



APPEALS AND REVIEWS COMMITTEE

This meeting will be recorded and the sound recording subsequently made available via the Council's website: charnwood.gov.uk/pages/committees

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To: Councillors Capleton (Chair), Hunt (Vice-Chair), Cooper, Hachem and Miah (for attention)

All other members of the Council
(for information)

You are requested to attend the meeting of the Appeals and Reviews Committee to be held in Committee Room 2 - Council Offices on Monday, 18th February 2019 at 5.00 pm for the following business.

Chief Executive

Southfields
Loughborough

8th February 2019

AGENDA

1. APOLOGIES
2. MINUTES OF THE PREVIOUS MEETING 3 - 4
To receive and note the minutes of the previous meeting.
3. QUESTIONS UNDER OTHER COMMITTEE PROCEDURES 12.8
4. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

A report of the Head of Strategic Support is attached.

PROCEDURE

The procedure to be followed in considering objections to Tree Preservation Orders is as follows:

(a) *The Head of Strategic Support or his/her representative will introduce the report before the Appeals and Reviews Committee which will include written statements by both parties (i.e. the Head of Planning and Regeneration and the objector(s)).*

(b) *The Head of Planning and Regeneration or his/her representative will present his/her case for confirming the order with or without modifications.*

Members of the Appeals and Reviews Committee and the objector(s) may then ask him/her questions.

(c) *The objector(s) will present his/her case, if he/she wishes to do so.*

Members of the Appeals and Reviews Committee and the Head of Planning and Regeneration or his/her representative may then ask the objector(s) questions.

(d) *Members of the Appeals and Reviews Committee will ask the parties for any additional information or clarification they require.*

(e) *The Appeals and Reviews Committee, with the advice of the Head of Strategic Support or his/her representative as necessary, will then decide whether or not the order should be confirmed and, if so, whether with or without modifications.*

The parties will not participate in the meeting at this stage and each will have the options of sitting in the public gallery or leaving the meeting.

APPEALS AND REVIEWS COMMITTEE 17TH DECEMBER 2018

PRESENT: The Chair (Councillor Hunt)
Councillors Cooper, Miah and Gerrard

Team Leader Natural & Built Environment
Principal Solicitor (KH)
Senior Landscape Officer
Democratic Services Officer (NA)

APOLOGIES: Councillor Capleton and Hachem

The Chair stated that the meeting would be recorded and the sound recording subsequently made available via the Council's website. She also advised that, under the Openness of Local Government Bodies Regulations 2014, other people may film, record, tweet or blog from this meeting, and the use of any such images or sound recordings was not under the Council's control.

14. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting of the Committee held on 1st October 2018 were received and noted.

15. QUESTIONS UNDER OTHER COMMITTEE PROCEDURES 12.8

No questions were submitted.

16. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

No disclosures were made.

17. BOROUGH OF CHARNWOOD (2 BRIDGE STREET, BARROW-UPON-SOAR) TREE PRESERVATION ORDER 2018

A report of the Head of Strategic Support was submitted setting out details of the Tree Preservation Order served on the above site, the objection received to the Order and the comments of the Head of Planning and Regeneration on the issues raised by the objection (item 5 on the agenda filed with these minutes).

The Principal Solicitor assisted with the consideration of the report.

The Committee was advised that the objector was not present at the meeting.

The Committee considered this matter in accordance with the "Procedure for Considering Objections to Tree Preservation Orders" set out in the Council's Constitution and on the agenda for this meeting.

Councillor Miah arrived part way through the item and did not take part in the decision.

RESOLVED that the Borough of Charnwood (2 Bridge Street, Barrow Upon Soar) Tree Preservation Order 2018 be confirmed.

Reason

Having considered, in accordance with the procedure set out in the Council's Constitution, the objection to the Order, the Committee considered that the reasons put forward for not protecting the tree did not outweigh the contribution it made to the amenity of the area and that the tree should therefore be protected.

NOTES:

1. No reference may be made to these minutes at the Council meeting on 21st January 2018 unless notice to that effect is given to the Democratic Services Manager by five members of the Council by noon on the fifth working day following publication of these minutes.
2. These minutes are subject to confirmation as a correct record at the next meeting of the Appeals and Reviews Committee.

APPEALS AND REVIEWS COMMITTEE 18TH FEBRUARY 2019

Report of the Head of Strategic Support

ITEM 5 BOROUGH OF CHARNWOOD (52 MAPLEWELL ROAD, WOODHOUSE EAVES) TREE PRESERVATION ORDER 2018

The above Order relates to a Dragon's Claw Willow within the front garden of 52 Maplewell Road at the junction with Mill Lane. The tree was specifically retained when the extension development was consented, P/18/0548/2. The tree makes a significant amenity contribution to the landscape character of the street scene of this part of Woodhouse Eaves Conservation Area. Following a Conservation Area Notice to fell, the Council's Head of Planning and Regeneration considered it appropriate to ensure that the tree, which makes a significant contribution to the visual amenity of the area, was properly protected and retained in a satisfactory manner through the making of this Tree Preservation Order.

Therefore, an Order was made on 7th December 2018 to provisionally protect the tree.

A copy of the Order is attached at **Annex 1**.

An objection to the Order was received from Mr N. Baseley of Iba Planning Ltd (acting on behalf of the owners of 52 Maplewell Road, Woodhouse Eaves) on 3rd January 2019.

A copy of the objection is attached at **Annex 2**.

Additional information was received from Mr N. Baseley on 4th February 2019 and is attached at **Annex 3**.

The Head of Planning and Regeneration's comments on the issues raised in the objection are attached at **Annex 4**.

In conclusion, the Committee is asked to consider the issues raised by the objector and the comments of the Head of Planning and Regeneration in accordance with the procedure set out and determine whether or not the Tree Preservation Order should be confirmed.

Officer to contact: Nadia Ansari
Democratic Services Officer
01509 634502
nadia.ansari@charnwood.gov.uk

Town and Country Planning Act 1990
The Borough of Charnwood (52 Maplewell Road, Woodhouse Eaves)
Tree Preservation Order 2018

The Charnwood Borough 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 The Borough of Charnwood (52 Maplewell Road, Woodhouse Eaves) Tree Preservation Order 2018.

Interpretation

2. (1) In this Order “the authority” means the Charnwood Borough 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, 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 seventh day of December 2018

The Common Seal of the Charnwood Borough Council
was affixed to this Order in the presence of:


.....



2018-19-122

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Dragon's Claw Willow (<i>Salix matsudana tortuosa</i>)	The OS grid reference for the site is SK 452849 314012.

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

Reference on map	Description	Situation
	None	

Groups of trees (within a broken line on the map)

Reference on map	Description (including number of trees in the group)	Situation
	None	

Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
	None	

I certify this map shows the tree referred to in the first schedule of the Borough of Charnwood (52 Maplewell road Woodhouse Eaves) Tree Preservation Order 2018



2018-19-122

Authorised signatory

D. Selby



Borough of Charnwood
(52 Maplewell Road
Woodhouse Eaves)
Tree Preservation Order 2018

R Bennett Dip. TP. MRTPI
Head of Planning & Regeneration
Borough of Charnwood
Southfields
Loughborough
Leics. LE11 2TN
Date: 3 December 2018
Scale: 1:500
Prep: NOD

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Mr R Bennett
Head of Planning and Regeneration
Borough of Charnwood
Southfields
Loughborough
Leicestershire
LE11 2TN

By email - For the attention of Laura Strong

BowdenTPO/1

3 January 2019

Dear Mr Bennett

52 Maplewell Road, Woodhouse Eaves

Tree Preservation Order 2018 (LPA reference PT/16)

I refer to your letter dated 7 December 2018 in connection with the above.

My clients, Mr and Mrs Bowden, are freehold owners of 52 Maplewell Road (and therefore the tree in question) and wish to **object** to the Council's decision to make the Tree Preservation Order for the following reasons.

Context

An application to remove and replace the tree was submitted to the Council on 26 September 2018 by Mr Andrew Binks, a qualified arboriculturist employed at Forest Farm Tree Services.

In that application, the Council were told that the tree (being in close proximity to the house, the road and in contact with overhead phone lines) had outgrown its suitability for its surroundings with limited space for future development. It was also highlighted that heavy pruning in the past had failed to contain the tree.

The application also confirmed that the home owners were happy to plant a replacement tree – albeit no details of the replacement species were included on the form.

Without any feedback from the Case Officer dealing with the application (Nola O'Donnell), the Council indicated on its website its decision on 7 November 2018 to make a Tree Preservation Order and advised the Applicants that no works should be carried out to the tree without the appropriate consent.

Other than the Council's decision itself, no further information setting out the Council's reasons why it determined that a Tree Preservation Order should be made was available.

The above decision was ultimately followed by the aforementioned formal letter dated 7 December 2018 confirming the making of the Tree Preservation Order.

This explained that the Order relates to a **Dragon's Claw Willow** within the front garden of 52 Maplewell Road at the junction with Mill Lane. It stated that the tree was specifically retained as part of approved plans to extend the property under LPA reference P/18/0548/2 and that the tree was considered to make a significant amenity contribution to the landscape character of the street scene of this part of Woodhouse Eaves Conservation Area.

Following *the Conservation Area Notice to Fell*, the Council considered that a Tree Preservation Order was appropriate to ensure that the tree is properly protected and retained in a satisfactory manner.

Mrs O'Donnell subsequently confirmed that Mr and Mrs Bowden were entitled to ask the Council to review this decision as long as an objection was made in writing to the making of the Tree Preservation Order within 28 days of the letter to them informing them of the same.

Grounds for Objection

The tree has **outgrown its surroundings**.

It comprises a **species** which is widely accepted as being inappropriate in such close proximity to dwellings and has in the past encroached (and continues to do so) on the telephone lines to the property.

The tree is **unremarkable** in itself, and will only get bigger and cause more of a nuisance – e.g. impeding the phone lines, having the potential to affect/undermine the fabric of the property and block light to habitable bedrooms.

In terms of its **contribution to the visual amenity of the area**, this is considered to be limited – and certainly not '*significant*' as the Tree Preservation Order alleges.

The tree is not identified on any maps comprising either the Village Design Statement or Woodhouse Eaves Conservation Area Appraisal as a significant contributing feature, or highlighted as one of those individual trees having *any* notable contributing feature to the character and appearance of the Conservation Area.

In contrast, the Conservation Area Appraisal notes in particular a number of individual trees as follows:

*“Besides the trees and woodland surrounding the village, there are many individual trees that form an integral part of the street scene: **the Maple, Birch and Cherry Trees** planted at the entrance to Tuckett Road; **an Oak and four Pine Trees** outside no 116 Main Street; **a Cherry Tree** at no 64 Main Street; **two Palm Trees** in the garden of no 17 Main Street; **a Cyprus, a Cherry and two Lime Trees** in the garden of the Curzon Arms; and many fine shrubs and hedgerows which form an essential part of the townscape.”*

[Our emphasis]

Had the tree been considered to make a *significant* amenity contribution to the landscape character of the street scene of this part of the Conservation Area, my clients would have expected the tree to have been specifically mentioned in much the same way. It was not.

The same Conservation Area Appraisal notes that, as one goes up the hill, the houses on the right side of Maplewell Road mostly have large front gardens and that in places the houses are hidden by trees and shrubs. It further suggests that the feeling of enclosure is enhanced by the slate boundary walls and the hedges, shrubs and trees in the gardens which come close to the edge of the road.

My clients acknowledge 52 Maplewell Road comprises one of those houses on the right side of Maplewell Road as one goes up the hill, however it is not one of those dwellings that has a large front garden or a property that is hidden by trees and shrubs.

The Dragon’s Claw Willow is visible within the street scene, but (as can be seen from the photograph below) simply comprises one of *many* trees rather than being significant in itself.



Its removal would be barely perceivable and would certainly not cause significant harm to the character and appearance of this part of the Conservation Area.

Any amenity contribution to the landscape character of the street scene of this part of the Conservation Area could be *preserved* by its **replacement with a mature specimen** of a species more appropriate to its setting in such close proximity to the dwelling.

In support of the above, the Council has already consented to the replacement of the existing holly hedge with an alternative species (LPA reference P/18/0548/2).

In approving the same, the Delegated Report explains:

“The existing holly hedge on part of the boundary is very wide and is damaging the retaining wall. This would be replaced with a mixture of laurel and copper beech. This is because, unlike holly, these can be planted as a mature hedge which it is accepted would be less stark than smaller holly plants. These species already feature in the boundaries of other properties in the Conservation Area.

The scheme would not harm the character or appearance of the Conservation Area.”

It is respectfully submitted that the existing tree makes no more significant contribution to this part of the Conservation Area than the holly hedge.

Given that the Council has already approved the replacement of the holly hedge with an alternative mature species (and confirmed this in itself would not harm the character and appearance of the Conservation Area), my clients fail to see why the same principle could not be applied to the replacement of what the Council must surely accept is an inappropriate species of tree in such close proximity to the existing dwelling.

In the above connection, my clients are happy to agree the details of its replacement to ensure that it comprises a species already featured within this part of the Conservation Area, thereby ensuring its continued amenity contribution.

As a *new* specimen, more appropriate to its setting, such amenity contribution would be far longer lasting than the existing tree in any event.

Concluding Remarks

For all these reasons, the Council’s decision to make the Tree Preservation Order in this instance is not justified.

The existing tree should be allowed to be removed and its replacement with a mature specimen of a species more appropriate to its surroundings in such close proximity to the existing dwelling should be agreed with the Council as required to ensure any existing amenity

contribution to the character and appearance of the Conservation Area is maintained in perpetuity.

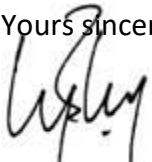
I would therefore be grateful if the above grounds for objection are conveyed to Members for their review and further consideration at the appropriate stage.

Please do come back to me should you require any further information in the interim.

In any event, I would ask please if you would notify me of when the matter is to be placed before Members in order that we have the opportunity to attend, observe and make further representations if and as permitted.

Kind regards.

Yours sincerely



Nick Baseley
MA(Hons)TP MRTPI
Director



Mr and Mrs Bowden

52 Maplewell Road, Woodhouse Eaves

Tree Condition Report –

Dragon's Claw Willow Tree Situated within Front Garden

February 2019

FPCR Environment and Design Ltd

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH

Company No. 07128076. [T] 01509 672772 [F] 01509 674565 [E] mail@fpcr.co.uk [W] www.fpcr.co.uk

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Rev	Issue Status	Prepared / Date	Approved/Date
-	Final	EC / 01.02.19	CTT / 01.02.19

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3.0 CONCLUSION 4

APPENDICES

Appendix A: Copy of TEMPO Assessment

1.0 INTRODUCTION

- 1.1 This report has been prepared by FPCR Environment and Design Limited on behalf of Mr and Mrs Bowden to present the findings of an assessment of the condition of a Dragons Claw Willow *Salix matsudana Tortuosa* situated within the front garden of 52 Maplewell Road, Woodhouse Eaves
- 1.2 Edward Cole, Senior Arboricultural Consultant at FPCR, was appointed by Mr and Mrs Bowden to undertake an arboricultural condition inspection of the tree in question on the morning of Thursday 31st January 2019.
- 1.3 Weather conditions were dry, sunny and clear, providing good visibility. The tree was freely accessible, situated within the front garden of the property, and it was possible to examine around the base of the tree.

Background History

- 1.4 The Dragons Claw Willow is within the front garden of 52 Maplewell Road, Woodhouse Eaves a single residential dwelling within the Woodhouse Eaves Conservation Area. A planning application for an extension to the dwelling was approved in December 2017 by Charnwood Borough Council (App No: P/18/0548/2)
- 1.5 The approved planning permission demonstrated that the tree in question shall be retained within a formal, hard-landscaped front garden area separated from the driveway by a retaining wall similar to that which currently exists. The homeowners have since submitted an amendment to the planning application and the approved scheme stating their intent to remove this tree.
- 1.6 As the site is within a Conservation Area, the homeowners sent a notification of intent to fell the tree to the Local Planning Authority (LPA), Charnwood Borough Council, on 26th September 2018. The acting LPA subsequently placed statutory protection on the tree, in the form of a Tree Preservation Order (TPO Ref: 52 Maplewell Road, Woodhouse Eaves 2018), on 7th December 2018.
- 1.7 The homeowners objected to the formal notice of this TPO on 3rd January 2019 and this objection is due to be considered by the Council's Appeals and Review Committee on 18th February 2019.

Assessment

- 1.8 The assessment has been carried out at the request of property owners Mr and Mrs Bowden following their objection to the TPO. This report provides an assessment of the tree condition, taking into account site observations, and assesses the suitability of the TPO via the methodology of a Tree Evaluation Method For Preservation Orders (TEMPO) assessment.

Limitations

- 1.9 Evaluation of tree condition given within this assessment applies to the date of survey and cannot be assumed to remain unchanged. It may be necessary to review these within 12 months, in accordance with sound arboricultural practice. The inspection was performed from ground level only and did not involve the use of any decay detection equipment.

2.0 RESULTS

Tree Condition

- 2.1 The Dragon Claw Willow is situated on a raised area of ground in the front garden of 52 Maplewell Road, a property on the corner of Mill Road and Maplewell Road. The tree is an early mature specimen (circa. 20-30 years old) of 11m in height, with a stem diameter (measured at 1.5m) of 390mm and a uniformly balanced crown spread of 6m.
- 2.2 The tree has been previously pollarded, at approximately 6m, a management practice where the top and branches of the tree are cut off to encourage new growth at the top, with eight main pollarded knuckles forming on the principal branches.
- 2.3 As the tree is a pollard, in line with good arboricultural practice, this tree shall require re-pollarding every five-ten years to avoid significant defects developing. These include weakly attached stems and tight unions between new growth shoots both of which leave the tree susceptible to branch failure.
- 2.4 The tree currently displayed few notable defects with the exception of a small number of crossing and rubbing branches throughout the crown and tight unions starting to develop between shoots. This is typical for pollarded specimens when they are reaching the point where they need of re-pollarding.
- 2.5 It is advised that the tree is re-pollarded in the near future with the regrowth shoots being approximately 150mm in diameter.

TEMPO Assessment

- 2.6 A copy of the TEMPO assessment record sheet has been included within this report as Appendix A. TEMPO evaluation is the approved methodology for determining the suitability of a TPO, having undergone scrutiny through numerous court cases.
- 2.7 Having conducted this assessment, as outlined below and within Appendix A, the resulting score (8 points) would conclude that the tree in question does not merit a TPO. The below paragraphs provide reasoning behind each of the scores given in each category.

Amenity Assessment

- 2.8 **Fair/satisfactory (3)** - The tree is downgraded from good due to need for regular intervention and re-pollarding to allow the tree to be retained safely. Furthermore, the tree is unlikely to reach its full age or size potential due to the prior intervention of this pruning and its setting within a small residential garden within an area of relatively confining rooting soil volumes.

Retention Span

- 2.9 **20-40 years Suitable (2)** – The Arboricultural Association (AA) guide to the life expectancy gives Willow trees a life expectancy of 50 – 70 years. The tree is circa. 20-30 years old and due to the past management, it is unlikely to be retainable beyond 40 years.

Relative Public Visibility and Suitability for TPO

- 2.10 **Large or Medium Tree Clearly Visible to the Public (4)** – The tree is visible for Maplewell Road, Mill Road and Victoria Road and is a medium sized tree.

Other Factors

- 2.11 **Tree of Poor Form or generally unsuitable for Their Location (-1)** – The tree has been considered as unsuitable for its location, evident by the need for regular intervention and re-pollarding to stop the tree from outgrowing its available space.

Results

- 2.12 The tree does not then qualify for the expediency assessment having accrued less than 10 points and scores a total of 8 points with the decision guide stating that the tree does not merit a TPO.

3.0 CONCLUSION

- 3.1 A TEMPO Evaluation is the approved methodology for determining the suitability of a TPO and the evaluation shows that the tree does not merit a TPO. Although publicly visibly, the tree has a relatively short retention span, judged on knowledge of its respective species, and is considered to be unsuitable for its location.
- 3.2 The tree will require regular pollarding every five-ten years to avoid it outgrowing its setting. Without this management the crown shall come into contact with the residential dwelling and overhang the driveway. This has the added concerns with willow trees being susceptible to shedding branches, even more so when pollarded, which are likely to damage guttering or vehicles parked beneath them.
- 3.3 Through confirming of this TPO, the homeowners will need to apply to the council each time they need to re-pollard the tree. This would be considered onerous given that the work shall need to be carried out regularly. Further to this, any application for consent to carry out these works could not reasonably be refused by the LPA, as without this management the tree would present a risk to people and property.
- 3.4 The need for continuous future management, the relatively short retention span due to the species and the setting within a small residential garden, and subsequent low TEMPO score would bring into question the suitability of the Tree Preservation Order and based on this assessment the tree does not merit a TPO.

Signed:



Edward Cole ND Arb, TechArborA

Senior Arboricultural Consultant

Author Information

- 3.5 Edward Cole: I hold a National Diploma in Arboriculture from Askham Bryan College and am a technical member of the Arboricultural Association. I have over 9 years of experience working within the field of arboriculture beginning my career as a tree surgeon undertaking tree climbing and ground work operations for corporate and private clients.
- 3.6 As my career has progressed I moved into arboricultural consultancy in 2013 specialising in BS5837:2012 - Trees in Relation to Design, Demolition and Construction assessments and providing professional advice on how to successfully integrate suitable trees within residential and commercial developments.

Appendix A

Copy of TEMPO Assessment Sheet

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: <u>31/1/19</u>	Surveyor: <u>EC</u>
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Tree details		
TPO Ref (if applicable):	Tree/Group No: <u>1</u>	Species: <u>Dragon claw Willow</u>
Owner (if known):	Location:	

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable |

Score & Notes	<u>3</u>
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** Relates to existing context and is intended to apply to severe irremediable defects only*

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes	<u>2</u>
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** Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 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) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes	<u>4</u>
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d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes	<u>-1</u>
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Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes	
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Part 3: Decision guide

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

Add Scores for Total:	<u>8</u>
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Decision:	<u>Does not Merit</u>
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DRAFT REPORT OF THE HEAD OF PLANNING AND REGENERATION

APPEALS AND REVIEW COMMITTEE 18 February 2019

Provisional Tree Preservation Order – 52 Maplewell Road Woodhouse Eaves

1.0 Introduction

1.1 Background

The tree is a Dragons' Claw Willow *Salix Matsudana tortuosa* within the front garden of 52 Maplewell Road at the junction with Mill Lane. It forms part of the treed street scape of Maplewell road and as such is an important component to the character of the Conservation Area.

Conditional consent for an extension development P/18/0548/2 was granted 18 May 2018. Condition 2 states that "*The development hereby permitted shall be carried out in accordance with the following plans...*" The list Planting Plan & Schedule - Drawing number FS/162/10 which clearly shows the tree for retention.

In September 2018 the Council received a Section 211 Notice also known as a Conservation Area Notice P/18/1990/2 to fell the tree. The decision on 6 November 2018 was taken to place the tree under a provisional Tree Preservation Order.

This was served on the 7 December 2018 to effect protection of the tree at the property.

1.2 The Site

The property lies to the north side of Maplewell Road at the junction with Mill Lane, a key settlement of the Borough of Charnwood within Charnwood Forest designation.

1.3 Condition of the tree

The tree is a Dragons' Claw or Contorted Willow *Salix Matsudana tortuosa* within the front garden of 52 Maplewell Road at the junction with Mill Lane.

This was specifically retained when the extension development consented. It makes a significant amenity contribution to the landscape character of the street scene of this part of the Woodhouse Eaves Conservation Area. Its importance is related to its position at the staggered cross road junction of Maplewell road, Mill Lane and Victoria Road.

The tree has been managed as a pollard.

2.0 The Objection to the Order

There are four main points to the objection. They claim that:

- (i) the tree has outgrown its surroundings
- (ii) the species is inappropriate,
- (iii) the species is unremarkable, and that;
- (iv) it is of limited amenity value to this part of the Conservation Area.

Additional information was submitted in the form of a report from fpcr which used the TEMPO system to claim that the tree does not merit a TPO.

- (v) The tree having been pollarded should be regarded as unsuitable for its location and for placing under TPO:

TEMPO amenity assessment	fair /satisfactory -3 downgraded -pollarded
TEMPO retention span	20-40years suitable - 2
TEMPO relative public visible and suitable for TPO	medium tree clearly visible to public -4
other factors	poor form unsuitable for location evident by need for regular intervention and re-pollarding.

No other representations from any other person or organisation have been made in relation to the Order.

3.0 Response to the Objection

The TPO was considered important to protect this tree which provides relief at the staggered junction. The objection points are herewith addressed:

- (i) Outgrown surroundings:

The principal objection is the claim that the tree has outgrown its surroundings. If this rationale was applied to protected trees within frontages and highway situations across the Borough, a great many trees would be vulnerable to removal. The TPO process allows for applications for tree works and it is entirely foreseeable that an application would be received to reduce the crown periodically to maintain the tree in situ and give clearance to the wires and side of the dwelling. As the tree has a history of pollarding we can see that it is possible to maintain.

- (ii) Species inappropriate

The size category for the cultivar, *Salix matsudana tortuosa* / *syn. Salix babylonica var. Pek tortuosa*, is medium that is in a range 7-17m. Alan Mitchell notes that it is a cultivar “common in small gardens”. The parent species *Salix matsudana (syn. babylonica)* is medium-large tree, capable of growing to 20-25m so the cultivar is toward the lower end of the size category.

Notwithstanding its relatively smaller size to the parent species, unrestricted growth could lead to the tree being inappropriate but, as already noted by the planning consultant for the Objectors, the tree has been maintained in the past at this location through periodic pruning management and is obviously a pollarded tree. The fpcr Arborist has also noted that the tree is a managed pollard and in para 2.8 of their report states “Furthermore the tree is unlikely to reach its full age or size potential due to prior intervention of this pruning [pollarding]” This statement concurs with my evaluation that the tree by virtue of pollard management is mitigated to being suitable to its location.

The tree location is bounded on two sides by highway and a dwelling on the other therefore this tree would be highly unlikely to reach 17m. These root volume and spatial restrictions coupled with periodic pollarding would maintain this tree in the lower end of the tree size

category and thus mitigates the potential issue which would be associated with crown and invasive root spread. Again the fpcr arborist statement para 2.8 concurs with my evaluation that the effect of root volume confinement mitigates unsuitability of species size.

(iii) Unremarkable

The tree is fairly unusual due to its wiggly contorted twisting stems which are more noticeable in winter when leaves, also curled, are shed. The cultivar is noted by the renowned tree expert Alan Mitchell as “*a cultivar of a very rare species*” (reference: Mitchell, Alan A Field Guide to Trees of Britain and Northern Europe) and in the Hillier Designers Guide as “*an unusual specimen*” which looks “*fabulous in winter*”. The cultivar is often used to provide material for flower arranging enthusiasts precisely because of its unusual contorted stems.

(iv) Contribution to amenity - limited

The tree is important locally in terms of urban landscape function at the staggered junction. It highlights and marks the junction corner with Mill Lane and faces the opposite junction. It counterbalances the birch, also pollarded, which lies to the south of the house and contributes to the cadence of trees along Maplewell Road frontages. (see Appendix photographs)

(v) fpcr TEMPO conclusion

The fpcr evaluation agrees with mine for amenity assessment, retention span, public visibility and suitability for TPO but varies for ‘other factors’ such that it fails to be considered expediency or overall suitability for TPO. The main plank of the objection Para 3.1 is the claim the tree is unsuitable for its location and therefore should not merit TPO. Such a conclusion is problematic. A great many TPO trees in Charnwood are regularly maintained pollarded trees. If the Committee were to agree with the objector’s arborist they would open the floodgates for every pollarded TPO tree to be revoked and felled. In para 3.2 the arborist claims that the tree will be susceptible to shedding branches “*even more so when pollarded*” but this would only be the case if the management were substandard and the programme of pollarding neglected. In Para 3.3 the arborist draws attention to the need for repeat application for tree works and claims this would be ‘onerous’. The TPO regulations specifically allows for tree works which are necessary, appropriate and in the interests of good arboricultural practise. It cannot be asserted that this provision of the Regulations is ‘onerous’. This Local Planning Authority regularly grants conditional consent for TPO tree works so that tree owners can legally carry out works deemed necessary and appropriate. There is no fee applicable to date for these applications and the Council also provides pre-application advice to assist tree owners.

4.0 Conclusion

The reason put forward to remove the protection afforded the Order is not considered justified. The owner was aware that the retention of the tree was required during the extension application process. The series of photographs attached herewith (Appendix A) illustrate the importance of this tree in its context.

Removing the Order by failing to confirm it would lead to the removal of the tree. There would be no legal or planning mechanism to require a replacement tree and the owners would be under no obligation to plant any other tree. The only mechanism to ensure a replacement tree in the future is to confirm the TPO.

Therefore it is my opinion that this objection should be dismissed.

The Committee is therefore recommended to confirm the Order without modification.

(supporting photographs attached)

Contact Officer:

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REPORT OF THE HEAD OF PLANNING AND REGENERATION

Appendix A Photographs

Screen shots from Google Street view



This shows the tree in relation to the dwelling prior to the extension. (Apr 2009)



The view from Victoria Road (April 2009) The tree balances the neighbouring birch tree to the right of the house.



View from Mill Lane (July 2011) highlighting the importance of the tree at the junction.



View from Maplewell Road (May 2016) showing the relationship of the tree to the other frontage trees. It is in alignment with the trees further down the road but notably is separate from them punctuating the junction.



View up Maplewell Road (May 2016) at junction with Victoria Road. This shows the relational balance and cadence this tree provides in relation to the conifer on the opposite side.

Photographs during construction



Photographs –winter



January 2019 –tree without foliage exposing branch framework.





View from Mill Lane.



View east along Maplewell Road.



The branch tracery shows that the tree is pollarded.



Close up of the pollard formation.

APPENDIX B TEMPO PROFORMA

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date:	Surveyor:
-------	-----------

Tree details	Tree/Group No:	Species:
TPO Ref (if applicable):	Location:	
Owner (if known):		

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	Score & Notes
3) Fair/satisfactory	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead/dying/dangerous*	Unsuitable	
* Returns to existing context and is intended to apply to severe irreparable defects only		

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes
4) 40-100	Very suitable	
3) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	
*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality		

c) Relative public visibility & suitability for TPO
Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes
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	Rarely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors
Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of formal arboricultural features, or veteran trees	Score & Notes
4) Tree groups, or principal members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features (inc. those of indifferent form)	
-1) Trees with poor form or which are generally unsuitable for their location	

Part 2: Expediency assessment
Trees must have accrued 10 or more points to qualify

5) Immediate threat to tree inc. s.211 Notice	Score & Notes
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total:	Decision:
1-6	TPO indefensible		
7-11	Does not merit TPO		
12-15	TPO defensible		
16+	Definitely merits TPO		

TEMPO = tree evaluation method for preservation orders as developed by Forbes- Laird Arboricultural Consultancy.

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 8/11/18 Surveyor: NOLA O'DONNELL

Tree details: PAB1990/2 CAN
 TPO Ref (if applicable): — Tree/Group No: Species: SALIX MATSUJANA TORTUOSA
 Owner (if known): Location:

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair/satisfactory Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous* Unsuitable

* Relates to existing context and is intended to apply to severe irremediable defects only

Score & Notes: 3 S-M previously worked pollard.

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

Score & Notes: 2 Managed size + form

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 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) Trees not visible to the public, regardless of size Probably unsuitable

Score & Notes: 4

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify 9

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes: 2

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify 11

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes: 5

Part 3: Decision guide

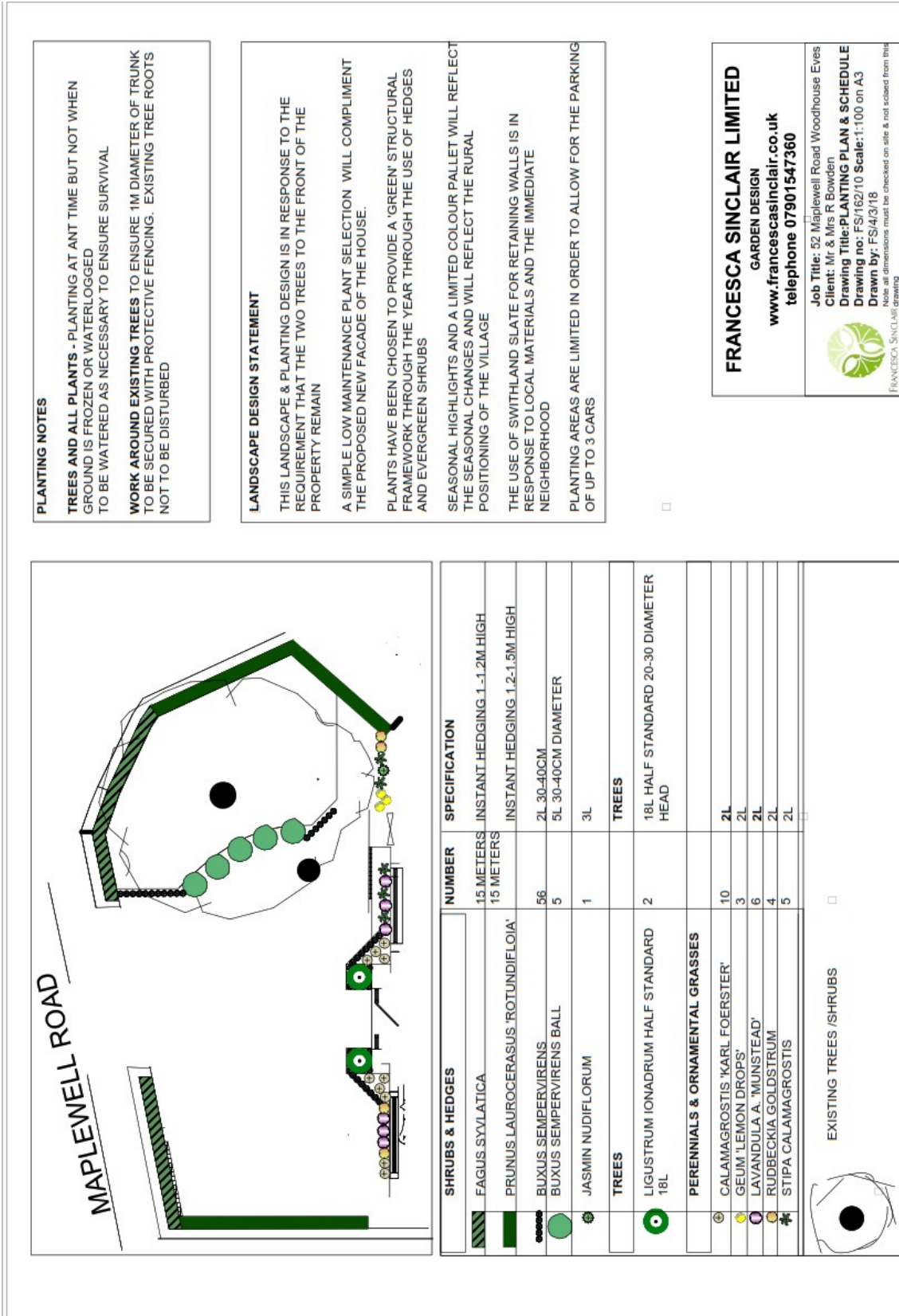
- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 Does not merit TPO
- 12-15 TPO defensible
- 16+ Definitely merits TPO

Add Scores for Total: 16

Decision: TPO

REPORT OF THE HEAD OF PLANNING AND REGENERATION

APPENDIX C Approved planting plan for p/18/0548/2 showing retained willow



PLANTING NOTES

TREES AND ALL PLANTS - PLANTING AT ANY TIME BUT NOT WHEN GROUND IS FROZEN OR WATERLOGGED TO BE WATERED AS NECESSARY TO ENSURE SURVIVAL

WORK AROUND EXISTING TREES TO ENSURE 1M DIAMETER OF TRUNK TO BE SECURED WITH PROTECTIVE FENCING. EXISTING TREE ROOTS NOT TO BE DISTURBED

LANDSCAPE DESIGN STATEMENT

THIS LANDSCAPE & PLANTING DESIGN IS IN RESPONSE TO THE REQUIREMENT THAT THE TWO TREES TO THE FRONT OF THE PROPERTY REMAIN

A SIMPLE LOW MAINTENANCE PLANT SELECTION WILL COMPLEMENT THE PROPOSED NEW FACADE OF THE HOUSE.

PLANTS HAVE BEEN CHOSEN TO PROVIDE A 'GREEN' STRUCTURAL FRAMEWORK THROUGH THE YEAR THROUGH THE USE OF HEDGES AND EVERGREEN SHRUBS

SEASONAL HIGHLIGHTS AND A LIMITED COLOUR PALETTE WILL REFLECT THE SEASONAL CHANGES AND WILL REFLECT THE RURAL POSITIONING OF THE VILLAGE

THE USE OF SWITHLAND SLATE FOR RETAINING WALLS IS IN RESPONSE TO LOCAL MATERIALS AND THE IMMEDIATE NEIGHBORHOOD

PLANTING AREAS ARE LIMITED IN ORDER TO ALLOW FOR THE PARKING OF UP TO 3 CARS

FRANCESCA SINCLAIR LIMITED
GARDEN DESIGN
www.francescasinclair.co.uk
telephone 07901547360

Job Title: 52 Maplewell Road Woodhouse Eves
Client: Mr & Mrs R Bowden
Drawing Title: PLANTING PLAN & SCHEDULE
Drawing no: FS/162/10 Scale: 1:100 on A3
Drawn by: FSJ/4/3/18
All dimensions must be checked on site & not scaled from this FRANCISCA SINCLAIR drawing

APPENDIX D

Examples of poor tree works tree in Humberstone, Leicester.



Examples of pollarded trees in Charnwood.





Trees in Loughborough.

REFERENCES

Mitchell, Alan, A Field Guide to Trees of Britain and Northern Europe, Collins 1974 (reprinted 1979)

The Hilliers' Manual of Trees & Shrubs, Royal Horticultural Society 2014

The Hillier Designers Guide 2007