

Tree Preservation Order No 443-2020

Cabinet Member: Iain Eadie

Date:	01/06/2020
Agenda Item:	6
Contact Officer:	Gareth Hare
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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 16th 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

			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 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

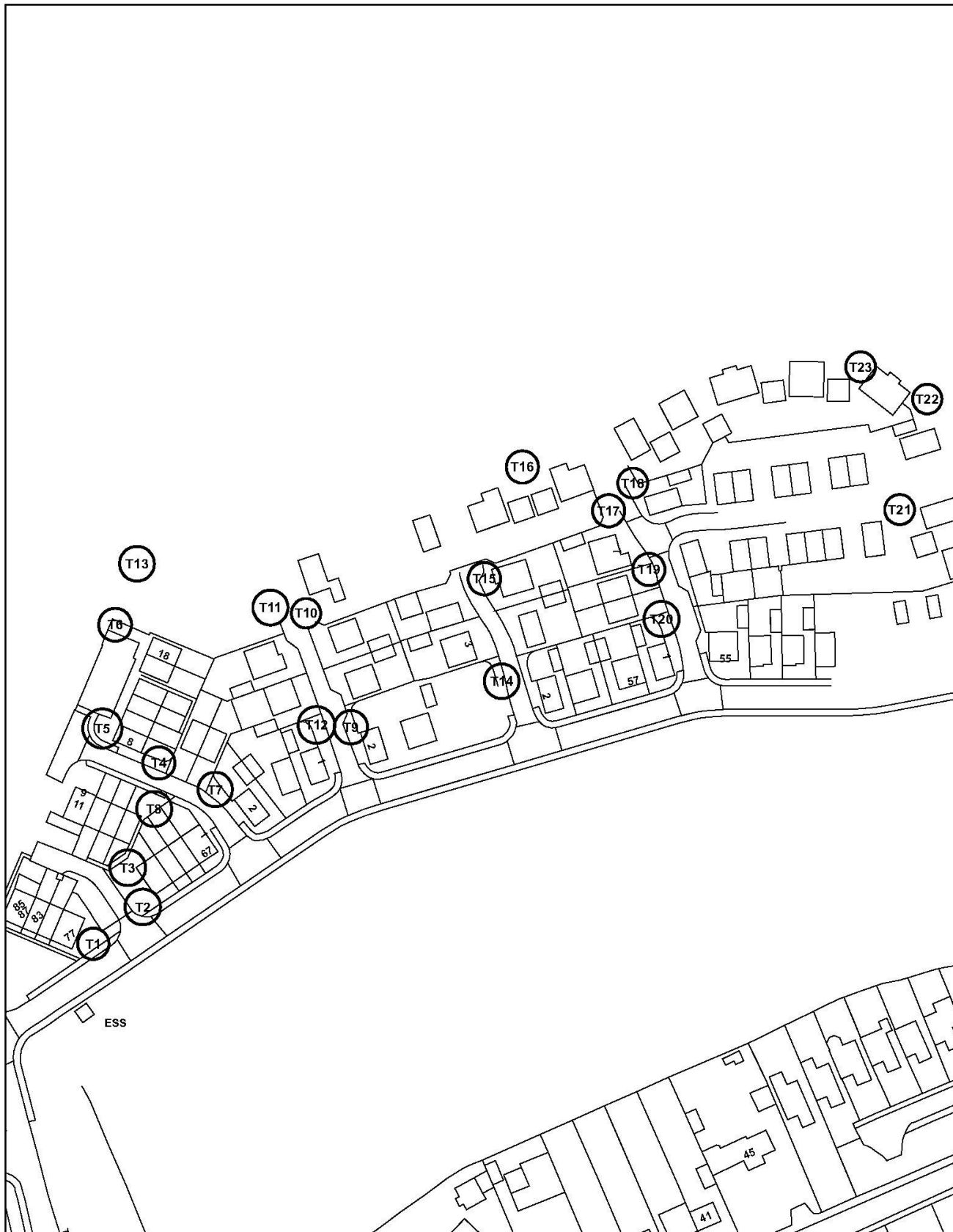
Reference on Plan	Description	Situation
	None	

WOODLANDS

Within a continuous black line on the map

Reference on Plan	Description	Situation
	None	

Gareth D Hare
Arboricultural Officer



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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

Drawn by: Portia Howe

Drawing No: 1

Dated: 03/01/2020



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