

**DEVELOPMENT CONTROL COMMITTEE**

**REPORT OF THE STRATEGIC DIRECTOR OF PLACE**

**CONFIRMATION OF TREE PRESERVATION ORDERS**

**Purpose**

1. To consider whether or not the below Tree Preservation Order(s) should be confirmed with or without modification in light of the objections that have been received.

**Recommendations**

2. It is recommended that:-
  - The tree preservation orders referred to in the Appendix to this report should be confirmed.

**Background**

3. Section 198 of the Town and Country Planning Act 1990, provides that, where it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.
4. A tree preservation order may, in particular, make provision—
  - (a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping, uprooting, willful damage or willful destruction of trees except with the consent of the local planning authority, and for enabling that authority to give their consent subject to conditions;
  - (b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;
  - (c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of this Act mentioned in subsection (4), subject to such adaptations and modifications as may be specified in the order.

5. Section 4 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 allows the Council to make a direction that the order shall take effect immediately for a provisional period of no more than six months.
6. For a tree preservation order to become permanent, it must be confirmed by the local planning authority. At the time of confirmation, any objections that have been received must be taken into account. The Town and Country Planning (Tree Preservation) (England) Regulations 2012 sets out the procedure for confirming tree preservation orders and dealing with objections.
7. If the decision is made to confirm a tree preservation order the local planning authority may choose to confirm the order as it is presented or subject to modifications.
8. New tree preservation orders are served when trees are identified as having an amenity value that is of benefit to the wider area.
9. When determining whether a tree has sufficient amenity to warrant the service of a preservation order it is the council's procedure to use a systematic scoring system in order to ensure consistency across the borough. In considering the amenity value of a tree factors such as the size; age; condition; shape and form; rarity; prominence; screening value and the presence of other trees present in the area are considered.
10. As the council is currently undergoing a systematic review of the borough's tree preservation orders, orders will also be served where there is a logistical or procedural benefit for doing so. Often with the older order throughout the borough, new orders are required to replace older order to regularise the levels of protection afforded to trees.
11. Where new orders are served to replace older orders, the older orders will generally need to be revoked. Any proposed revocation of orders shall be brought before the committee under a separate report.

## **Finance**

12. There are no direct financial consequences arising from this report although the Committee may wish to bear in mind that the refusal or approval subject to conditions, of any subsequent applications may entitle the applicant to compensation for any loss or damage resulting from the Council's decision (Section 203 of the Town and Country Planning Act 1990)

## **Law**

13. The relevant statutory provisions have been referred to in paragraph 3, 5, 6 and 11 of this report.

## **Equality Impact**

14. The proposals take into account the Council's Equality and Diversity Policy.

## **Human Resources/Transformation**

12. There are no Human Resource / Transformation issues



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STRATEGIC DIRECTOR OF PLACE

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## **List of Background Papers**

Appendix 1.1 – TPO/0252/COS – Confirmation Report  
Appendix 1.2 – TPO Plan and Schedule as served;  
Appendix 1.3 – Plan identifying objectors;

Appendix 2.1 – TPO/0254/NOR – Confirmation Report;  
Appendix 2.2 – TPO Plan and Schedule as served;  
Appendix 2.3 – Plan identifying objectors.

Appendix 3.1 – TPO/0255/AMB – Confirmation Report;  
Appendix 3.2 – TPO Plan and Schedule as served;  
Appendix 3.3 – Plan identifying objectors.  
Appendix 3.4 – TPO Plan and Schedule for confirmation.

Appendix 4.1 – TPO/0257/WOR – Confirmation Report;  
Appendix 4.2 – TPO Plan and Schedule as served;  
Appendix 4.3 – Plan identifying objectors.

Appendix 5.1 – TPO/0258/UGW – Confirmation Report;  
Appendix 5.2 – TPO Plan and Schedule as served;  
Appendix 5.3 – Plan identifying objectors.  
Appendix 5.4 – TPO Plan and Schedule for confirmation.

Appendix 6.1 – TPO/0260/WST – Confirmation Report;  
Appendix 6.2 – TPO Plan and Schedule as served;  
Appendix 6.3 – Plan identifying objectors.  
Appendix 6.4 – TPO Plan and Schedule for confirmation.

***APPENDIX 1.1***

***Confirmation Report for***

***The Borough of Dudley (Gough Road and Legge Lane, Coseley) (TPO/252/COS))  
Tree Preservation Order 2018***

Tree Preservation Order

Order Title

Case officer

Date Served

Recommendation

TPO/0252/COS
Gough Road and Legge Lane, Coseley
James Dunn
11/05/18
Confirm

## SITE AND SURROUNDINGS

1. The order protects 55 individual lime trees, 3 individual ash trees, 2 individual sycamore trees a holly tree and a birch tree that are located within and around the boundary of the Graveyard and Legge Lane. There are also two woodland orders that protect the trees between the industrial premises on Webb Street and the houses / graveyard on Legge Lane and Gough Road.
2. The lime trees subject to the order form a formal linear feature that runs around the boundary of the graveyard, as such these trees are very highly prominent in the area.
3. The trees in the Graveyard, are visible from within the graveyard, and from Legge lane and Gough Road. The trees within the wooded areas are visible above the houses in Gough Road and Legge Lane, as well as from within the graveyard.
4. The trees were assessed as part of a review of previous Tree Preservation Orders that covered trees in the area. This review resulted in this TPO, along with a number of other orders being served.
5. The trees were assessed using the TEMPO amenity assessment system and were considered to provide public amenity to the local area. The TEMPO system assesses trees on the criteria of:
  - Condition – the condition of the tree in relation to its existing context;
  - Retention Span – How long the trees are likely to be retained with reasonable management;
  - Public Visibility;
  - Other factors – Whether a member of a formal feature, or trees with historical significance etc.;
  - Expediency – whether there is a known, foreseeable or perceived threat to the trees.
6. The trees subject to the order scored between 12 and 17 on the TEMPO assessment therefore deeming them worthy of inclusion within the TPO.

## **PUBLIC REPRESENTATIONS**

7. Following the service of the TPO, an objection was received from the Reverend of the local church who own the graveyard, and from the owner of a neighbouring property.
8. The objections were based on the below points:
  - The trees require pruning due to obstruction of the foot path and the overhang over the highway;
  - The trees are growing close to the property at 30 Legge Lane, and are blocking light.
  - The trees are surrounding 30 Legge lane, and are causing damage to the house garage, car and fence.
9. The responses are considered in turn below.

## **RESPONSE TO OBJECTIONS**

10. Following the receipt of the objection form the church, a meeting was undertaken to discuss the objections with Reverend Stanford. At this meeting it was confirmed that due to requirements under the highways act pruning to provide a 2.5 metres clearance above the pavement, and a 5.5 metre clearance above the carriageway could be undertaken without the need for a formal application as such works are exempt under the 'Statutory Obligations' exemption within the TPO. A number of other works were also discussed, including potential works to T66 close to the boundary with 30 Legge Lane, such works would require a formal application, and however, it was considered that the proposed works were likely to be considered acceptable. Following our discussions, the Reverend's objection were largely satisfied.
11. With regard to the objection from 30 Legge Lane about the impact of the adjacent trees, only one of the trees subject to this order currently overhangs the boundary, and this is located close to the front boundary. From looking at the tree it is considered that some pruning works could be undertaken to reduce the overhang over the property, however it is not considered that the trees subject to this order are causing sufficient problem to prevent their inclusion within the TPO. As such, it is not considered that the TPO should be amended on the grounds of this objection.
12. There were some trees located up the side boundary of 30 Legge Lane, which are still protected by the old TPO, and could be causing more problems with the property. However these have not been included within this new TPO and therefore, they should not have an impact on the confirmation of this order. It is

considered that subject to an application the removal of these trees at the side of 30 Legge Lane, is likely to be considered acceptable.

13. Overall, it is not considered that the submitted objections should be sufficient to prevent the confirmation of the order.

## **CONCLUSION**

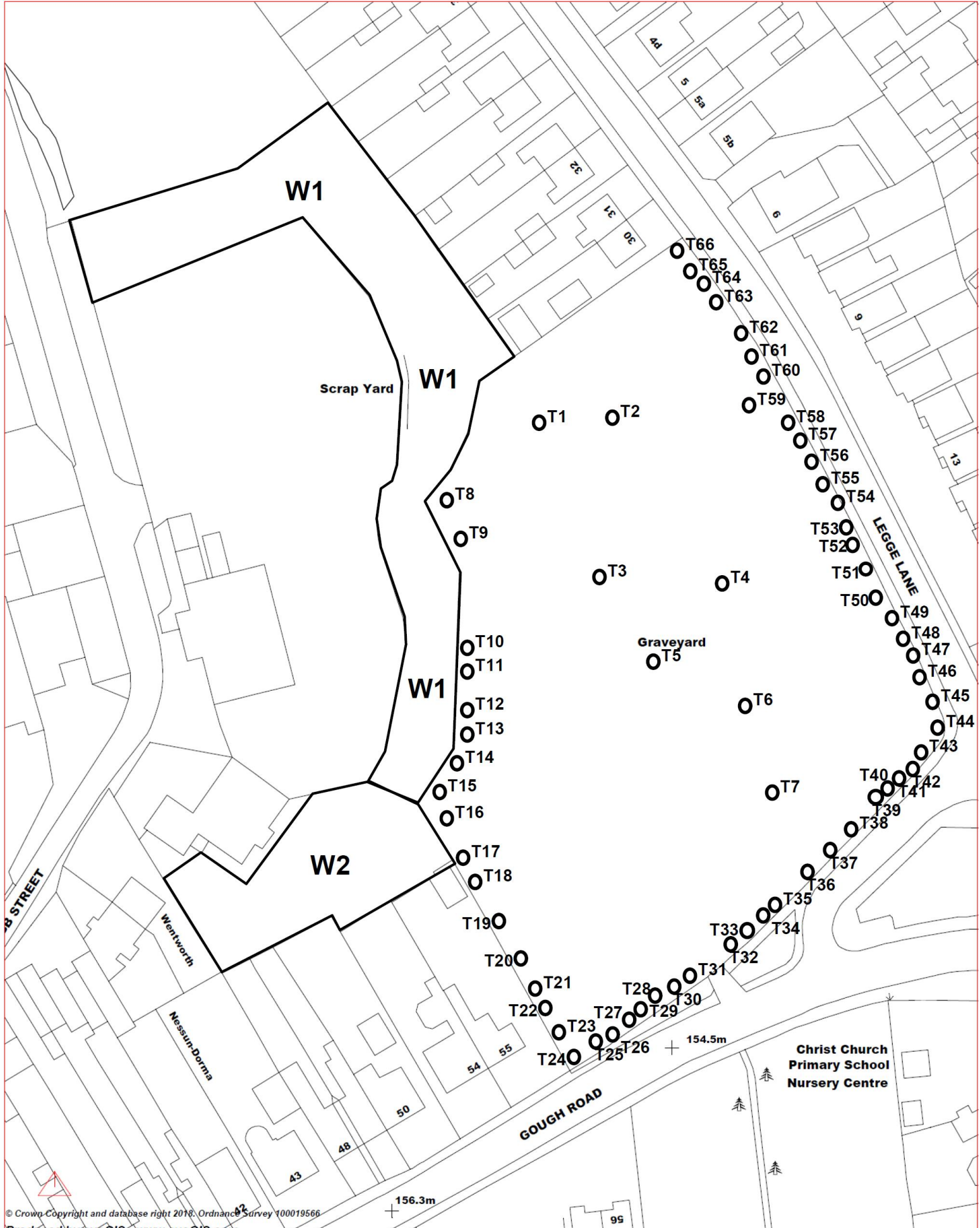
14. Having considered the objections raised to the order, it is not considered they have provided sufficient reason to prevent the confirmation of the order. As such, it is considered that the order should be confirmed without modification.

## **RECOMMENDATION**

15. It is recommended that the Tree Preservation Order be confirmed without modification.

## ***APPENDIX 1.2***

### ***Tree Preservation Order Plan and Schedule As Served***



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Map referred to in the Borough Council of Dudley

Gough Road and Legge Lane, Coseley (TPO/0252/COS)

Scale: 1 : 900

Tree Preservation Order 2018

# SCHEDULE

## Specification of trees

**Trees specified individually**  
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Sycamore	Graveyard corner of Legge Lane and Gough Road
T2	Birch	Graveyard corner of Legge Lane and Gough Road
T3	Sycamore	Graveyard corner of Legge Lane and Gough Road
T4	Ash	Graveyard corner of Legge Lane and Gough Road
T5	Weeping Ash	Graveyard corner of Legge Lane and Gough Road
T6	Ash	Graveyard corner of Legge Lane and Gough Road
T7	Birch	Graveyard corner of Legge Lane and Gough Road
T8	Lime	Graveyard corner of Legge Lane and Gough Road
T9	Lime	Graveyard corner of Legge Lane and Gough Road
T10	Lime	Graveyard corner of Legge Lane and Gough Road
T11	Lime	Graveyard corner of Legge Lane and Gough Road
T12	Lime	Graveyard corner of Legge Lane and Gough Road
T13	Lime	Graveyard corner of Legge Lane and Gough Road
T14	Lime	Graveyard corner of Legge Lane and Gough Road
T15	Lime	Graveyard corner of Legge Lane and Gough Road

T16	Lime	Road Graveyard corner of Legge Lane and Gough Road
T17	Lime	Graveyard corner of Legge Lane and Gough Road
T18	Lime	Graveyard corner of Legge Lane and Gough Road
T19	Lime	Graveyard corner of Legge Lane and Gough Road
T20	Lime	Graveyard corner of Legge Lane and Gough Road
T21	Lime	Graveyard corner of Legge Lane and Gough Road
T22	Lime	Graveyard corner of Legge Lane and Gough Road
T23	Lime	Graveyard corner of Legge Lane and Gough Road
T24	Lime	Graveyard corner of Legge Lane and Gough Road
T25	Lime	Graveyard corner of Legge Lane and Gough Road
T26	Lime	Graveyard corner of Legge Lane and Gough Road
T27	Lime	Graveyard corner of Legge Lane and Gough Road
T28	Lime	Graveyard corner of Legge Lane and Gough Road
T29	Lime	Graveyard corner of Legge Lane and Gough Road
T30	Lime	Graveyard corner of Legge Lane and Gough Road
T31	Lime	Graveyard corner of Legge Lane and Gough Road
T32	Lime	Graveyard corner of Legge Lane and Gough Road
T33	Lime	Graveyard corner of Legge Lane and Gough

T34	Lime	Road Graveyard corner of Legge Lane and Gough Road
T35	Lime	Graveyard corner of Legge Lane and Gough Road
T36	Lime	Graveyard corner of Legge Lane and Gough Road
T37	Lime	Graveyard corner of Legge Lane and Gough Road
T38	Lime	Graveyard corner of Legge Lane and Gough Road
T39	Lime	Graveyard corner of Legge Lane and Gough Road
T40	Lime	Graveyard corner of Legge Lane and Gough Road
T41	Lime	Graveyard corner of Legge Lane and Gough Road
T42	Lime	Graveyard corner of Legge Lane and Gough Road
T43	Lime	Graveyard corner of Legge Lane and Gough Road
T44	Lime	Graveyard corner of Legge Lane and Gough Road
T45	Lime	Graveyard corner of Legge Lane and Gough Road
T46	Lime	Graveyard corner of Legge Lane and Gough Road
T47	Lime	Graveyard corner of Legge Lane and Gough Road
T48	Lime	Graveyard corner of Legge Lane and Gough Road
T49	Lime	Graveyard corner of Legge Lane and Gough Road
T50	Lime	Graveyard corner of Legge Lane and Gough Road
T51	Lime	Graveyard corner of Legge Lane and Gough

T52	Lime	Road Graveyard corner of Legge Lane and Gough Road
T53	Lime	Graveyard corner of Legge Lane and Gough Road
T54	Lime	Graveyard corner of Legge Lane and Gough Road
T55	Lime	Graveyard corner of Legge Lane and Gough Road
T56	Lime	Graveyard corner of Legge Lane and Gough Road
T57	Lime	Graveyard corner of Legge Lane and Gough Road
T58	Lime	Graveyard corner of Legge Lane and Gough Road
T59	Holly	Graveyard corner of Legge Lane and Gough Road
T60	Lime	Graveyard corner of Legge Lane and Gough Road
T61	Lime	Graveyard corner of Legge Lane and Gough Road
T62	Lime	Graveyard corner of Legge Lane and Gough Road
T63	Lime	Graveyard corner of Legge Lane and Gough Road
T64	Lime	Graveyard corner of Legge Lane and Gough Road
T65	Lime	Graveyard corner of Legge Lane and Gough Road
T66	Lime	Graveyard corner of Legge Lane and Gough Road

**Trees specified by reference to an area**  
(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

**Groups of trees**

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

**Woodlands**

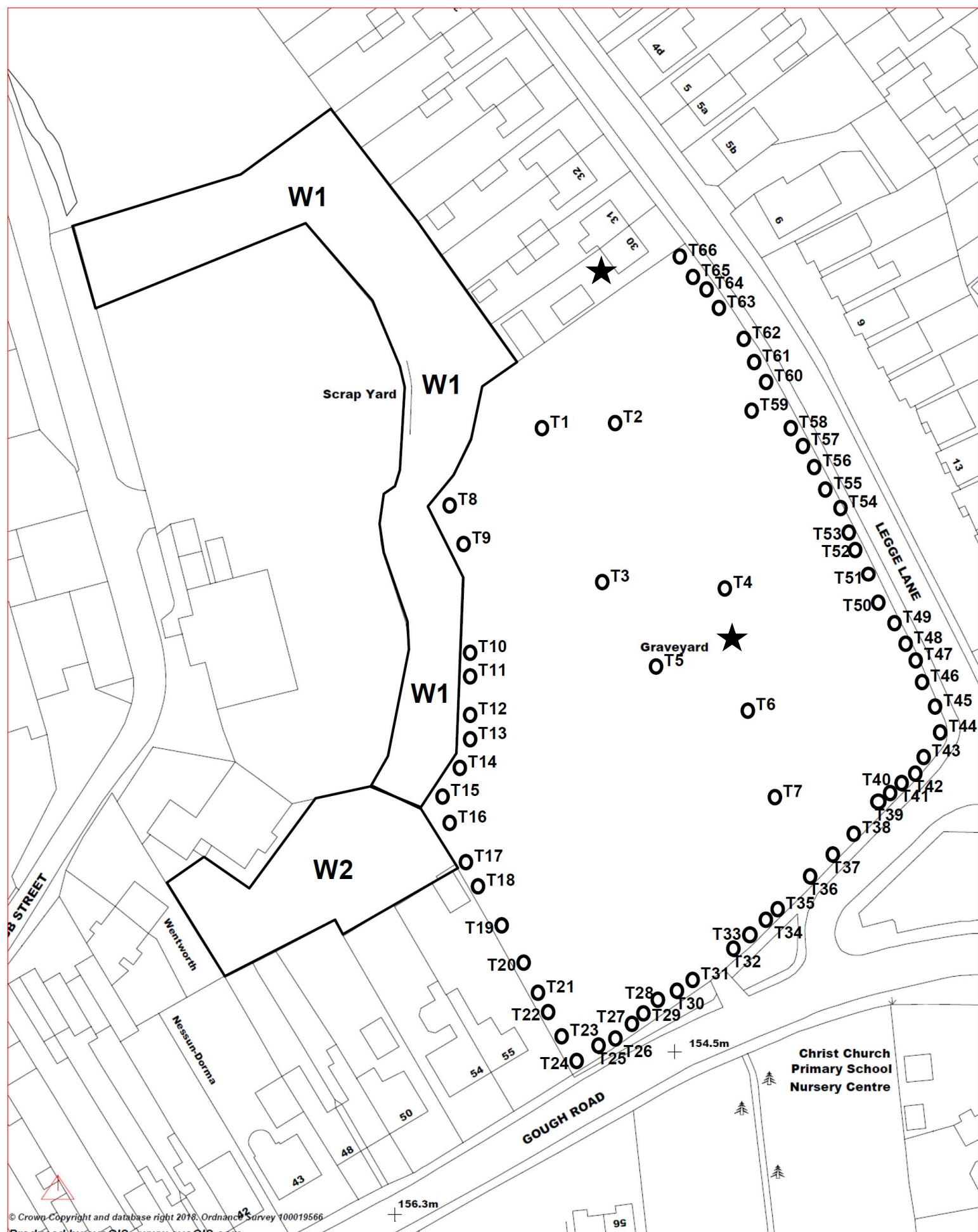
(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Mainly Sycamore and Hawthorn	Wades of Wednesbury Ltd Webb Street
W2	Sycamore Woodland	Secure Fastners (Ltd) Webb Street

### ***APPENDIX 1.3***

#### ***Plan Identifying Objectors Properties***

**★ - *Objection Received from Property***



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Map referred to in the Borough Council of Dudley

Gough Road and Legge Lane, Coseley (TPO/0252/COS)

Scale: 1 : 900

Tree Preservation Order 2018

## ***APPENDIX 2.1***

### ***Confirmation Report for***

***The Borough of Dudley (Love Lane / Yarnborough Hill / Melrose Avenue,  
Oldswinford No.2 (TPO/0254/NOR)) Tree Preservation Order 2018***

Tree Preservation Order

Order Title

Case officer

Date Served

Recommendation

TPO/0254/NOR
Love Lane / Yarnborough Hill / Melrose Avenue, Oldswinford No. 2
James Dunn
10/05/18
Confirm

## SITE AND SURROUNDINGS

1. This order protects a number of trees along the frontage of 36 – 44 Love Lane, two trees on the open corner plot on Yarnborough Hill, and a large pine and sycamore tree in the rear garden of 10 Melrose Avenue.
2. The trees are all public visible from surrounding public highways. A number of the trees are also visible from the Bigmore playing field that is directly to the west of Yarnborough Hill. In particular the large pine and sycamore in 10 Melrose Avenue, are considered to make a significant contribution to the wider vistas in the area.
3. The trees were identified for protection during a review of an old order that dated from 1976, prior to the construction of the current houses. Given the age of the original order, and the changes in the local landscape since then it was considered appropriate to review the order.
4. The review of this original order had first been undertaken in 2016, however, a provisional order served at that time did not get confirmed within the 6 month period and as such it lapsed. Therefore it was considered appropriate to re-serve a fresh order to allow review of the area opt be completed.
5. The trees were assessed using the TEMPO amenity assessment system and were considered to provide public amenity to the local area. The TEMPO system assesses trees on the criteria of:
  - Condition – the condition of the tree in relation to its existing context;
  - Retention Span – How long the trees are likely to be retained with reasonable management;
  - Public Visibility;
  - Other factors – Whether a member of a formal feature, or trees with historical significance etc.;
  - Expediency – whether there is a known, foreseeable or perceived threat to the trees.
6. The trees subject to the order scored between 12 and 16 on the TEMPO assessment therefore deeming them worthy of inclusion within the TPO.

## **PUBLIC REPRESENTATIONS**

7. Following service of the order objections were received from the owner of 25 Yarnborough Hill, and on behalf of the owner of the open area of land located on the corner between 5 and 9 Yarnborough Hill
8. The objections were based on the below points:
  - The owner of 25 Yarnborough Hill, is concerned about the proximity of T10 and T11 to their property. They have concerns regarding the potential damage that could happen if the trees were to fail.
  - The branches of T10 are growing in close proximity to the roof of 25 Yarnborough Hill and could cause damage if there were some branch failure.
  - The objection submitted on behalf of the piece of land between 5 and 9 Yarnborough Hill contends that T8 of the order does not provide sufficient amenity value to warrant inclusion within the order.
  - There is a general objection to having two orders covering the same trees, as this may cause issues due to the overlap between the orders. The objector considers it appropriate to revoke the original order at the same time as confirming the new order.
9. The responses to the objections are considered in turn below.

## **RESPONSE TO OBJECTIONS**

10. Following receipt of the objection to the inclusion of T10 and T11 in the order from the owner of 25 Yarnborough Hill, a visit was undertaken to view the trees from the property. It was noted that there was some overhang above the adjacent roof, and that given the proximity of the trees, should the fall onto their property there would be significant potential for damage. However, it was also noted that both trees appeared to be in good health with no obvious defects visible from the garden of 25 Yarnborough Hill.
11. Regardless of the protection under the TPO, the tree owner still has a duty of care to take reasonable steps to prevent reasonable foreseeable damage by the trees. If the trees are protected, under TPO this duty remains and should the trees develop any defects that require addressing to keep the trees in an acceptable condition, the TPO allows for such works either through an application or under exemption should it be necessary for urgent works.
12. It is accepted that the trees, and in particular the sycamore, are large and overbearing in relation to the adjacent property, however it is considered that this impact on the property is justified by virtue of the amenity value that the trees provide to the wider area.

13. Overall, it is not considered that either T10 or T11 should be removed from the order due to the objections raised.
14. T8 is a relatively small, young fastigate hornbeam tree, located on the open corner plot of land close to the boundary with 5 Yarnborough Hill. The tree is prominently visible for a good amount of Yarnborough Hill, being located on close to the back of pavement.
15. As per the government guidance, the Council uses the TEMPO assessment system to assess trees considered worthy of protection under TPO. This tree was assessed and scored 13 points, placing it in the “TPO Defensible” category.
16. In response to the objection, the tree was re assessed using the TEMPO system, with the same score.
17. The TEMPO system scores trees on their condition, remaining longevity, their public visibility, “other factors” and the expediency for protection under the TPO. Tree 8 scored the following points:

<b>Tempo Category</b>	<b>T8 Score</b>	<b>TEMPO definition from guidance notes / Assessment Sheet</b>
Condition	5 (Good)	Trees that are generally free of defects, showing good health and likely to reach normal longevity and size for species, or they may already have done so
Retention Span	4 (40 – 100 years)	Hornbeam are suggested to have a 150 - 200 year life expectancy.
Relative Public Visibility	2	Young, small or medium / large trees visible with difficulty
Other factors	1	No other factors
Expediency	1	Precautionary Only

18. As such, whilst accepting that the T8 does not provide the same degree of public amenity as larger and more prominent trees such as the large Sycamore (T10) subject to this order, it is considered that the tree provides sufficient amenity value, as demonstrated by use of the TEMPO system to be worthy of the inclusion within a TPO.
19. With relation to the issues regarding the two orders being in place concurrently on the same trees, whilst it is noted that there may some slight potential to confusion as to the effect of the previous order etc. it is not considered that this confusion is likely to lead to any fundamental issues.
20. Generally it is considered that it would not necessarily be require to revoke the old order at the same time as confirming the new orders, especially where the original

order covers a wider area than the new order, or there are multiple new orders protecting the trees that were subject to the original order.

21. However in this case, the entirety of the area covered by the old order was has been reviewed and any trees not covered by the new order are not considered to provide sufficient public amenity to warrant their continued protection. As such it is considered that in this instance that the original order could be revoke in parallel with the confirmation of the new order.
22. Overall, having considered the objections received it is not considered that the objections that have been received are sufficient to prevent the confirmation of the order.

## **CONCLUSION**

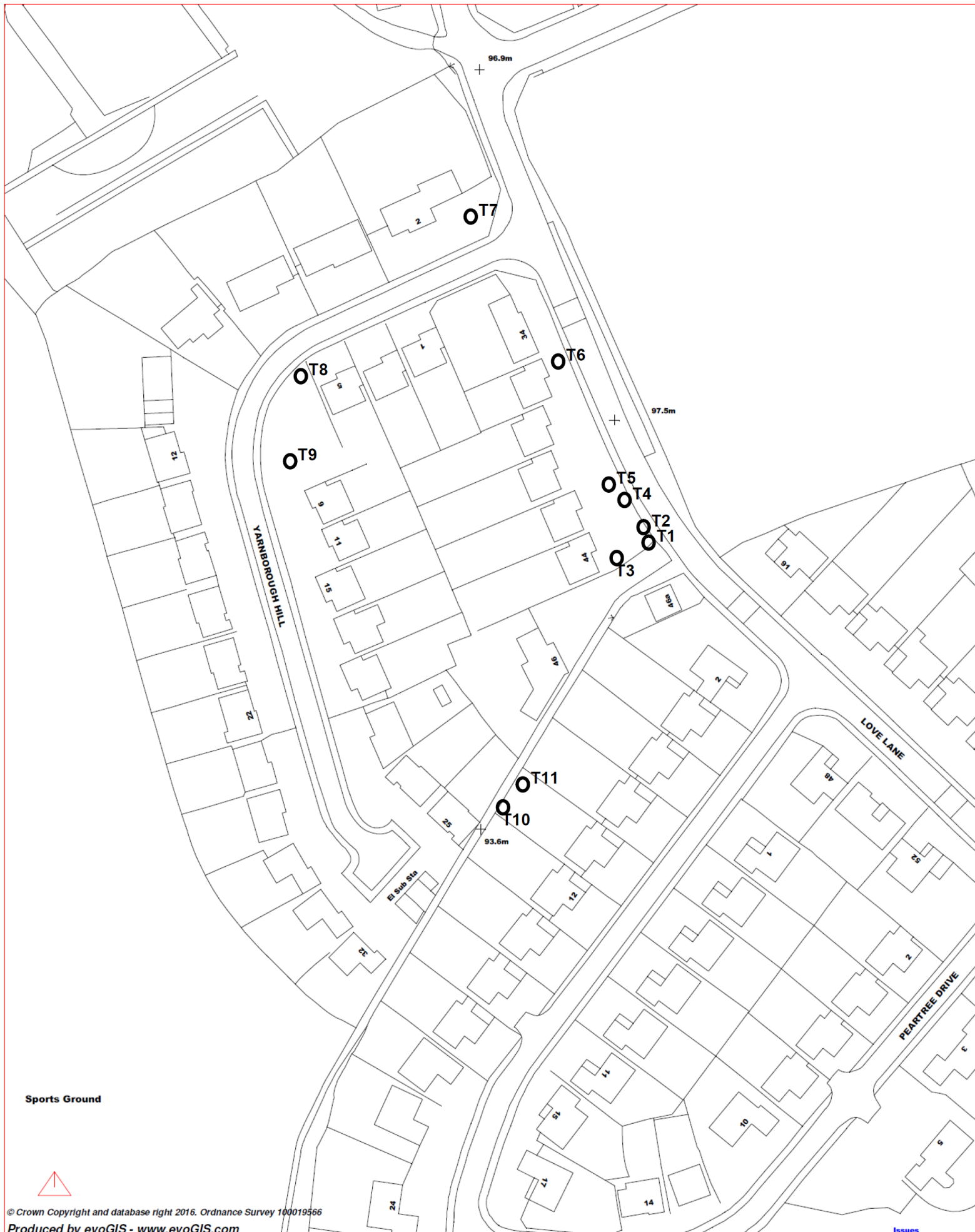
23. It is not considered that the objections raised in relation this order are sufficient to prevent the inclusion of any of the trees within the order.
24. It is however considered that in this case the revocation of the can be undertaken at the same time.
25. As such, it is considered that the TPO should be confirmed without modification and authorisation be granted to revoke the original order (TPO/029).

## **RECOMMENDATION**

26. It is recommended that the Tree Preservation Order be confirmed without modification, and that authorisation be granted to revoke to original order (TPO/029).

## ***APPENDIX 2.2***

### ***Tree Preservation Order Plan and Schedule As Served***



Map referred to in the Borough Council of Dudley

The Borough of Dudley (Love Lane/Yarnborough Hill/Melrose Avenue,  
Oldswinford No.2 (TPO/0254/NOR))

Tree Preservation Order 2018

# SCHEDULE

## Specification of trees

### **Trees specified individually** (encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Pine	44 Love Lane
T2	Hornbeam	44 Love Lane
T3	Yew	44 Love Lane
T4	Yew	42 Love Lane
T5	Holly	42 Love Lane
T6	Maple	36 Love Lane
T7	Cedar	2 Yarnborough Hill
T8	Hornbeam	Amenity space adjacent 5 Yarnborough Hill
T9	Horse Chestnut	Amenity space adjacent 5 Yarnborough Hill
T10	Sycamore	10 Melrose Avenue
T11	Pine	10 Melrose Avenue

### **Trees specified by reference to an area** (within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

### **Groups of trees** (within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

**Woodlands**

(within a continuous black line on the map)

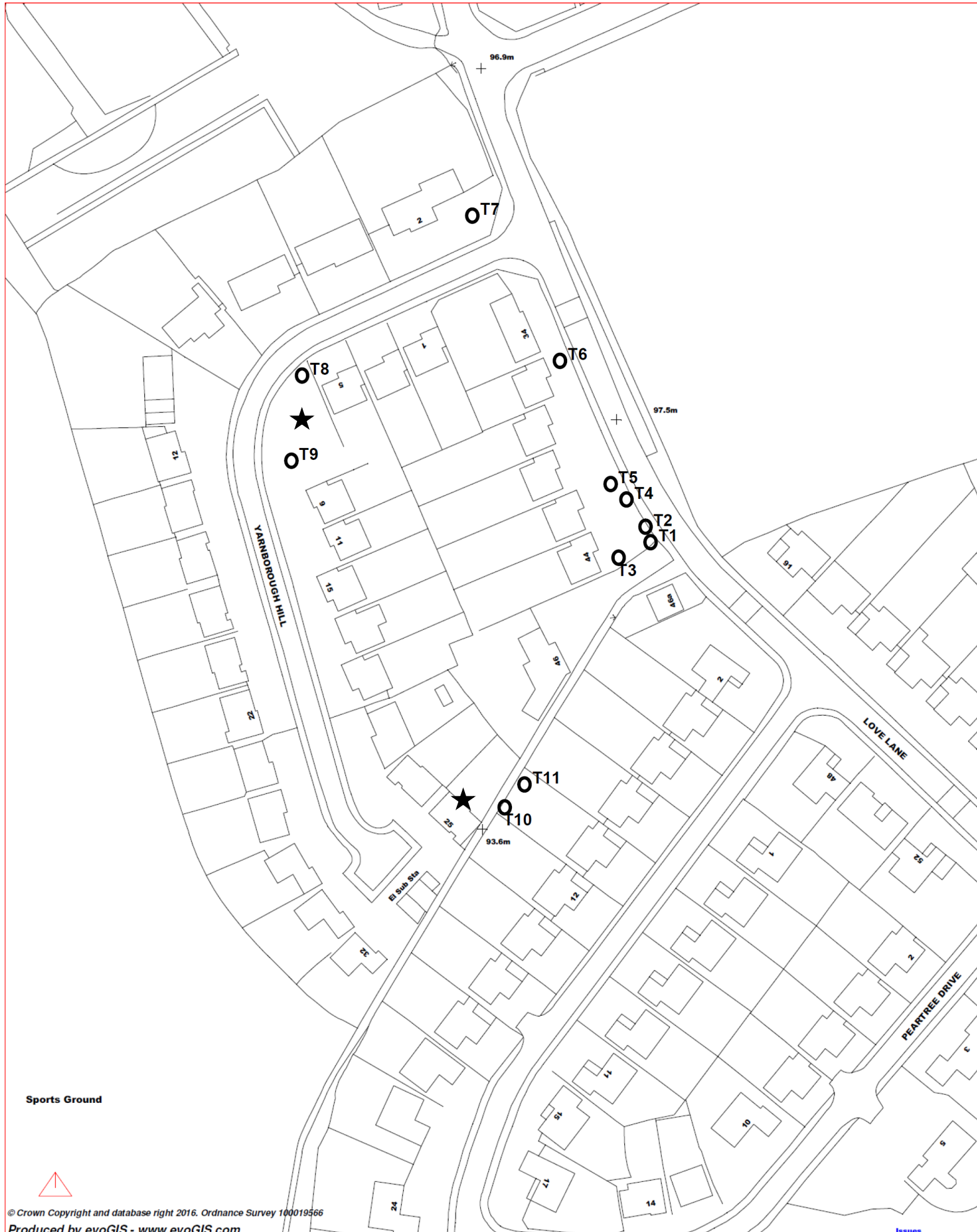
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

## ***APPENDIX 2.3***

### ***Plan Identifying Objectors Properties***

**★ - *Objection Received from Property***



Map referred to in the Borough Council of Dudley

The Borough of Dudley (Love Lane/Yarnborough Hill/Melrose Avenue,  
Oldswinford No.2 (TPO/0254/NOR))

Tree Preservation Order 2018



Scale: 1 : 1250

### ***APPENDIX 3.1***

#### ***Confirmation Report for***

***The Borough of Dudley (Delph Lane, Brierley Hill (TPO/0255/AMB)) Tree  
Preservation Order 2018***

Tree Preservation Order

Order Title

Case officer

Date Served

Recommendation

TPO/0255/AMB
Delph Lane, Brierley Hill
James Dunn
11/05/18
Confirm with modifications

## SITE AND SURROUNDINGS

1. The order protects an area of woodland that is located within the “Horse Shoe” that is formed by Delph Lane.
2. The woodland comprises of trees of various ages, within some larger, mature trees being present along the external boundary of the site and also within the site; and there are a number of relatively young, self-set trees which have infilled amongst the larger trees over the past 30 years or so.
3. The woodland is visible at close hand from Delph Lane, but also significantly contributes to views from Gayfield Avenue, where it forms a visual backdrop to the properties. The wooded area is also visible from various vantages across the Withymoor Estate.
4. The order was served following a review of an older order that covered individual trees on the piece of land. Given the nature of the trees as they appear, it was considered appropriate to assess the trees as a whole under the Woodland TEMPO system.
5. The woodland was assessed using the Woodland TEMPO amenity assessment system and were considered to provide public amenity to the local area. It should be noted that the Woodland TEMPO system uses different criteria / scoring than the standard TEMPO system which is normally used for assessing individuals and groups of trees. The TEMPO system assesses woodlands on the criteria of:
  - Condition – the general condition of the woodland in relation to its existing context;
  - Naturalness – The type of woodland i.e. ancient woodland or recent plantation etc.
  - Size;
  - Cultural factors – Any additional historical, landscape and ecological factors; and level of public use;
  - Expediency – whether there is a known, foreseeable or perceived threat to the trees.

6. The woodland subject to the TPO scored 17 points. The threshold for justifying a TPO using the woodland TEMPO system is 16 points. Given the TEMPO assessment, and from assessment on site, it considered that the woodland provides a sufficient amount of amenity to the area to justify its inclusion within the TPO.
7. Given the high TEMPO score, it was decided to serve a TPO on the woodland.

## **PUBLIC REPRESENTATIONS**

8. The Order was served on the various owners of the woodland and adjoining landowners.
9. Following the service of the TPO, objections were received from an owner of a number of the trees included within the wooded area, and from an adjacent property owner.
10. A representation was also received from an owner of part of the woodland asking a series of question, in order to determine whether they would wish to make a formal objection the order. A response answering the questions was sent on the 19<sup>th</sup> July. No further communication or objections have been received.
11. The objections were based on the below points:
  - The trees located to the rear of the properties in Bagnall Walk are encroaching on the highway, causing vehicles to drive closer to the rear boundary fences of Bagnall Walk, and the objector's fence has already had the fences damaged as a result.
  - The objector is concerned about the condition of the trees and the potential for damage to their property.
  - The trees within the property of 130 Amblecote Road, are poor in quality and not worthy of inclusion within the TPO.
12. The responses are considered in turn below.

## **RESPONSE TO OBJECTIONS**

13. The trees at the rear of Bagnall Walk do slightly encroach onto what is already a relatively narrow highway. However the majority of the encroachment is from epicormics growth from the larger trees, and other vegetative growth along the boundary of the woodland.
14. Under the Highways Act, pruning to provide reasonable clearance over public highways can be undertaken without the need to formal TPO consent, and it is considered that significant improvements to the encroachment could be achieved through cutting back of the vegetation and the pruning of the epicormics growth,

and some of the lower branches under the exemptions. It is not considered that significant works to the trees would be required to provide an appropriate clearance.

15. When the trees adjacent to the rear of Bagnall Walk were viewed, no significant defects were observed, that would suggest that the trees are fundamentally unsafe. The trees have been previously pruned, following a TPO application in 2010. Since this works there has been a reasonable degree of re-growth, and it is considered that the re-pruning of the tree would likely be acceptable.
16. It is not considered that even though some works could be undertaken the condition of the trees are such that it should prevent the confirmation of the order.
17. With regard to the trees situated in the rear garden of 130 Amblecote Road, upon a subsequent visit to gain access into the property, the trees within this garden were found to be of poor quality. There were a number of relatively young, and slender conifer trees, and number of small self-set sycamore trees, some self-set goat willow, and two larger, but poorly formed sycamore trees.
18. Whilst these trees do provide some visual amenity as part of the wider group, their lack of individual quality, severely limits their contribution, and overall it is difficult to foresee a reasonable reason for refusal should an application be received to remove the trees.
19. Overall it is considered that given the poor quality trees in the rear of 130 Amblecote Road it is recommended that the boundary of the woodland order is amended to exclude these trees.

## **CONCLUSION**

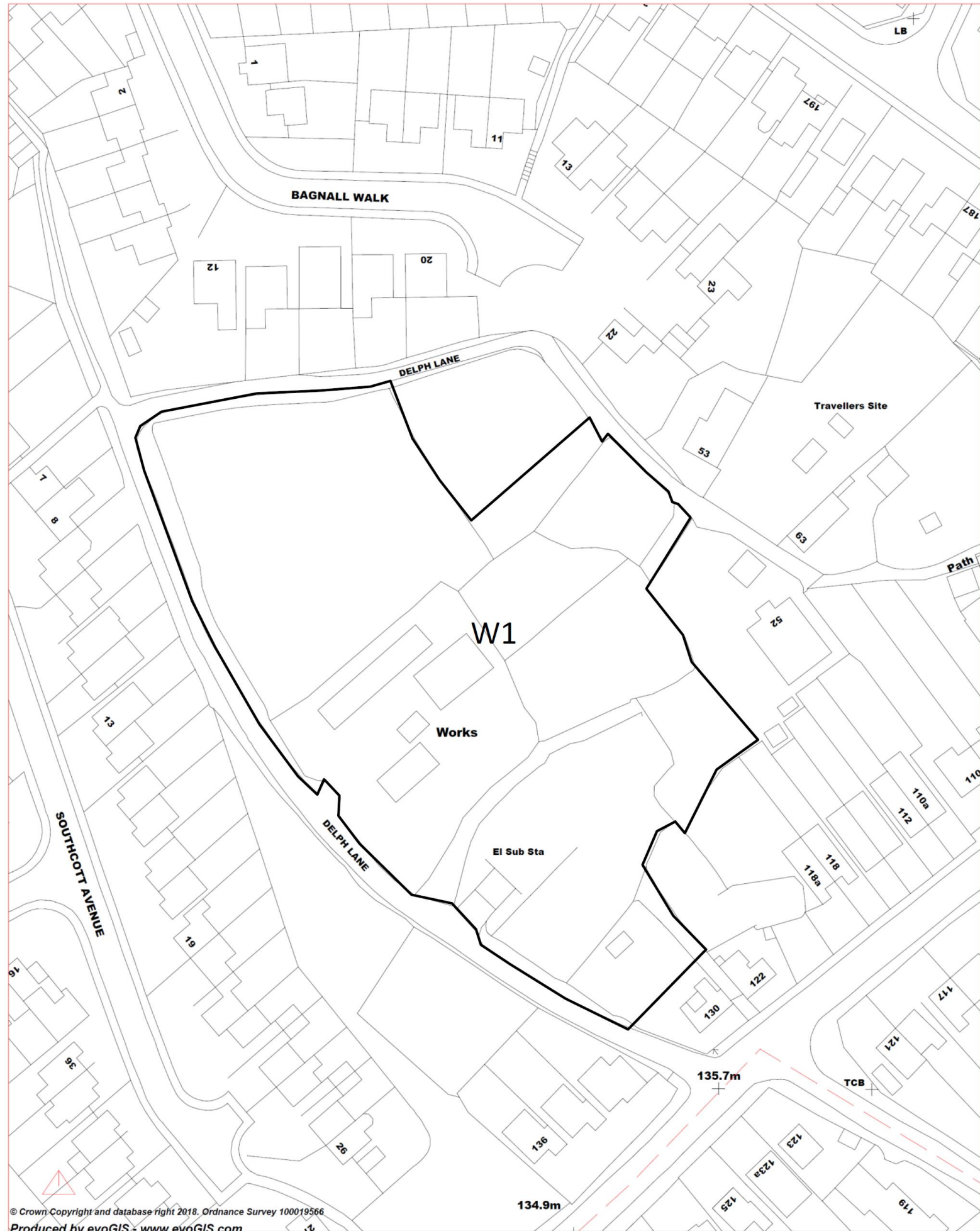
20. Having considered the objections raised in response to this order it is considered that the boundary of the woodland order should be amended to exclude the trees located in the rear garden of 130 Amblecote Road.

## **RECOMMENDATION**

21. It is recommended that the Tree Preservation Order be confirmed subject to the below modifications.

## ***APPENDIX 3.2***

### ***Tree Preservation Order Plan and Schedule As Served***



Map referred to in the Borough Council of Dudley

Delph Lane Brierley Hill (TPO/0255/AMB)

Tree Preservation Order 2018



Scale: 1 : 1000

# SCHEDULE

## Specification of trees

**Trees specified individually**  
(encircled in black on the map)

**None**

**Trees specified by reference to an area**  
(within a dotted black line on the map)

**None**

**Groups of trees**  
(within a broken black line on the map)

**None**

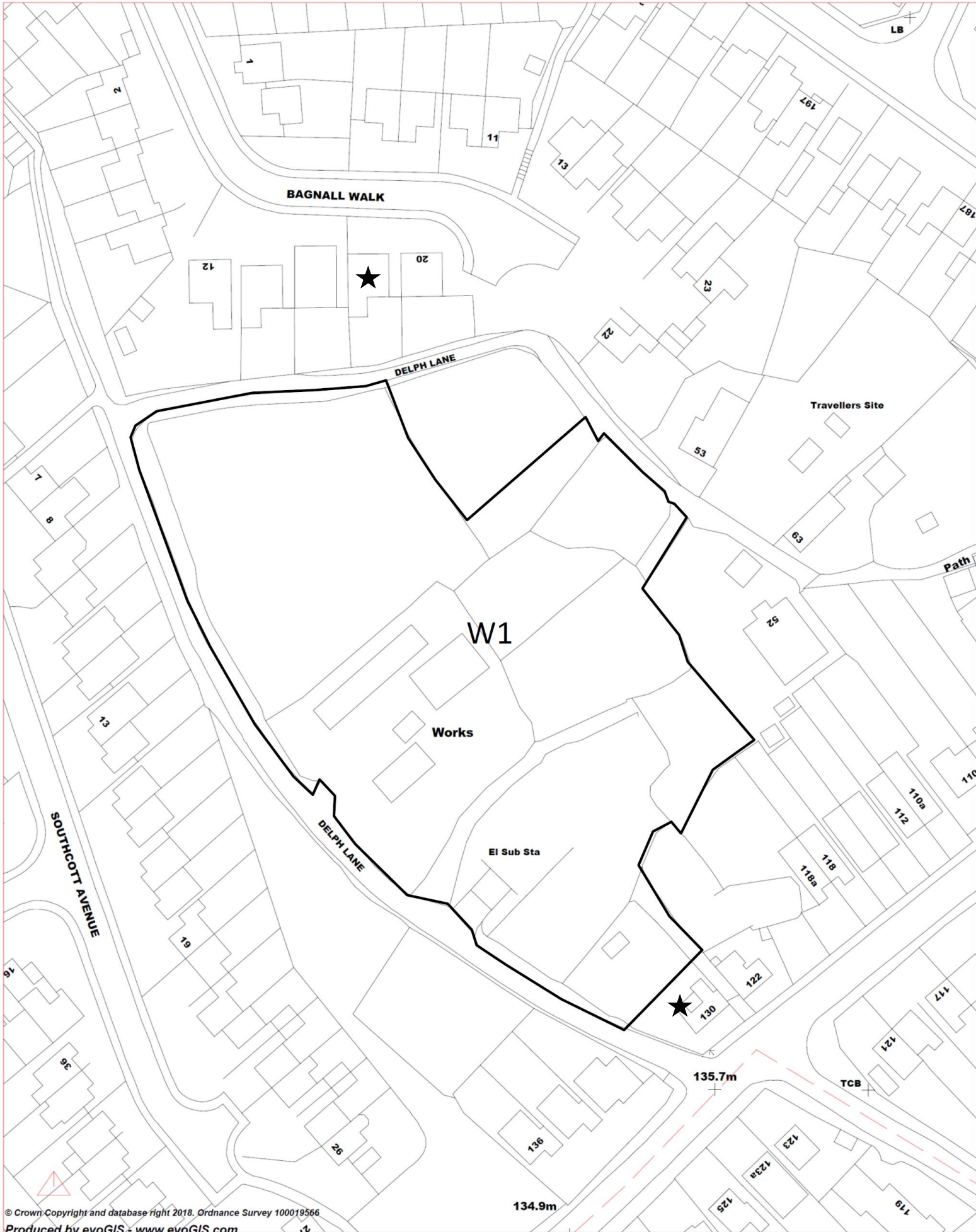
(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Sycamore, Oak, Hawthorn, Willow, Ash	Woodland rear of 112-130 Amblecote Road

### ***APPENDIX 3.3***

#### ***Plan Identifying Objectors Properties***

**★ - *Objection Received from Property***



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Produced by evoGIS - www.evoGIS.com

Map referred to in the Borough Council of Dudley

Delph Lane Brierley Hill (TPO/0255/AMB)

Tree Preservation Order 2018



Scale: 1 : 1000

## ***APPENDIX 3.4***

### ***Tree Preservation Order Plan and Schedule for Confirmation***



Map referred to in the Borough Council of Dudley

Delph Lane Brierley Hill (TPO/0255/AMB)

Tree Preservation Order 2018



Scale: 1 : 1000

# SCHEDULE

## Specification of trees

**Trees specified individually**  
(encircled in black on the map)

**None**

**Trees specified by reference to an area**  
(within a dotted black line on the map)

**None**

**Groups of trees**  
(within a broken black line on the map)

**None**

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Sycamore, Oak, Hawthorn, Willow, Ash	Woodland rear of 112-130 Amblecote Road

## ***APPENDIX 4.1***

### ***Confirmation Report for***

***The Borough of Dudley (Wordsley Manor No.2, Meadowfields Close Wordsley  
(TPO/0257/WOR)) Tree Preservation Order 2018***

Tree Preservation Order

Order Title

Case officer

Date Served

Recommendation

TPO/0257/WOR
Wordsley Manor No.2, Meadowfields Close, Wordsley
James Dunn
17/05/18
Confirm

## **SITE AND SURROUNDINGS**

1. The order protects a number of trees within the grounds of Wordsley Manor, a large Georgian manor house in Wordsley.
2. The trees subject to the order are 5 individual trees (4 Sycamore and 1 Beech) along the northern side of the property, a group of 7 lime trees and 4 acacia trees along the eastern boundary, and a woodland order protecting a number of trees of various species along the southern boundary.
3. The trees are all visible from beyond the boundaries of Wordsley Manor. The site is surrounded by residential properties, the most recent of which is a just completed development in front of the Manor House, beyond the groups of lime and acacia trees.
4. The trees were assessed using the TEMPO amenity assessment system and were considered to provide public amenity to the local area. The TEMPO system assesses trees on the criteria of:
  - Condition – the condition of the tree in relation to its existing context;
  - Retention Span – How long the trees are likely to be retained with reasonable management;
  - Public Visibility;
  - Other factors – Whether a member of a formal feature, or trees with historical significance etc.;
  - Expediency – whether there is a known, foreseeable or perceived threat to the trees.
5. The trees subject to the various designations of the order scored between 13 and 15 on the TEMPO assessment therefore deeming them worthy of inclusion within the TPO.

## **PUBLIC REPRESENTATIONS**

6. Following the service of the order objections were received from five adjacent property owners, four from Primrose Hill, and one from Meadowfields Close.

7. The objections were based on the below points:

- The overhang from the trees over the adjacent gardens prevents reasonable use of the gardens in Primrose Hill;
- The trees block light from the gardens in Primrose Hill;
- Concern about the condition of the trees;
- The trees have the potential to cause damage to the adjacent properties should they fail;
- The trees have not been subject to any management in the recent past;
- Trees are having an adverse impact on the growth of plants in neighbouring gardens;
- The debris, seedlings and insects in the tree have a negative impact on the adjacent gardens;
- Lack of amenity due to location;
- No expediency for order;
- Trees have put prospective purchasers off buying properties;
- Administrative burden of applications for future works by neighbouring residents;
- Self-perpetuating nature of the woodland order will result in future trees being protected.

8. The responses to the objections are considered in turn below.

## **RESPONSE TO OBJECTIONS**

9. It is noted that the trees do overhang the rear gardens of the properties in Primrose Hill by varying degrees, however even with the current levels of overhang it is not considered that the overhang is such that it would prevent the reasonable enjoyment of the objector's properties.
10. Having viewed across the line of the overhanging branches it is considered that pruning to reduce the overhang would be acceptable subject to a future application. The owner of the trees has no obligation to undertake the works to reduce the overhang over the neighbouring gardens, and any works may be at the cost of the neighbours.
11. The trees are located to the north-east of the properties in Primrose, hill, as such any sunlight obstruction will be limited to the early in the morning. It is accepted that the trees will obstruct some diffuse daylight from the gardens and rear elevations of the property, however, as the trees are deciduous, diffuse daylight obstruction will be minimal when such light is most important, in the winter. The pruning discussed above could also have some benefits in terms of reducing light obstruction.
12. The trees subject to the order are of varying age, with some mature and older trees present. Given the varying age, size and species of the trees it is considered that some management works could well be required at some point in the future. No obvious or egregious defects have been previously observed in the various

visits to the site or the surrounding properties, and as such it is not considered that there is currently any justification to prevent the confirmation of the order on the grounds of the condition of the trees.

13. The owner of the trees does have a duty of care to take reasonable steps to prevent reasonably foreseeable damage caused by their trees and as such the responsibility for management work rests with them.
14. The presence of a TPO does not prevent reasonable management works, as the owner of the trees, or the neighbours would be able to submit applications for tree works if required due to condition grounds, or if the need for works is demonstrably urgent, works could be undertaken under exemption, without the need to submit a formal application. Ultimately the presence of a TPO should not have any impact on the owner's ability to manage the trees appropriately, it only serves to prevent works that are unjustified and inappropriate.
15. Given the size and location of some of the trees subject to the order it is accepted, that should the trees fail there would be potential for damage to the adjacent properties. However if the trees are managed appropriately then the risk of failure should be acceptably low. As previously stated the TPO does not seek to prevent reasonable works to trees, if the works are justified and appropriate, as such the presence of the TPO should not increase the risk of failure of the trees.
16. It is accepted that the trees have not been subject to regular pruning by the owner of the adjacent property, however it is not accepted that this equates to a lack of proper management. As trees are dynamic organisms, that will grow and react to the various environmental conditions that they find themselves in, unless there is obvious justification for management works, then the best thing to be done to a tree is nothing, as pruning can introduce defects into trees.
17. Again, the TPO should not prevent reasonable management of the trees, as the process allows for applications to be made for works as and when required. Overall it is not considered that the objections raised to the TPO on the grounds of the condition of the trees or the lack of past management should prevent the confirmation of the order.
18. Given the size of the trees it is accepted that they may be having adverse impact on the growth of plants, in the adjacent gardens, however this in itself should not be grounds to not confirm the order. Any conflict between the trees and the natural growth of plants is considered to be the result of natural processes, and could be remedied through good husbandry / better plant choice.
19. The trees will drop seasonal debris at various times of the year including leaves, seeds and flowering structures. It is also accepted that for periods in the year the trees will house various insects such as aphids and greenfly. The deposition of seasonable debris and any issues relating to the presence of insects are all natural

issues / processes, and therefore the clearance / management of such is considered to be part of reasonable property maintenance. As such, it is not considered that the TPO should not be confirmed as a result of these issues.

20. It is not accepted that the trees do not provide sufficient amenity to justify their protection. The trees are all visible from beyond the site, and in relation to W1, the trees form a significant part of views from both Within Primrose Hill, Kinver Street, and various other vantages.
21. It is accepted that there is no known threat to the trees, however as the manor house has recently change ownership, and as intention to fell or prune trees are not always know in advance, it is considered acceptable and appropriate to have protected the trees as a precautionary measure.
22. With regard to the trees putting prospective purchaser of the adjacent houses off buying the properties, whilst it is accepted that some purchaser may consider trees to be a negative issue, other may see them as a positive. Ultimately the impact of trees on the impressions of prospective buyers is not considered to be a material issues in the decision to confirm an order.
23. Should either the neighbours or the tree owners wish to undertake general pruning works, then an application is likely to be required. It is not considered that process of submitting an application for determination is overly burdensome, and it may be that depending on the nature of the works, it could be appropriate to grant permission for repeated operations of minor works to reduce the administrative burden even further.
24. As the woodland order protected all existing trees and any which are plated or grow up in the future, it is accepted that the current order may in the future protect trees which do not currently exist. However if those trees are worthy of preservation due to their contribution to the wider group, then is considered acceptable for these trees to benefit from the protection. If the trees do not provide sufficient amenity to justify their inclusion within the order, then an application to remove them is likely to be acceptable. As such it is not considered that the future protection of these that do not currently exist is not sufficient ground to not confirm this order.

## **CONCLUSION**

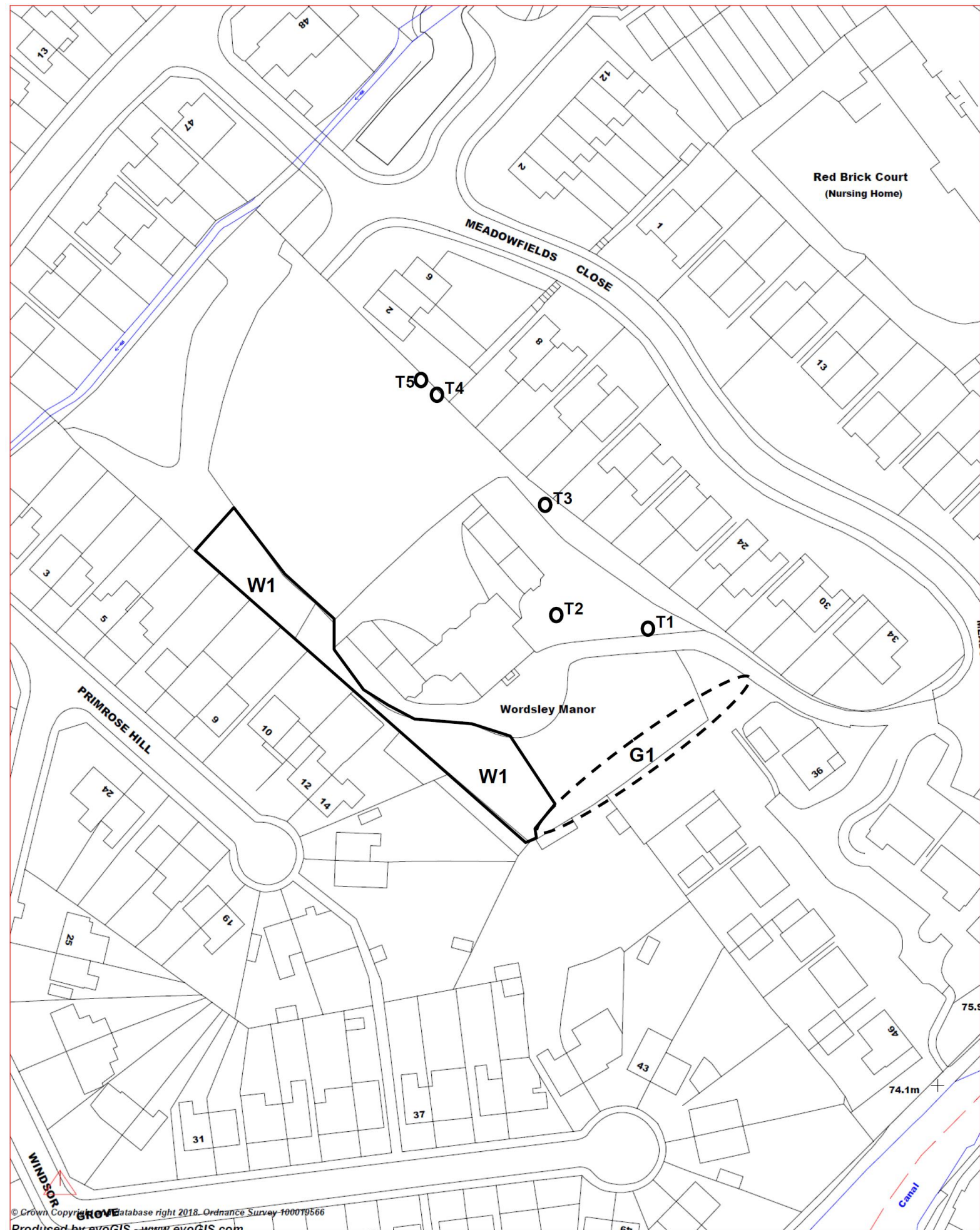
25. The trees subject to this order are considered to provide a significant amount of amenity to the surrounding area either as individuals or part of the wider group.
26. It is not considered that the objections raised in relation this order are sufficient to prevent the inclusion of any of the trees within the order. However, the objectors may gain some benefit through submitting applications for works to the trees.

## RECOMMENDATION

27. It is recommended that the Tree Preservation Order be confirmed without modification.

## ***APPENDIX 4.2***

### ***Tree Preservation Order Plan and Schedule As Served***



# SCHEDULE

## Specification of trees

### **Trees specified individually** (encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Sycamore	Wordsley Manor, Meadowfields Close
T2	Beech	Wordsley Manor, Meadowfields Close
T3	Sycamore	Wordsley Manor, Meadowfields Close
T4	Sycamore	Wordsley Manor, Meadowfields Close
T5	Sycamore	Wordsley Manor, Meadowfields Close

### **Groups of trees** (within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
G1	7x Lime, 4 x Acacia	Wordsley Manor, Meadowfields Close

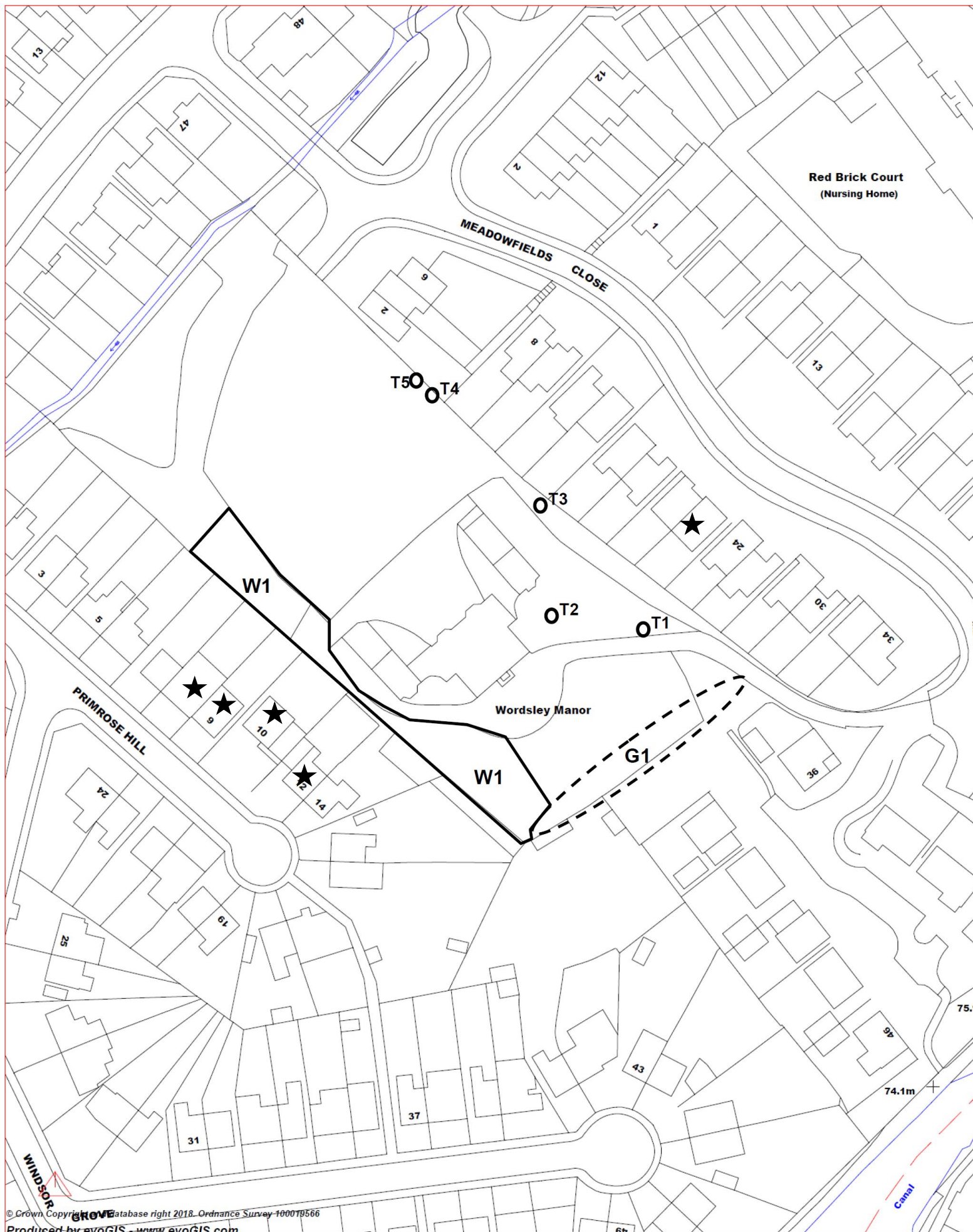
### **Woodlands** (within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Mixed deciduous woodland including Sycamore, Acacia, Lime, Pine, Horse Chestnut	Wordsley Manor, Meadowfields Close

### ***APPENDIX 4.3***

#### ***Plan Identifying Objectors Properties***

**★ - *Objection Received from Property***



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Produced by evoGIS - www.evoGIS.com

Map referred to in the Borough Council of Dudley

Wordsley Manor No.2 , Meadowfields Close, Wordsley (TPO/0257/WOR)

Tree Preservation Order 2018



Scale: 1 : 1000

***APPENDIX 5.1***

***Confirmation Report for***

***The Borough of Dudley (Tipton Road No.6) (TPO/0258/UGW) Tree Preservation  
Order 2018***

Tree Preservation Order  
Order Title  
Case officer  
Date Served  
Recommendation

TPO/0258/UGW
Tipton Road No. 6
James Dunn
17/05/18
Confirm with modifications

## SITE AND SURROUNDINGS

1. The order protects a number of mature lime, sycamore and oak trees in properties off Tipton Road and Eaton Close, Woodsetton. Seven of the trees are located to the north of the public right of way that runs from 144 Tipton Road to Ratcliffe Close, one is located to the south of this right of way, and eight trees were identified within the order as being located close to the western boundary of the rear garden of 130 Tipton Road.
2. The trees were assessed using the TEMPO amenity assessment system and were considered to provide public amenity to the local area. The TEMPO system assesses trees on the criteria of:
  - Condition – the condition of the tree in relation to its existing context;
  - Retention Span – How long the trees are likely to be retained with reasonable management;
  - Public Visibility;
  - Other factors – Whether a member of a formal feature, or trees with historical significance etc.;
  - Expediency – whether there is a known, foreseeable or perceived threat to the trees.
3. The tree subject to the TPO were scored between 13 and 18 points. The threshold for justifying a TPO is 12 points, and anything scoring 16 and above is within the “definitely merits TPO” bracket. Given the TEMPO assessment, and from assessment on site, it considered that the trees provides a significant amount of amenity to the area.
4. A number of other trees in the area were considered, but they did not score sufficient points in order to justify inclusion within the TPO.
5. Given the TEMPO scores it was decided to serve a TPO on the trees.
6. In November 2017 a TPO was served (TPO/0237/KIN) to protect the trees. This order was brought before the Development Control Committee for confirmation in May 2018, but was deferred at that committee. This unfortunately meant that the

original order could not be confirmed within the required 6 month. As such before the expiration of the 6 month period a second order was served.

7. The new order protects the same trees as the first order, however some amendments were made to the plan and schedule to reflect that two twin stem trees on the first order were had been incorrectly plotted as four trees. It is this new order that is to be considered for confirmation.

## **PUBLIC REPRESENTATIONS**

8. As the order protects the same trees as the previous order, any objections that were previously submitted in response to the original order have been carried forward and considered as duly submitted for this order, unless the objector instructed otherwise. We have also considered any new objections received.
9. The order was served on the five owners of the properties where the trees stand, and seven owners of adjacent properties, where the trees were considered to overhang the boundaries.
10. Following the service of the order two objections were received, one on behalf of the owner of 130 Tipton Road, and the other from the owner of 10 Ratcliffe Close.
11. Along with the objection from 10 Ratcliffe Close, there was a petition with 19 signatures. The petition principle statement of the petition was that *"I support Carol Littler from number 10 Ratcliffe Close requesting that the sycamore trees (T7 and T6) should not have a preservation order placed on them and that they are substantially reduced in size for safety reasons."*
12. The objections were based on the below points:
  - The trees T8 and T9 are located close to the adjacent properties, which has resulted in an "undesirable" relationship between the trees and the properties, contrary to the guidance set out in section 5.3 of BS:5837: 2012 'Trees in relation to design, demolition and construction – Recommendations';
  - There are concerns that T9 could potentially cause damage to the fabric of 24 High Arcal Drive due to the branches striking the building in high winds;
  - The proximity of the trees T8 to T9 will lead to safety concerns and future pressure for removal from the neighbour of adjacent properties;
  - The proximity of T8 & T9 to the adjacent properties will result in an ongoing maintenance burden on the tree owner to limit the growth of the tree to prevent damage.
  - The trees (T8 & T9) will shed considerable seasonal debris including honeydew;
  - The location of T8 could present an obstacle any potential plans to develop a portion of the rear garden of 130 Tipton Road. Given its location the tree could obstruct any likely access into the site, thereby precluding and form of future development

- The owner of 10 Ratcliffe Close are concerned that T5, T6 and T7 are considered to be too large for their location close to 10 Ratcliffe Close;
- There are concerns about future damage to property or people due to branch failure from the trees;
- The branches of the trees significantly overhang the property and garden of 10 Ratcliffe Close;
- The trees are affecting light levels in the rear garden of 10 Ratcliffe Close;
- There is significant seasonal debris, including honeydew, from the trees that requires ongoing maintenance to clear.
- The honeydew and greenfly from the tree prevents the use of the rear garden;
- The honeydew from the sycamore tree drops on the cars parked on the drive necessitating regular cleaning.
- The seasonal debris has blocked the storm drains at the property;

13. The response to the submitted objections are considered below.

## RESPONSE TO OBJECTIONS

14. BS:5837: 2012 'Trees in relation to design, demolition and construction – Recommendations' is industry best practice for the management of trees during the development process, from the design phase through to the completion of the development. Section 5.3 entitled "*Proximity of structure to trees*" provides advice on what should be considered when determining how far to locate a structure from an existing tree. It recommends that shading, privacy, potential for damage to both tree and property, future pressure for removal and seasonal nuisance are considered when designing the siting of buildings.
15. It is accepted that, given the size of the trees, the positioning between T8, T9 and the adjacent buildings will not be without issues. However in general it is considered that the relationship between T8 and the adjacent properties does not cause any significant issues.
16. The lime tree, T9 is significantly closer to the adjacent property at 24 High Arcal Drive, and that were this development designed today, it would arguably not meet the criteria set out within section 5.3 of BS 5837. However it is not accepted that that in itself is reason to remove the tree from the TPO. There are countless trees across the borough, many of which are protected that would not meet the criteria set out in the BS 5837 guidance, and to accept the loss of the trees on such a basis would seem to be an overreaction and inappropriate.
17. It is however, considered that where such issues, as are described in section 5.3 exist, they should be considered on an individual basis to determine whether the impact of the trees is such to outweigh the amenity value of the trees in question.
18. Where the canopy of trees are growing close to the adjacent buildings, then there is a reasonable justification to undertake crown management works to the trees in order to provide a reasonable clearance from the property to prevent damage.

19. In the case of T9, The canopies of the tree actually overhangs the roof of the adjacent property (24 High Arcal Drive), and whilst it may not be possible to prune the tree so as to prevent any overhang over the roof, the tree form is such that an appropriate vertical clearance could be achieved over the roof to minimise any issues and achieve an acceptable relationship between the tree and the house
20. In terms of the proximity to the properties and any concerns regarding safety that this may cause; having viewed the trees a number of times, no defects were observed that fundamentally affect the viability of the retention of the trees. As they are mature some maintenance works will be required from time to time, and such works have been discussed with the arboricultural consultant who has submitted the objection on behalf of the owner of 130.
21. In this case, the trees subject to the order it is considered that appropriate crown management works would result in a reasonable clearance from the properties, and as such, it is not considered that this is sufficient justification to prevent the confirmation of the TPO.
22. Given the proximity of T9 to the adjacent property, it is likely that some ongoing maintenance will be required in the future to maintain an appropriate clearance from the building. However, it is considered that with appropriate pruning the intervals between the required works would not be an overly onerous burden on the tree owner. It is also noted that in this respect, the only obligation on the tree owner would be to undertake reasonable works to prevent reasonably foreseeable damage to the property, and not to prevent overhanging from the tree.
23. In terms of the seasonal debris that falls from the trees, given the size of the trees it is accepted that there will be considerable debris from the tree, including leaves, seeds and honeydew. However, the clearance of the leaves, seeds, and the residue left over from honeydew deposition, is considered part of reasonable property maintenance and therefore not sufficient grounds to prevent the inclusion of the trees within the TPO. The Planning Inspectorate when determining TPO application appeals has backed up this view numerous times.
24. With regard to the potential impact of the T8 on the future development of the site, it is accepted that T8 may have a significant impact on what development is achievable on the land. However it is considered that the tree provides a significant amount of amenity to the area, and therefore its loss would be a material consideration as part of any planning application for development.
25. If any future applicant could demonstrate that the impact of the loss of the tree would be outweighed by the justification for the development, or that sufficient mitigation could be provided, it may be that the loss of the tree would be acceptable. However it is considered that the appropriate time to consider this would be when there is a formal application before the Council to be considered.

As such it is considered that the exclusion of T8 from the order at this point in time would be premature.

26. With regard to the specific concerns about the condition of T5, T6 & T7 in relation to 10 Ratcliffe Close, whilst the trees are not perfect specimens, no defects have been observed that are considered to fundamentally compromise the trees. Given the age of the trees, some deadwood is to be expected, however such deadwood can be removed at any time without formal permission.
27. The inclusion of a tree within a TPO should not prevent the reasonable management of trees in relation to safety concerns etc. It should only provide a mechanism to ensure that all works that are undertaken to the tree are reasonable and justified. As such, it is not considered that the inclusion of T5, T6 & T7 in the order will present any safety issues for the adjacent resident's.
28. As discussed above in terms of the proximity of the canopies to the adjacent properties, it is accepted that they are large trees in close proximity to the adjacent properties, however it is not considered that the relationship between the properties is so overbearing that this would be sufficient grounds to prevent their continued protection. The relationship between the trees and the adjacent properties, is similar to that found throughout the borough, and therefore if this were considered sufficient grounds to prevent inclusion within a TPO, then this could have a significant impact on the amenity of the borough.
29. Given the proximity of the protected trees to 10 Ratcliffe Close, there will be a degree of light obstruction, of either direct sunlight or diffused daylight. However as the trees are located to the north of the property, any direct sunlight obstruction will be limited to early morning, or late afternoon, with a significant interval between, where the trees will not block any sunlight. As such, the light obstruction is not considered sufficient grounds to remove the trees from the TPO.
30. As considered above in relation to T9, it is accepted that the trees adjacent to 10 Ratcliffe Close, will deposit seasonal debris throughout the year, and that they may be subject to aphid infestation and the associated Honeydew, during late spring and early summer. However again the general clearance of seasonal debris, and the washing of objects, such as patio furniture and cars, covered with Honeydew is part of reasonable property maintenance, and not sufficient ground to outweigh the amenity value of these trees. As such it is not considered that the seasonal debris provides sufficient grounds for the removal of the trees from the TPO.
31. In relation to concerns about the roots of the trees are potentially affecting the drains of the property, in the absence of confirmation that the roots are causing the problems, and that there are no viable alternative solutions other than the removal of the trees, then it is not considered that the loss of the tree, or their removal from the TPO has been justified.

32. Whilst it is accepted that there are a number of mature trees that bound the northern boundary of 10 Ratcliffe Close, it is not considered that there are 'too' many. In particular whilst the trees are significant features when viewed from the adjacent gardens, it is not considered that they have an unacceptably overbearing relationship with the adjacent properties. Therefore the number of trees adjacent to the property is not considered sufficient grounds to prevent the confirmation of the TPO.
33. Overall and on balance, it is considered that there has been insufficient justification provided to prevent the confirmation of the order or to remove trees from the order. It is recommended that the order be confirmed, however the plan and schedule will need to be amended to reflect that T8, T9, T10 & T11 are only two trees, and not the four shown on the original plan. .

#### **OTHER CHANGES**

34. Following comments received as part of the objection to the order it was noted that the oak tree (T5) had been plotted in a slightly inaccurate location. As such in order to avoid any future confusion or ambiguity it is considered appropriate to amend the location of the T5 to the location as shown on the plans below.

#### **CONCLUSION**

35. Having considered the objections received, it is not considered that the objections raised provide sufficient justification to prevent the confirmation of the order. Whilst it is accepted that the trees will cause some issues to the adjacent properties, and that the retention of T8 may conflict with any future development, it is considered that the TPO allows for such issues to be dealt with appropriately through future applications.
36. As such, it is considered that the TPO should be confirmed without modifications

#### **RECOMMENDATION**

37. It is recommended that the Tree Preservation Order be confirmed without modifications.

## ***APPENDIX 5.2***

### ***Tree Preservation Order Plan and Schedule As Served***



Map referred to in the Borough Council of Dudley

Tipton Road No. 6 (TPO/0258/UGW)

Tree Preservation Order 2018

# SCHEDULE

## Specification of trees

**Trees specified individually**  
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	Front drive of 16-20 Eton Close
T2	Lime	138 Tipton Road
T3	Sycamore	9 Eton Close
T4	Sycamore	138 Tipton Road
T5	Oak	136 Tipton Road
T6	Sycamore	136 Tipton Road
T7	Sycamore	130 Tipton Road
T8	Sycamore	130 Tipton Road
T9	Lime	130 Tipton Road
T10	Lime	130 Tipton Road
T11	Sycamore	130 Tipton Road
T12	Lime	130 Tipton Road
T13	Lime	130 Tipton Road

**Trees specified by reference to an area**  
(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

**NONE**

**Groups of trees**  
(within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

**NONE**

**Woodlands**  
(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

### ***APPENDIX 5.3***

#### ***Plan Identifying Objectors Properties***

**★ - *Objection Received from Property***



Map referred to in the Borough Council of Dudley

Tipton Road No. 6 (TPO/0258/UGW)

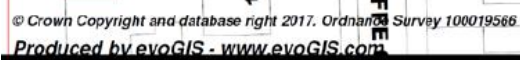
Tree Preservation Order 2018



Scale: 1 : 800

## ***APPENDIX 5.4***

### ***Tree Preservation Order Plan for Confirmation***



## ***APPENDIX 6.1***

### ***Confirmation Report for***

***The Borough of Dudley (Apley Road, Wollaston (TPO/0260/WST)) Tree  
Preservation Order 2018***

Tree Preservation Order

Order Title

Case officer

Date Served

Recommendation

TPO/0260/WST
Apley Road, Wollaston
James Dunn
31/05/18
Confirm with modifications

## **SITE AND SURROUNDINGS**

1. This order protects various trees that are located on the property of 38a Apley Road, a bungalow set behind the head of the Apley Road cul-de-sac, and a number of trees on an adjacent area of land at the rear of 146 to 162 High Street Wollaston.
2. The trees subject to this order enjoy an elevated position when viewed from the north with the primary view of the majority of the trees being from the new development on the site immediately to the north, and when travelling along High street from the direction of Amblecote.
3. There are also views of the trees at the rear of 146 to 162 High Street, from Wentworth Road.
4. The TPO was served following a review of an older TPO that covered the grounds of 38a Apley Road. Following this review a Woodland order was served on the trees.

## **PUBLIC REPRESENTATIONS**

5. Following the service of the order objections were received from 3 adjacent neighbours in Nash Drive.
6. Their objections were based on the below points:
  - The trees behind the properties in Nash Gardens are “overgrown” and overhang the gardens of the properties in Nash Gardens;
  - There are concerns relating to the general safety of the trees in relation to the properties underneath them.
  - Branches has previously fallen from the trees during unsettled weather;
  - The trees drop significant seasonal debris into the garden causing blockages to the guttering of the property;
  - The clearance of the seasonal debris require ongoing work during the autumn to clear the leaves, and repair the lawn.
7. Following the service of the order, the owner of the land at the rear of 146 to 162 High Street made representations regarding the nature of the TPO on their property, and requested that rather than a woodland order, the trees on this area

of land were subject to an individual assessment for worthiness for TPO. This survey was undertaken and the 5 individual trees were identified as worthy of protection, and it is proposed that the order is modified to take account of this.

8. Having advised the owner of the land as to which individual trees that it was proposed to protect under the confirmed order, they have submitted objections to three of the trees (T1 – T3).
9. The objections to the proposed amendments are:
  - None of tree (T1 – T3) are particularly visible to the public;
  - The longevity of poplars is considered to be more within the 10 – 20 year bracket rather than the 20 – 40 year bracket as scored on the TEMPO assessment.
  - It is not considered that Trees 1-3 are considered important for the cohesion of the wider group given their score at the lower end of the condition, longevity and visibility sections of the assessment.
10. The responses to the objections are considered in turn below.

## **RESPONSE TO OBJECTIONS**

11. The land on which the trees subject to this order stands in an elevated position relative to the land to the immediate north. The land to the north has been recently developed for residential use with the rear gardens of 11 properties in Nash Gardens being backing on the trees.
12. From the rear boundary of the back gardens there is a significant and sudden increase in land levels with a bank / cliff extending some 4-5 metres above the level of the gardens. The TPO'd trees start of the top shoulder of this embankment.
13. Given the increase in land levels the bottom of the trees is approximately level with the guttering of the adjacent houses and as such the majority of the trees extend to a height significantly taller than the adjacent properties.
14. Also given the size of some of the trees it is considered that there is some overbearing impact of the tree on the adjacent properties.
15. However given the visual prominence of the trees along this 'cliff' it is considered that any impact as a result of the overbearing impact of the trees is justified by virtue of the amenity value that they provide to the area.
16. It is also accepted that there is some overhang form the trees into the rear gardens of the adjacent properties. However the mere presence of overhanging branches is not considered sufficient to prevent the confirmation of the order, as given the

young age of the properties the relationship between the trees and the houses would have been evident at the time of purchase.

17. It is also considered that some pruning may be acceptable to reduce the overhang, however such works would require a formal application.
18. In terms of the concerns regarding the condition of the trees, no obvious defects have been observed in the trees, however no formal condition assessment of the trees has been undertaken.
19. The trees along the bank were subject to the tree works in 2014 – 2015, including the removal of some trees and the pruning of others. These works were undertaken following an assessment of the trees undertaken at that time.
20. The confirmation of the TPO should not prevent any works that are justified by virtue of the condition of the trees, and applications can be submitted by either the land owner or the neighbours as appropriate.
21. Where deadwood is present in any of the trees this can be removed without the need for a formal application.
22. It is accepted that given the size, species and location of the tree, there will be a significant amount seasonal debris deposited for the trees, especially in the autumn, and give the proximity of the guttering of the property, there is a reasonable chance that leaves will get deposited into the guttering. However it is also considered that the clearance of leaves from property and guttering is part of routine property maintenance.
23. In terms of the guttering, it was noticed that one of the adjacent properties had installed a gutter brush product. This should help to reduce the need to clear leaves for the guttering.
24. With regard to the impact on the objector's lawn, it is accepted that the relationship between the trees and the garden is not necessarily conducive to the development of a good lawn, however with appropriate management, care and seed choice it is considered that a reasonable lawn could be maintained.
25. With regard to the objections in relation to the proposed amendments to the order it is considered that Trees 1 – 3 are sufficiently publicly visible to warrant being included in the TPO.
26. When assessing the trees to be considered for protection as individuals, they tree son the land were assessed using the TEMPO system.
27. Tree 1 is a small / medium copper beech that is visible in medium distant views from Wentworth Road. When viewed from around the Wentworth Road /

Richmond Grove Junction, there tree is visible above the roofline of the trees and forms part of the wider group of trees.

28. It is accepted that Tree 1 is not prominently visible from directly in front of the adjacent properties, and in short term views and this has been reflected in a reduce score on the public visibility section of the TEMPO assessment.
29. Tree 2 is a medium / large poplar tree that is also visible from Wentworth Road, although it is partially screened by an adjacent poplar tree. The tree can also be seen as part of the linear feature, between the proposed tree 4 and tree 5, from the western end of Nash Gardens, Morrow Way and High Street / Wollaston Road.
30. Tree 3 is another medium / large poplar tree that is visible as part of the linear feature between Tree 4 and the first largest sycamore tree in the proposed woodland order.
31. With regard to the longevity score for the poplar trees T2 and T3, whilst it is accepted that the trees are mature trees and are likely to be either within or fast approaching the lower end of the general species age range of 50 – 70 years, however, the trees appear quite healthy and vital, and it is considered that without any negative intervention, they would reasonably be expected to exceed the general species age range.
32. It is worth noting that even if the trees are scored into the 10 – 20 year life expectancy category, they would still score sufficient points to be justified worthy of inclusion within a Tree Preservation Order.
33. It is considered that Trees 1 – 3 are worthy of the 4 point score for being a member of a tree group that is important for its cohesion. It is considered that the visual size of the group would be noticeable diminished should the any of the trees be removed.
34. Overall, it is considered that the scoring of the trees as part of the TEMPO assessment was an accurate reflection of the contribution that the trees make to the area, and as such it is considered that the trees should be confirmed as part of the TPO.
35. Overall, having considered the objections received it is not considered that the objections that have been received are sufficient to prevent the confirmation of the order in its amended form.

## CONCLUSION

36. Having considered that objections submitted, to both the original order and the amended proposals it is not considered that any of the objections are sufficient to prevent the confirmation of the order as proposed.

## RECOMMENDATION

37. It is recommended that the Tree Preservation Order be confirmed subject to the below modifications.

## ***APPENDIX 6.2***

### ***Tree Preservation Order Plan and Schedule As Served***



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Produced by evoGIS - [www.evoGIS.com](http://www.evoGIS.com)



Map referred to in the Borough Council of Dudley

Apley Road, Wollaston (TPO/0260/WST)

Scale: 1 : 1000

Tree Preservation Order 2018

# SCHEDULE

## Specification of trees

### **Trees specified individually** (encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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**NONE**

### **Trees specified by reference to an area** (within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

**NONE**

### **Groups of trees** (within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

**NONE**

### **Woodlands** (within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
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W1

Mixed deciduous woodland  
including Beech, Sycamore,  
Polar, Robinia and Lime

38A Apley Road and 148  
High Street

## ***APPENDIX 6.3***

### ***Plan Identifying Objectors Properties***

**★ - *Objection Received from Property***



Map referred to in the Borough Council of Dudley

Apley Road, Wollaston (TPO/0260/WST)

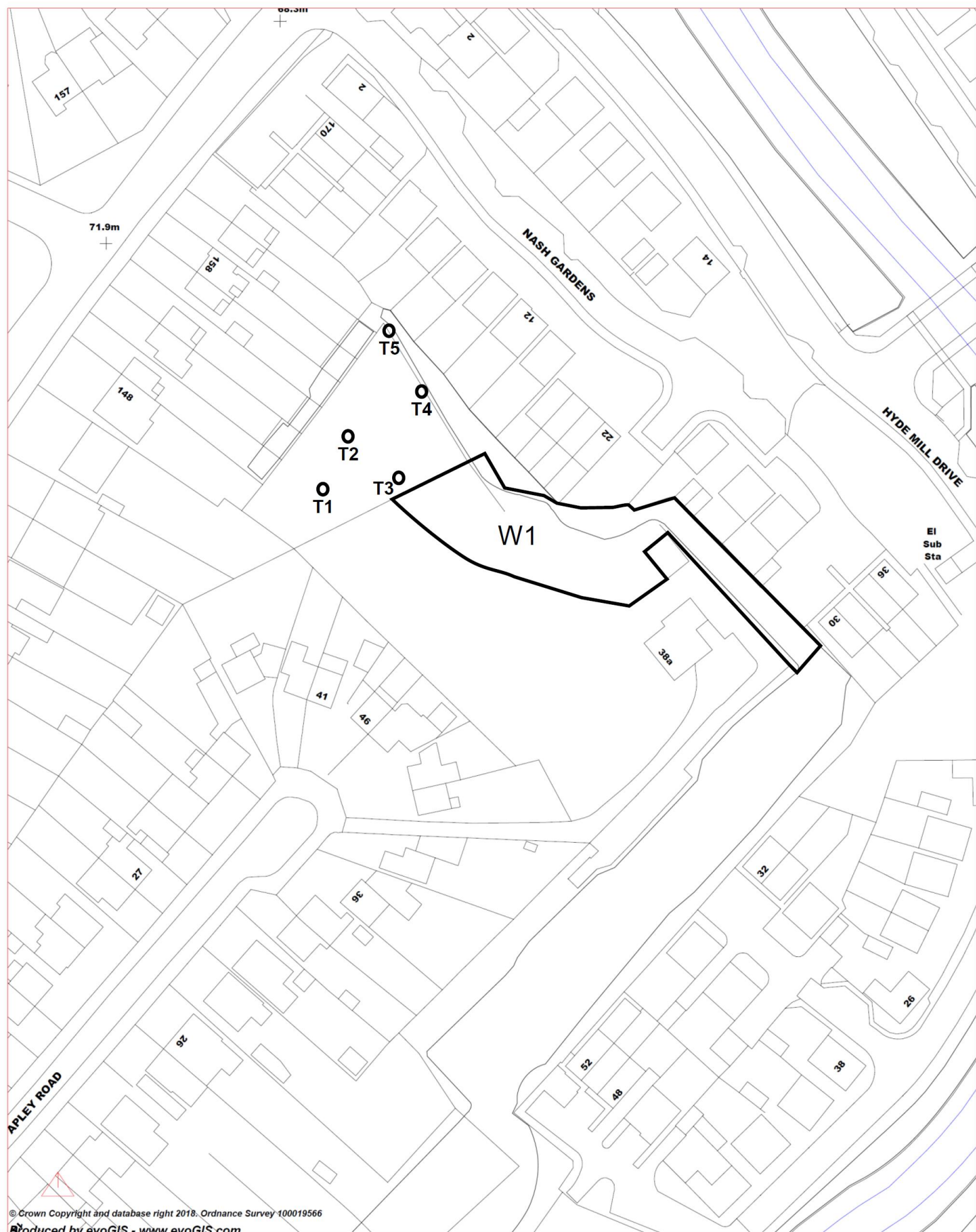
Tree Preservation Order 2018



Scale: 1 : 1000

## ***APPENDIX 6.4***

### ***Tree Preservation Order Plan and Schedule for Confirmation***



Map referred to in the Borough Council of Dudley

Apley Road, Wollaston (TPO/0260/WST)

Tree Preservation Order 2018



Scale: 1 : 1000

# SCHEDULE

## Specification of trees

### **Trees specified individually** (encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Beech	Land at rear of 146 – 162 High Street, Wollaston
T2	Poplar	Land at rear of 146 – 162 High Street, Wollaston
T3	Poplar	Land at rear of 146 – 162 High Street, Wollaston
T4	Beech	Land at rear of 146 – 162 High Street, Wollaston
T5	Robinia	Land at rear of 146 – 162 High Street, Wollaston

### **NONE**

### **Trees specified by reference to an area** (within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

### **NONE**

### **Groups of trees** (within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

### **NONE**

### **Woodlands** (within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Mixed deciduous woodland including Beech, Sycamore, Poplar, Robinia and Lime	38A Apley Road