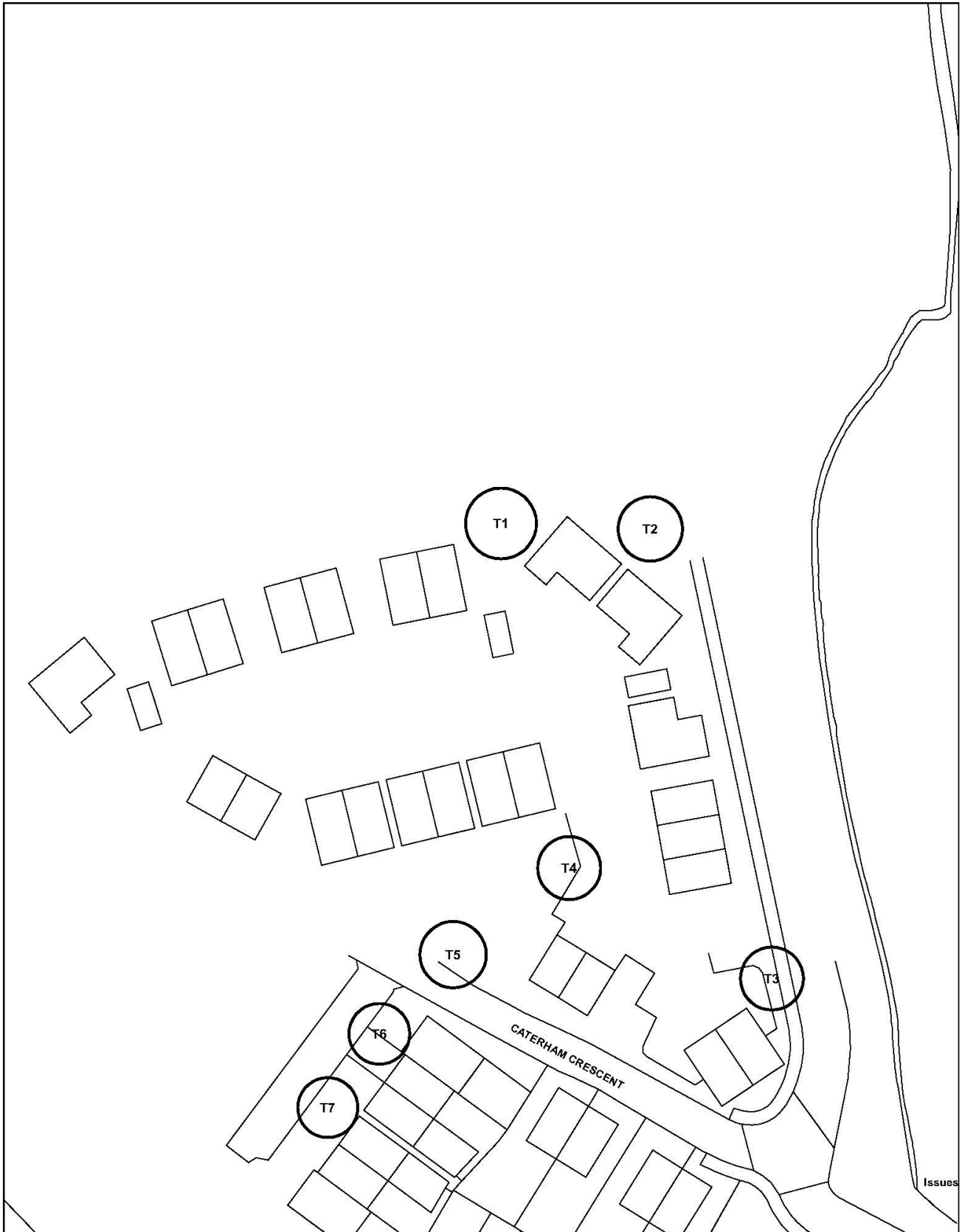
Within a broken line on the map

<b>Reference on Plan</b>	<b>Description</b>	<b>Situation</b>
	None	

**WOODLANDS**

Within a continuous black line on the map

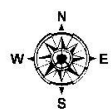
<b>Reference on Plan</b>	<b>Description</b>	<b>Situation</b>
	None	



  
 www.lichfielddc.gov.uk  
 District Council House  
 Frog Lane  
 Lichfield  
 Staffs  
 WS13 6YY  
 Telephone: 01543 308000  
 enquiries@lichfielddc.gov.uk

Title:  
 Lichfield District Council  
 Tree Preservation Order No 441-2020  
 Caterham Crescent, Streethay  
 Lichfield, Staffordshire WS13 8GT  
 Eastings 413277 Northings 310391

Scale: 1:500  
 Dated: 03/01/2020  
 Drawn by: Portia Howe  
 Drawing No: 1



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright Database Rights 2015 Lichfield District Council Licence No: 100017765 Dated 2020

This page is intentionally left blank

# Tree Preservation Order No 443-2020

Cabinet Member: Iain Eadie

Date: 01/06/2020  
 Agenda Item: 6  
 Contact Officer: Gareth Hare  
 Tel Number: 01543 308207  
 Email: Gareth.hare@lichfielddc.gov.uk  
 Key Decision? NO  
 Local Ward Members: Cllrs David Leytham, Harry Warburton, Alan White.



## 1. Executive Summary

1.1 To seek members decision regarding the confirmation of Tree Preservation Order 443-2020.

## 2. Recommendations

2.1 That the Committee confirm the Tree Preservation order without modifications.

## 3. Background

3.1 A tree preservation order was made on the 16<sup>th</sup> of January 2020 in respect of several individual trees within the Yoxall Way to Buddleia Avenue part of the Streethay Development. The grounds for the order are as follows:

The trees within this order stand within or adjacent to the new homes built as part of the Streethay development site. The trees are newly planted as part of the strategic landscaping scheme for the site and combine with those within the larger open spaces to provide an attractive and desirable residential area. All of the trees are visible from public highways and several are visible from public open spaces.

Where trees within the schedule are shown as (C) these trees are included within the approved landscaping plans (dwgs 03-100 and 03-101) but are not present at the time of making the order. It is a condition of the planning consent that these trees must be provided and retained. Once they are planted they will be protected by this tree preservation order automatically.

The earlier agricultural land use means that there are few existing trees on the site and the new tree planting is important to provide long-term visual amenity and the other benefits that trees provide. Therefore, in order to ensure the successful establishment and long-term retention of the trees, and to maintain the quality the development, it is considered prudent to include the trees within a tree preservation order in the interest of visual amenity.

The TPO schedule and plan are at **Appendix A**.

3.2 Two objections to the order were received and raised a number of points.

3.3 The objections are summarised below and dealt with in context for ease of reference:

- **The tree will grow and block light.**

The tree in question is a small decorative type (Amelanchier or Snowy Mespilus). The interception of light should be limited due to its size.

- **Objector is concerned regarding having control over their own tree.**

Tree preservation orders enable a Local Planning Authority to protect trees in the interests of amenity and to give effect to planning conditions. This involves an interference with the rights of the individual to carry out works to trees within their ownership. This interference in property ownership is based on the benefits that trees give to society. In developments like Streethay with little tree cover it is particularly important that trees are planted and retained in accordance with the approved scheme (as set out at 3.1).

- **Objector may wish to gravel over front garden to convert to lower maintenance garden or driveway. Concerned that tree will prevent this work.**

If the objector wishes to use the land for alternative purposes in the future then either an application to fell the tree can be made under the tree preservation order (for works not requiring planning permission) or the felling of the tree could be considered as part of an application for full planning permission. In either case there is recourse to an appeal process via the Planning Inspectorate if the application is not satisfied with the outcome. The case relating to the importance of the trees to the site is made at 3.1 in the grounds for the order.

- **Increased maintenance arising from leaves and debris from the tree.**

The tree is ultimately of a small size and therefore the maintenance issues arising from it should be limited.

- **Concerns re root damage to wires/pipes/path/car park**

Damage to underground services in modern development is rare due to advances in drainage materials. Wires and pipes other than drains are normally unaffected. Surface damage from roots can occur but the species in question is not noted for causing such issues.

- **Tree is close to garden wall and concern raised regarding potential damage and liability for compensation.**

The planting is part of an approved scheme where the potential for damage will have been taken into account in the construction of the wall and the proximity of the tree. If there are continuing concerns regarding damage then an application to remove the tree could be made in the normal manner with appropriate supporting evidence.

- **Concerns regarding growth of branches over the wall and thereby impeding views and dropping leaves etc.**

A tree preservation order would not prevent reasonable works to a tree. This may include a degree of pruning. Silver Birch generally has a light crown i.e. it is permeable to sun/daylight coming through it and the leaves are small and disperse readily. There may be a reduction in views to/from the property but this should be minimal and may in any case be partially desirable due to screening.

- **Issue raised regarding the timing of the TPO after the property had been purchased. Purchase would not have gone ahead with the sale if TPO had been served prior to sale.**

A TPO can be served at any time and the timing in relation to the sale/purchase of the property is coincidental.

- **Issue raised regarding potential of TPO to affect property value if property sold. Will LDC make up shortfall?**

There is no evidence to suggest that tree preservation orders reduce the value of properties. Properties with protected trees are routinely sold and purchased on the open market. Some purchasers will see the tree as a benefit just as others will see it as a constraint in a similar way to many other property features.

3.4 Applications can be made and determined under the new TPO (if confirmed) and if those applications are refused by Lichfield District Council then the applicant has recourse to appeal to the Planning Inspectorate (PINS).

3.5 As per 2.1 and taking the above into account it is recommended that Committee confirm the order without modifications.

Alternative Options	1. The Committee may choose not to confirm the Tree Preservation Order or confirm with modifications.		
Financial Implications	1. Tree Preservation Orders make provision for the payment by the Local Planning Authority, of compensation for loss or damage caused or incurred, within a twelve month period from the date of their decision, as a result of their refusal of any consent under the Tree Preservation Order or their grant of consent subject to conditions. There are no financial implications in the confirmation of a Preservation Order.		
Contribution to the Delivery of the Strategic Plan	1. Assists in ensuring that Lichfield remains a clean, green and welcoming place to live.		
Equality, Diversity and Human Rights Implications	1. The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with an individual's rights under Article 8 of Schedule 1 of the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report and on balance is justified and proportionate in relation to the administration of the tree preservation order.		
Crime & Safety Issues	1. N/A		
	Risk Description	How We Manage It	Severity of

			<b>Risk (RYG)</b>
A	High Court Challenge (after confirmation)	Ensuring that the TPO is within the powers of the Act and that the requirements of the Act and Regulations have been complied with in relation to the TPO.	Green



Lichfield District Council  
 Tree Preservation Order Number 443-2020  
 Yoxall Way to Buddleia Ave,  
 Streethay, Lichfield  
 Staffs, WS13 8FT  
 Eastings 413676 Northings 310369

All the trees described in this schedule are situated in the Whittington and Streethay ward in the District of Lichfield. All plot numbers referred to are Ordnance Survey numbers on 1:10000 sheets.

**TREES SPECIFIED INDIVIDUALLY**  
 Encircled in black on the map

Reference on Plan	Description	Situation
T1	Ornamental Pear	front of 79 Yoxall Way, Streethay, Lichfield WS13 8FT
T2	Lime	parking area 73 – 75 Yoxall Way, Streethay, Lichfield WS13 8FT
T3	Ornamental Pear	side of 73 – 75 Yoxall Way, Streethay, Lichfield WS13 8FT
T4	Amelanchier	land to side of 8 Daffodil Drive, Streethay, Lichfield WS13 8NX
T5	Amelanchier	front of 8 Daffodil Drive, Streethay, Lichfield WS13 8NX
T6	Silver Birch	car park 8-18 Daffodil Drive, Streethay, Lichfield WS13 8NX
T7	Amelanchier	side of 2 Daffodil Drive, Streethay, Lichfield WS13 8NX
T8	Ornamental Apple	front of 3 Daffodil Drive, Streethay, Lichfield WS13 8NX
T9 (c)	Whitebeam	side of 2 Sunflower Street, Streethay, Lichfield WS13 8UU

Reference on Plan	Description	Situation
T10 (c)	Rowan	side of 8 Sunflower Street, Streethay, Lichfield WS13 8UU

T 11 (c)	Rowan	side of 21 Buddleia Avenue, Streethay, Lichfield WS13 8LL
T 12	Whitebeam	side 1-3 Sunflower Street, Streethay, Lichfield WS13 8UU
T 13 (c)	Amelanchier	front 25 Buddleia Avenue, Streethay, Lichfield WS13 8LL
T 14	Ornamental Apple	side of 1 Hedgerow Road, Streethay, Lichfield WS13 8SZ
T 15	Ornamental Apple	front of 6 Hedgerow Road, Streethay, Lichfield WS13 8SZ
T 16 (c)	Amelanchier	front of 11-15 Buddleia Avenue, Streethay, Lichfield WS13 8LL
T 17 (c)	Whitebeam	side of 11 Buddleia Avenue and 7 Butterfly Lane, Streethay, Lichfield WS13 8LL
T 18 (c)	Whitebeam	side of 6 Butterfly Lane, Streethay, Lichfield WS13 8LY
T 19	Ornamental Pear	front of 5 Butterfly Lane, Streethay, Lichfield WS13 8LY
T 20	Ornamental Pear	side of 1-3 Butterfly Lane, Streethay, Lichfield WS13 8LY
T 21	Silver Birch	side of 14 Robinia Road, Streethay, Lichfield WS13 8TN
T 22 (c)	Amelanchier	3 Buddleia Avenue, Streethay, Lichfield WS13 8LL
T 23 (c)	Amelanchier	3 Buddleia Avenue, Streethay, Lichfield WS13 8LL

**TREES SPECIFIED BY REFERENCE TO AN AREA**

Within a dotted line on the map

Reference on Plan	Description	Situation
	None	

**GROUPS OF TREES**

Within a broken line on the map

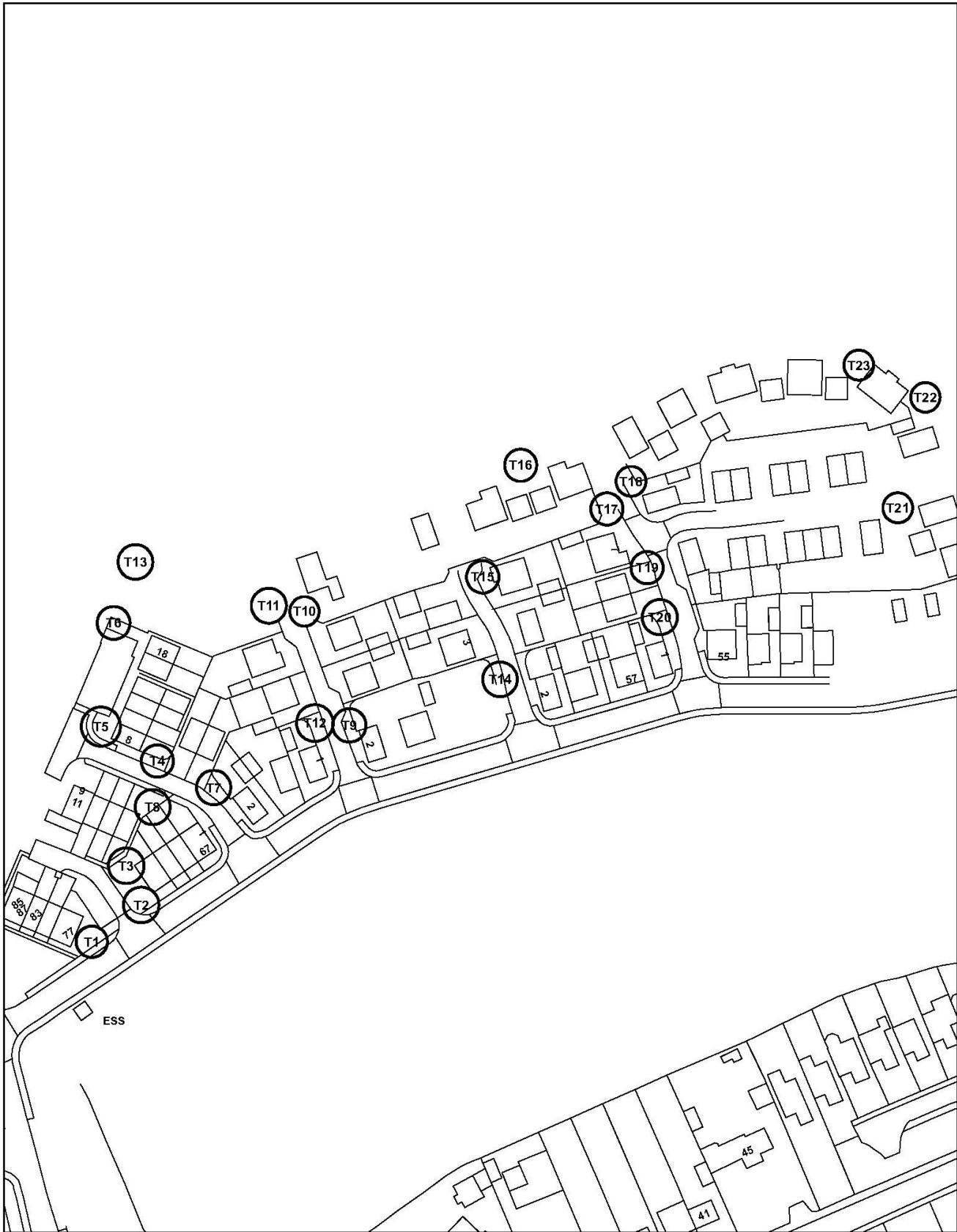
<b>Reference on Plan</b>	<b>Description</b>	<b>Situation</b>
	None	

**WOODLANDS**

Within a continuous black line on the map

<b>Reference on Plan</b>	<b>Description</b>	<b>Situation</b>
	None	

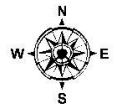
Gareth D Hare  
Arboricultural Officer



  
 Lichfield  
 district council  
[www.lichfielddc.gov.uk](http://www.lichfielddc.gov.uk)  
 District Council House  
 Frog Lane  
 Lichfield  
 Staffs  
 WS13 6YY  
 Telephone: 01543 308000  
 enquiries@lichfielddc.gov.uk

Title:  
 Lichfield District Council  
 Tree Preservation Order No 443-2020  
 Yoxall Way to Buddleia Ave, Streethay  
 Lichfield, Staffordshire WS13 8FT  
 Eastings 413676 Northings 310369

Scale:  
**1:1,000**  
 Dated: 03/01/2020  
 Drawn by: Portia Howe



Drawing No: 1

Reproduced from the Ordnance Survey mapping with the  
 permission of the Controller of Her Majesty's Stationery Office ©  
 Crown Copyright Database Rights 2015 Lichfield District Council  
 Licence No: 100017765 Dated 2020

# Tree Preservation Order No 444-2020

Cabinet Member: Iain Eadie

Date: 01/06/2020  
 Agenda Item: 7  
 Contact Officer: Gareth Hare  
 Tel Number: 01543 308207  
 Email: Gareth.hare@lichfielddc.gov.uk  
 Key Decision? NO  
 Local Ward Members: Cllrs David Leytham, Harry Warburton, Alan White.



## 1. Executive Summary

1.1 To seek members decision regarding the confirmation of Tree Preservation Order 444-2020.

## 2. Recommendations

2.1 That the Committee confirm the Tree Preservation order without modifications.

## 3. Background

3.1 A tree preservation order was made on the 16<sup>th</sup> of January 2020 in respect of several individual trees within the Parkes Drive to Hamstall Close part of the Streethay Development. The grounds for the order are as follows:

The trees within this order stand within or adjacent to the new homes built as part of the Streethay development site. The trees are newly planted as part of the strategic landscaping scheme for the site and combine with those within the larger open spaces to provide an attractive and desirable residential area. Two groups of established trees are included as mature trees on the site are scarce and these trees add interest and maturity to the site. All of the trees are visible from public highways and several are visible from public open spaces.

Where trees within the schedule are shown as (C) these trees are included within the approved landscaping plans (dwgs Bir.2007\_135/136/138 of planning application 15/00173/REMM) but are not present at the time of making the order. It is a condition of the planning consent that these trees must be provided and retained. Once they are planted they will be protected by this tree preservation order automatically.

The earlier agricultural land use means that there are few existing trees on the site and the new tree planting is important to provide long-term visual amenity and the other benefits that trees provide. Therefore, in order to ensure the successful establishment and long-term retention of the trees, and to maintain the quality the development, it is considered prudent to include the trees within a tree preservation order in the interest of visual amenity.

The TPO schedule and plan are at **Appendix A**.

3.2 One objection to the order was received and raised a number of points.

3.3 The points are summarised below and dealt with in context for ease of reference:

- **The tree will grow and block light.**

The tree in question is a moderately sized ornamental Pear. The interception of diffuse daylight should be limited due to its size. It is noted that the tree is located to the North West of the property and therefore its shade segment will be primarily cast away from the objectors' property.

- **Objector is concerned regarding having control over their own tree. Not able to lop or top without seeking formal consent**

Tree preservation orders enable a Local Planning Authority to protect trees in the interests of amenity and to give effect to planning conditions. This involves an interference with the rights of the individual to carry out works to trees within their ownership. This interference in property ownership is based on the benefits that trees give to society. In developments like Streethay with little tree cover it is particularly important that trees are planted and retained in accordance with the approved scheme (as set out at 3.1).

- **Tree is close to garden wall and concern raised regarding potential damage to the wall and potentially the house, from roots.**

The planting is part of an approved scheme where the potential for damage will have been taken into account in the construction of the wall, the house and the proximity of the tree. If there are continuing concerns regarding damage then an application to remove the tree could be made in the normal manner with appropriate supporting evidence.

- **No reference prior to purchase that the Council proposed to plant a tree within land owned by the objector.**

As detailed at 3.1 (2<sup>nd</sup> paragraph) it is a condition of the planning consent that a tree is planted in this location and is an obligation for the developers rather than an action the Council intend to take.

- **The TPO is at odds with a restrictive covenant placed on the property which does not allow any hedge or plant on or near a boundary to exceed a height of 1.8 metres.**

As previously indicated it is a condition of the planning consent that a tree is planted in this location as part of the approved scheme. The developers cannot have intended the covenant to conflict with elements of the approved scheme and it is suggested that clarification is sought from the vendors regarding the intention of the covenant and their likely approach to enforcing it. As the tree has not yet been planted, there is sufficient time to clarify this point.

3.4 Applications can be made and determined under the new TPO (if confirmed) and if those applications are refused by Lichfield District Council then the applicant has recourse to appeal to the Planning Inspectorate (PINS).

3.5 As per 2.1 and taking the above into account it is recommended that Committee confirm the order with the modifications detailed.

<b>Alternative Options</b>	1. The Committee may choose not to confirm the Tree Preservation Order or confirm it with modifications.
----------------------------	--

Financial Implications	<ol style="list-style-type: none"> <li>1. Tree Preservation Orders make provision for the payment by the Local Planning Authority, of compensation for loss or damage caused or incurred, within a twelve month period from the date of their decision, as a result of their refusal of any consent under the Tree Preservation Order or their grant of consent subject to conditions. There are no financial implications in the confirmation of a Preservation Order.</li> </ol>
------------------------	--

Contribution to the Delivery of the Strategic Plan	<ol style="list-style-type: none"> <li>1. Assists in ensuring that Lichfield remains a clean, green and welcoming place to live.</li> </ol>
--	---

Equality, Diversity and Human Rights Implications	<ol style="list-style-type: none"> <li>1. The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with an individual's rights under Article 8 of Schedule 1 of the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report and on balance is justified and proportionate in relation to the administration of the tree preservation order.</li> </ol>
---	--

Crime & Safety Issues	<ol style="list-style-type: none"> <li>1. N/A</li> </ol>
-----------------------	--

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	High Court Challenge (after confirmation)	Ensuring that the TPO is within the powers of the Act and that the requirements of the Act and Regulations have been complied with in relation to the TPO.	Green

**Lichfield District Council**  
**Tree Preservation Order Number 444-2020**  
**Parkes Drive to Hamstall Close,**  
**Streethay, Lichfield**  
**Staffs, WS13 8GB**  
 Eastings 413 029 Northings 310 613

All the trees described in this schedule are situated in the Whittington and Streethay ward in the District of Lichfield. All plot numbers referred to are Ordnance Survey numbers on 1:10000 sheets.

**TREES SPECIFIED INDIVIDUALLY**

Encircled in black on the map

Reference on Plan	Description	Situation
T1	Ornamental Pear	side of 29 Yoxall Way, Streethay, Lichfield WS13 8FT
T2	Ornamental Pear	side of 17 Perry Avenue, Streethay, Lichfield WS13 8FW
T3	Ornamental Apple	side of 1 Perry Avenue, Streethay, Lichfield WS13 8FW
T4	Silver Birch	front of 10 Perry Avenue, Streethay, Lichfield WS13 8FW
T5	Ornamental Apple	side of 23 Yoxall Way, Streethay, Lichfield WS13 8FT
T6	Silver Birch	front of 3 Berwick Avenue, Streethay, Lichfield WS13 8FY
T7	Silver Birch	side of 11 Berwick Avenue, Streethay, Lichfield WS13 8FY
T8	Silver Birch	side of 14 Berwick Avenue, Streethay, Lichfield WS13 8FY
T9	Ornamental Pear	front of 14 Rudge Street, Streethay, Lichfield WS13 8FZ

**TREES SPECIFIED INDIVIDUALLY**

Encircled in black on the map



Reference on Plan	Description	Situation
T10	Ornamental Pear	front of 10 Rudge Street, Streethay, Lichfield WS13 8FZ
T11 (c)	Silver Birch	side of 17-19 Lister Avenue, Streethay, Lichfield WS13 8GB
T12	Silver Birch	side of 9 Lister Avenue, Streethay, Lichfield WS13 8GB
T13	Silver Birch	side of 1 Rudge Street, Streethay, Lichfield WS13 8FZ
T14	Rowan	side of 25 Lister Avenue, Streethay, Lichfield WS13 8GB
T15 (c)	Rowan	side of 24 Lister Avenue, Streethay, Lichfield WS13 8GB
T16	Whitebeam	side of 1-3 Yoxall Way, Streethay, Lichfield WS13 8FT
T17 (c)	Whitebeam	side of 7 Thompson Way, Streethay, Lichfield WS13 8GD
T18	Ornamental Pear	front of 2 Yoxall Way, Streethay, Lichfield WS13 8FT
T19 (c)	Ornamental Pear	front of 1 Thompson Way, Streethay, Lichfield WS13 8GD

#### GROUPS OF TREES

Within a broken line on the map

Reference on Plan	Description	Situation
G1	3 Silver Birch	rear of 1 Rudge Street, Streethay, Lichfield WS13 8FZ
G2	1 Norway Maple, 1 Beech and 2 Silver Birch	car park rear of 1-7 Lister Avenue and 1-7 Rudge Street, Streethay Lichfield WS13 8FZ

#### TREES SPECIFIED BY REFERENCE TO AN AREA

Within a dotted line on the map

Reference on Plan	Description	Situation
-------------------	-------------	-----------

None

**WOODLANDS**

Within a continuous black line on the map

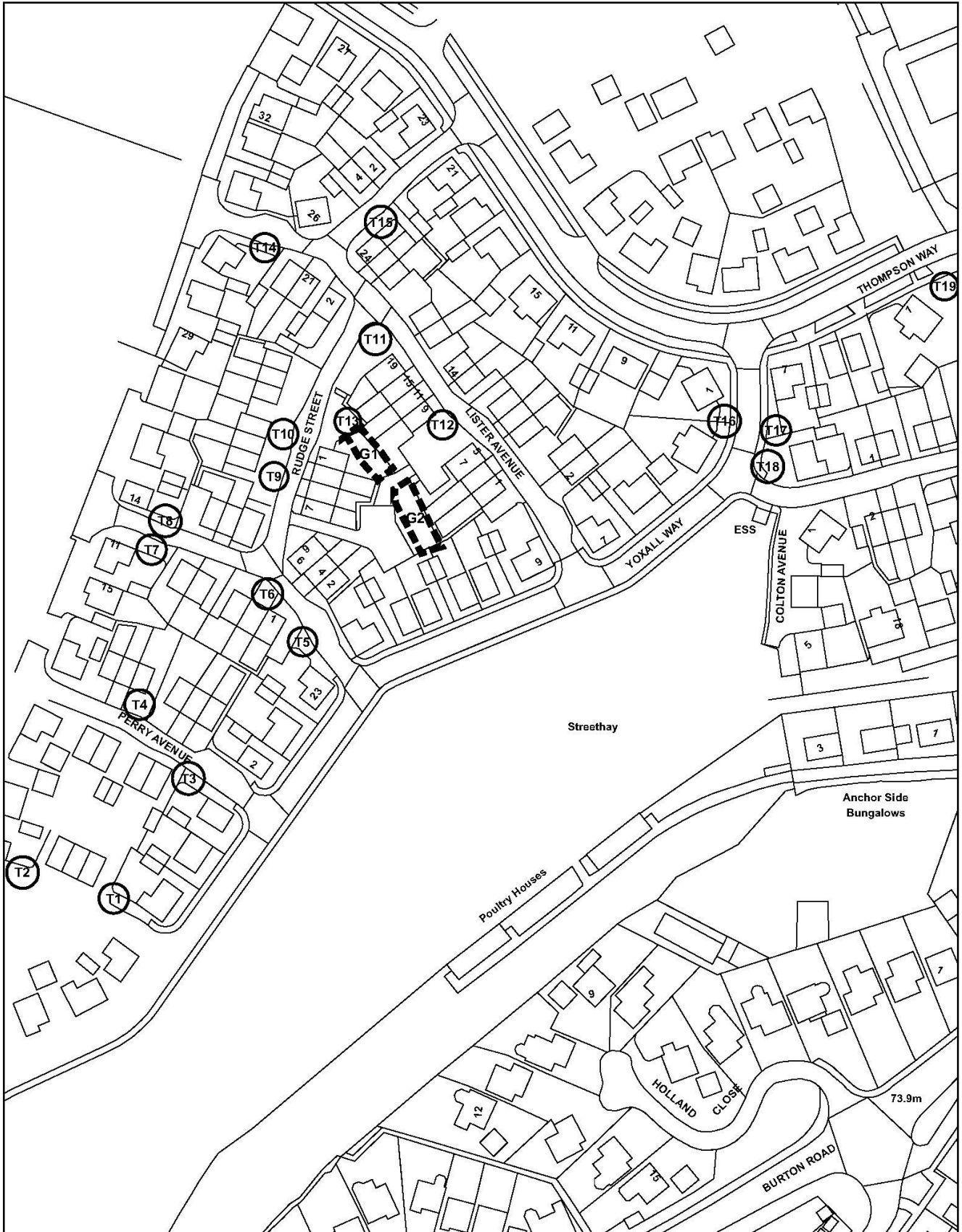
**Reference on Plan**

**Description**

**Situation**

None

Gareth D Hare  
Arboricultural Officer



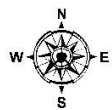
  
 Lichfield  
 district council  
[www.lichfielddc.gov.uk](http://www.lichfielddc.gov.uk)  
 District Council House  
 Frog Lane  
 Lichfield  
 Staffs  
 WS13 6YY  
 Telephone: 01543 308000  
[enquiries@lichfielddc.gov.uk](mailto:enquiries@lichfielddc.gov.uk)

**Title:**  
 Lichfield District Council  
 Tree Preservation Order No 444-2020  
 Parkes Drive to Hamstall Close, Streethay  
 Lichfield, Staffordshire WS13 8GB  
 Eastings 413029 Northings 310613

**Scale:**  
 1:1,000  
**Drawn by:** Portia Howe

**Dated:** 03/01/2020

**Drawing No:** 1



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright Database Rights 2015 Lichfield District Council Licence No: 100017765 Dated 2019

This page is intentionally left blank