

# Tree Preservation Order No 434-2019

Cabinet Member:

Date: 30/09/2019

Agenda Item: 5

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Key Decision? NO

Local Ward Members Cllrs Nick Binney, Richard Cox, Thomas Marshall.



## 1. Executive Summary

- 1.1 To seek members decision regarding the confirmation of Tree Preservation Order 434-2019 at 19 Rectory Lane, Armitage.

## 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 9<sup>th</sup> of April 2019 in respect of an area of trees within the grounds of 19 Rectory Lane. The grounds for the order are as follows:

19 Rectory Lane, Armitage is a Victorian house within a large landscaped garden. The trees are highly prominent in the street-scene of Rectory Lane and can be seen from Running Hills, Westfield Road, and many surrounding properties. As the site is elevated from Rectory Road, the trees are particularly prominent from this viewpoint and similarly they are visible from the main Rugeley Road, forming a green back drop to the housing. As the planting appears contemporary with the house, there are large mature trees of both broadleaves and conifers. The site with its trees is very important in terms of amenity of the immediate and wider locality. It is therefore considered expedient in the interests of amenity to ensure that the trees are protected by a tree preservation order to secure the amenity that they provide to the area.

A precautionary measure of making a tree preservation order using an area designation has therefore been taken with the intention of modification to groups and individuals prior to confirmation.

The TPO documents are at **Appendix A**.

- 3.2 One objection to the order was received and raised a number of points. Three letters of support for the order were also received.
- 3.3 The objections are summarised below and dealt with in context for ease of reference:

### 1. The use of the Area designation for the order.

As detailed in the grounds for the order, the intention at the time of service was to modify the order to groups and individuals prior to confirmation. This has been done and the order is proposed for confirmation with modification.

## **2. The condition and origin of the trees.**

Queries are raised by an objector regarding the condition of some of the trees on the site. It is beyond the scope of an inspection for the purposes of making tree preservation orders to carry out detailed tree condition assessments. No trees considered to fall within the wording of the current exception from requiring consent to remove were noted (i.e. dead or posing an immediate risk of serious harm). It would clearly be inappropriate to make trees falling within an exception the subject of a tree preservation order. Much of the tree population within the site appears to be contemporary with the Victorian era. Therefore there are many large trees and these may have a range of defects or features relating to previous pruning, growth patterns, storm damage or other factors but these features not preclude the trees inclusion within a TPO. The current guidance on tree preservation orders makes no mention of the question of tree condition. A further point is raised regarding self-set trees as opposed to those which were planted. Species such as Yew, Sycamore and Ash regenerate readily from seed and can achieve substantial size. Therefore it is the present or future amenity that a tree provides or will provide that is principal in determining its' inclusion within a TPO.

## **3. Potential impact of shading/overbearing/nuisance on adjacent properties.**

The above issues are raised within the objections and have been considered. The location of adjacent properties (believed to be built in the 60's) to the North West of the garden will experience shade from the adjacent trees through part of the day. However, the lower level of the properties relative to the garden of no 19 will also have some bearing on light levels to the rear of these houses. There may be a range of tree works which will mitigate the effects of shade or overhanging to some extent and these may be applied for in the usual manner. Autonomy of residents in carrying out tree works were highlighted (i.e. the tree preservation order removes the autonomy) however this is balanced by the amenity provided by the trees to the locality/wider community and the Councils duty to protect this amenity as set out in the Town and Country Planning Act 1990 as amended.

## **4. The safe useful life expectancy of some of the tree population.**

As highlighted at point 2 it is beyond the scope of assessments made for the purposes of the tree preservation order to carry out detailed inspections of the trees. If the owners of the site identify works in the future then these can be applied for in the usual manner.

## **5. Ongoing requirement for remedial works.**

Regardless of the presence or absence of a tree preservation order there is inevitably the requirement for tree owners to carry out remedial works from time to time. The only alternative to this is to remove trees entirely from a site which is an option most owners would not wish to contemplate.

## **6. The requirement to make applications for tree works.**

It is accepted that with a tree preservation order in force there is a requirement to make applications for tree works. The application process is relatively simple, is currently free of charge and has a right of appeal to the planning inspectorate should an applicant not agree with the decision of the Council.

**Three letters of support were received for the preservation order. Reasons for supporting the order included:**

- The trees are highly prominent within the street scene and locality
- Offer a green back drop to surrounding housing and Rugeley Road
- Long standing feature of the village
- Large number of birds, bats and other wildlife associated with and observed within the trees including an established rookery
- The trees are wildlife corridor and wind break

- The trees exclude/soften views of housing/power station
- House and grounds have local historical significance

- 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.

Alternative Options	1. The Committee may choose not to confirm the Tree Preservation Order.		
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 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 434-2019  
(as modified)  
19 Rectory Lane, Armitage, Rugeley  
Staffordshire, WS15 4AN  
Eastings 407952 Northings 315831

All the trees described in this schedule are situated in the Armitage with Handsacre 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	Blue Spruce	19 Rectory Lane, Armitage.
T2	Sycamore	'ditto'
T3	Holly	'ditto'
T4	Sycamore	'ditto'
T5	Sycamore	'ditto'
T6	Sycamore	'ditto'
T7	Hornbeam	'ditto'
T8	Black Pine	'ditto'
T9	Black Pine	'ditto'
T10	Sycamore	'ditto'
T11	Walnut	'ditto'
T12	Walnut	'ditto'
T13	Giant Sequoia	'ditto'
T14	Leyland Cypress	'ditto'
T15	Cedar	'ditto'
T16	Sycamore	'ditto'
T17	Holly	'ditto'

T18	Sweet Chestnut	<i>'ditto'</i>
T19	Cedar	<i>'ditto'</i>
T20	Purple Plum	<i>'ditto'</i>
T21	Prunus sp.	<i>'ditto'</i>

#### **GROUPS OF TREES**

Within a broken black line on the map

<b>Reference on Plan</b>	<b>Description</b>	<b>Situation</b>
G1	10 Yew, 4 Holly 3 Sycamore 4 Cherry	19 Rectory Lane Armitage
G2	4 Ash	<i>'ditto'</i>
G3	4 Holly, 19 Yew 2 Sycamore 2 Norway Maple 1 Horse Chestnut	<i>'ditto'</i>

#### **TREES SPECIFIED BY REFERENCE TO AN AREA**

Within a dotted 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

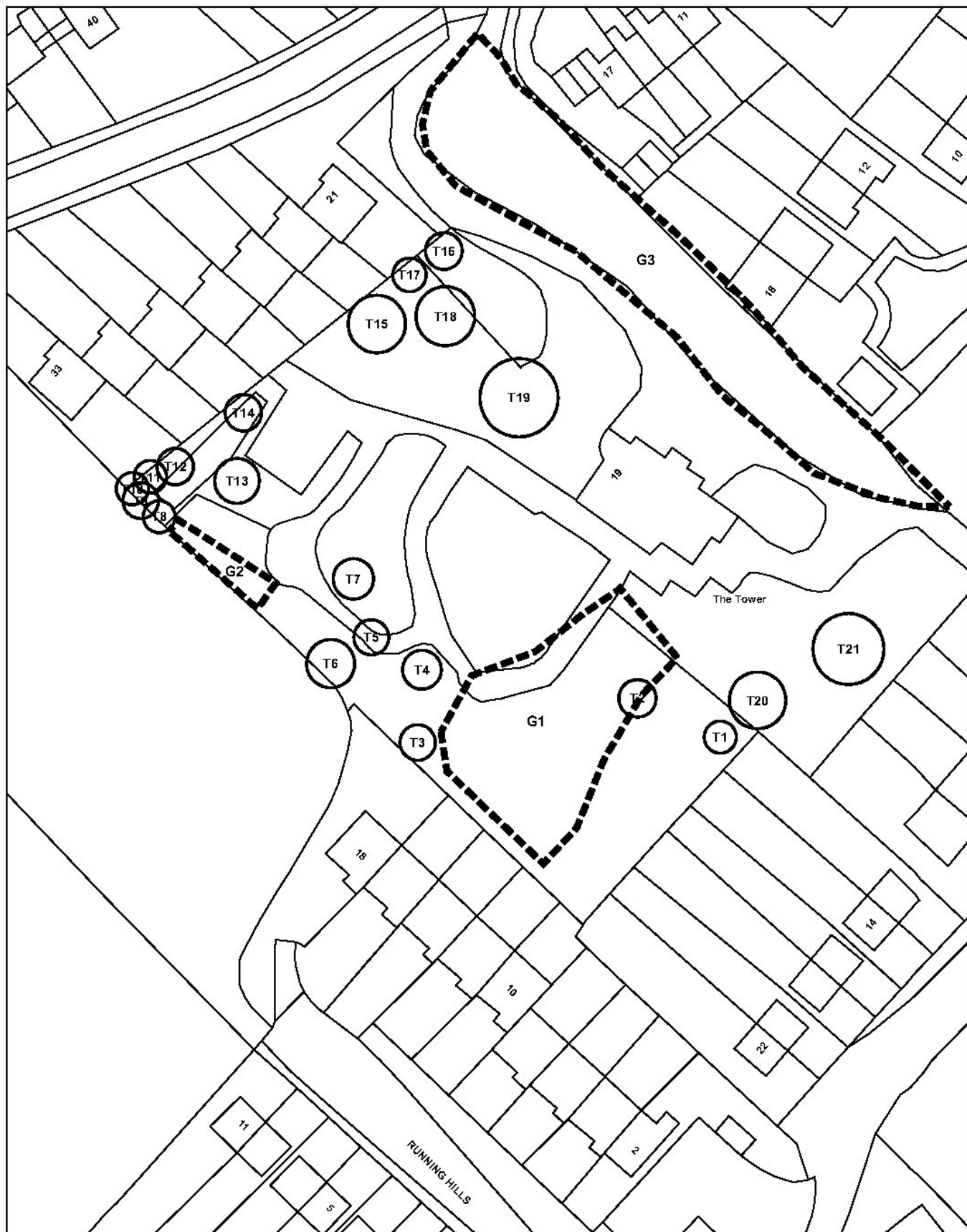
<b>Reference on Plan</b>	<b>Description</b>	<b>Situation</b>
	None	

**LICHFIELD DISTRICT COUNCIL**  
**GROUNDS FOR MAKING TREE PRESERVATION ORDER 434-2019**

19 Rectory Lane, Armitage is a Victorian house within a large landscaped garden. The trees are highly prominent in the street-scene of Rectory Lane and can be seen from Running Hills, Westfield Road, and many surrounding properties. As the site is elevated from Rectory Road, the trees are particularly prominent from this viewpoint and similarly they are visible from the main Rugeley Road, forming a green back drop to the housing. As the planting appears contemporary with the house, there are large mature trees of both broadleaves and conifers. The site with its trees is very important in terms of amenity of the immediate and wider locality. It is therefore considered expedient in the interests of amenity to ensure that the trees are protected by a tree preservation order to secure the amenity that they provide to the area.

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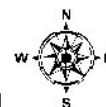
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Lichfield District Council  
Tree Preservation Order No 434-2019  
(as modified)  
19 Rectory Lane Armitage, Rugeley  
Staffordshire, WS15 4AN  
Easting 407952 Northings 315831

Scale:  
1:500

Dated: 18/09/2019

Drawn by: Gareth Hare

Drawing No: 1



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