



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](https://www.charnwood.gov.uk/pages/committees)

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To: Councillors C. Forrest (Chair), Bradshaw (Vice-Chair), Dent, Fox and Woodward (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, at the Council Offices, Southfields, Loughborough on Monday, 24th July 2023 at 5.00 pm for the following business.

Chief Executive

Southfields
Loughborough

12th July 2023

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 (88 MAIN STREET, NEWTOWN LINFORD) TREE PRESERVATION ORDER 2023

5 - 14

A report of the Head of Governance and Human Resources.

PROCEDURE

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

(a) *The Head of Governance & HR 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 Growth and the objector(s)).*

(b) *The Head of Planning and Growth 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 Growth 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 Governance & HR 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 12TH JUNE 2023

PRESENT: The Chair (Councillor C. Forrest)
Councillors Ashcroft, Dent, Fox and Woodward

Mr English (item 5, objector)

Principal Solicitor - Planning, Property and
Contracts
Team Leader Natural & Built Environment
Democratic Services Officer (LS)

APOLOGIES: Councillor Bradshaw

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.

1. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting of the Committee held on 30th January 2023 were received and noted.

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

Regarding item 5 on the agenda - Borough of Charnwood (14 Sanders Road, Quorn) Tree Preservation Order 2023, Councillor Fox stated that the address concerned was in the ward she represented as a Borough Councillor, but that she had had no prior involvement in the matter.

3. QUESTIONS UNDER OTHER COMMITTEE PROCEDURES 12.8

No questions had been submitted.

4. BOROUGH OF CHARNWOOD (14 SANDERS ROAD, QUORN) TREE PRESERVATION ORDER 2023

Considered a report of the Head of Governance and Human Resources 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 Growth on the issues raised by the objection (item 5 on the agenda filed with these minutes).

Assisting with consideration of the report: the Principal Solicitor (Planning, Property and Contracts).

The Head of Planning and Growth's representative 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 (14 Sanders Road, Quorn) Tree Preservation Order 2023 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, noting in particular the TEMPO assessment score for the tree, 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 24TH JULY 2023

Report of the Head of Governance and Human Resources

BOROUGH OF CHARNWOOD (88 MAIN STREET, NEWTOWN LINFORD) TREE PRESERVATION ORDER 2023

The above order relates to individual trees T1 – Yew and T2 – Spruce and groups of trees G1 – Fir and G2 - Leylandii situated at 88 Main Street, Newtown Linford.

The Council's Head of Planning and Growth considers that the trees make a significant contribution to the visual amenity, character and appearance of the Conservation Area of Newtown Linford.

A S211 Notice for tree works including the felling of a group of trees was received on 7 March 2023. The Head of Planning and Growth considers that the trees are in good physiological condition and worthy of retention and preservation. He considers it appropriate to ensure that the trees are properly protected and retained in a satisfactory manner through the making of this Tree Preservation Order.

Therefore, an Order was made on 14th April 2023 to provisionally protect the trees.

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

An objection to the Order was received from Mr Litchfield, the agent acting on behalf of the owners of the site.

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

The Head of Planning and Growth'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 objectors and the comments of the Head of Planning and Growth 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 (88 Main Street, Newtown Linford) Tree
Preservation Order 2023

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 (88 Main Street, Newtown Linford) Tree Preservation Order 2023.

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 14th day of April 2023

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


.....



2023/24 - 5

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Yew	Frontage approx. SK451618 310280
T2	Spruce	Rear garden southern boundary approx. SK451501 310280

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	Fir	Southern boundary approx. SK451612 310283
G2	Leylandii	Southern boundary approx. SK451601 310284

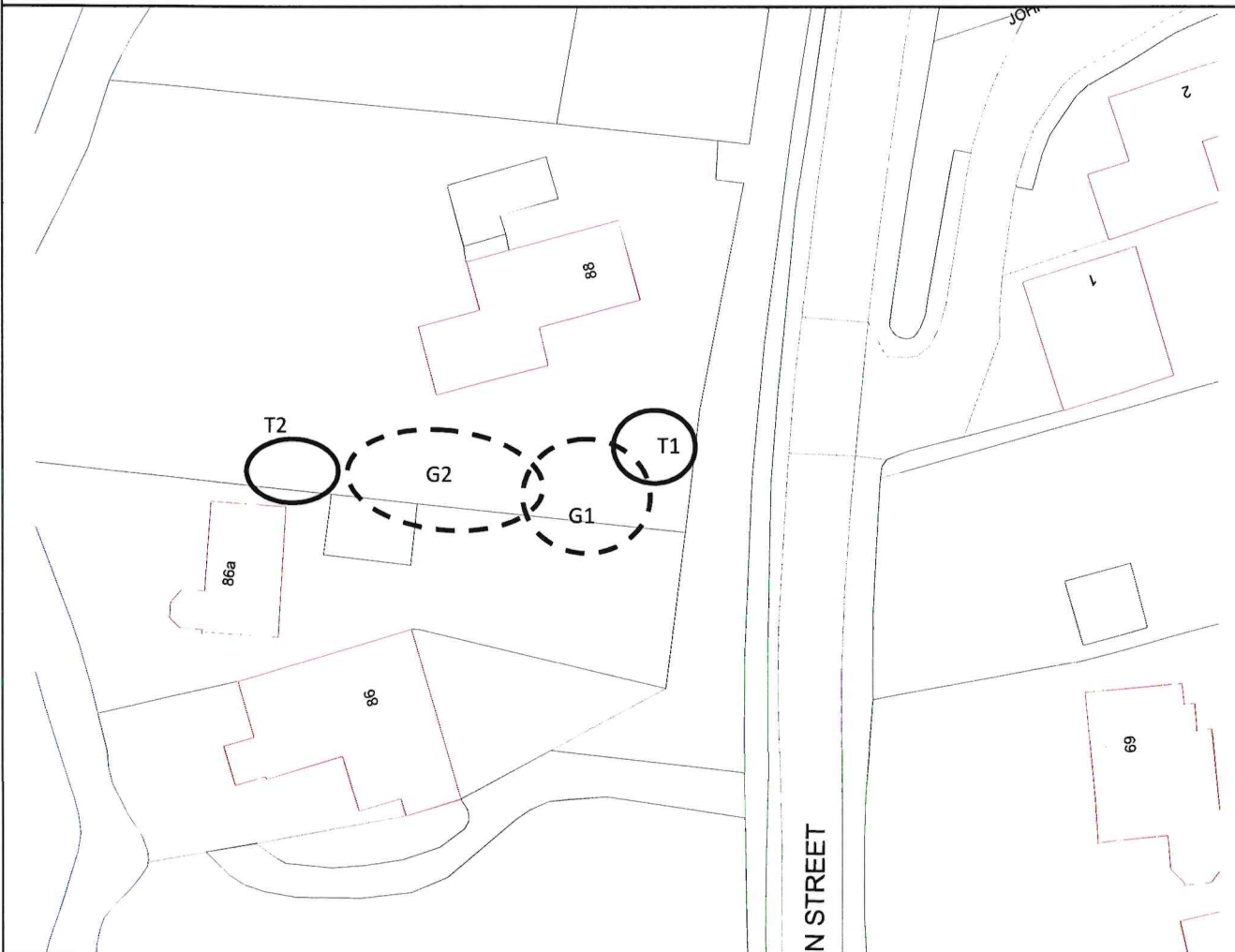
Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
	None	

I certify this map shows the tree referred to in the first schedule of the Borough of Charnwood (88 Main Street, Newtown Linford) Tree Preservation Order 2023

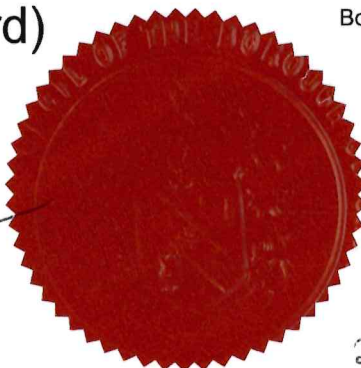


Authorised signatory



Borough of Charnwood
(88 Main Street, Newtown Linford)
Tree Preservation Order 2023

R Bennett Dip. TP. MRTPI
Head of Planning & Growth
Borough of Charnwood
Southfields
Loughborough
Leics. LE11 2TN
Date: 4 April 2023
Scale: 1:1250
Prep: NO'D



2023/24-5

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Laura Strong

From: Arboreco - Edward Litchfield
Sent: 04 May 2023 22:32
To: Laura Strong
Subject: 88 Main Street Newtown Linford - TPO Objection

Dear Laura,

Further to our recent phone conversations I am writing to inform you of the objection to the TPO at 88 Main Street on behalf of our clients.

The original application relates to four elements of work at the property, three of which are reasonable maintenance. T1 Yew had a modest 2m reduction prune proposed to maintain a balanced and naturalistic shape, work which has been carried out in the past. T2 Spruce was also a reduction prune to previous cuts, and again, work which has been carried out in the past. G2 Leyland Cypress hedge has been proposed for a 50% reduction in height. This is a species of notoriously vigorous and problematic growth habit, and as it forms a hedge, I do not believe it can be eligible for a TPO, and furthermore, will require frequent maintenance to due it's location within very close proximity to the neighbouring property.

I have requested on a number of occasions the survey and TEMPO assessment from the planning officer so I can try to understand the rationale of protecting in particular the hedge, and also the modest works for the benefit of the others, but have yet to receive the information, other than the brief comments in the TPO covering letter.

The planning officer commented in previous emails that "the degree of pruning was not specified" for these elements. This was indeed specified and noted within the planning application on the portal, which I have checked, and forwarded twice for comment; to which I have eventually received a response, but not to acknowledge or address these pointers.

G1 is a group of tall, slender Fir trees and 1 Blue Spruce which were proposed to fell. Individually, the trees are of partial foliage, with the group canopy forming the overall coverage. The height they have now reached is causing significant movement and opening of the canopy and leaving them prone to windthrow. A reduction in height was not considered due to detrimental amenity impact, and therefore suggested removal on the ground over being over mature; and also to allow Yew T1 more space and light as it will have a more viable future than the group G1. As the overall tree cover in the immediate area is good, and that the works would promote the long term well being of the Yew as well as abating and nuisance to the neighbouring properties, I believe this to be a reasonable proposition.

I have spoken verbally to the Parish Council Clerk of Newtown Linford and undertand the Tree Warden has no objections to the proposed works.

It is my belief that with a clear site visit with the specified works to hand, our proposal is to the long term benefit of the treescape, our clients, and their respective neighbours alike.

I await you advices,

Kind regards,

Eddie

--

Arboreco Ltd

Professional Tree Care

REPORT OF THE HEAD OF PLANNING AND GROWTH

APPEALS AND REVIEW COMMITTEE 24th July 2023

BOROUGH OF CHARNWOOD (88 Main Street, Newtown Linford) TREE PRESERVATION ORDER 2023 - PROVISIONAL

1.0 Introduction

1.1 Background

The above order relates to individual trees T1 – Yew and T2 – Spruce and groups of trees G1 – Fir and G2 - Leylandii situated at 88 Main Street, Newtown Linford.

A S211 Notice for tree works including the felling of a group of trees was received on 7 March 2023. It is considered that the trees are in good physiological condition and worthy of retention. A TEMPO assessment was undertaken which resulted in a score of 16 which indicates that the serving of a TPO would be appropriate in this instance.

Consultations with the Chair of Plans Committee and Ward Councillors have been carried out in accordance with the scheme of delegation, and no objections to serving the TPO were received.

To ensure the trees, which make a significant contribution to the visual amenity of the area, are properly protected, and retained in a satisfactory manner, a provisional Tree Preservation Order has been served.

This will allow any proposed works to the tree to be carefully considered and refused if necessary.

1.2 The Site

The site is spacious plot in the heart of the Newtown Loinford conservation area. The trees are located within the southern part of the garden, close to the boundary with No.86a Main Street.

1.3 Condition of the tree

The trees are in a fair/satisfactory condition with good longevity. They are considered to be large and medium specimens clearly visible to the public and important as a cohesive group.

2.0 The Objections to the Order

An objection was received from the agent acting on behalf of the owners of the site. The following points were raised:

1. The original application relates to four elements of work at the property, three of which are reasonable maintenance. T1 Yew had a modest 2m reduction prune proposed to maintain a balanced and naturalistic shape, work which has been carried out in the past. T2 Spruce was also a reduction prune to previous cuts, and again, work which has been carried out in the past. G2 Leyland Cypress hedge has been proposed for a 50% reduction in height. This is a species of notoriously vigorous and problematic growth habit, and as it forms a hedge, I do not believe it can be eligible for a TPO, and furthermore, will require frequent maintenance to due its location within very close proximity to the neighboring property.

2. I have requested on a number of occasions the survey and TEMPO assessment from the planning officer so I can try to understand the rationale of protecting in particular the hedge, and also the modest works for the benefit of the others, but have yet to receive the information, other than the brief comments in the TPO covering letter.

3. The planning officer commented in previous emails that "the degree of pruning was not specified" for these elements. This was indeed specified and noted within the planning application on the portal, which I have checked, and forwarded twice for comment; to which I have eventually received a response, but not to acknowledge or address these pointers.

4. G1 is a group of tall, slender Fir trees and 1 Blue Spruce which were proposed to fell. Individually, the trees are of partial foliage, with the group canopy forming the overall coverage. The height they have now reached is causing significant movement and opening of the canopy and leaving them prone to windthrow. A reduction in height was not considered due to detrimental amenity impact, and therefore suggested removal on the ground over being over mature; and also to allow Yew T1 more space and light as it will have a more viable future than the group G1. As the overall tree cover in the immediate area is good, and that the works would promote the long term well-being of the Yew as well as abating and nuisance to the neighboring properties, I believe this to be a reasonable proposition.

No other representations have been made in relation to the Order.

3.0 Response to the Objections

1. The proposed works to T1 Yew and T2 Spruce appear to exceed the pruning threshold guidelines given within *BS 3998 Tree work – Recommendations* and appear to constitute the topping of the trees. Topping is described as the removal of most or all of the crown of a mature tree by indiscriminately cutting through the main stem and is

considered poor arboricultural practice unless good reason is provided. The applicant gave the reason of containment within the S.211 Notification. Topping should only be used as a last resort to retain a valuable tree which would otherwise pose an unacceptable risk to people or property or would be susceptible to loss due to structural collapse. The special protection afforded by Tree Preservation Order would require a subsequent application to demonstrate the unacceptable risk to people or property, or the susceptibility to loss due to structural collapse.

2. A copy of the Tree Officer Report and TEMPO Assessment was sent to Mr Litchfield on 14/06/2023.
3. The degree of pruning specified within the original Notification was provided in an unsatisfactory manner, except for the proposal to remove entirely G1 Group, which required no further explanation. Specifications should be accurate and clear to avoid ambiguity which cannot be enforced. As such, specified end results should be stated, such as tree-height or branch-spread which are to remain not amounts to be removed to enable verification. Specifications for percentage reduction, as was the case for G2 Group, are imprecise and unsatisfactory, as stated within the Planning Portal guidance note *Application for Tree Works: Works to Trees Subject to a Tree Preservation Order (TPO) and/or Notification of Proposed Works to Trees in Conservation Areas (CA)*,

With regards to the legality of the Provisional TPO

1 & 4. Where trees are specified within a Group through the group classification, the number of trees in each group must be recorded in the Schedule. To do otherwise may cast doubt on the legality of the Order and invalidate it entirely. As we do not have record of the number of trees in G1 Fir and G2 Leylandii, it would be unwise to include these groups in any Order resolved to be confirmed.

4.0 Conclusion

Removing the Order by failing to confirm it at this Appeals and Reviews Committee would mean the trees would be felled.

The Committee is therefore recommended to Confirm with modification, by removing G1 Fir and G2 Leylandii from the Order.

Contact Officer:

Mark Fennell

Team Leader Natural & Built Environment

Tel: 01509 634748

trees@charnwood.gov.uk