



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

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), Howe (Vice-Chair), J. Bradshaw, S. Bradshaw and Needham (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 the Preston Room, Woodgate Chambers, Woodgate, Loughborough on Monday, 25th July 2022 at 5.00 pm for the following business.

Chief Executive

Southfields
Loughborough

13th July 2022

AGENDA

1. APOLOGIES
2. MINUTES OF THE PREVIOUS MEETING 3 - 4

To receive and note the minutes of the previous meeting.

3. DISCLOSURES OF PECUNIARY INTERESTS, AND OTHER REGISTRABLE AND NON-REGISTRABLE INTERESTS

For information, disclosable pecuniary interests and registrable interests relate to

entries that are included, or should be included, on a councillor's register of interests. Non-registrable interests relate to any other matters.

4. QUESTIONS UNDER OTHER COMMITTEE PROCEDURES 12.8

5. BOROUGH OF CHARNWOOD (THE PUMP HOUSE, COTES ROAD, BARROW ON SOAR) TREE PRESERVATION ORDER 2022

5 - 18

A report of the Head of Strategic Support.

WHERE TO FIND WOODGATE CHAMBERS

Woodgate Chambers
70 Woodgate
Loughborough
Leics LE11 2TZ

Please use access on Town Hall Passage for this meeting (marked Citizen's Advice Bureau).

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 19TH JULY 2021

PRESENT: The Chair (Councillor Capleton)
The Vice Chair (Councillor Howe)
Councillors Needham, Gerrard and K. Harris

Mr Severn (item 5)
Mr Brennan and Mr Kemp (item 6)

Locum Solicitor
Team Leader Natural & Built Environment
Senior Landscape Officer
Democratic Services Officer (SW) and Democratic
Services Officer (LS)

APOLOGIES: Councillors J. Bradshaw and S. Bradshaw

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.

1. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting of the Committee held on 19th April 2021 were received and noted.

2. QUESTIONS UNDER OTHER COMMITTEE PROCEDURES 12.8

No questions had been submitted.

3. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

No disclosures were made.

4. BOROUGH OF CHARNWOOD (104 MAIN STREET, SWITHLAND) TREE PRESERVATION ORDER 2021

Considered a report of the Head of Strategic Support 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).

Assisting with consideration of the report: the Locum Solicitor.

The Head of Planning and Regeneration's representatives and the objector attended the meeting to put forward their cases and answer the Committee's questions.

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 (104 Main Street, Swithland) Tree Preservation Order 2021 be confirmed with modification to remove tree T3 from the order.

Reason

Having considered, in accordance with the procedure set out in the Council’s Constitution, the objection to the Order, the Committee considers that the reasons put forward for not protecting the tree T3 outweigh the contribution it makes to the amenity of the area and that tree T3 should not therefore be protected.

5. BOROUGH OF CHARNWOOD (516 BRADGATE ROAD, NEWTOWN LINFORD)
TREE PRESERVATION ORDER 2021

Considered a report of the Head of Strategic Support 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 6 on the agenda filed with these minutes).

Assisting with consideration of the report: the Locum Solicitor.

The Head of Planning and Regeneration’s representatives and the objector and his representative attended the meeting to put forward their cases and answer the Committee’s questions.

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 (516 Bradgate Road, Newtown Linford) Tree Preservation Order 2021 be confirmed without modification.

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.

NOTE:

No reference may be made to these minutes at the next available Ordinary Council meeting 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.

APPEALS AND REVIEWS COMMITTEE 25TH JULY 2022

Report of the Head of Strategic Support

ITEM 5 BOROUGH OF CHARNWOOD (THE PUMP HOUSE, COTES ROAD, BARROW ON SOAR) TREE PRESERVATION ORDER 2022

The above order relates to 6 groups of trees (G1-G6) situated at The Pump House, Cotes Road, Barrow on Soar.

The Council's Head of Planning and Regeneration considers that the trees make a significant contribution to the visual amenity and biodiversity of the area. Being aware of an intention to re develop the land, the trees are considered to be at risk. The trees within the order comprise screening vegetation and a woodland area associated with the Pump House. Together they represent a substantial area of woodland cover adjacent to a public footpath. The Head of Planning and Regeneration considers it is appropriate to ensure that the trees are properly protected and retained in a satisfactory manner through the making of a Tree Preservation Order.

Therefore, an Order was made on 4th March 2022 to provisionally protect the trees.

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

An objection to the Order was received on 1st April 2022 from Mr Rodgers of Guy Taylor Associates on behalf of the property owner.

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**.

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 to determine whether or not the Tree Preservation Order should be confirmed and, if so, whether with or without modification.

Officer to contact: Laura Strong
Democratic Services Officer
01509 634734
laura.strong@charnwood.gov.uk

Town and Country Planning Act 1990
The Borough of Charnwood (The Pump House, Cotes Road, Barrow on Soar) Tree Preservation Order 2022

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 Pump House, Cotes Road, Barrow on Soar) Tree Preservation Order 2022.

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 4th day of March 2022

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


.....
K HARRISON



2021/22-153

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
	None	

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
G1	5no. Ash, <i>Fraxinus excelsior</i> 4no. Cherry, <i>Prunus sp</i>	Eastern Boundary, centred on SK 56512 18665
G2	2no. Birch, <i>Betula sp</i> 3no. Cherry, <i>Prunus sp</i>	North eastern corner, centred on SK 56501 18691
G3	4no. Ash, <i>Fraxinus excelsior</i> 1no. Cherry, <i>Prunus sp</i>	Western boundary of pump house compound, centred on SK 56481 18675
G4	6no. Ash <i>Fraxinus excelsior</i>	Southern boundary of pump house compound, centred on SK 56500 18665
G5	4no. White poplar, <i>Populus alba</i>	Centre of woodland block to south of the pump house, centred on SK 56504 18655
G6	1no. white poplar, <i>Populus alba</i> 2no. ash, <i>Fraxinus excelsior</i> 3no aspen, <i>Populus tremula</i>	Southern site boundary, centred on SK 56512 18645

Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
	None	

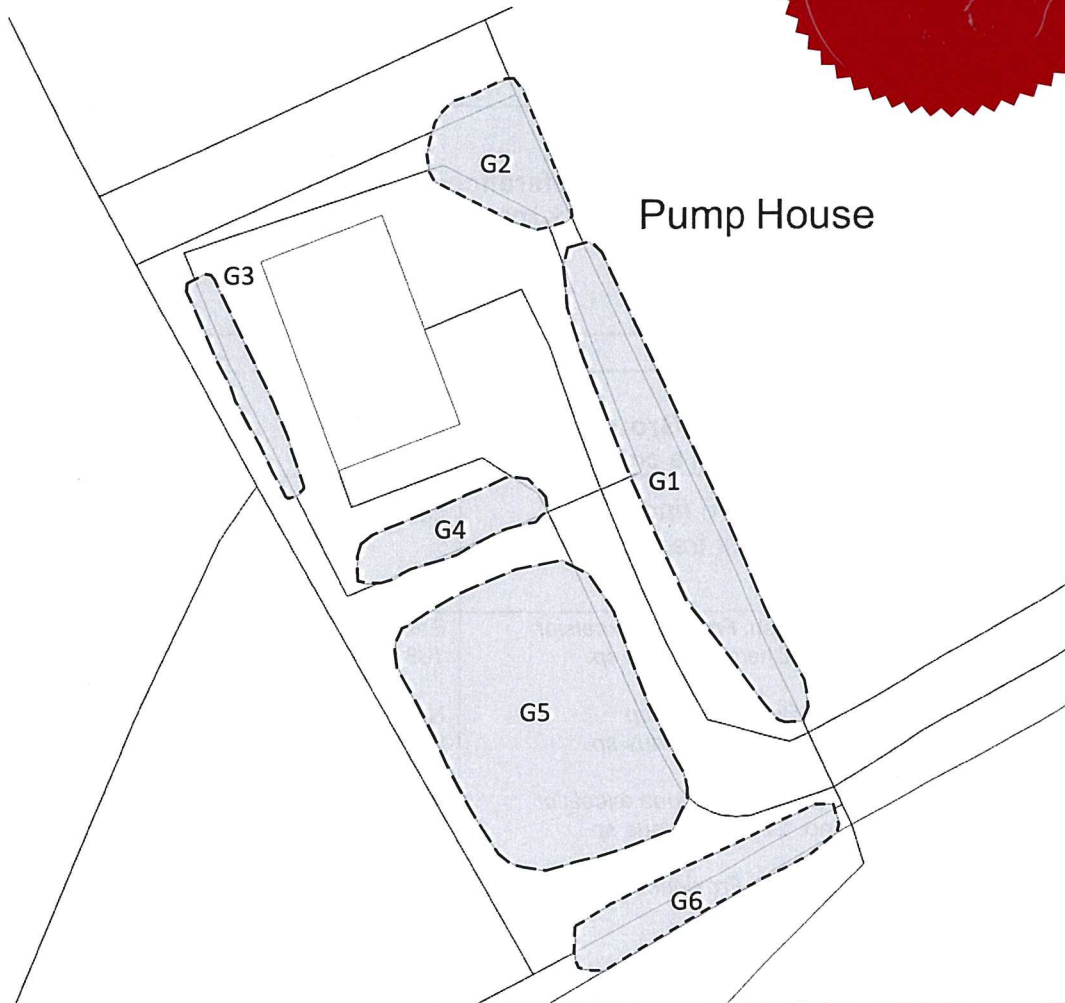
I certify this map shows the entire area referred to in the first schedule of the Borough of Charnwood (The Pump House, Cotes Road, Barrow on Soar) Tree Preservation Order 2022



Authorised signatory 



2021/22 - 153



Borough of Charnwood
(The Pump House, Cotes Road, Barrow on Soar)
Tree Preservation Order 2022

R Bennett Dip. TP. MRTPI
Head of Planning & Regeneration
Borough of Charnwood
Southfields
Loughborough
Leics. LE11 2TN
Date: 17/1/22
Scale: 1:500
Prep: RMS

Licence No 100023558 Reproduced from the Ordnance Survey Map with permission of the Controller of Her Majesty's Stationary Office, Crown Copyright Reserved.



1 April 2022

Mrs Laura Strong
Democratic Services
Charnwood Borough Council
Southfield Road
Loughborough
LE11 2TX

For The Attention Of Mrs L Strong

Dear Mrs Strong

Tree Preservation Order 2022 : The Pumphouse, Coates Road, Barrow Upon Soar

Further to the Formal Notice issued to our Clients on the 4th March 2022, advising of the Councils intention to place a Tree Preservation Order on trees within their property. We wish to lodge our objections on the following grounds.

- (1) The letter identifies the trees as making “a significant contribution to the visual amenity.” As you are no doubt aware, ‘amenity’ is not defined in law and it is for the Authority to exercise judgement when deciding if it is within their power to make the order.

Guidance indicates that orders should only be made to protect trees and woodlands if their removal would have a ‘significant’ impact on the local environment and its enjoyment by the public. The Authority should therefore be able to demonstrate that the protection order will bring public benefit in the present or the future.

These trees are in a remote rural setting outside of any settlement boundary. They are read as part of the Soar Valley landscape zone and do not stand out as being particularly better examples than any other seen from the Coates Road, in this regard, it is difficult to appreciate and Public Benefit gained from the Order as opposed to any other tree cluster in the same zone.

In this regard we object to the order as there has been no case presented that the trees are under threat of removal, nor is a case presented that the removal of the trees would have a ‘significant’ impact on the local environment. Furthermore, the case has not been presented that there would be a ‘public benefit’ from the order or a measure of the benefit gained.

- (2) Within the governments guidance, it advises that Authorities should 'develop ways of assessing the amenity value of trees in a structured and consistent way' taking account of specific criteria :

Visibility : The extent to which the trees or woodlands can be seen by the public.

Individual, collective and wider impact - This section is quite clear that Public Visibility is not sufficient to warrant an order. The Authority is advised to assess the particular importance of Individual trees, groups of trees and woodlands by way of their characteristics. Not restricted to but 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.

There has been no clear assessment or factual documentation provided to make the case for the TPO, in this regard, we object on the basis that the order is unfounded.

- (3) In the absence of any assessment from Charnwood, it is not possible to comment on the way in which the Trees have been assessed, but we can of course offer our own opinion in this regard.

The trees were planted as part of the Construction of the Pump House. The Pump house was constructed by the National Coal Board in 1985 to provide emergency water to Asfordby Mine. As part of the construction of this building within a rural, field setting, a planting scheme was provided to screen the building from view. This included a cluster of Aspen and Ash trees which are the subject of this order. This is not a 'substantial area of woodland cover' as is indicated by Charnwood, it is a small plot of tree screening as was intended at the time of planting.

In terms of the assessment, the trees can be seen from an under-utilised footpath which cuts the corner of the site, but as above, this does not automatically necessitate a TPO. The trees are not rare and have no cultural or historic value. The trees are alien to the Soar Valley location and prevent views of the river and the fluvial basin. They are not within a Conservation Area and offer no contribution to the character of any nearby Conservation Areas or Historic Assets.

- (4) In the absence of an assessment from a qualified consultant, it is not possible to assess the condition and quality of the trees. The trees are planted close together and have reached their full maturity, a number are in poor condition and will require further work. The long term safety of the trees intended to be covered by this order has not been considered in this reactive application.
- (5) Charnwood also make the suggestion that the Trees in question are under threat of development placing the trees at risk. This is simply untrue. In this instance, Charnwood have been approached by the owner of the land to explore new uses for the buildings within their ownership. Plans, and a full scheme have been submitted and comments have been received from Charnwood which are being discussed. In this respect, the Council are aware of the intentions within which the trees are retained as part of the setting of the site. There has been no threat or pressure to remove the trees which are seen as a benefit to the property.

The owner has in this instance correctly engaged with the Local Authority to discuss the future of the site and has acknowledged that the Trees are integral to the assessment of the setting of the site in respect of its future conversion. For this reason, a TPO is not necessary as the impact of any works to the trees will be assessed through the pre-application process and as part of any future Planning application.

To conclude, we object to the Tree Preservation Order made at Pump House on the following Grounds :

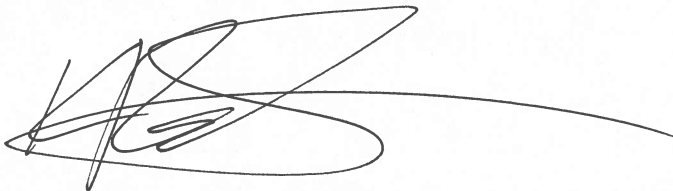
- (1) The trees are not under any threat of removal, this is demonstrated within the pre-application and open discussions between the site owner and Charnwood Borough Council.
- (2) The trees have not been correctly assessed in accordance with current guidance on making Tree Preservation Orders.
 - The trees are not rare.
 - The trees are of no cultural or historic value.
 - The trees in this instance disrupt the relationships of the surrounding landscape, interrupting the natural form of the Soar Valley.
 - The trees do not contribute to the setting of a Conservation Area
 - The trees have not been individually assessed as to their value in this regard.

- (3) The trees were planted to screen an industrial structure and do not require protection to continue to do so.
- (4) The trees have reached maturity and do require some management to ensure safety of public users of the footpath. This will be done in communication with Charnwood Borough Council in any event due to the impact on the access to the footpath. A TPO is not required to ensure this dialogue.

Taking into account the above points, we find the Order to be a heavy handed response to a non-existent threat which is unfounded and unnecessary in this instance. For these reasons, the Order cannot demonstrate any substantial Public Benefit from protecting trees which are not under threat and of little Public Benefit or Value.

We urge the authority to reconsider its position in this regard and continue to discuss a future for the site with the owner where the trees can be managed and assured through the Planning Process.

Yours sincerely
For and on behalf of
Guy St John Taylor Associates



Keith Rodgers
Managing Director

REPORT OF THE HEAD OF PLANNING AND REGENERATION

APPEALS AND REVIEW COMMITTEE 25th July 2022

Provisional Tree Preservation Order – The Pump House, Cotes Road, Barrow on Soar

1.0 Introduction

1.1 Background

Following a request for planning advice for the replacement of an existing pumphouse with a single residential dwelling (planning reference: P/21/2372/2) it was determined by The Council that the trees surrounding the building were at risk of removal and warranted protecting. A provisional Tree Preservation Order was made on 4th March 2022. An objection to the order was received from Guy Taylor Associates dated 1st April 2022. The objection challenges The Council to justify the TPO.

1.2 The Site

The Pump house Barrow is situated on the south side of Cotes Road to north west of Barrow Upon Soar. It is situated close to the River Soar to the west and adjacent to a public footpath, also to the west. The site is surrounded and screened by mostly native hedgerows and trees and includes a woodland block, dominated by aspen, in its eastern half. The provisional order identifies tree six groups to be protected as set out below.

1.3 Condition of the trees

The 6 tree groups were drawn up to exclude a large tree in the south west corner that was leaning severely and therefore considered unsafe and unsuitable for retention. The applicant has since approached The Council for permission to remove the tree and it is assumed that it has now been removed. An assessment of the 6 groups identified in the order is summarised below in table 1.

Table 1: TEMPO assessment results

Criteria	Score					
	G1	G2	G3	G4	G5	G6
<i>Condition</i>	3	3	3	3	3	3
<i>Remaining longevity</i>	4	2	4	4	1	4
<i>Relative visibility</i>	2	2	4	2	4	4
<i>Other factors</i>	4	4	4	4	4	4
<i>Expediency</i>	3	3	3	3	3	3
Total	16	14	18	16	15	18

The TEMPO assessment method is not mandatory but is a widely used standard and objective method for assessing a tree's suitability for TPO. It is not a definitive tool for the assessment of the value of trees and should be used alongside professional judgement. Nonetheless, features with a score of 16 or more are considered to "definitely merit" a TPO, whilst a TPO is considered "defensible" for features scoring between 12-15 points. As shown in table 1 the scores for groups G1-G6 range between 14-18 points making a TPO at least defensible in all cases.

The site itself is located on the east bank of the River Soar and this helps to explain the landscape and amenity value of its trees. The River Soar has been identified, both by the Core Strategy and Draft Local Plan, as a strategic component of green infrastructure. Consequently its protection and enhancement are a

matter of local policy and a priority for the benefit of the general public. Tree cover along the River Soar is patchy and the Wolds landscape to the east has very limited tree cover. What is relatively unusual about this location is that there is high canopy tree cover on both sides of the river which create an attractive and secluded spot which can be experienced from footpaths near to both banks. Whilst undoubtedly the footpath on the east bank is the better used of the two and is a popular spot for local anglers it is clear that, despite poor maintenance in places, the footpath on the west bank (closest to the site) continues to be regularly used.

The trees protected by the recommended order contribute to the sheltered riparian character of the surrounding locality as described above, such that the protected trees may be considered to have value for nature conservation beyond what may be apparent from a consideration of the individual trees, groups, or even of the protected trees considered as a whole. The River Soar itself is a Local Wildlife Site and whilst nature conservation should be assessed as a secondary consideration with respect to making TPOs it does contribute to the value of the trees protected by this order.

2.0 The Objection to the Order

A single objection to the order was received from Guy Taylor Associates, on behalf of the owner, and dated 1st April 2022.

Five principal reasons were given for the objection:

- 1) Questioning the public benefit of the TPO
- 2) Questioning whether the trees had been properly assessed
- 3) Questioning the value and importance of the trees
- 4) Asserting that, in making the order, The Council has not considered the need for ongoing management
- 5) Asserting that there is no threat to the trees

The objection goes on to express the opinion that the Council has been heavy handed in making the order; and that the Council is unable to demonstrate the public benefit or value of the trees.

3.0 Response to the Objection

Considering the above points in turn:

- 1) The trees included in the order are mature and semi-mature mostly native trees that help to screen a defunct and unoccupied building in a rural setting. Whilst the trees included in the order do form part of a rural setting within the Soar Valley landscape, it is not considered necessary to demonstrate that they are exceptional examples within this rather broad context, or that they are “particularly better than any other seen from Coates Road” (*sic*) given their role in screening an otherwise unattractive building. Moreover, their presence contributes to the rural and sylvan character of their immediate surroundings. The public benefit of the order derives from the protection it affords to the trees included in it, which have amenity value, both within the context of the site and the wider context of the River Soar; a Local Wildlife Site and a strategic green infrastructure asset. The objection challenges The Council’s view that the protected trees represent a substantial area of woodland cover. However, this view follows from the observation that; collectively the trees comprise a continuous area of woodland cover which occupies the majority of the site, and that tree cover in the surrounding landscape, particularly on the eastern side of the River Soar is sparse.
- 2) The Order was made following a site visit, including an assessment of the trees included in the order. Whilst the use of the TEMPO assessment is not mandatory it does provide a widely used methodology for assessing trees and, as has been the case here, is used by officers of the Council in conjunction with professional judgement to assess trees considered to be threatened with removal. The information

presented above and in section 1 shows that the order has been made following a structured and consistent assessment.

- 3) The Council's assessment of the value of the trees is presented above and in section 1.3 of this report.
- 4) The objection that the trees will need management in future can be refuted on the basis that pruning, trimming or even removal and replacement can form part of normal arboricultural practice. TPOs do not prevent ongoing management, although TPOs can help to ensure that management of protected trees is carried out sensitively and to a professional standard. Indeed: the "Condition" score (see table 1) for all 6 groups indicates "fair" condition, which assumes that the trees have defects and may require future management.
- 5) The objector asserts that there is no threat to the trees. However, The Council has no means of establishing the reliability such assertions, either at the point of making TPOs, or in the future. The Council is aware of intentions to develop the site and has considerable experience of trees being removed from potential development sites, as preparation for development. Having received a pre-application enquiry for the sites The Council was obliged to make the applicant aware that the trees presented a constraint to development, which would have increased the risk to the trees had the order not been made. The pre-application enquiry sets out the applicant's intention to construct a single dwelling. Given the extent of tree cover surrounding the existing building, it was considered that some tree removal would be necessary, or at least highly desirable in order to create an acceptable or attractive dwelling. This factor was considered to further increase the risk to the trees.

4.0 Proposed TPO

It is recommended that the order be confirmed in full. It is accepted and welcomed that the applicant has made a pre-application advice request in good faith. The applicant will hopefully be reassured that the order does not represent an objection to any future planning application for the site and should also take comfort from the fact that, were planning permission granted for the site, this would include automatic permission to carry out any tree works necessary to implement it. As well as the immediate protection it affords, The Council anticipates that the Order will help to ensure the sensitive design of any future planning proposals and the mitigation of adverse impacts to the protected trees that might arise from them.

Appendix 1: Site Photographs

- 1) View from the west showing (from left to right groups G3, G4, G5 and G6), and the location of the footpath on the right



- 2) View from the east showing (from left to right) groups G1 and G2



3) Aerial view of the site and its surroundings, with the Pump House marked in red.

