

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

DRAFT REPORT OF THE HEAD OF PLANNING AND REGENERATION

APPEALS AND REVIEW COMMITTEE - 13 March 2019

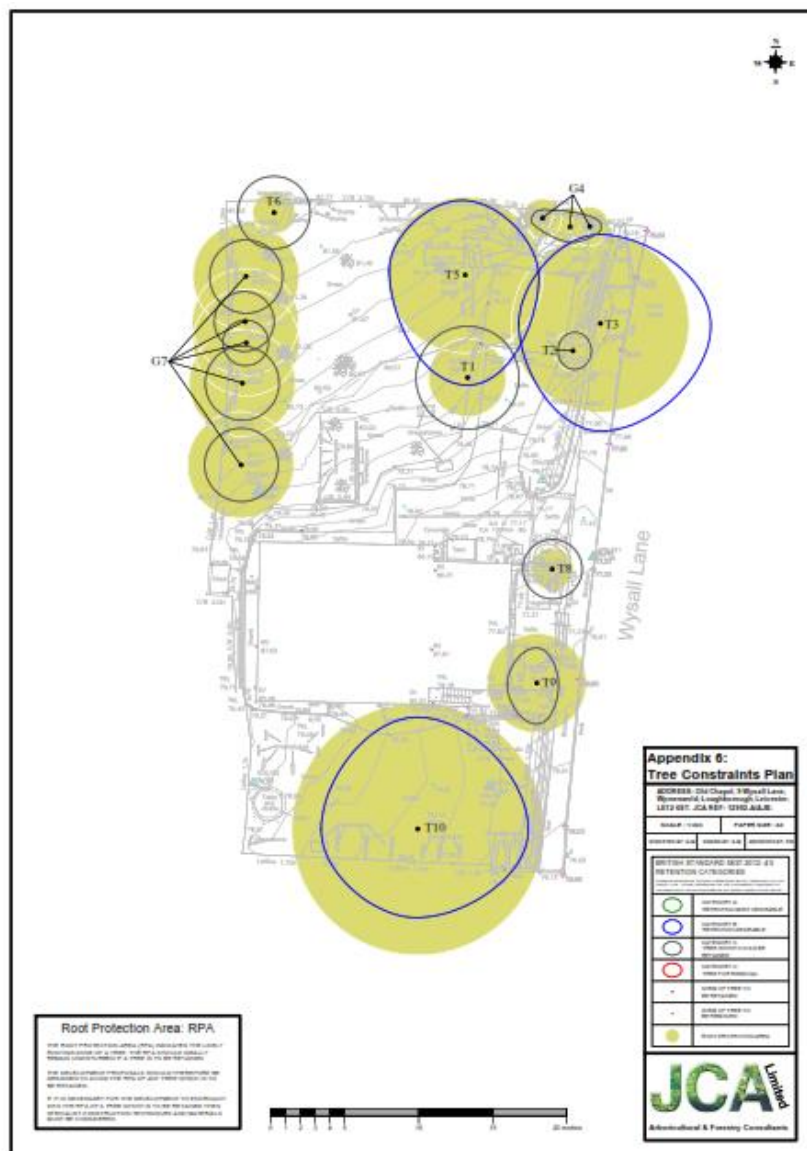
Provisional Tree Preservation Order – The Old Chapel, 9 Wysall Lane, Wymeswold

APPENDICES

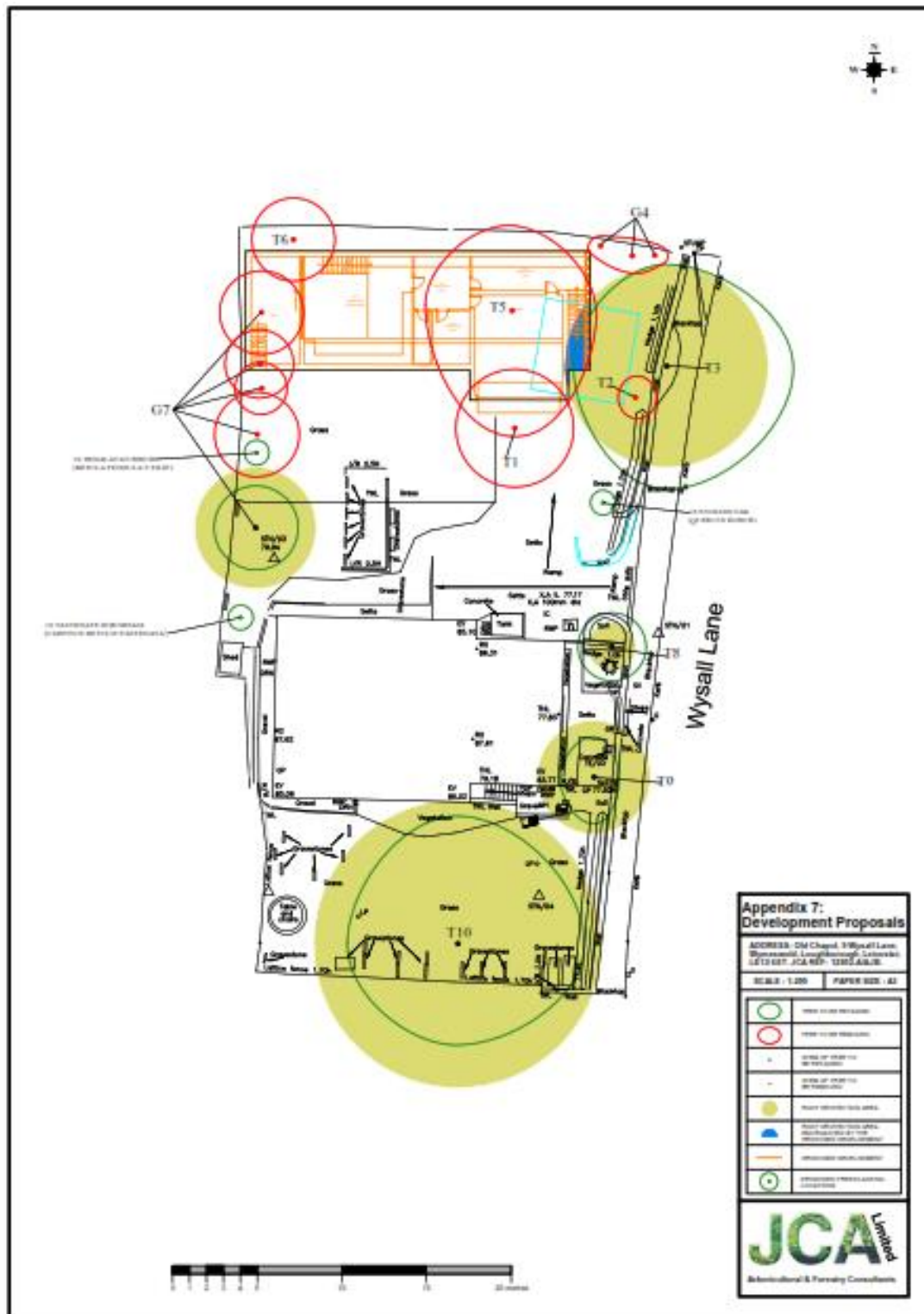
APPENDIX A

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.



Planning application P/16/1264/2 proposed layout for dwelling on the site



The Conservation and Landscape Team response

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