

# PLANNING APPLICATION NUMBER:P12/0229

Type of approval sought	Tree Preservation Order
Ward	KINGSWINFORD NORTH & WALLHEATH
Applicant	Mr John Slater
Location:	<b>2A, BERKELEY DRIVE, KINGSWINFORD, DY6 9DX</b>
Proposal	<b>FELL 1 BEECH TREE</b>
Recommendation Summary:	<b>REFUSE</b>

## TREE PRESERVATION ORDER NO: D004 (1960) – W4

### SITE AND SURROUNDINGS

1. The tree subject to this application is a mature Beech tree that is located in the front garden of 2a Berkeley Drive. The tree is a large specimen that is prominent in the street scene and as such it is considered that the tree provides a high amount of amenity to the surrounding area

### PROPOSAL

2. Summary of proposals for the works as written on application form is as follows:
  - Fell one beech tree.
3. The tree has been marked on the attached plan.

### HISTORY

4. There have been five previous Tree Preservation Order applications on this site.

Application No	Proposal	Decision	Date
97/51191	Prune 2 limes, 1 Sycamore and 1 Beech Tree	Approved with conditions	26/09/97
97/51303	Fell 2 Limes, 1 Sycamore and 1 Beech Tree	Refused	02/10/97

98/50027	Fell 2 Limes and 1 Sycamore	Approved with conditions	12/03/98
P10/0763	Prune 1 Beech Tree	Approved with conditions	10/08/10
P11/0568	Fell 1 Beech Tree	Refused	29/06/11

## PUBLIC CONSULTATION

- A petition in support of the application was submitted as part of the application. The petition contained 25 signatures, including the applicant's, from various local residents.
- Since receiving the application we have also received a letter from one of the signatories stating that when they signed the petition they were under the impression that the owner of the tree, Mrs Rogers, was in support of the application. However since then they have learnt that Mrs Rogers does not support the application. They have requested that their signature be removed from the application.
- Letters of support were also sent in from the local MP and a local councillor. Both of these letters stated that they were only happy to support the application subject to appropriate replacement planting.
- A letter of objection has been received from the owner of the tree. The letter objects to the felling of the tree as they believe the reasons for the refusal of the previous application are still valid, and that there may be other solutions to the chimney / flue problem other than the felling tree.
- A copy of all of the letters has been attached to this report.

## ASSESSMENT

### Tree(s) Appraisal

<i>Tree Structure</i>	<b>Tree 1</b>
TPO No	W4
Species	Beech
Height (m)	18
Spread (m)	11
DBH (mm)	1000
Canopy Architecture	Good
Overall Form	Moderate – slightly one sided over road
Age Class	Mature

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#### *Structural Assessment*

Trunk / Root Collar	Good	
Scaffold Limbs	Good	
Secondary Branches	Good	
% Deadwood	5%	
Root Defects	None Evident	
Root Disturbance	New Driveway Laid recently	
Other		
Failure Foreseeable Imm / Likely / Possible / No	Whole No	Part No

#### *Vigour Assessment*

Vascular Defects	None Evident
Foliage Defects	None Evident
Leaf Size	Good
Foliage Density	Good
Other	

#### *Overall Assessment*

Structure	Good
Vigour	Good
Overall Health	Good

#### Other Issues

Light Obstruction	Yes – to neighbouring property
Physical Damage	None Evident
Surface Disruption	Slight deformation of adjacent pavement. Non in recently laid driveway
Debris	Some

#### Amenity Assessment

Visible	Yes
Prominence	High
Part of Wider Feature?	No
Characteristic of Area	Yes
Amenity Value	Very High

#### Further Assessment

10. The applicant, the adjacent neighbour, has proposed to fell the tree as:
- It acts as a windbreak and causes a down draught in the flue to the gas fire, which has resulted in the fire being condemned by British Gas;
  - The tree blocks light from the property requiring artificial lighting to be used;

- The constant mess from pigeons that roost in the tree and the damage to the paint work of the cars parked underneath;
  - The deadwood that falls from the tree has previously damaged vehicles;
  - The tree is causing structural damage to the property;
  - The roots of the tree had damaged the previous driveway.
11. In support of the application the applicant has submitted a petition signed by various local residents; information from the gas engineer relating to the condemning of the gas fire; various photos showing examples of the reasons for the application; information relating to the replacement of the old driveway; a tree report and a chartered building surveyor's report.
12. On inspection the tree was found to be in a good condition with no major defects present. There is evidence of previous surgery on a low limb, that has caused the die back of the remaining stump, but other than this it was considered that the tree is in a good condition of its age, location and stature.
13. In his application and during the site visits Mr Slater has confirmed when he re-laid the previous driveway, and incorporated the previously raised garden area into the driveway, a number of roots were removed from the tree. The impact of these works on the safety of the tree is not obvious; at the time of inspection there did not appear to be any symptoms of root plate movement or any decline in vitality. However the tree will need to be monitored to determine what impact the removal of these roots will have on the condition of the tree.
14. No other defects were observed in the tree that was considered to heighten the chance of significant failure. As such it is not considered that, at present the tree should be felled on the grounds of safety or potential hazard.
15. As no permission was given for the root removal, it would have been in contravention of the order. However as the exact size and location of the roots that have been removed is unclear, it is considered that the tree should be monitored for any decline in condition prior to determining what, if any, enforcement action should be taken in relation to these works.
16. With regards to the condition of the tree and the damage that has been caused by falling branches, it is considered that any damage would have been through the failure of dead branches, and as such could have been avoided by regular dead wooding.



17. Issues to do with debris that falls from the tree, such as bird mess and annual leaf fall, and the work involved in cleaning cars and clearing the gutters, are considered to be part of routine property and therefore such issues are not considered sufficient to warrant the felling of this tree.
18. With regard to the light obstruction to the property, it is accepted that, when in leaf, the tree will obstruct light from the windows in the front elevation, and given the location of the tree it will obstruct general daylight all day, and direct sunlight from early to mid afternoon.
19. It is considered that due to the size and location of the tree there are no pruning works that would be acceptable to the council that would provide any significant improvements to the amount of light that is obstructed from the property when the tree is in leaf. The previous pruning works that were approved would have had some benefit, but the tree would still have obstructed significant amounts of light from the windows on the front elevation of the property.
20. Whilst the tree will obstruct a significant amount of light from the property, it is not considered that this light obstruction would be sufficient to warrant the felling of the tree and the subsequent loss of amenity.
21. It is not considered that the issue of the tree causing structural damage to the property has been sufficiently proven. The chartered building surveyor's report does not identify any structural damage in the house that is attributed to the tree in fact the report states that:

*'An inspection of the front elevation of the property revealed that the main walls showed **no signs of any significant movement**, although some fine hairline cracking of not more than 2mm width was noted to brickwork near to the front right hand corner of the main wall. The extent of the cracking was low grade and **could be attributable to the normal thermal and moisture type movement of the building...**' (emphasis added by case officer)*

22. The report does go on to conclude that the tree will cause structural damage to the property, but does not explain by what mechanism this damage is likely to be caused other than the proximity of the tree and the future growth of. As with the previous application it is not considered that the report sufficiently implicates the tree in any damage, and as such it is not considered that the tree should be felled on the grounds of structural damage.

23. With regard to the damage to the driveway, the damage referred to in the report relates to the previous driveway, and not the new block paved driveway. On inspection no damage was observed to the new driveway, and given the claim that a number of roots were removed during installation, it is considered that the chances of future damage may be minimised. It is certainly not considered that given the type of driveway and the relative ease of repair, that the tree should be felled in order to prevent damage that may not occur. Even if damage does eventually occur, it is considered that the amenity value of the tree may outweigh the incidence of damage; however this would need to be assessed at the time.
24. It is considered that the problems associated with the flue are likely caused by the tree. The gas engineer has described the problem as down draught. It should be noted that the down-draught issue only affects the flue for the gas fire and not the central heating system which is served by another flue.
25. Down draught is caused when either a large tree or a taller building is situated in between the flue and the prevailing wind. When the wind blows, as the wind cannot pass through the tree there is a lower pressure area directly behind the tree or building which causes the wind that has passed over the top of the tree to be drawn downwards towards the flue, thus reducing the draw of the chimney until the combusted gasses cannot escape the flue. This then causes a build up of the gasses which can be returned into the property.
26. This is obviously a significant problem and could have catastrophic consequences if not addressed. However there are various solutions that are available, and given the amenity value of the tree it is considered that before the tree is allowed to be felled for these reasons all practicable alternatives should be seriously investigated and should be shown not to be a viable solution.
27. Having carried out some research into down draught problems, there are various options that would allow the retention of the gas fire, whilst preventing down draught. The most cost effective of these would be to install an anti down-draught cowl on top of the chimney. These cowls are designed to maintain the draw of the chimney against down-draught. There are also other solutions available such as the installation of a automatic chimney fan, or the installation of an electric fire.
28. The applicant has stated that the installation of an electric fire would not be appropriate; as if he ever sold his property there would be nothing to prevent the new owner from installing a gas fire. It is considered that as there would be an opportunity during the sale of property to bring this to the attention of any perspective purchaser, they would be unlikely to install a gas fire.

29. Given the high amenity value of the tree it is considered that permission should not be granted to fell the tree until evidence has been submitted to show that the alternative solutions are not viable.
30. Overall it is not considered that sufficient justification has been provided to warrant the felling of the tree or the detrimental impact that would result from the felling. It is therefore recommended that the application is refused.

## CONCLUSION

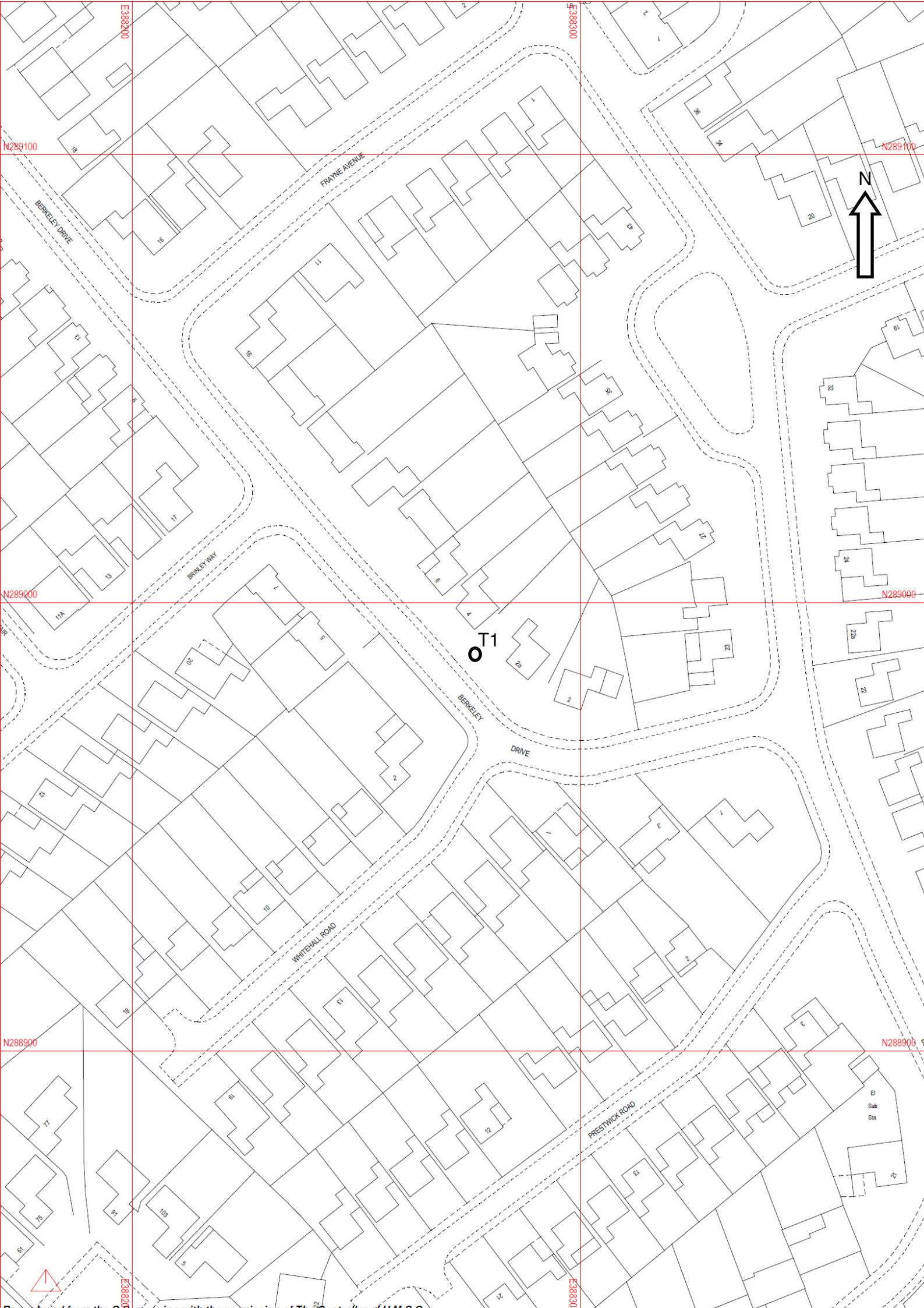
31. The applicant has submitted the application to fell as they consider that the tree is causing down-draught problems to the flue of the gas fire; causing structural to the property; had damaged a previous driveway; the tree has dropped deadwood and damaged cars and the bird mess from the cars is causing damage to the paintwork of the cars.
32. Having considered all of the reasons for the application and the supporting information submitted it is not considered that the reasons sufficiently justify the detrimental impact on the amenity of the area that would result from the felling of the tree.
33. As such it is recommended that the application is refused.

## RECOMMENDATION

34. It is recommended that application is refused subject for the stated reasons.

### Conditions and/or reasons:

1. The tree in question provides high amount of amenity to the users of Berkeley Drive and surrounding area. It is not considered that the reasons for the felling sufficiently justify the loss of public amenity that would result from the felling.





FIRST SCHEDULE

NOTE: All the trees, groups of trees, and woodlands, described in this schedule are situate in Brierley Hill Urban District. All plot numbers referred to are Ordnance Survey plot numbers on 25 inch sheets Staffordshire LXVII.13 Revision of 1937 and Staffordshire LXXI.I. Revision of 1938.

TREES SPECIFIED INDIVIDUALLY  
(encircled in black on the Map.)

No. on Map	Description	Situation
T1	Oak	In Plot No. 201
T2	Sycamore	ditto.
T3	Sycamore	ditto.
T4	Sycamore	On boundary between Plot Nos. 204 and 205
T5	Oak	On boundary between Plot Nos. 162 and 198
T6	Sycamore	In Plot No. 198
T7	Horse chestnut	In Plot No. 201
T8	Sycamore	In Plot No. 214
T9	Thorn	In Plot No. 215
T10	Beech	ditto.
T11	Elm	On boundary between Plot Nos. 196 and 197
T12	Elm	ditto.
T13	Elm	On boundary between Plot Nos. 165 and 196
T14	Elm	ditto.
T15	Elm	ditto.
T16	Elm	ditto.
T17	Elm	ditto.
T18	Elm	ditto.
T19	Elm	ditto.
T20	Elm	On boundary between Plot Nos. 196 and 218
T21	Elm	ditto.
T22	Sycamore	In Plot No. 218
T23	Oak	On boundary between Plot Nos. 196 and 217
T24	Oak	On boundary between Plot Nos. 218 and 721
T25m	Ash	ditto.
T26	Scots pine	ditto.
T27	Manna ash	ditto.
T28	Oak	ditto.
T29	Scots pine	ditto.
T30	Oak	On boundary between Plot Nos. 721 and 723
T31	Golden weeping willow	In Plot No. 721
T32	Manna ash	ditto.
T33	Oak	On boundary between Plot Nos. 217 and 724
T34m	Bird cherry	In Plot No. 723
T35	Scots pine	On boundary between Plot Nos. 723 and 724
T36	Scots pine	ditto.
T37	Crab apple	ditto.
T38	Scots pine	ditto.
T39	Scots pine	ditto.
T40	Copper beech	In Plot No. 723
T41	Horse chestnut	On boundary between Plot Nos. 725 and 726
T42	Robinia	In Plot No. 726
T43	Thorn	ditto.
T44	Robinia	ditto.
T45	Thorn	ditto.
T46	Horse chestnut	ditto.
T47	Robinia	ditto.
T48	Sequoia	ditto.
T49	Silver fir	ditto.
T50	Deodar	ditto.
T51	Elm	ditto.
T52	Walnut	ditto.
T53	Elm	In Plot No. 727



TREES SPECIFIED BY REFERENCE TO AN AREA  
(within a dotted black line on the Map.)

No. on Map	Description	Situation
----- N O N E -----		

GROUPS OF TREES  
(within a broken black line in the Map.)

No. on Map	Description	Situation
G1	Group consisting of 3 Norway maple, variety schwedleri	In Plot No. 723

WOODLANDS  
(within a continuous black line on the Map.)

No. on Map	Description	Situation
W1	Young mixed plantation consisting mainly of sycamore, Norway maple, black poplar, Japanese larch and Scots pine	Plot No. 165 (part)
W2	Young broadleaved plantation consisting mainly of sycamore, birch, alder and copper beech	Plot No. 195 (part)
W3	Young mixed plantation consisting mainly of sycamore, purple sycamore, red oak, black poplar, birch, alder and Japanese larch	Plot Nos. 196 (part) and 197 (part)
W4	Broadleaved woodland consisting mainly of sycamore, some elm, willow, alder, birch, robinia and a few walnut, cherry, pear and apple	Plot Nos. 215 (part) 216 (part) and 217 (part)
W5	Oak woodland	Plot No. 724 (part)
W6	Young plantation of Scots pine, and birch, with some balsam poplar, sycamore, horse chestnut and purple beech	Plot Nos. 218 (part) and 721
W7	Young mixed plantation of forest trees, ornamental trees and shrubs including birch, horse chestnut, sweet chestnut, hornbeam, mountain ash, whitebeam, other <i>Sorbus</i> species, <i>Malus</i> in variety, <i>Prunus</i> in variety, thorns in variety, <i>Crataegus</i> <i>Carrierei</i> , <i>Catalpa</i> , <i>Acer negundo</i> , Japanese maples in variety, Scots pine, yew, holly, <del><i>Berberis</i> in variety, <i>Buddleia</i> in variety, <i>Viburnum</i> in variety,</del> <i>Cotoneaster</i> in variety, <del><i>Cornus</i> in variety,</del> <i>Pyracantha</i> and cypresses in variety.	Plot Nos. 721 (part) 722 (part) and 723 (part)

STAFFORDSHIRE COUNTY COUNCIL

**BRIERLEY HILL URBAN DISTRICT  
TREE PRESERVATION ORDER NO. 3 1960**

ORDNANCE SHEETS— STAFFORDSHIRE LXVII.13 REVISION OF 1937  
STAFFORDSHIRE LXXI.1 REVISION OF 1938



SCALE: 1/2500

