



**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](http://charnwood.gov.uk/pages/committees)

Please also note that under the Openness of Local Government Bodies Regulations 2014 that other people may film, record, tweet or blog from this meeting. The use of any images or sound recordings is not under the Council's control.

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 1 - Council Offices on Wednesday, 13th March 2019 at 5.00 pm for the following business.

Chief Executive

Southfields  
Loughborough

5th March 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

5. BOROUGH OF CHARNWOOD (THE OLD CHAPEL, 9 WYSALL LANE, WYMESWOLD) TREE PRESERVATION ORDER 2018 5 - 21  
A report of the Head of Strategic Support is attached.
6. BOROUGH OF CHARNWOOD (1 BROWNHILL CRESCENT, ROTHLEY) TREE PRESERVATION ORDER 2018 22 - 34  
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 18TH FEBRUARY 2019

PRESENT: The Chair (Councillor Capleton)  
The Vice Chair (Councillor Hunt)  
Councillors Cooper, Miah and Ranson

Mr Nick Baseley

Solicitor  
Senior Landscape Officer  
Democratic Services Officer (NA)

APOLOGIES: Councillor Hachem

The Chair stated that the meeting would be recorded and the sound recording subsequently made available via the Council's website. He 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.

18. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting of the Committee held on 17th December 2018 were received and noted.

19. QUESTIONS UNDER OTHER COMMITTEE PROCEDURES 12.8

No questions were submitted.

20. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

No disclosures were made.

21. BOROUGH OF CHARNWOOD (52 MAPLEWELL ROAD, WOODHOUSE EAVES)  
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 Head of Planning and Regeneration's representative attended the meeting to put forward their case and answer the Committee's questions.

Mr Nick Baseley was in attendance on behalf of the objectors.

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.

**RESOLVED** that the Borough of Charnwood (52 Maplewell Road, Woodhouse Eaves) 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 25th March 2019 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 13TH MARCH 2019

### Report of the Head of Strategic Support

#### ITEM 5 BOROUGH OF CHARNWOOD (THE OLD CHAPEL, 9 WYSALL LANE, WYMESWOLD) TREE PRESERVATION ORDER 2018

The above Order relates to three trees, T1 – Ash, T2 – Holly and T3 - Horse Chestnut situated in the garden which lies to the north of the former chapel at the above site. All of the trees contribute to the character of the Conservation Area, make a significant contribution to the visual amenity of the area and form part of the historic setting of the Grade II Listed Building and its associated church graveyard. Following the trees being subject a Conservation Area Notice to fell, the Council's Head of Planning and Regeneration considered it appropriate to ensure the trees were properly protected and retained in a satisfactory manner through the making of this Tree Preservation Order.

Therefore, an Order was made on 19th December 2018 to provisionally protect the trees.

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

An objection to the Order was received from Mr P. Seller of 9 Wysall Lane, Wymeswold on 2nd January 2019.

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

The Head of Planning and Regeneration's comments on the issues raised in the objection are attached at **Annex 3**.

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](mailto:nadia.ansari@charnwood.gov.uk)

**Town and Country Planning Act 1990**  
**The Borough of Charnwood (The Old Chapel, 9 Wysall Lane, Wymeswold)**  
**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 (The Old Chapel, 9 Wysall Lane, Wymeswold) 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 nineteenth day of December 2018

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



2018-19-133

*[Handwritten signature]*

## SPECIFICATION OF TREES

### Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Ash	Situated in the garden which lies to the north of the former chapel  The OS grid reference for the site is SK460379 323623.
T2	Holly	
T3	Horse Chestnut	

### 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)

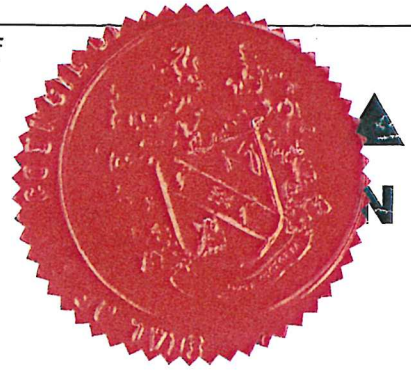
Reference on map	Description (including number of trees in the group)	Situation
	None	

### Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
	None	

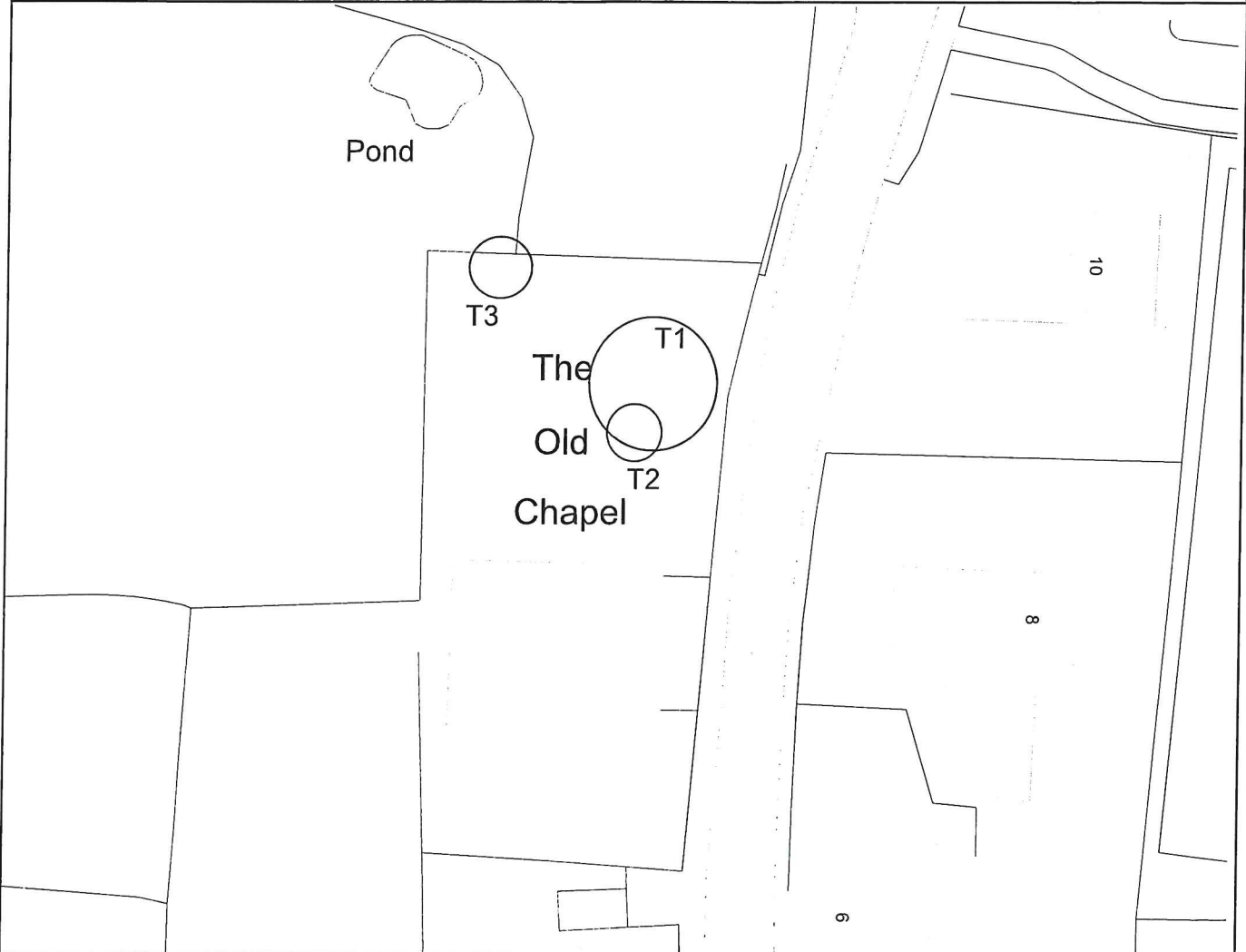


I certify this map shows the tree referred to in the first schedule of the Borough of Charnwood (The Old Chapel, 9 Wysall Lane, Wymeswold) Tree Preservation Order 2018



*AWW*

Authorised signatory .....



**Borough of Charnwood**  
**(The Old Chapel 9 Wysall Lane**  
**Wymeswold)**  
**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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rec'd - 2/1/19.

ANNEX 2

Paul Seller  
9 Wysall Lane  
Wymeswold  
Leics  
LE12 6UH

Mobile: (

My Ref: TPO\_lps18122601

FAO: Nadia Ansari  
Charnwood Borough Council  
Democratic Services  
Southfield Road  
Loughborough  
Leics  
LE11 2TX

**Objection to Tree Preservation Order, Ref: Borough of  
Charnwood (The Old Chapel, 9 Wysall Lane, Wymeswold)  
Tree Preservation Order 2018**

Dear Ms Ansari,

I wish to lodge a formal objection to the above Tree Preservation Order served on my property on 19 December 2018.

**Introduction**

I lodged a request on 03 October 2018 (ref: PP-07325195v1) to undertake tree felling of three specific trees within the boundaries of my property.

I should stress at this point that I have acted in good faith throughout this process, seeking a formal position from the local authority on what I believe to be a pragmatic and legitimate rationale for the work in question; my understanding of the law being that, regardless of the existence of TPOs, trees in conservation areas may not be significantly lopped, topped or felled unless approved by the local authority. I received a rather terse response on 22 October 2018 that implied that the local authority perceived my request to represent an imminent threat of illegitimate tree removal, implicitly contrary to my application.

## Nature of the objection

Firstly, I refute a basic assumption made by the local authority for the trees in question; that they provide amenity value. Paragraph 007, Reference ID: 36-007-20140306, of the Gov.UK website (<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>) states that:

*'Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public'*

My contention is that the word 'significant' is the crucial adjective in this sentence and that none of the trees, if removed, would constitute a 'significant negative impact'.

The subsequent paragraph of the website then explains that:

*'Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:*

- *size and form;*
- *future potential as an amenity;*
- *rarity, cultural or historic value;*
- *contribution to, and relationship with, the landscape; and*
- *contribution to the character or appearance of a conservation area.'*

I would contend that of these, only two criteria hold any relevance in this particular case: future potential as an amenity and contribution to the character or appearance of a conservation area.

### **Future potential as an amenity**

Only one of the three trees covered by the TPO could justifiably meet this criterion; the juvenile horse chestnut (T3). It could, if left for decades, and if being cured of Leaf-Miner infestation, become a sizeable specimen. However, given the current and foreseeable lack of a cure for the leaf-miner condition, it is improbable that the tree will look anything other than unsightly between the months of June and August (when the leaves prematurely drop).

### **Contribution to the character or appearance of a conservation area**

I've already inferred that the horse chestnut (T3), by virtue of its leaf-miner condition, is not a net-contributor to the character or appearance of the conservation area. But I would also contend that its diminutive current size means it cannot be considered to fulfil this criterion.

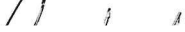
The Ash tree (T1) is the largest of the three trees. My contention with this tree is that whilst it is of considerable size, its uneven foliage when in leaf (brought about by several years of fungal attack) adds little or no aesthetic appeal to the area. Indeed, the one defining characteristic of this tree is that it has spent the last few years increasingly shedding its branches throughout the year as dead wood no longer supports its own weight.

The last of the three trees is a mature Hawthorn Tree. This has been incorrectly referred to as a Holly Tree (T2) by the TPO. I would myself freely admit that this is a healthy specimen. However, its size and location does not merit its categorisation as an important contributor to the appearance of the conservation area.

A more general point I would proffer is that any evaluation of this criterion through a site visit will have failed to appreciate the significance of the problematic canopies on either the Horse Chestnut (T3) or the Ash (T1) by virtue of the time of year in which the application was made.

As a parting point, I would also like to re-iterate that I am not averse to trees on my property and I am happy to plant alternative specimens to the trees in question in other locations in my garden with a view to them becoming a contributor to local amenity. I will happily consult with the local authority on this point.

Yours sincerely,



/Paul Seller

## DRAFT REPORT OF THE HEAD OF PLANNING AND REGENERATION

### APPEALS AND REVIEW COMMITTEE - 13 March 2019

Provisional Tree Preservation Order – The Old Chapel, 9 Wysall Lane, Wymeswold

#### 1.0 Introduction

##### 1.1 Background

The trees consist of a young horse chestnut, a mature ash tree and a mature hawthorn all of which contribute to the character of the Conservation Area and form part of the historic setting of the grade II listed building and its associated church graveyard.

An application P/16/1264/2 for a new dwelling was received in 2016 and refused 21 September 2017. The application was supported by a tree report. The tree warden and the Conservation Team objected to the proposal.

The tree warden at the time noted in their objection dated 9 August 2016 *“The site is within the village conservation area which can ill afford to lose trees as, compared to many similar villages, Wymeswold is not well provided. In addition, the tree [ash tree] is prominent on the skyline as seen from the bottom of Wysall Lane. I judge that loss of the tree (almost inevitable in my judgement) will be detrimental”*

The Conservation Team response from Mark Fennell dated 7 August 2017 was *“tree and shrubs have grown up and around the chapel and grave yard and now significantly contribute to the intimate setting of the listed building and its curtilage.”*

The refusal grounds stated in para 1 that ***“the loss of trees to enable the development would be detrimental to the visual amenity and adversely affect the listed building, its setting and the Conservation Area to the detriment of their character and appearance. This harm is considered to be substantial in relation to the listed building and its setting and therefore contrary to Paragraph 133 of the National Planning Policy Framework. The harm is considered to be less than substantial in relation to the conservation area and there are no public benefits arising from the scheme which would outweigh it as required by Paragraph 134 of the National Planning Policy Framework.”***

These objections and subsequent refusal should be regarded as material consideration with regard to the Provisional TPO which currently protects these trees.

This proposed dwelling required the removal of the tree which were subsequently the subject of a S211 Notice also known as a Conservation Area Notice P/18/1988/2 to fell the trees. The decision was taken to place the tree under a provisional Tree Preservation Order. This was served on the 19 December 2018 to effect protection of the trees at the property.

##### 1.2 The Site

The property lies to the westside of Wysall lane of Wymeswold. It is the former Chapel and associated grave yard which is grade II listed. the trees and shrubs form an integral part of the setting for the chapel

##### 1.3 Condition of the trees

The trees are all in good condition and were also noted as such in the Tree Report produced for the planning application P/16/1264/2. This recorded them as in retention category range B to C.

## 2.0 The Objection to the Order

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

1. The reaction of the Council to the S211 Notice to fell was terse implying it was inappropriate.
2. The trees do not provide amenity value.
3. The loss of the trees would not be significant by referencing the government guidance on TPOs and the rationale arguing that their contribution is not significant.
4. The horse chestnut is the only potential contender for providing future amenity but they then dismiss this by claiming the presence of a leaf disorder would prevent the tree from growing.
5. That the ash tree is in poor condition due to the presence of an unspecified disorder.

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

## 3.0 Response to the Objection

1. The reaction of the Council to the S211 Notice was appropriate. The purpose of S211 Notices is to alert the Council to consider the merits of placing tree under the greater protection of a Tree Preservation Order. The evaluation of the tree was taken following a site visit and the recommendation was to create a TPO.
2. The trees were evaluated by me when I visited the site to be of sufficient amenity value by virtue of the respective qualities and their association with the listed building, which is a historic heritage attribute to merit placing under a Tree Preservation Order. Previously the tree warden and the Team Leader of the Conservation and Landscape team to be of significant amenity value such that their collective loss would be detrimental to the character and appearance of the setting of the listed building and this part of the Conservation Area.
3. The government guidance sets out that LPAs should as well as public visibility assess the following for either individual tree or groups of trees  
Size and form, future potential for amenity [this means if currently not providing any amenity], rarity cultural or historic value, contribution to and relationship with the landscape, contribution to the character and appearance of the Conservation Area. All trees were assessed using these criteria. All trees are of typical form for their respective species and within a size that allows them to be seen from public vantages. All trees provide current amenity and will provide future amenity providing they are not felled or die. All trees are noted as contributing to the setting of the listed building and therefore have associated historic value. All trees contribute to the landscape of the Chapel grounds and its surrounding townscape landscape and can be seen from Wysall lane and the open space and Mill Hill Leys to the north. All trees are noted as contributing to the character and appearance of the Conservation Area and have been reported as such in objections to the development proposal P/16/1264/2. Ergo, the trees meet the government guidance criteria for assessing their amenity value.

4. The horse chestnut currently is publically visible and meets most other criteria set out in the government guidance for assessing amenity. .
5. The ash tree was rated as meeting the arboricultural retention Category
6. B-1 & 2 (arboricultural and landscape value) in the objectors tree report for P/16/1264/2 assessed as in good physiological condition and of moderate arboricultural amenity value. I would argue that it is underscored for amenity value and that the setting and context has not be considered. For a tree to be rated as category B it needs to be of moderate quality and value with a reasonable life expectancy (usually with an estimated life expectancy of at least 20 years). The tree is not rate 'poor' which is Category U which advises removal. It was noted that there was some minor tip dieback. There was no record of any fungal pathogen.

#### 4.0 Conclusion

The reason put forward to remove the protection afforded the Order is not considered justified.

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

The Committee is therefore recommended to confirm the Order with a minor modification to correct the schedule to state hawthorn instead of holly.

(supporting photographs attached)

Contact Officer:

Nola O'Donnell MAgrSc Dip (hons) LA CMLI

Senior Landscape Officer

Tel: 01509 634766

[trees@charnwood.gov.uk](mailto:trees@charnwood.gov.uk)

# DRAFT REPORT OF THE HEAD OF PLANNING AND REGENERATION

APPEALS AND REVIEW COMMITTEE - 13 March 2019

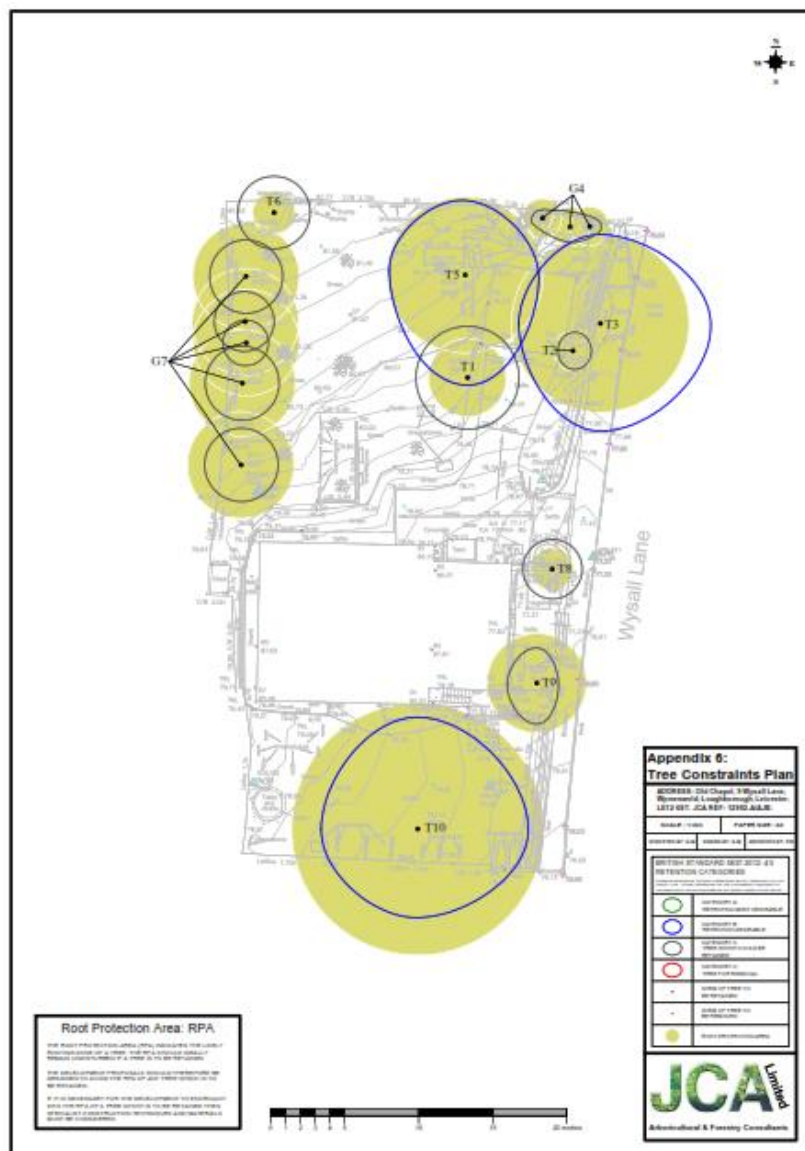
Provisional Tree Preservation Order – The Old Chapel, 9 Wysall Lane, Wymeswold

## APPENDICES

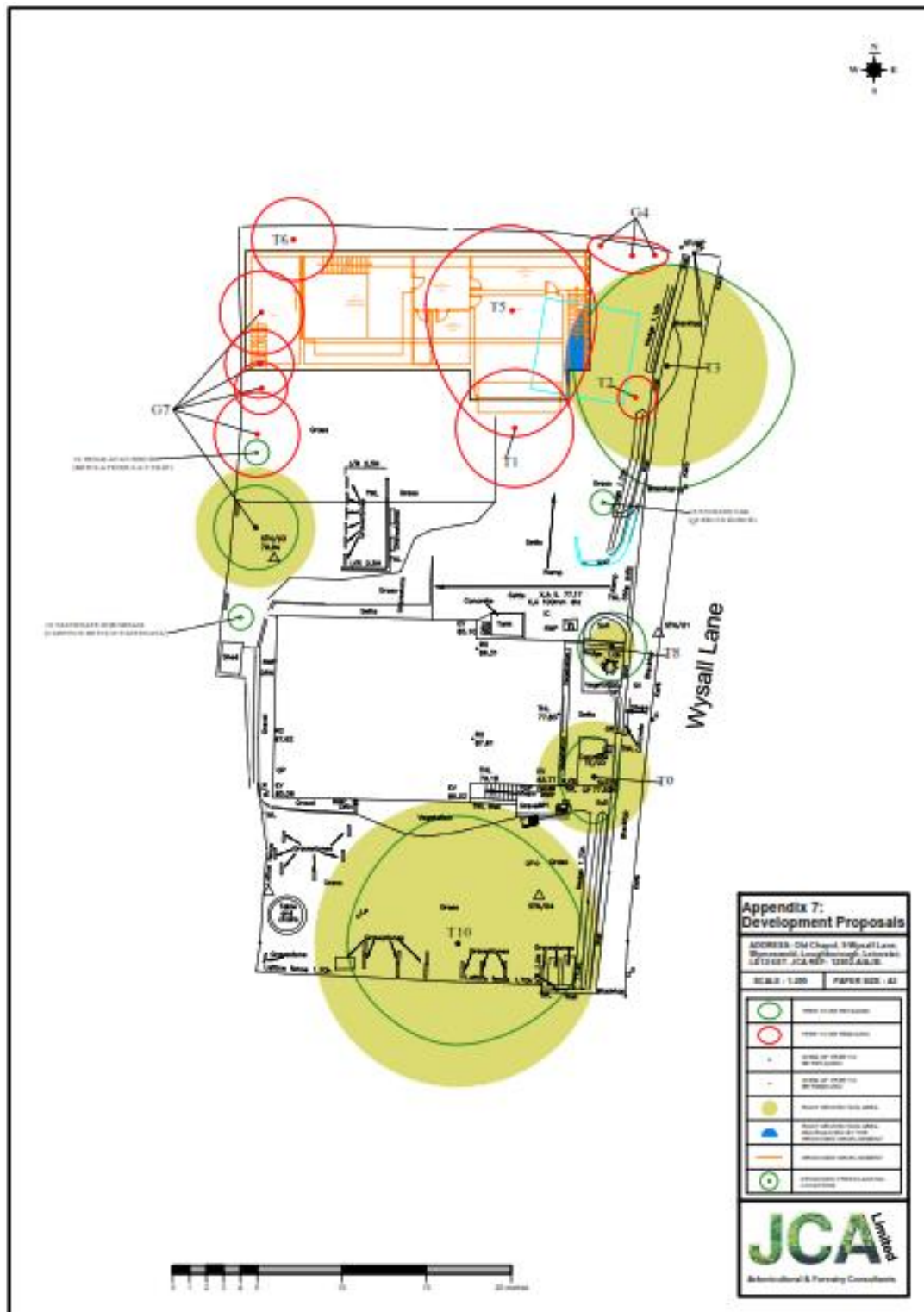
### APPENDIX A

The JCA Ltd tree report –tree constraints plan for planning application P/16/1264/2

The report categorised the trees as ranging from category C to Band all trees as good without major defects. While the report suggested they could be removed , it should be borne in mind it was commissioned to present a positive case for the development.







**Baker Helene**

---

**From:** Fennell Mark  
**Sent:** 07 August 2017 14:29  
**To:** Baker Helene  
**Subject:** The Old Chapel, Wysall Lane, Wymeswold - P/16/1264/2 NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED  
=====

Helene

Just a few points to consider in your assessment of this application:

- The heritage significance of the listed chapel is derived from its simple structure and pattern of fenestration which has resulted in a distinctive architectural character that visually emphasises its original use. Furthermore, its current use as a dwelling has not adversely impacted upon this significance.
- The original use of the listed building and the architectural form that has resulted from this use contributes significantly to its heritage significance and this past use is intrinsically linked to the grave yard and the boundary walls enclosing it.
- Trees and hedgerows have grown up in and around the chapel and grave yard and now significantly contribute to the intimate setting of the listed building and its curtilage.
- The sense of enclosure provided by the front boundary, the mature trees along the boundary and within the graveyard and the glimpsed views of the intimate space, contributes significantly to the street scene and the character of the conservation area.
- The proposed building does little to respond to the contextual setting of the chapel and graveyard. Siting the building back and partially into the landform to avoid obscuring views of the Chapel along Wysall Lane is insufficient to provide any mitigation with regard to its impact and hence no reduction in the harm to the heritage assets.
- The design of the proposed building does little to reference the context in which it is to be sited, which results in a structure that uses an architectural language that is visually conflicting, rather than a modern intervention that seeks to contrast and add to the character of the conservation area.

In identifying the significance of the heritage assets and evaluating the impact of the proposal on that significance it is concluded that there would be substantial harm to the listed chapel, and less than substantial harm to the character of the conservation area, but that the public benefit does not outweigh this harm.

Mark

## APPENDIX B PHOTOGRAPHS

Street vantage Wysall Lane from Google Maps street scene dated July 2011



The ash and hawthorn are clearly visible from vantage from southern end of the lane



This is a view from the open space to the north



The hawthorn with ash in background



The ash

## APPEALS AND REVIEWS COMMITTEE 13TH MARCH 2019

### Report of the Head of Strategic Support

#### ITEM 6 BOROUGH OF CHARNWOOD (1 BROWNHILL CRESCENT, ROTHLEY) TREE PRESERVATION ORDER 2018

The above Order relates to two mature pine trees and one spruce tree, all in good condition, all of which contribute to the character of the Rothley Conservation Area. Proposed works in a submitted Conservation Area Notice would adversely impact the amenity value of the pines rendering them less visible and nullify the value of the spruce by removing it. Therefore, the Council's Head of Planning and Regeneration considered it appropriate to ensure the trees, which make a significant contribution to the visual amenity of the area, were properly retained in a satisfactory manner through the making of this Tree Preservation Order.

Therefore, an Order was made on 20th December 2018 to provisionally protect the trees.

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

On 15th January 2019, objections to the Order were received from Mr S. Jordan of 1 Brownhill Crescent, Rothley and from Ms T. Cluley of 19 Westfield Lane, Rothley.

Copies of the objections are attached at **Annex 2**.

The Head of Planning and Regeneration's comments on the issues raised in the objections are attached at **Annex 3**.

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](mailto:nadia.ansari@charnwood.gov.uk)

**Town and Country Planning Act 1990**  
**The Borough of Charnwood (1 Brownhill Crescent, Rothley)**  
**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 (1 Brownhill Crescent, Rothley) 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 twentieth day of December 2018

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





2018-19-132



## SPECIFICATION OF TREES

### Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Pine	This tree is situated to the north of the dwelling.  OS grid reference SK 457072 312232.
T2	Pine	This tree is situated to the north of the dwelling.  OS grid reference SK 457079 312232.
T3	Spruce	This tree is situated at the eastern boundary of the plot.  OS grid reference SK 457095 312226.

### 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	

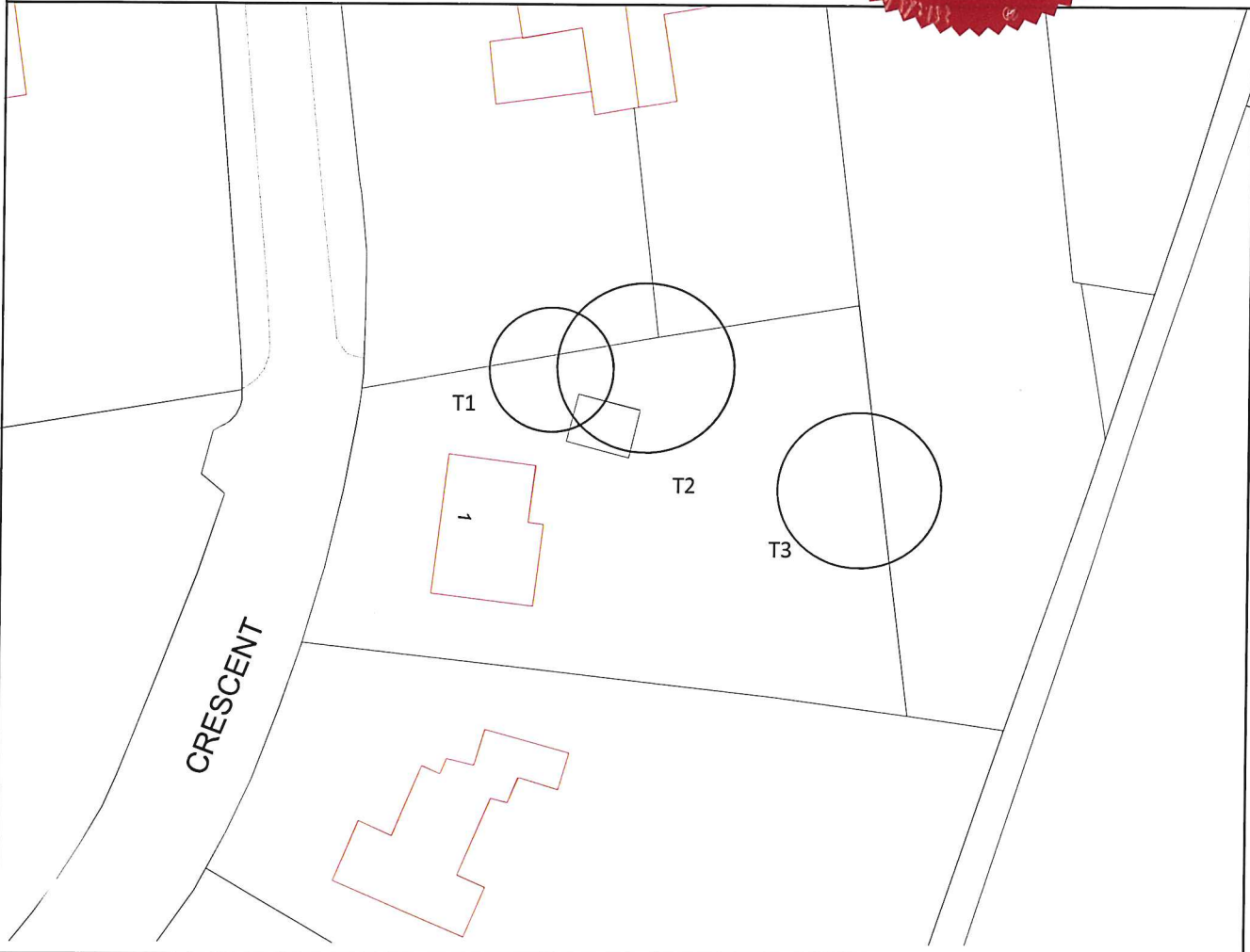
*R Bennett* 2018-19-132

I certify this map shows the tree referred to in the first schedule of the Borough of Charnwood (1 Brownhill Crescent Rothley) Tree Preservation Order 2018



*R Bennett*

Authorised signatory .....



**Borough of Charnwood**  
**(1 Brownhill Crescent Rothley)**  
**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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15/01/19

ANNEX 2

1, Brownhill Crescent  
Rothley  
LE77LA

13th January 2019

Att Mrs Laura Strong, Charnwood borough council

I am writing with regards to your proposal to make TPOs on three trees  
On my property.

I am objecting to this being applied to the Spruce - T3

This tree makes up one of three very large trees within a small garden,  
Prohibiting "normal" life within that space.

It creates a very overbearing presence and drops sap ( along with the other pines )

On anything including clothes when drying them outside - only acetate removes it!

The spruce is not very visible from public areas as it is largely sheilded from view

By the two large pines, hence felling it would have little or no impact on the  
Local environment.

Also, as a matter of note, before I moved into the property, I met David Carter, a council  
Employee, on site on 20th dec 2016, along with mr Henry Black of Dalby Tree Care, where

It was agreed that the 2 pines could have works done to them, and that the spruce could

Be felled.

Please also see a letter from Tracy Cluley who is a neighbour directly affected by this tree,

Best regards



<sup>v</sup>  
<sup>J</sup>  
Sean Jordan

15/01/19

19 Westfield Lane  
Rothley  
Leicestershire  
LE7 7LH

9<sup>TH</sup> January 2019

To whom it may concern @ Charnwood Borough Council

Re: Nuisance tree

I am writing with regards to a very large fir tree that grows in our neighbour's garden on Brownhill Crescent but over hangs a large portion of our garden on Westfield Lane. This tree has been causing me concern for a number of years due to its size and lean, but has now also become an issue with the number of pigeons that sit or live in the tree. I look after my grandson frequently and he often wants to play in the garden, but the pigeon droppings are making this almost impossible. The size and number of droppings have become so bad they look more like cow pats than bird droppings and result in the path becoming a slip hazard, I am also worried by the health implications if my grandson touches it, as he gets it all over his shoes and on the wheels of any toys he is playing on or with.

For these reasons, and a number of others that I have not bothered to mention, I therefore would like to back any proposal from my neighbour to remove this tree if at all possible.

Kindest regards

Tracy Cluley.

**DRAFT REPORT OF THE HEAD OF PLANNING AND REGENERATION****APPEALS AND REVIEW COMMITTEE - 13 March 2019**

Provisional Tree Preservation Order – 1 Brownhill Crescent Rothley

### 1.0 Introduction

#### 1.1 Background

The trees consist of two mature pine trees and one spruce tree all in good condition all of which contribute to the character of the Rothley Conservation Area. The proposed works in the S211 Notice P/17/1609/2 also known as a Conservation Area Notice-Tree Works would adversely impact the amenity value of the pines rendering them less visible and nullify the value of the Spruce by removing it.

#### 1.2 The Site

The property is situated on the north eastern side of the crescent off Westfield Lane. This is a typical garden suburb area of detached villas or mansion set within extensive gardens.

#### 1.3 Condition of the trees

The trees are mature and in good condition.

### 2.0 The Objections to the Order

There are two objections to the Order.

#### 2.1 The first is from the householder, Sean Jordan:

The four main points to the objection related only to the Spruce tree. They claim that:

1. The tree is disproportionately large in relation to the garden which they claim is small.
2. The tree prohibits normal life within the space [of the garden]
3. The spruce tree is “not very visible” from public areas and this is shield from view by the two pines.
4. They met with my predecessor, Mr David Carter whom they say verbally agreed to the removal of the spruce.

It should be noted there are no points of objection to the TPO on the pine trees.

#### 2.2 The second objection is from a neighbour, Tracy Cluley, with an address on Westfield Lane:

The one main point of the objection related to the spruce tree: They claim that;

Pigeons nest in the tree and that their droppings is a health issue. They compare the extent of bird droppings to cow pats. They say that the droppings make the path slippery.

It should be noted there are no points of objection to the TPO on the pine trees.

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

### 3.0 Response to the Objections

#### 3.1 Sean Jordan objection:

1. The tree is large. However the rear garden measures 644m<sup>2</sup> approximately with a average length of 24m and an average width of 25m. The rear boundary measures 30m. The overall plot size is 972m<sup>2</sup>. The garden cannot be regarded as 'small'.
2. The tree prohibits normal life within the space [of the garden]. The crown which subtends over the garden covers an area of 64m<sup>2</sup>. At least 193m<sup>2</sup> is unaffected by any tree or bush in terms of overhang. Therefore there is ample space to enjoy the garden outside of the crown spread of the tree.
3. The spruce tree is indeed visible from the public highway with an un-occluded vantage from the south along Brownhill Crescent (see photograph in appendix).
4. There is no record of a pre S211 notice discussion on file. Therefore I cannot verify.

#### 3.2 Tracy Cluley Objection:

The issue of birds nesting or roosting is not one which the council would entertain the notion of lifting a TPO. Most trees attract birds and if this was to be considered a valid reason to revoke a TPO there would be very few trees left protected.

The Council's tree policy primarily written with regard to trees in the ownership of the Council is also a guide as to how we should deal with trees in Conservation Areas and TPO. The only mention of birds within the document recommends avoiding tree works within the bird nesting season to comply with the Wildlife and Countryside Act 1981 (as amended). While it does not mention bird poo as such, it does state with regard to 'Falling Leaves or Debris and Aphid Problems', "*The Council is not legally responsible for fallen leaves or other tree debris such as cones, seeds, blossom etc. Pruning of trees is not a solution to this occurrence and we would be extremely unlikely to fell a tree as a result of leaf litter etc. The same criterion applies to trees which host aphids with associated stickiness (honeydew) problems or trees that produce large amounts of fruit.*"

For the record, the rear garden of 19 Westfield Lane measures approximately 657m<sup>2</sup>. This is, therefore, a substantially large garden with ample space for play well away from the immediate zone of the trees crown spread.

### 4.0 Conclusion

The reason put forward to remove the protection afforded the Order is not considered justified. Therefore it is my opinion that this objection should be dismissed.

The Committee is therefore recommended to confirm the Order

(supporting photographs attached- see appendix )

Contact Officer:

Nola O'Donnell MAgrSc Dip (hons) LA CMLI

Senior Landscape Officer [trees@charnwood.gov.uk](mailto:trees@charnwood.gov.uk)

**DRAFT REPORT OF THE HEAD OF PLANNING AND REGENERATION**

**APPEALS AND REVIEW COMMITTEE - 13 March 2019**

**Provisional Tree Preservation Order – 1 Brownhill Crescent Rothley**

**APPENDICES – PROVISIONAL TPO – 1 BROWNHILL CRESCENT ROTHLEY**

**APPENDIX A PHOTOGRAPHS**



View from south of the property along Brownhill Crescent

The Pines are left of centre and the spruce is marginally off centre to right.



This is the view from north of the property along Brownhill Crescent

The pines are just off centre to the left of frame.





This is the view of the Spruce from outside the neighbouring property- 3 Brownhill Crsc.



This is the view of the pines from outside the entrance to the property.