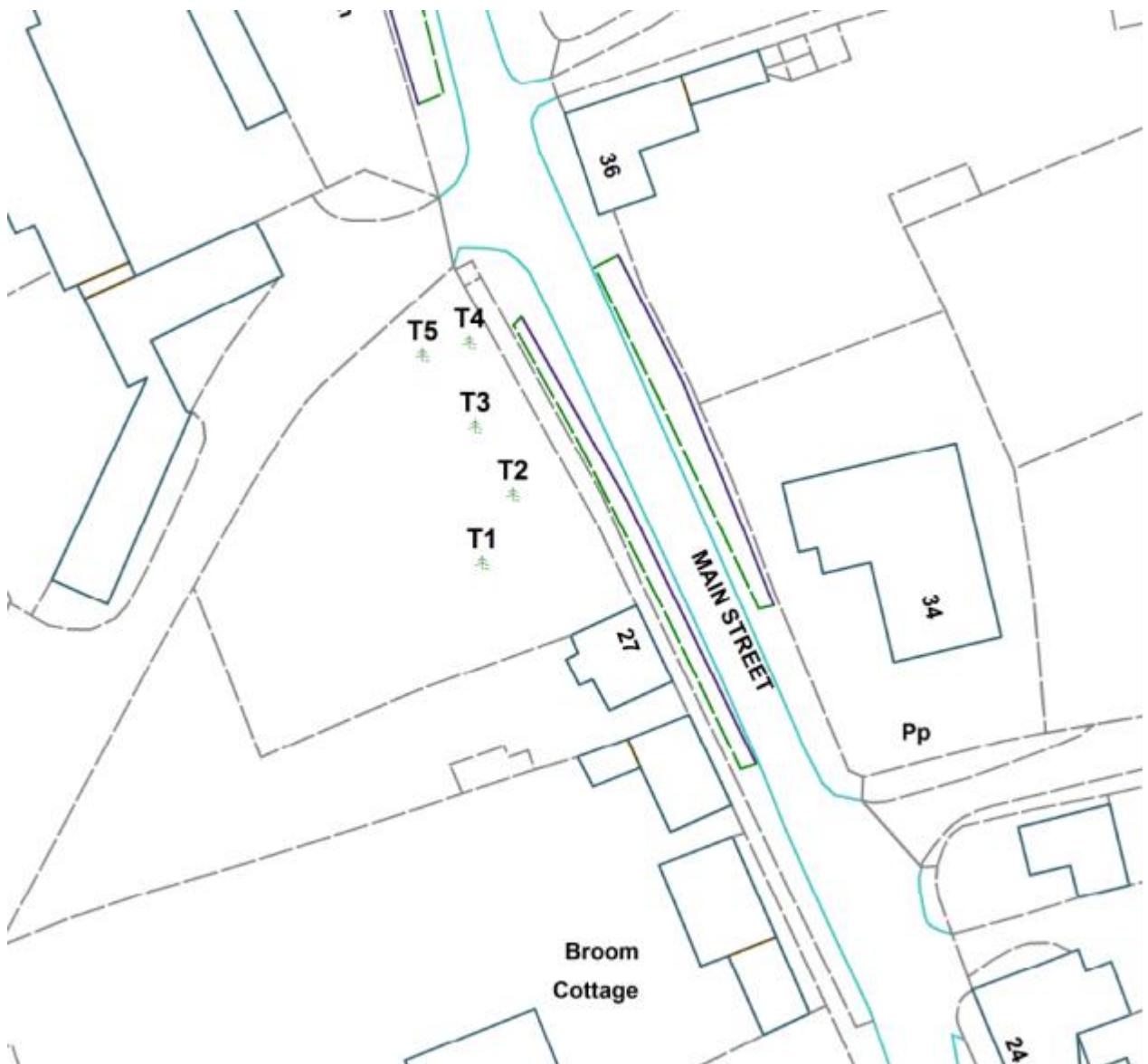


PLANNING COMMITTEE

25.04.2019

**TREE PRESERVATION ORDER REF: 151/909/6
LAND ADJACENT TO 27
MAIN STREET
BRANSTON**

**REPORT OF THE ASSISTANT DIRECTOR FOR STRATEGIC PLANNING AND
REGULATORY SERVICES**



1. PURPOSE

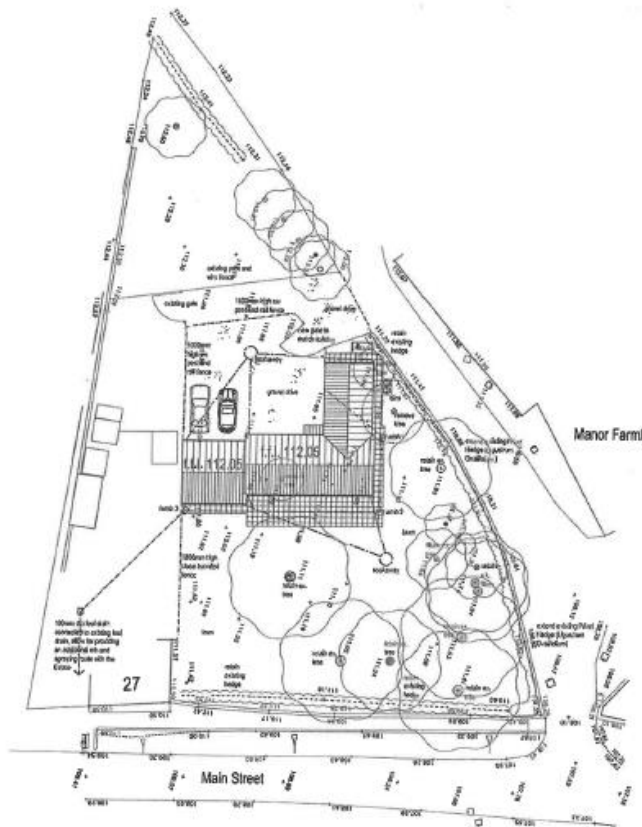
- 1.1 The purpose of this report is to inform the Committee of one letter of objection received from the Land & Property Manager, Belvoir Castle, and to invite the Committee to determine whether or not to confirm or modify the Provisional Tree Preservation Order.

2. RECOMMENDATION

- 2.1 That the Committee confirms the Provisional TPO.

3. DETAIL

- 3.1 The land concerned benefits from planning permission for a single three bed roomed dwelling; the application reference is 06/00874/FUL. The permission is extant due to foundations having been laid. A landscape plan was approved as a condition of the permission which included retention of the six trees which it is now proposed by Belvoir Estate to remove. Approved landscape plan below.



- 3.2 The council received a request from a third party on 07.01.2019 to protect the mulberry tree with a Tree Preservation Order. Reference; 19/00043/ENQT. See **Appendix 1**.
- 3.3 On 11.04.2019 several telephone complaints were received by the Council's planning duty officer about diggers starting on the site and the fear of trees not being protected. An enforcement complaint record (19/00008/BOP) was opened and enquiries were made of Belvoir Estate as to whether the land had been sold to a developer, and requesting details of the new land owner to be forwarded to the Council as a matter of urgency. Belvoir Estate were reminded of the approved landscape plan. It was also reiterated that root protection barriers were required to those trees remaining during the course of the construction work. Belvoir Estate also stated that there had only been one mini digger and operator on site, and that no trees had been felled or damaged.
- 3.4 Notification was submitted by Belvoir Estate on 29.01.2019 for the removal of one sycamore, one mulberry, and four scots pine trees on the site. Reference; 19/00119/TCA

No reason was stated for the proposed works.

Independent expert arboricultural advice was procured, and comments were received on 01.03.2019. See **Appendix 2**.

Following due consideration of the proposal, a Tree Preservation Order was made on 04.03.2019 for protection of four scots pines: T2, T3, T4 and T5, and one mulberry: T1. TPO reference number: 151.909.6

Belvoir Estate were provided with a copy of the arboricultural advice. A subsequent phone call clarified that the removal of dead branches from the scots pine trees as a safety matter may be carried out without the requirement for notification to the LPA as the work is an exception from this requirement in accordance with the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

The sycamore, as one of several in the vicinity of the north / north-eastern boundary, was considered to be part of a cohesive group not having significant amenity value. The proposal to remove one sycamore tree was considered acceptable, therefore it was recommended that consent to work on trees in a conservation area was granted for the removal of the sycamore only.

- 3.5 A letter of objection to the Tree Preservation Order in respect of the four scots pines was received on 25.03.2019 from Belvoir Estate: See **Appendix 3**.
- 3.6 With regard to the objection received to the Tree Preservation Order on the four scots pines, it is considered appropriate that the removal of the trees is considered as part of a full detailed application for proposed works to trees subject to a tree preservation order, after the owner has followed the procedure recommended by the LCC Forestry Officer, i.e. *"the ivy be severed near to the base of the trees. The ivy may then be prevented from covering the trees entirely, controlled and allowed to die off, before being removed manually. A further inspection of the trees would be prudent following removal of the ivy."*

It is noted that there are concerns regarding the stability of the trees and their proximity to power lines. With reference to the LCC Forestry comments to the lean of the trees: *"this appears to be a growth pattern, as opposed to a failure of stem or roots, indicating*

that the trees are stable and not a considered risk to person or property. It is possible that a more dominant tree had once stood to the north of the pines, which would help to explain their current growth pattern. It should be noted that because of their growth pattern the pines may actually rely in one another for support – removal of one could result in failure of branch or stem in another. However, this does not necessarily mean that any one tree is unstable or that it would fail should its neighbour be removed. The pines must be treated as a cohesive group, rather than individuals.”

Regarding power lines, a call has been made to Western Power Distribution. A safety assessment has been requested and the situation will be checked by the local team of assessors for Western Power. Should any urgent works be necessary with regards to safety in relation to the power lines this will be carried out directly by Western Power as a statutory undertaker, this work is an exception to the requirement for permission from the Local Planning Authority in accordance with section 14 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

- 3.7 The Tree Preservation Order is currently a Provisional Order and Melton Borough Council has a period of six months to confirm it unaltered, modify or revoke it. Therefore the Council has until 04.09.2019 to reach a decision.

4.0 POLICIES & GUIDANCE

Planning Practice Guidance: Tree Preservation Orders and trees in Conservation Areas.

Local Planning Authorities can make a Tree Preservation Order if it appears to them to be ‘expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.’ A Provisional Order of this nature cannot be confirmed until objection(s) received have been considered.

‘Amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.

Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

5. CONCLUSION

It is recommended that the Provisional TPO is confirmed to allow for the recommended staged removal of ivy, followed by further inspection. Should removal of the trees still be proposed, submission of a detailed application for the removal of the trees can then be submitted which should include justification and evidence of the reasons for the proposed works.

Contact Officer: L Eastwood
Date: 10.04.2019

APPENDIX 1.

Good afternoon,

I have spoken with an officer from the Planning dept. today and have been advised to email my request for the creation of a Tree Preservation Order (TPO) to you. This tree is at risk from the sale of land and development of its environment. I request that Melton Borough Council acting as the local planning authority grant a TPO under Part III of the Town and Country Planning Act 1990 and the Town and Country Planning (Trees) regulations 1999.

The tree in question is an ancient Mulberry Tree which is situated on a plot of land adjacent to the cottage I live in - Mulberry Cottage. Both the land and the cottage form part of the Belvoir Estate. I believe the tree to be at least 150/175 years old as I understand it pre-dates the cottage and the village houses were built around c.1840. Very old and ancient trees are irreplaceable, in addition the older the tree the more important to wildlife it becomes. This tree is home to a variety of invertebrates, birds (including owls) and bats. Many invertebrate species rely on ancient or veteran trees for survival.

The tree bears catkins and fruit each year and forms part of a group of trees which historically formed part of the Manor House gardens. The Woodland trust are keen to identify any Mulberry trees, as they are historically significant and there is a register of Mulberry trees in the UK, I have cc'd in the Woodland Trust contact for this purpose and to inform them of the tree's existence.

The value of this tree is also in its scarcity, I believe it to be a black mulberry (*Morus.nigra*) but am unsure whether this is a male or female tree. Male trees are rare in the UK and so investigation should be made to establish this.

I believe that this tree should be preserved to prevent the removal of it as this would have an adverse impact on the local environment and would not be in the public interest.

Please see photographs of the tree and a location map of the land for reference.
My address is 27 Main Street, Branston. NG32 1RU.





APPENDIX 2

Date: 1st March 2019

Ref: E/RP/SM7346/11/7

RE: Land Adjacent to 27 Main Street, Branston – ref; 19/00119/TCA

Thank you for your enquiry regarding consent to carry out tree work at the site mentioned above. The proposed work is to fell four scots pine, one mulberry and one sycamore. I have taken opportunity to study the documents related to the application and conducted a site appraisal.

The trees are part of the local conservation area and are not covered by a preservation order. As such there is no requirement to provide supporting evidence or justification for the proposed work. It has been noted that a previous planning application for development has been submitted and approved, with foundations for the development having been installed (06/00874/FUL). The plans submitted in support of 19/00119/TCA appear to have utilised the approved site layout plans for 06/00874/FUL.

The stems and lower canopy of the pines, sycamore and mulberry are covered with ivy. A full assessment of the trees was not possible during my site inspection. I would strongly advise that the ivy be severed near to the base of the trees. The ivy may then be prevented from covering the trees entirely, controlled and allowed to die off, before being removed manually. A further inspection of the trees would be prudent following removal of the ivy.

Comment has been made in the application form that the pines have a damaged crown and lean. There is some evidence of branch failure, in one or two of the trees. There is a slight lean in all four of the pines towards the south. However, this appears to be a growth pattern, as opposed to a failure of stem or roots, indicating that the trees are stable and not a considered risk to person or property. It is possible that a more dominant tree had once stood to the north of the pines, which would help to explain their current growth pattern.

It should be noted that because of their growth pattern the pines may actually rely in one another for support – removal of one could result in failure of branch or stem in another. However, this does not necessarily mean that any one tree is unstable or that it would fail should its neighbour be removed. The pines must be treated as a cohesive group, rather than individuals.

The sycamore is one of several in and around the boundary hedge, all growing with a few metres of each other. Due to their proximity and growth pattern it would be reasonable to consider the sycamores in the same way as the pines, i.e. a cohesive group. It is quite plausible the trees have emanated from seeds scattered in the hedge, or are suckers from the stump/roots of a much larger tree (now removed).

The mulberry is a mature specimen which appears to be in very good health. Mature mulberry are a rare feature of any landscape. In 2006 the designers and planners involved with 06/00874/FUL appear to have considered the tree worthy of retention and inclusion in the development.

An assessment of the mulberry and pines using Tree Evaluation Method for Preservation Orders

(TEMPO) has been conducted, please see attached forms.

- The pines were treated as a group, due to their growth pattern. They accrued a score of 20 points..."Definitely merits TPO"...

- The mulberry accrued a score of 19 points..."Definitely merits TPO"...

- An assessment of the sycamore was not deemed reasonable; the tree may be removed without prejudice or conjecture.

Taking into account the details above I recommend that Melton Borough Council (MBC) consider the following:

- Refuse consent to fell the four pines and one mulberry;

- Approve consent to fell the sycamore.

There is a duty for MBC to place a preservation order on retained trees, assuming the proposed work is refused. If a TPO is created then MBC should be mindful of other trees on the site, namely a mature apple and the other three sycamores in the hedge – the apple could easily be retained; if the sycamore in the current application is removed then the other sycamore may also be removed. If you require any further details at this stage then please contact me in the usual way.

Yours sincerely

Stewart Marshall Tech.Cert (ArborA), Tech ArborA
Arboricultural & Forestry Officer

APPENDIX 3

Dear Lynn

Thank you for the email sent on 7 March 2019.

We would like to Appeal the Decision to include the 4 no. Scots Pine within the provisional TPO.

As the Leicestershire County Council Arboricultural & Forestry Officer observes a further inspection of the trees would be prudent following the removal of the ivy, implying they may not be as good health as he has suggested.

We are very concerned that the leaning Scots Pine, which are between 18m and 20m, are located on the top of a steep bank of approx. 3m, are unstable. The upper section of bank on which they stand is retained by an ivy covered stone wall. which is reinforced at a lower level by a brick wall, giving way to a grass bank above the Highway. The 11,000 kV powerlines supplying the village electricity are in close proximity, running at a lower level alongside the boundary, as can be seen in the three photos below.

We would grateful if you would confirm that the Scots Pine will not form part of the TPO and may be felled.

Land & Property Manager | 01476 871019

[@BelvoirCastle](#) | www.belvoircastle.com

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