

## REPORT OF THE HEAD OF PLANNING AND REGENERATION

### APPEALS AND REVIEW COMMITTEE 28<sup>th</sup> September 2020

Provisional Tree Preservation Order – 1323 Melton Road Syston

#### 1.0 Introduction

##### 1.1 Background

The trees subject to this order were initially assessed on 7<sup>th</sup> May 2020 following receipt of a planning advice application. The request for planning advice highlighted a risk to the trees and which forms the reason of expedience for making the order. The objection to the order includes a statement that the original TPO plan was inaccurate. For this reason, after a follow up visit on 20<sup>th</sup> July 2020, minor amendments were made to the locations of the trees as shown on the plan. It is the revised plan that is put before the committee (see Appendix 4).

##### 1.2 The Site

The five trees protected by this order form a continuous group within the rear garden of 1323 Melton Road, Syston. This property is located on the eastern side of Melton Road and immediately to the north of a footway that forms part of Gloucester Avenue.

##### 1.3 Condition of the trees

Trees T1 (silver birch) and T5 (ash) are located at the western and eastern ends of the group respectively and are both clearly visible from Melton Road. The remaining trees (T2, T3, and T4) are visible along Gloucester Avenue. All five trees appeared healthy at the time of the initial assessment, however during a follow up visit tree T3 (apple) displayed a relatively low foliage density, possibly indicating reduced vigour.

As part of the initial visit a TEMPO assessment was carried out. Summary results are shown below in table 1. Full results are presented in Appendix 1:

The TEMPO assessment method is not mandatory but is a widely used standard and objective method for assessing a tree's suitability for TPO. Trees or tree groups with a score of 16 or more are considered to "Definitely merit" a TPO. For trees scoring between 12-15 points a TPO is considered "defensible".

Table 1: TEMPO assessment results

Tree	TEMPO score (total)	Decision Guide
T1: birch	14	TPO defensible
T2: apple	14	TPO defensible
T3: apple	14	TPO defensible
T4: plum	13	TPO defensible
T5: ash	17	Definitely merits TPO

## 2.0 The Objection to the Order

A single objection was received to the order from the owner of 1323 Melton Road Syston on 26<sup>th</sup> May 2020

It is understood from the statement: "I only wish to object to the fruit trees having an order placed on them" that the objection has been made in relation to trees T2, T3 and T4 and not in relation to trees T1 and T5. Two principle reasons were given for the objection:

- 1) That there is no reason of expedience for making the order
- 2) That the trees subject to the order do not have public amenity value

In support of the claim that the trees have no public amenity value the complainant makes the following assertions:

- 1) That trees T2, T3 and T4 are not, or are only barely publically visible
- 2) That the Gloucester Avenue footway is subjected to littering and therefore that many of the local residents using it have no appreciation of visual amenity
- 3) The trees are old and have no fruit bearing capacity
- 4) That the assessment used to make the order does not mention the wildlife or historic value of the trees T2, T3 and T4
- 5) That a pragmatic approach to retaining important trees on site could have been reached by discussion and negotiation

The objector also expresses disappointment at the lack of communication from the council prior to the order being made. Upon receipt of the objection a preliminary response was sent by email on 28<sup>th</sup> May and is included in Appendix 3.

## 3.0 Response to the Objection

The objection has been made in relation to trees T2, T3 and T4 only.

### 1) *Reason of expedience*

Paragraph 10 of Planning Practice Guidance for Tree Preservation Orders explicitly identifies "development pressure" as a reason for an authority to believe that trees are at risk. It goes on to say that it may be appropriate to make a precautionary order where the intentions of current or future owners are not known in advance.

The intention to remove trees T2, T3 and T4 is implied by the following statement from the bottom of page 1 of the objection letter

"I only wish to object to the fruit trees having an order placed on them as it was never going to be our intention to get rid of the Silver Birch (T1) or the Ash (T5)"

Whilst the current owners may not intend to remove T1 and T5 the proposal to erect a dwelling in close proximity to them would put them both at risk of irreversible damage or future pressure to have them removed.

The reason of expedience is therefore supported by the presence of development pressure and the objector's implied intention to remove the trees.

### 2) *Amenity value*

The TEMPO assessment indicates that for all three trees (fruit trees T2, T3 and T4) a TPO is defensible. This conclusion was reached on the basis that the trees T2 and T3 are "medium trees with a limited view only" and that T4 is a "small tree visible only with difficulty". Photograph 3 in Appendix supports this assessment with both trees T2 and T3 being clearly visible along Gloucester Avenue walkway. The aerial view in photograph 1 also shows the close proximity of these two trees to the southern site boundary.

The TEMPO assessment also identified the trees as forming a coherent group with more or less continuous canopy cover, thus forming a significant block of greenery. This is a pleasing feature in an otherwise highly urbanised environment. The trees are on private property and therefore their fruit bearing capacity does not form part of their public amenity value.

It may be that the Gloucester Avenue footway is subject to anti-social behaviour but the trees do not contribute to or facilitate this and the behaviour of a few individuals should not be used as a guide to the attitude and enjoyment of an entire community.

The complainant is correct to highlight the fact that the trees both collectively and as a group have substantive value for wildlife; however biodiversity is only a secondary consideration in the assessment of trees for TPOs. The decision to make the order was based on an assessment of their amenity value and does not depend on either their wildlife or historic value.

#### **4.0 Proposed TPO**

The provisional order seeks to protect five individual trees; 1x birch, 2 x apple, 1x plum and 1x ash tree, as set out in the schedule .It is recommended that this order is confirmed in full.

The trees contribute both individually and as a group to the visual amenity of an otherwise highly urban environment. However, given the relatively minor contribution of the plum tree T4 it may be considered appropriate to remove this from the order. This would give greater flexibility in garden management to the owners without significantly compromising the public amenity value of the remaining trees.

## Appendix 1: Detailed Results of Tempo Assessment

CRITERIA	T1: birch		T2: apple		T3: apple		T4: plum		T5: ash	
Condition	1	Poor	3	Fair	3	Fair	3	Fair	3	Fair
Remaining longevity	2	20-40y	1	10-20y	1	10-20y	1	10-20y	2	20-40y
Relative visibility	4	Large, clearly visible	3	Medium, limited view	3	Medium, limited view	2	Small, visible with difficulty	5	Prominent large tree
Other Factors	4	Group member	4	Group member	4	Group member	4	Group member	4	Group member
Expediency	3		3		3		3		3	
<b>TOTAL</b>	<b>14</b>	<b>defensible</b>	<b>14</b>	<b>defensible</b>	<b>14</b>	<b>defensible</b>	<b>13</b>	<b>defensible</b>	<b>17</b>	<b>definite</b>

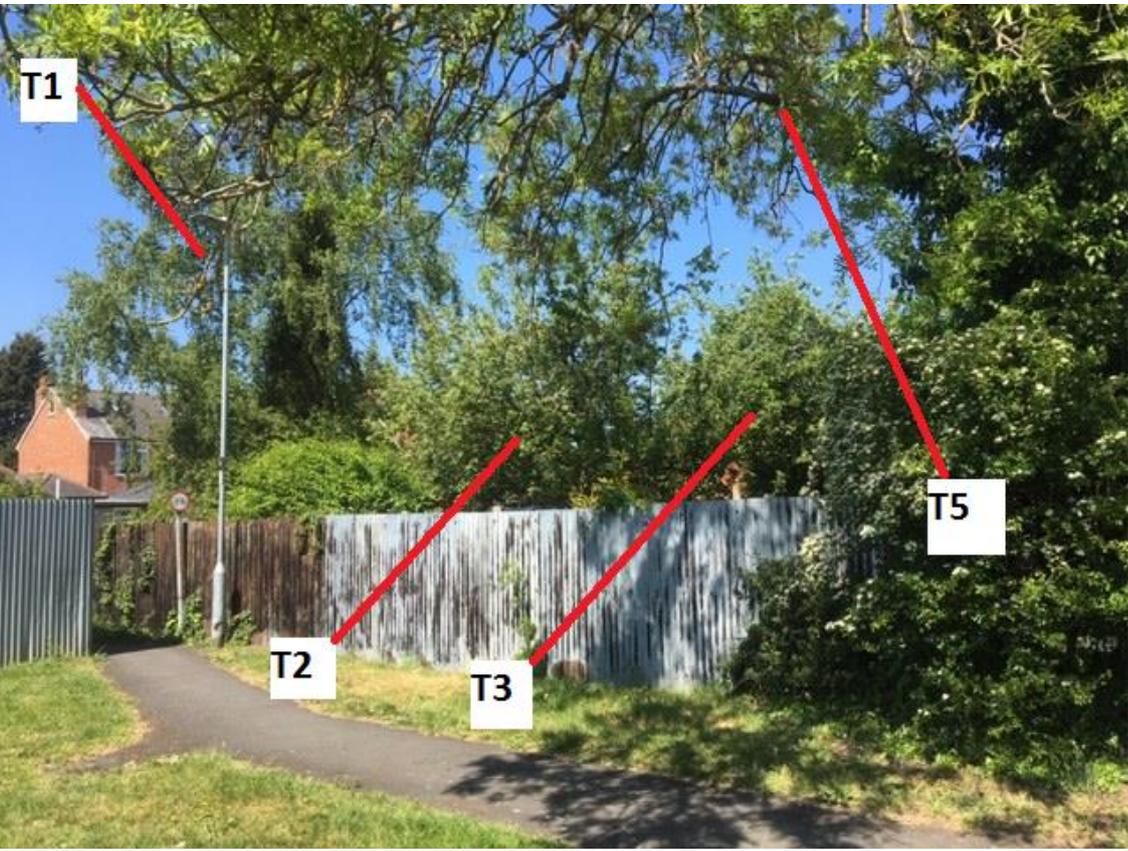
## Appendix 2: Site Photographs

- 1) Aerial image showing the group of 5 trees circled in red.

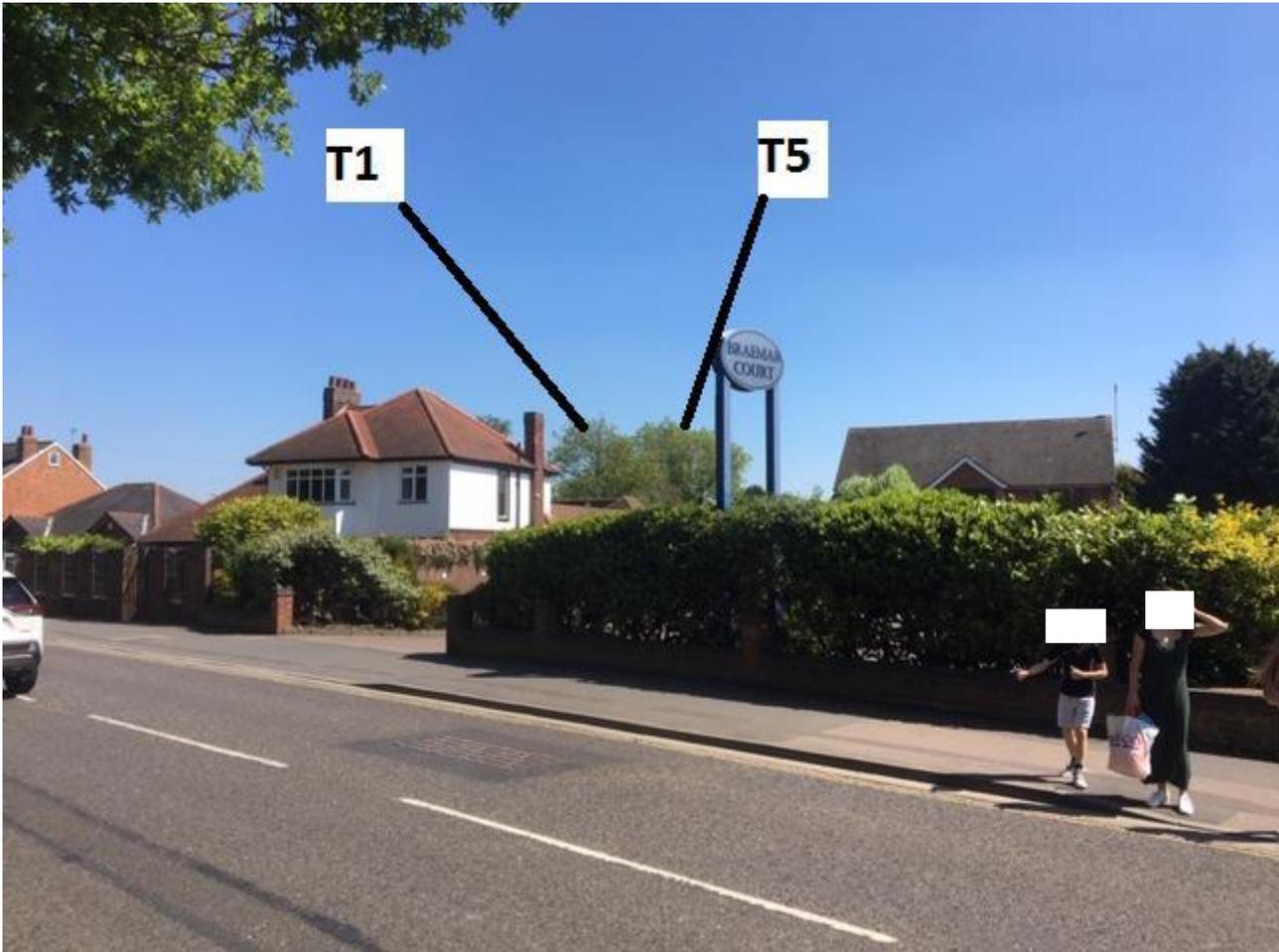




2) View from junction of Melton Road and Gloucester Avenue footway showing T1 and



3) View along the southern garden boundary (Gloucester Avenue) showing Trees T1, T2, T3 and T5



4) View from Melton Road showing T1 and T5

### Appendix 3

Email correspondence between CBC and the complainant from June 2020

NOT PROTECTIVELY MARKED

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Dear Ms Wheeler

Thankyou for your email. This order was made following a planning advice application for the land in which the trees are located. It was made because in our experience trees and other habitat are sometimes removed from development sites as part of the process of preparing a site prior to an application being made. This has the effect of degrading the site whether or not consent is granted and can prevent a proper assessment as part of the application process. In providing planning advice we are required to identify ecological constraints and once we have done so there is clearly an incentive for landowners to remove those constraints prior to making an application. I hope you will understand that this reflects our experience of dealing with planning applications and is not a reflection upon you.

You should be aware that the presence of this order does not affect your ability to apply for planning permission nor the Council's ability to grant permission if it considered appropriate to do so. However does mean that the trees that have been protected by the order can be properly and fully considered as a part of any application you subsequently choose to make.

I visited the site before making the order. All the trees included in the order are clearly visible from public rights of way and contribute to views both along Melton Road and Gloucester Avenue. I used the TEMPO evaluation system to assess the trees in question. This is a standard assessment method used by professional arborists specifically to determine the merits using TPOs to protect trees. It is my view that the trees included in this order merit the protection afforded by a TPO because of their public amenity value and for the reason of expedience.

I would welcome your explanation of why you think the plan is inaccurate

Regards  
Rupert

Rupert Simms Msc AIEEM  
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Planning & Regeneration Service

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**From:** Strong Laura  
**Sent:** 28 May 2020 11:36  
**To:** Simms Rupert  
**Subject:** FW: Ref PT/48 - TPO 1323 Melton Road, Syston, Leics

NOT PROTECTIVELY MARKED

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Hi Rupert

Please could you respond to the below as it is not something I can help with. Copy of letter sent to Mrs Stevenson-Wheeler with the TPO attached for your info (I only have unsealed version of TPO available electronically).

Please cc. me in to your response.

Thanks

Laura

**From:** K Stevenson  
**Sent:** 26 May 2020  
**To:** Strong Laura  
**Cc:** Jonah Mastin  
**Subject:** Ref PT/48 - TPO 1323 Melton Road, Syston, Leics  
**Importance:** High

Good afternoon Laura,

I have received your letter this morning and must admit I'm less than happy about it. I will be objecting to the TPO but in order for me to make a constructive response there seems to be information missing. There is nothing in the letter showing a structured and consistent approach to the initiation of the order. There is no explanation as to why it has been raised or the amenity value of the trees listed? The plan is also incorrect – I assume this is because no-body has actually been to site to carry out a proper survey? It seems to me that this has been a knee jerk reaction done in a hurry in response to my pre-application advise that has also been 'delayed' which I feel has now been explained by the on set of this TPO. Please provide this information to allow me to make a reasonable response with my objections. Thank you in advance of your response

Kind regards  
Katherine Stevenson-Wheeler

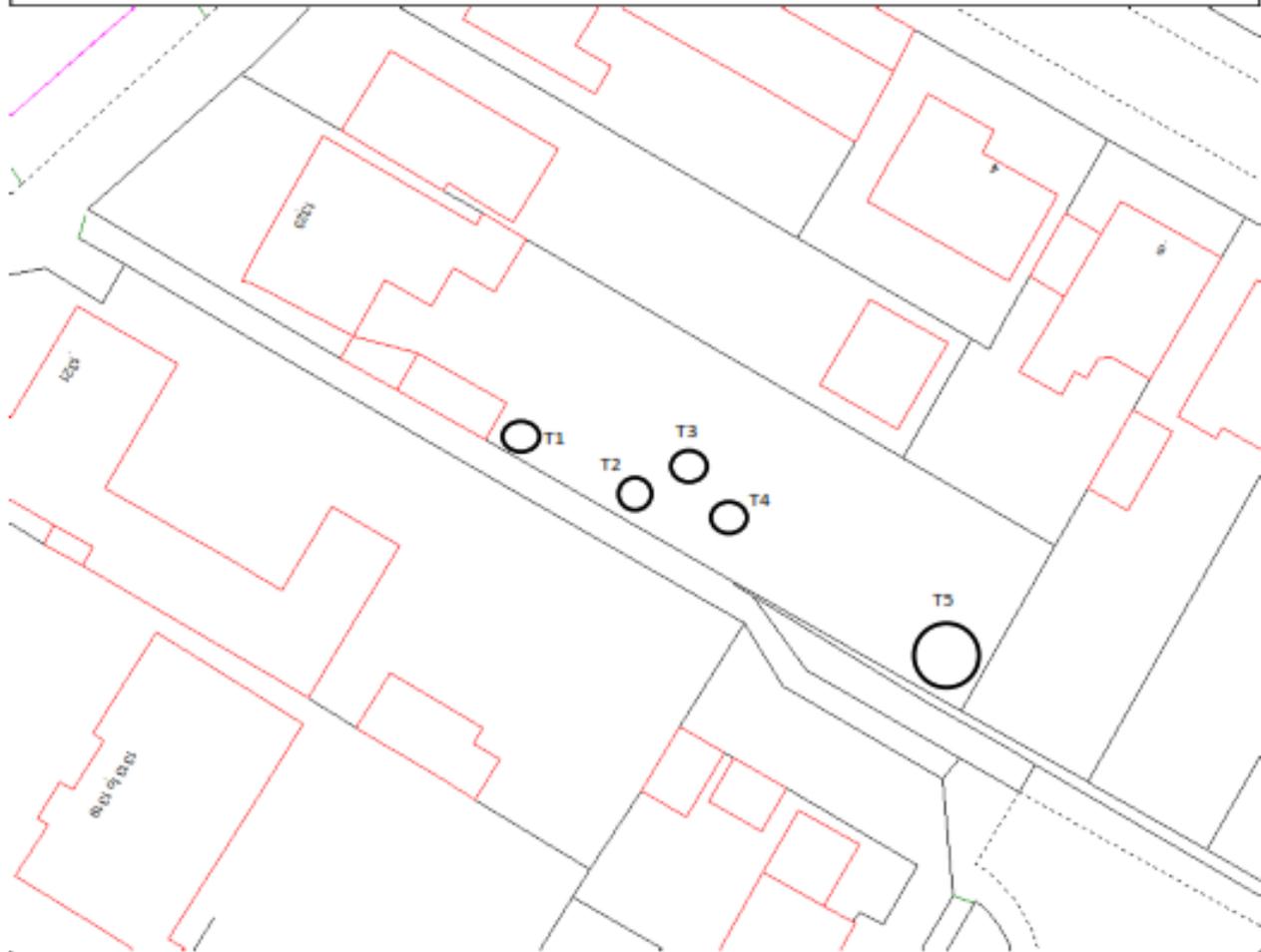
Sent from  or Windows 10

## Appendix 4 Revised TPO plan

I certify this map shows the tree referred to in the first schedule of the  
Borough of Charnwood (1323 Melton Road Syston) Tree Preservation  
Order 2020



Authorised signatory .....



**Borough of Charnwood  
(1323 Melton Road Syston)  
Tree Preservation Order 2020**

R Bennett Dip. TP. MRTPI  
Head of Planning & Regeneration  
Borough of Charnwood  
Southfields  
Loughborough  
Leics. LE11 2TN  
Date: 24th July 2020  
Scale: 1:250  
Prep: RMS

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