



**TO COUNCILLOR:**

L A Bentley (Chair)  
G A Boulter  
Mrs L M Broadley (Vice-Chair)  
F S Broadley  
D M Carter

B Dave  
R E Fahey  
D A Gamble  
J Kaufman  
Mrs L Kaufman

Dr T K Khong  
Mrs H E Loydall  
R E R Morris

Dear Sir or Madam

I hereby **SUMMON** you to attend a meeting of the **DEVELOPMENT CONTROL COMMITTEE** to be held at the **COUNCIL OFFICES, STATION ROAD, WIGSTON** on **THURSDAY, 15 FEBRUARY 2018** at **7.00 PM** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices  
Wigston  
**07 February 2018**

**Mrs Anne E Court**  
Chief Executive (Interim)

<u>ITEM NO.</u>	<u>AGENDA</u>	<u>PAGE NO'S</u>
1.	<b>Apologies for Absence</b>	
2.	<b>Declarations of Interest</b>	
	Members are reminded that any declaration of interest should be made having regard to the Members' Code of Conduct. In particular, Members must make clear the nature of the interest and whether it is 'pecuniary' or 'non-pecuniary'.	
3.	<b>Minutes of the Previous Meeting held on 18 January 2018</b>	<b>1 - 3</b>
	To read, confirm and sign the minutes of the previous meeting in accordance with Rule 17 of Part 4 of the Constitution.	
4.	<b>Petitions and Deputations</b>	
	To receive any Petitions and, or, Deputations in accordance with Rule 24 of Part 4 of the Constitution.	
5.	<b>Confirmation of The Borough Council of Oadby &amp; Wigston Tree Preservation Order(s) (TPO's)</b>	
	Report(s) of the Arboricultural Officer	
	<b>a) Land at 20 Ring Road, Oadby, Leicester, LE2 3RR</b>	<b>4 - 10</b>



**b) Land at 25 Knighton Rise, Oadby, Leicester, LE2 2RF**

**11 - 17**

**6. Report of the Planning Control Team Leader**

**18 - 31**

Report(s) of the Planning Control Team Leader and the relevant Planning Control Officer(s)

**a) Application No. 18/00006/TPO - Beaufort Way Spinney, Beaufort Way, Oadby, Leicestershire**

**For more information, please contact:**

**Planning Control**

Oadby and Wigston Borough Council  
Council Offices  
Station Road, Wigston  
Leicestershire  
LE18 2DR

**t:** (0116) 288 8961

**e:** [planning@oadby-wigston.gov.uk](mailto:planning@oadby-wigston.gov.uk)

**MINUTES OF THE MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 18 JANUARY 2018 COMMENCING AT 7.00 PM**

**PRESENT**

Councillor L A Bentley (Chair)  
Councillor Mrs L M Broadley (Vice Chair)

**COUNCILLORS**

G A Boulter  
F S Broadley  
D M Carter  
B Dave  
Mrs H E Loydall  
R E R Morris

**OFFICERS IN ATTENDANCE**

S J Ball (Senior Democratic Services Officer / Legal Officer)  
T Boswell (Senior Planning Control Officer)  
D M Gill (Head of Law & Governance / Monitoring Officer)  
Ms S Lane (Democratic Services Officer / Compliance Officer)  
R Redford (Planning Control Team Leader)  
A Thorpe (Head of Planning, Development and Regeneration)

**OTHERS IN ATTENDANCE**

Mr M Creasey (Public Speaker)  
Mr M Drew (Applicant/Agent, Speaker)  
Cllr Miss S Z Haq (Ward Councillor, Speaker)  
Dr R Rahman (Applicant/Agent, Speaker)  
Mr C Reynolds (Public Speaker)

**45. APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillors R E Fahey, J Kaufman, Mrs L Kaufman and Dr T K Khong.

**46. DECLARATIONS OF INTEREST**

None.

**47. MINUTES OF THE PREVIOUS MEETING HELD ON 14 DECEMBER 2017**

**RESOLVED THAT:**

**The minutes of the previous meeting of the Committee held on 14 December 2017 be taken as read, confirmed and signed.**

**48. PETITIONS AND DEPUTATIONS**

None.

**49. REPORT OF THE PLANNING CONTROL TEAM LEADER**

**49a. APPLICATION NO. 17/00368/FUL - 39 HALF MOON CRESCENT, OADBY, LEICESTER, LE2 4HD**

Dr A Rahman, applicant, spoke upon the application. Since the last meeting, he said several amendments had been made to the application including: a half-metre reduction to both sides, the removal of the side-entrance and side-stairs; a different front-porch design; and a reduction in development height by 15 cms. He stated that he had been in contact with a timber framework company who had since confirmed that the height on the plans would not be exceeded. He also said that no hedges would be removed. He opined that, although he was working with the Council, he did not consider a larger reduction in the proposed property size as acceptable.

Councillor Mrs Samia Z Haq, Ward Councillor for the Oadby Uplands Ward, spoke upon the application. She stated that she was unsure as to whether the recommendation to refuse was in fact substantiated. She said that the proposed property would sit on a large plot, that the applicant had made alterations and had been very cooperative with the Council. She urged Members to grant the application.

The Committee gave consideration to the application (at pages 5 - 12) as delivered and summarised by the Senior Planning Control Officer which should be read together with these minutes as a composite document.

A debate thereon was had whereby the majority of Members felt that, although the applicant had moved some way towards making alterations to render the application somewhat more acceptable, the proposed dwelling-house was still of such a large visual bulk and an assertive character that it would not be in keeping with the distinctive local area. It was also still considered that a number of features of the proposed development would have an adverse detrimental impact on amenity.

In particular, whilst Members' acknowledged that the additional side entrance and associated staircase had been removed, they expressed concern as there appeared to be a ground floor "cupboard" on the revised plans which, as Officers confirmed, could possibly accommodate the installation of an internal staircase in the future.

It was moved by the Chair, seconded by the Vice Chair and

**RESOLVED THAT:**

**The application be REFUSED planning permission for the reasons as set out in in the foregoing minutes.**

<b>Votes For</b>	7
<b>Votes Against</b>	0
<b>Abstentions</b>	1

**49b. APPLICATION NO. 17/00507/OUT - LAND NORTH OF DENBYDALE, WIGSTON, LEICESTERSHIRE**

Mr Miles Drew spoke upon the application on behalf of the applicant, Jelson Homes. He opined that the Council did not have an up-to-date housing target yet formally featuring in an emerging development plan document and that, according to the National Planning Policy Framework, where the development plan was out-of-date, the presumption in favour of sustainable development applied. He stated that, in the absence of any material harm to the Green Wedge, or any technical constraints to development, in Jelson's opinion, there were no adverse impacts that would significantly or demonstrably outweigh

the range of benefits of the development.

Mr Colin Reynolds spoke upon the application on behalf of those residents living on/nearby the estate adjacent to the application site as an objector. The main objections cited were: the loss of privacy as site was at a higher level than the existing estate; the site's access leading to a potential increase in traffic to/from the existing estate and; the site being built on was designated Green Wedge.

Mr Michael Creasey, local resident, spoke upon the application as an objector. He said he had lived on the estate for 48-years and regularly enjoyed walks with their family and dog/s across the fields and along the footpaths to/from Brocks Hill County Park, often meeting many other people doing the same thing. He stated that the Green Wedge area was of the utmost importance to his and others' quality of life.

The Committee gave consideration to the application (at pages 13 - 32) as delivered and summarised by the Planning Control Team Leader which should be read together with these minutes as a composite document.

A debate thereon was had whereby Members expressed concern at the potential and significant increase in traffic, if approved, and did not agree with the Highway Authorities' representations on the matter. There were also concerns in relation to the construction traffic having to enter/exit via the Meadows Estate and increasing encroachments into the Green Wedge. There was a further concern raised regarding the increase in primary-aged school children, as the two local schools were already at capacity with little or no room for expansion. Members also sought reassurance that, if refused and the applicant went to appeal, that the Council would have strong material planning grounds in relation to the land being designated Green Wedge.

The Committee was advised that the land in question was identified on both the adopted and emerging Local Plans as Green Wedge and therefore could see no reason as to why any Planning Inspector would overrule that. He also advised that the Council had a housing land supply in excess of the required 5-year period, plus 5% as defined in Housing and Economic Development Needs Assessment and, therefore, the development would be an inappropriate one in a non-designated area.

It was moved by the Chair, seconded by the Vice Chair and

**UNANIMOUSLY RESOLVED THAT:**

**The application be REFUSED planning permission for the reasons as set out in in the foregoing minutes.**

**THE MEETING CLOSED AT 8.14 PM**



.....  
**Chair**  
.....

**Thursday, 15 February 2018**  
.....

*Printed and published by Democratic Services, Oadby and Wigston Borough Council  
Council Offices, Station Road, Wigston, Leicestershire, LE18 2DR*

# Agenda Item 5a



<b>Development Control Committee</b>	<b>Thursday, 15 February 2018</b>	<b>Matter for Information and Decision</b>
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**Title:** **Confirmation of The Borough Council of Oadby & Wigston  
(Land at 20 Ring Road, Oadby, Leicester, LE2 3RR)  
Tree Preservation Order 2017**

**Author(s):** **Michael Bennetto (Arboricultural Officer)**

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## **1. Introduction**

This report is to request the Committee to approve confirmation or otherwise of The Borough Council of Oadby & Wigston (Land at 20 Ring Road, Oadby, Leicester, LE2 3RR) Tree Preservation Order ("the Order") which was made on 6 October 2017.

## **2. Recommendation(s)**

That The Borough Council of Oadby & Wigston (Land at 20 Ring Road, Oadby, Leicester, LE2 3RR) Tree Preservation Order 2017 be confirmed with modifications.

## **3. Information**

- 3.1. The Order was created on the request of Leicestershire City Council in response to a neighbouring resident's request following concern that the tree was under threat from a proposed development.
- 3.2. A provisional TPO was made in response to the request. In compliance with The Town and Country Planning (Tree Preservation) (England) Regulations 2012, copies of the Order were served on the owners of the property and adjoining neighbours.
- 3.3. A provisional TPO gives immediate protection to trees and remains in force for a period of up to 6 months during which time the Council can decide whether to confirm the Order as made, with modification or not to confirm.
- 3.4. The grounds of making the Order was that the tree is of amenity value to the general public insofar as being in a prominent location at the end of Wimborne Road, Leicester next to a gated-entrance to the Leicester Racecourse in Oadby.
- 3.5. During the statutory objection period which followed the service of the Order, two written representations were received, one in support and one in objection.
- 3.6. The neighbours supported the Order on the grounds of local environment and wildlife, visual screening and noise attenuation from the adjacent racecourse.
- 3.7. The owners objected to the Order on the grounds of the Council's jurisdiction, the trees condition which was described as poor in an accompanying report and that the tree was a potential danger to persons and property. Following a further site visit, it was explained that the trees form was not of concern nor was any evidence of ill health observed. Any development application would be submitted to Leicester City Council who would then consult with the Council regarding any proposed removal.

## **Background Documents:**

None.

**E-mail:** michael.bennetto@oadby-wigston.gov.uk

**Tel:** (0116) 257 2697

<b>Implications</b>   Confirmation of The Borough Council of Oadby & Wigston (Land at 20 Ring Road, Oadby, Leicester, LE2 3RR) Tree Preservation Order 2017	
<b>Finance</b>	There are no significant financial implications.
<b>Chris Raymakers</b> (Head of Finance, Revenue and Benefits)	
<b>Legal</b>	All legal requirements have been duly fulfilled. The report is satisfactory.
<b>Dave Gill</b> (Head of Law & Governance / Monitoring Officer)	
<b>Corporate Risk(s) (CR)</b>	<input checked="" type="checkbox"/> <b>Reputation Damage (CR4)</b>
<b>Michael Bennetto</b> (Arboricultural Officer)	
<b>Corporate Priorities (CP)</b>	<input checked="" type="checkbox"/> <b>Green &amp; Safe Places (CP4)</b>
<b>Michael Bennetto</b> (Arboricultural Officer)	The confirmation of the Order will further the Corporate Priority to provide green and safe places by protecting the Borough's trees and natural habitat.
<b>Vision &amp; Values (V)</b>	<input checked="" type="checkbox"/> <b>Accountability (V1)</b>
<b>Michael Bennetto</b> (Arboricultural Officer)	<input checked="" type="checkbox"/> <b>Customer Focus (V5)</b>
<b>Equalities &amp; Equality Assessment(s) (EA)</b>	There are no significant equalities implications.
<b>Michael Bennetto</b> (Arboricultural Officer)	<input checked="" type="checkbox"/> <b>Not Applicable (EA)</b>

**Town and Country Planning Act 1990**

**THE BOROUGH COUNCIL OF OADBY & WIGSTON (LAND AT 20 RING ROAD, OADBY, LEICESTER, LE2 3RR) TREE PRESERVATION ORDER 2017**

The Borough Council of Oadby & Wigston, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order:-

***Citation***

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1. This Order may be cited as The Borough Council of Oadby & Wigston (Land at 20 Ring Road, Oadby, Leicester, LE2 3RR) Tree Preservation Order 2017 made on **06 OCTOBER** 2017.

***Interpretation***

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2. (1) In this Order "the authority" means the Borough Council of Oadby and Wigston unless the context otherwise requires.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

***Effect***

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3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to article 14, no person shall-
- (a) cut down; top; lop; uproot; wilfully damage; or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of, any tree in the Schedule of this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.


***Application to trees to be planted pursuant to a condition***


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4. In relation to any tree identified in the first column of the Schedule by the letter "T1", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

**Dated this 06 day of OCTOBER 2017**

**The Common Seal of the Borough Council of Oadby and Wigston was hereunto affixed in the presence of:-**

  
\_\_\_\_\_  
**(Mayor)**

  
\_\_\_\_\_  
**(Chief Executive)**







**DECISION NOT TO VARY ORDER**

A decision to vary this Order was taken by Oadby and Wigston Borough Council at its meeting of the Development Control Committee on the \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_\_.

Minute Reference:

**DECISION NOT TO REVOKE ORDER**

A decision to revoke this Order was taken by Oadby and Wigston Borough Council at its meeting of the Development Control Committee on the \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_\_.

Minute Reference:

**SCHEDULE**

**SPECIFICATION OF TREES**

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

Reference on map	Description	Situation
T1	Ash	

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

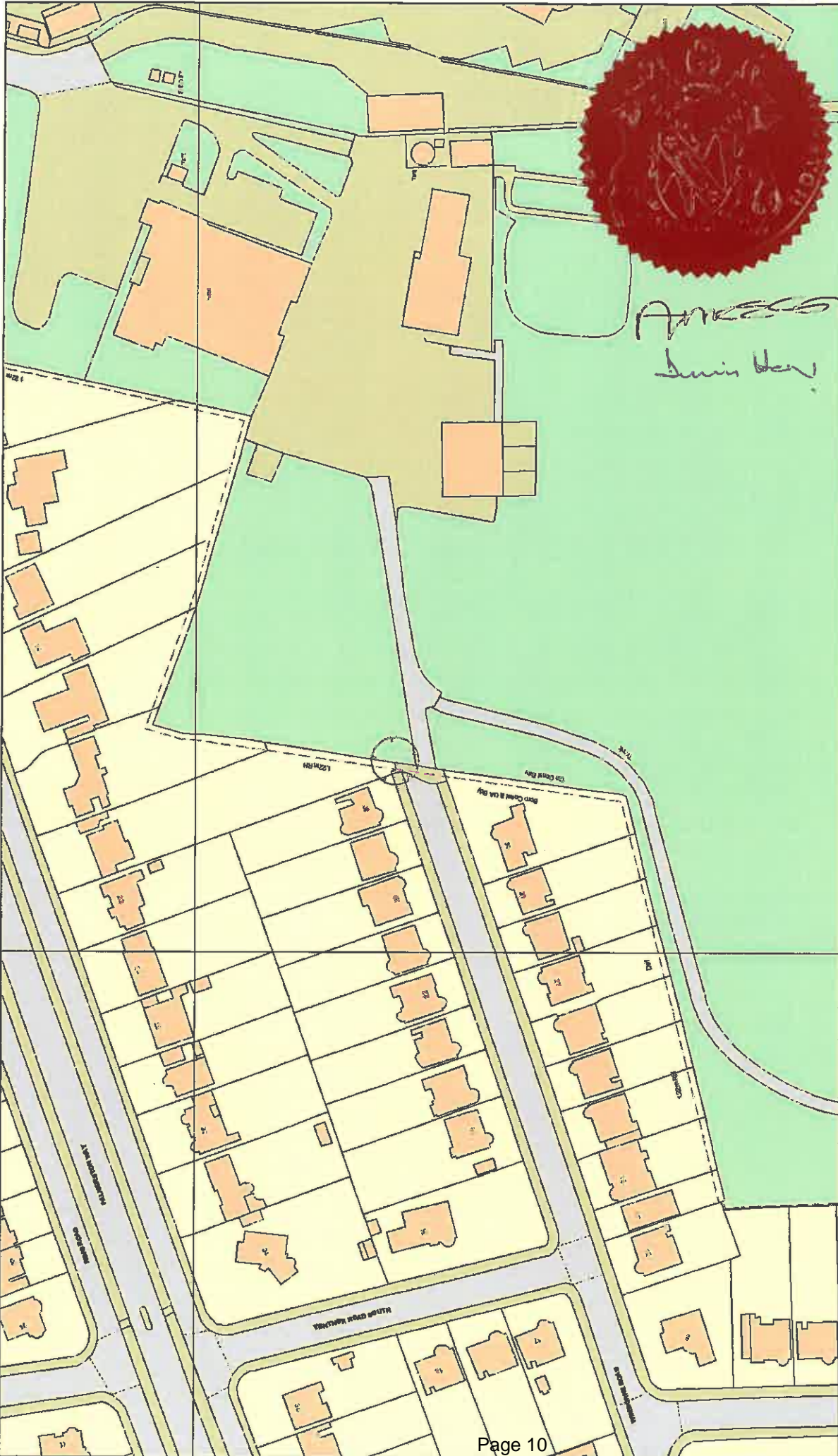
Reference on map	Description	Situation
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**Groups of Trees**  
(within a broken black line on the map)

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

Reference on map	Description	Situation
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Scale 1:1250

Date 29/09/2017

**THE BOROUGH OF OADBY & WIGSTON (LAND AT 20 RING ROAD) TREE PRESERVATION ORDER NO.326**

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<b>Development Control Committee</b>	<b>Thursday, 15 February 2018</b>	<b>Matter for Information and Decision</b>
--	---------------------------------------	--

**Title:** **Confirmation of The Borough Council of Oadby & Wigston  
(Land at 25 Knighton Rise, Oadby, Leicester, LE2 2RF)  
Tree Preservation Order 2017**

**Author(s):** **Michael Bennetto (Arboricultural Officer)**

---

**1. Introduction**

This report is to request the Committee to approve confirmation or otherwise of The Borough Council of Oadby & Wigston (Land at 25 Knighton Rise, Oadby, Leicester, LE2 2RF) Tree Preservation Order ("the Order") which was made on 6 October 2017.

**2. Recommendation(s)**

That The Borough Council of Oadby & Wigston (Land at 25 Knighton Rise, Oadby, Leicester, LE2 2RF) Tree Preservation Order 2017 be confirmed with modifications.

**3. Information**

- 3.1. A Section 211 Tree Notification (Works to trees in a Conservation Area) (application no. 17/00330/TCA) was made by an agent at the request of the property owner to reduce two lawson cypresses by 50%. Of the two trees subject to the application, one was of sufficient merit to warrant a TPO being put in place on the grounds on amenity.
- 3.2. A provisional TPO was made in response to the request. In compliance with The Town and Country Planning (Tree Preservation) (England) Regulations 2012, copies of the Order were served on the owners of the property and adjoining neighbours.
- 3.3. A provisional TPO gives immediate protection to trees and remains in force for a period of up to 6 months during which time the Council can decide whether to confirm the Order as made, with modification or not to confirm.
- 3.4. The grounds of making the Order was that the tree is of amenity value to the general public being located in the property frontage adjoining Knighton Rise, Oadby. Proposed works would have significantly affected the form and condition of the tree.
- 3.5. During the statutory objection period which followed the service of the Order, no written representations were received.

**Background Documents:**

Application No. 17/00330/TCA

**E-mail:** michael.bennetto@oadby-wigston.gov.uk

**Tel:** (0116) 257 2697

<b>Implications</b>   Confirmation of The Borough Council of Oadby & Wigston (Land at 25 Knighton Rise, Oadby, Leicester, LE2 2RF) Tree Preservation Order 2017	
<b>Finance</b>	There are no significant financial implications.
<b>Chris Raymakers</b> (Head of Finance, Revenue and Benefits)	
<b>Legal</b>	All legal requirements have been duly fulfilled. The report is satisfactory.
<b>Dave Gill</b> (Head of Law & Governance / Monitoring Officer)	
<b>Corporate Risk(s) (CR)</b>	<input checked="" type="checkbox"/> <b>Reputation Damage (CR4)</b>
<b>Michael Bennetto</b> (Arboricultural Officer)	
<b>Corporate Priorities (CP)</b>	<input checked="" type="checkbox"/> <b>Green &amp; Safe Places (CP4)</b>
<b>Michael Bennetto</b> (Arboricultural Officer)	The confirmation of the Order will further the Corporate Priority to provide green and safe places by protecting the Borough's trees and natural habitat.
<b>Vision &amp; Values (V)</b>	<input checked="" type="checkbox"/> <b>Accountability (V1)</b>
<b>Michael Bennetto</b> (Arboricultural Officer)	<input checked="" type="checkbox"/> <b>Customer Focus (V5)</b>
<b>Equalities &amp; Equality Assessment(s) (EA)</b>	There are no significant equalities implications.
<b>Michael Bennetto</b> (Arboricultural Officer)	<input checked="" type="checkbox"/> <b>Not Applicable (EA)</b>

**Town and Country Planning Act 1990**

**THE BOROUGH COUNCIL OF OADBY & WIGSTON (LAND AT 25 KNIGHTON RISE, OADBY, LEICESTER, LE2 2RF) TREE PRESERVATION ORDER 2017**

The Borough Council of Oadby & Wigston, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order:-

***Citation***

---

1. This Order may be cited as The Borough Council of Oadby & Wigston (Land at 25 Knighton Rise, Oadby, Leicester, LE2 2RF) Tree Preservation Order 2017 made on **06 OCTOBER 2017**.

***Interpretation***

---

2. (1) In this Order "the authority" means the Borough Council of Oadby and Wigston unless the context otherwise requires.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

***Effect***

---

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to article 14, no person shall-
  - (a) cut down; top; lop; uproot; wilfully damage; or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of, any tree in the Schedule of this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

***Application to trees to be planted pursuant to a condition***

---

4. In relation to any tree identified in the first column of the Schedule by the letter "T1", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this **06** day of **OCTOBER 2017**

The Common Seal of the Borough Council of Oadby and Wigston was hereunto affixed in the presence of:-



(Mayor)



(Chief Executive)



**CONFIRMATION OF ORDER**

This Order was confirmed by the Oadby and Wigston Borough Council at its meeting of the Development Control Committee without modification on the                    day of                    201 .

Minute Reference:

**CONFIRMATION OF ORDER SUBJECT TO MODIFICATION**

This Order was confirmed by the Oadby and Wigston Borough Council at its meeting of the Development Control Committee, on the                    day of                    201 , subject to the following modifications:

Minute Reference:

**DECISION NOT TO CONFIRM ORDER**

A decision not to confirm this Order was taken by Oadby and Wigston Borough Council at its meeting of the Development Control Committee on the                    day of                    201 .

Minute Reference:



**DECISION NOT TO VARY ORDER**

A decision to vary this Order was taken by Oadby and Wigston Borough Council at its meeting of the Development Control Committee on the                      day of                      201     .

Minute Reference:

**DECISION NOT TO REVOKE ORDER**

A decision to revoke this Order was taken by Oadby and Wigston Borough Council at its meeting of the Development Control Committee on the                      day of                      201     .

Minute Reference:

**SCHEDULE**

**SPECIFICATION OF TREES**

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

Reference on map	Description	Situation
T1	Lawson Cypress	

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

Reference on map	Description	Situation
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**Groups of Trees**  
(within a broken black line on the map)

Reference on map	Description	Situation
------------------	-------------	-----------

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

Reference on map	Description	Situation
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Scale	1:1250
Date	29/09/2017

**THE BOROUGH OF OADBY & WIGSTON (LAND AT 25 KNIGHTON RISE) TREE PRESERVATION ORDER**

**NO.325**

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*Wigston*  
*[Signature]*

15117118(a)

# Agenda Item 6

**Application Number**

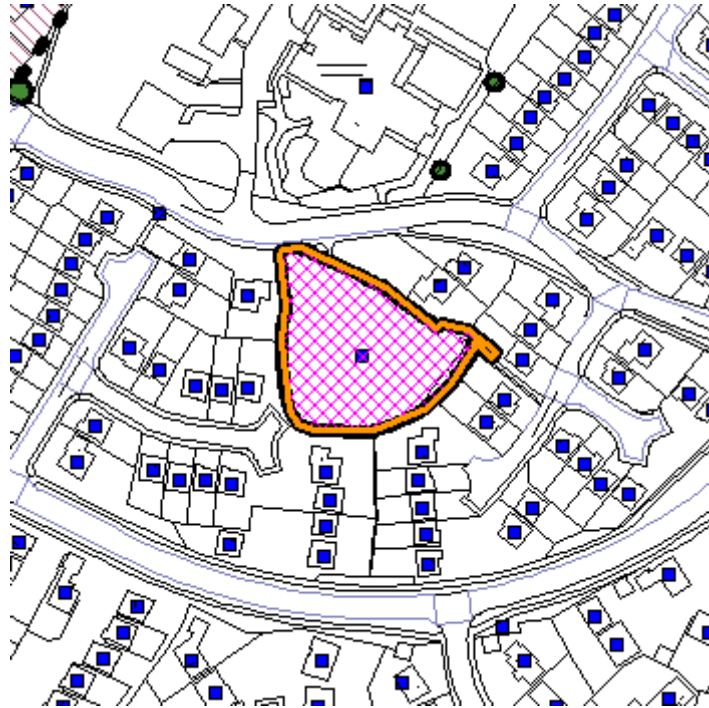
**Address**

**Report Items**

6a. 18/00006/TPO

Beaufort Way Spinney  
Beaufort Way  
Oadby  
Leicestershire

6a.	18/00006/TPO	Beaufort Way Spinney Beaufort Way Oadby Leicestershire
	4 January 2018	Works to Woodland W2 (Oadby Grange Extension) Tree Preservation Order 1987 as per report.
	CASE OFFICER	Michael Bennetto



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Published 2014

**Development Control Committee Meeting**  
**15 February 2018**

## Site and Location

The application site is located in Oadby Woodlands Ward on Beaufort Way. The site is comprised of a woodland spinney retained during the surrounding residential development and is subject to a woodland tree preservation order (ref: TPO/0046/WOODLAND)

The surrounding land use is primarily residential with Woodlands Primary School to the north. There are 3 permissive footpaths through the spinney with entrances from Beaufort Way, Cooper Gardens and Newby gardens providing a great deal of amenity to neighbouring properties as well as those frequenting the school.

The spinney is comprised of mixed species, predominantly Oak and Ash with an understory of Holly and Hawthorn.

## Description of proposal

The proposed works have been taken from an arboricultural survey in the context of a planning application but applied for in the context of risk management.

The proposed works are extensive and best summarised as:

- \* Reduce 9No. trees to standing stems between 1.5m and 6m
- \* Crown reduce 7No. trees between 3 and 6m
- \* Fell 1 Group of 23 Hawthorn
- \* Thin 1 Group of Holly.
- \* Sever Ivy and remove fragile deadwood.

The statutory determination period for this application expires on the 12 February 2018 and it is intended to issue a decision as soon as practicably possible after the committee meeting.

## Relevant Planning History

None

## Consultations

Leicestershire County Council (Ecology) :\_No response received at time of writing report.

OWBC Client Services :\_No response received at time of writing report.

OWBC Tree Warden : "I confirm I inspected this spinney on 20 January in my capacity as a tree warden .I do not have any objections to the application but please note that this does not in any way mean that I support any future application for planning permission for residential purposes."

Forward Planning (Policy) : The Oadby and Wigston Landscape Character Assessment (2005) identifies this area as Urban Character Area O(iv): Oadby Later Estates North and South. Paragraph 3.3.58 states:

*'A decline in tree cover would decrease landscape quality of the area.'*

In the adopted Core Strategy, Policy 5 Green Infrastructure states that:

**Development Control Committee Meeting**  
**15 February 2018**

*'The Borough Council will safeguard and enhance Strategic Green Infrastructure corridors connecting locations of natural heritage, green space biodiversity and other environmental interest.'*

In the adopted Core Strategy, Policy 15 Landscape and Character states that:

*'All development proposals will be considered against the need to protect and enhance the distinctive landscape and historic character of the Borough. They should reflect the prevailing quality, character and features such as settlement pattern, views, biodiversity and local distinctiveness.'*

The proposed works will dramatically change the character of the area and therefore such substantial changes would not be in keeping with current policy or guidance for the landscape character of the area.

## **Representations**

Neighbours have been informed and 3 notices placed close to the spinney entrances with 3 letters of representation (from 3 properties), 1 in support and 2 in objection of the proposal being received at the time of writing this report.

The date for the receipt of comments expires on the 6 February 2018

The reasons for objection can be summarised as follows: -

- \* Intention to develop the spinney into further domestic dwellings
- \* Destruction of local wildlife.
- \* Severe impact on habitat.
- \* TPO is in place to protect the trees from harm through development or excessive tree works.
- \* Inconsistent with NPPF; protecting and enhancing valued landscapes, planning positively for the creation, protection and enhancement of green infrastructure, refusing permission for development resulting in the loss or deterioration of [...] aged trees found outside ancient woodland.
- \* The work outlined in the Arb survey is excessive in the extreme to that required to mitigate the risk

The reasons for supporting the proposal can be summarised as follows: -

- \* 'Trees badly overhang the property and so the property is at risk. Leaves stuck in gutters. Water stuck, roof and walls going damage with rain water' – [support inferred]

Councillor Dean Gamble and Councillor Bhupendra Dave have requested the application go to Committee on the grounds of local public interest and concerns.

## **Relevant Planning Policies**

### National Planning Policy Framework

Chapter 11 – Conserving and enhancing the natural environment.

### Oadby & Wigston Core Strategy

Core Strategy Policy 5: Green Infrastructure

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Oadby and Wigston Local Plan

Supplementary Planning Document/Other Guidance

**Planning Considerations**

The main issues to consider in the determination of this application are as follows:

- \* Purpose of the application
- \* Tree Risk
- \* Appropriate Management
- \* Impact upon the TPO
- \* Amenity
- \* Justification of works
- \* Protected Species

Purpose of the application

The submitted report is categorical in its status as being within the context of a proposed residential development (Ref: BeaufortWay\_Oadby/01 section 1.1).

Following conversation with the applicant, the application was submitted for works to address neighbours' concerns regarding the adjacent trees:

- \* Email of 10/01/2018 – "contact has been made from neighbouring residents with concerns for the safety of themselves and their property due to falling limbs from the trees situated on the land. My client urgently wants to resolve these issues so as not to put anyone at risk of injury or damage to property, along with the protection of relevant trees."
- \* Email of 12/01/2018 – "From our knowledge, the survey was undertaken by the arboriculturist (taking) into account that the land is regularly accessed by members of the public, including school children as a local shortcut. As a result of this the report has been written so that the natural footpaths are also considered as well as the primary concern of the tree health."

Our client is ultimately looking to safeguard the public accessing his land and his surrounding neighbours, as they want to reduce the risk of injury or damage to others and their property. We want to continue with the works recommended by the arboriculturist so that the land becomes safe, however if my client is refused the opportunity to have this work undertaken, it must be assumed that the Local Authority are willing to take responsibility for any damages caused by the areas highlighted in the report."

Since clarified by the applicant, the works submitted for have been assessed with respect to risk and safety with regard to the owners' duty of care and concerned neighbours.

Tree Risk

The National Tree Safety Group publishes the Common Sense Risk Management of Trees:

- \* "This document may be presented to a court documentation in any case involving death or personal injury caused by a falling tree or branch. "

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- \* "The NTSG believes that one fundamental concept should underlie the management of risks from trees. It is that the evaluation of what is reasonable should be based upon a balance between benefit and risk. This evaluation can be undertaken only in a local context, since trees provide many different types of benefit in a range of different circumstances. "
- \* "The requirement under health and safety legislation is to have a suitable and sufficient risk assessment, and to apply measures that are reasonable and practicable. "

Disproportionate works to the risk posed should be refused, we must also be aware that failure to permit works on safety grounds can leave liability with the council, however where more proportionate measures have been proposed any failure to complete said works would return liability to the owner.

### Appropriate Management

For applications relating to woodland, statutory advice is that the authority "must grant consent so far as accords with good forestry practice unless it is satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area."

In consideration of 'good forestry practice', due to the size and position of this site I would deem typical forestry processes inappropriate. I believe the spinney is better considered as an amenity asset rather than a working woodland.

The application has failed to show appropriate management in this instance, typically a Woodland Management Plan or Tree Condition Survey are considered suitable.

Small, scattered woodlands deliver a range of landscape, biodiversity and other benefits but remain vulnerable to neglect, due to the marginal revenues from managing them and pressures from development.

### Impact upon the TPO

A tree preservation order for a woodland extends to all trees present and future within a woodland, within the defined area, including natural regeneration – "A tree is to be so regarded at all stages of its life, subject to the exclusion of a mere seed" (case: *C1/2015/1102*). The purpose of woodland Orders are to safeguard the woodland unit as a whole and covers all tree species. The woodland category should not hinder beneficial woodland management

### Amenity

There would be a noticeable loss of amenity following the proposed works. Although the main tree group would remain, the form and condition of remaining trees would be impaired and apparent. A degree of protection is available in that the TPO covers all future trees.

### Justification

Insufficient justification/evidence in support has been supplied, particularly pertaining to the presence of decay fungi where the report states 'fungal brackets on scaffold limbs', with no description or aspect (i.e Northern stem, second primary limb at 5m) or photographs to support it.

## Protected Species

None apparent during site inspection. Ecology consultation not returned (at the date of writing)

## Site visit and assessment of the application.

All works to remove deadwood and sever ivy have been removed from the accompanying report as they are exempt and do not require permission. (Trees T:2,3,4,5,6,9,10,12,16,18,20,23,26,29,30,34 and 35)

The remaining trees were then assessed against the specification provided:

- T1: Asymmetric canopy with tight included union and abrupt bends – As applied for.
- T7: Very slender on woodland edge, reduce to 1.5m - Applied for 4m.
- T8: Quite slender with extended growth on woodland edge. Reduce by 3m to improve form – As applied for.
- T11: Tree is not dead. Previously 'reduced' to 3-4m standing stem. Phototropic regrowth over adjacent garden and decay seen in main stem. Re-pollarding the regrowth will reduce the loading forces and thus reduce the chance of failure due to the decay in the main stem.
- T13: Reduction is not appropriate; the tree is unlikely to fail into an adjacent property. Slender form trees *within* woodland are to be expected.
- T14: No observed or evidenced decay fungus or previous attachment points. A primary limb has grown slightly overextended and is becoming dominant; reducing this limb by 3-4m should rebalance the canopy and reassert main stem apical dominance.
- T15: Previously topped, the established regrowth has several upright branches vying for position which could fail mechanically (lever arm failure) if allowed to mature. A reduction of 2m in height and 1m from the boundary should abate the upward growth in favour of a denser, compact crown.
- T17: Standing dead stem. Minimal risk posed, removal is contrary to best practice. – Location incorrect on plan.
- T19: Tree with impaired condition, with an asymmetric canopy biased over the adjacent dwelling. Cutting it down to a 3-4m standing stem would most likely result in the trees demise. The 2 main stems break into multi-stem unions at approximately 7m. Pollarding above this point would avoid making main stem cuts and reducing the risk to an acceptable level and can be included within a pollarding cycle/management strategy.
- T21: *I.Hispidus* bracket observed on primary limb over highway, associated with previous reduction, reduce by up to 3m - As applied for.
- T22: A 50% reduction would be excessive and not in accordance with best practice. 3m height reduction and 1m width reduction as well as removal of deadwood should be appropriate.
- T24: See T19.
- T25: Fibre buckling has little to no increased risk.
- T27: Out of falling distance. Works not justified.
- T28: See T27.
- T31: See T13.
- T32: See T13. – tagged as 0033
- T33: See T13. – tagged as 0035
  
- G1: Prune for access so far as required to survey
- G2: 'Remove tree' applied for. My count is that G2 comprises 23 trees, none of which pose a significant risk; as such their removal is not proportionate.

## Conclusion

A high level of management will be required on a site such as this by the land owner; there is 223 linear metres of boundary with approximately 80% residential and 20% adjacent Beaufort Way road and directly opposite Woodland Grange Primary School with parents and coaches parking alongside. There are 3 distinct entrances with permissive footpaths through the spinney.

We can note that in the deed to the land it stipulates that owner is obliged to maintain a stock proof boundary; we wouldn't consider this as enforceable or of benefit to the community and it could be at expense far beyond maintaining a healthy tree stock.

The works applied for have been taken out of context; the submitted report is in the context of a residential development while the works submitted for are to address risk following neighbours' concerns. Intention to develop the spinney can be considered little more than conjecture and should not be a factor when considering the application.

When considering the main issues relating to this application I would suggest the most efficient and judicious outcome is to acknowledge that trees inherently pose a degree of risk and notwithstanding the submitted details permit works that are proportionate to the risk posed. In doing so the council would not be hindering the carrying out of safety works but encouraging a proportionate response to presented risk. This approach would also avoid as far as reasonably practicable the destruction of habitat and its impact on local wildlife. In other words, the severity of works can be reduced while still addressing the risk.

Works proposed are considered neither beneficial woodland management, nor in line with good forestry practise. That being said there is a justifiable reason for some works to be carried out to fulfil the owners duty of care for adjacent land owners and those who pass through the spinney, it's the balance of a proportionate response to the risk presented that must be assessed.

In order to prevent any undue destruction of habitat and impact on wildlife I would propose a more conservative set of works be granted as specified by an accompanying report so far as necessary to reduce the presented risk to a suitable level.

In summary, after due consideration of the site and its use I have made the first phase of a management plan that I feel makes a proportionate response while offering an acceptable reduction in risk, adequate to afford the owner reasonable precaution until a woodland management plan or tree inspection regime has been put into place. I will make myself available to discuss the matter with the suitably appointed person/arboriculturist

## Recommendation

For the reasons set out in the above report then **Permit** subject to the following conditions:

### Implications Statement

Health	No Significant implications
Environment	Environmental impact has been taken into account when assessing the application.
Community Safety	No Significant implications
Human Rights	There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and

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	home, and to the peaceful enjoyment of possessions. However, these issues have been taken into account in the assessment of this application.
Equal Opportunities	No Significant implications
Risk Assessment	Risk posed has been taken into account when assessing the application.
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	Liability has been taken into account when assessing the application.

## **RECOMMENDATION: GRANTS**

### Subject to the following condition(s)

- 1 Notwithstanding the submitted details the tree works shall be undertaken strictly in accordance with the recommended works as specified by the Arboricultural Officer dated \*\*\*\* attached to, and forming part of, this consent.  
**Reason:** To safeguard the appearance and future well-being of the tree(s) in the interests of the visual amenity of the area in accordance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 2 The works to which this consent relates shall be begun before the expiration of two years from the date of this consent.  
**Reason:** To accord with the provisions of the Town and Country Planning (Tree Preservation) Regulations 2012.
- 3 The works shall be carried out in accordance with BS3998:2010 'Tree Works Recommendations' which revises and supersedes all previous issues and includes updated information based on the very latest Arboricultural research. Section 7 refers specifically to pruning and related work and gives detailed guidance about crown thinning, crown reduction, number of pruning cuts in relation to trunk diameter and the correct targeting of such cuts.  
**Reason:** To safeguard the appearance and future well-being of the tree(s) in the interests of the visual amenity of the area and in accordance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

### Note(s) to Applicant :

- 1 Nesting birds and bats, their roosts and their access to these roosts, are protected under the Wildlife and Countryside Act 1981 and the Conservation (Natural Habitat etc) Regulation 1994. Therefore, should birds or bats be present, works should be deferred until the late summer/autumn.

### **2 Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority for the works to a tree or trees subject to a Tree Preservation Order or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

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If you want to appeal against your local planning authority's decision then you must do so within 28 days of the date of the decision notice.

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at [www.gov.uk/appeal-decision-about-tree-order/how-to-appeal](http://www.gov.uk/appeal-decision-about-tree-order/how-to-appeal)

The Secretary of State can allow a longer period for giving notice of an appeal, but he/she will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

## Report as stipulated in condition 1 to accompany decision notification:

Notwithstanding the submitted details in application 18/00006/TPO, the tree works shall be undertaken strictly in accordance with the recommended works as specified within this report.

This report should be read with reference to the submitted documents for this application.

Works applied for that have not been included within this report are either; exempt from requiring permission (ivy and deadwood), or insufficient evidence/reasoning provided to justify the proposed.

Recommended works included in this report take reference from BS3998:2012 and the National Tree Safety Group – Common sense risk management of trees.

Due to discrepancies in the map provided this report references the tree tag number (where possible). – T17 = location incorrect, T32 = tag33, T33 = tag35, T35 = tree not present.

The site is subject to a Woodland TPO, indicated as W2 of Oadby and Wigston Borough Council (Oadby Grange Extension) Tree Preservation Order 1987.

Tree/ Group	Comments	Recommended works
T1	Asymmetric canopy toward driveway and footpath with a tight included union at 2m.	Reduce to 1.5m standing stem.
T7	Tree is overly slender for the position.	Pollard at 1.5m.
T8	Tall slender tree with overextended limbs over adjacent property.	Crown reduce up to 3m.
T11	This tree is not dead. Previously unsympathetically reduced to a standing stem at 4m, creating a large stem wound with signs of decay progression. I suggest re-pollarding and establishing an appropriate re-pollarding cycle for the tree, to reduce the loading forces and retaining habitat.	Re-pollard
T14	Slight asymmetric canopy due to a primary limb growing towards adjacent property.	Reduce overextended limb over adjacent property by 3-4m
T15	Unsympathetically reduced oak, previously topped.	Crown reduction, reducing the height by 2m and overhanging limb by 1m.
T19	Asymmetric canopy (S) biased over adjacent property. Reduction to a standing stem is not appropriate to the risk presented and would require making cuts to the main stem.	Pollard at approximately 7m, between 1-2m from main bole.
T21	Previously reduced. Asymmetric canopy over road used for parking. <i>I.Hispidus</i> bracket on SW limb at 4m associated with previous reduction.	Crown reduce up to 3m

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T22	Previously reduced away from property, poorly. <i>I.Hispidus</i> on western limb at 5m associated with previous pruning.	Crown reduce; 3m height reduction, 1m width reduction. Deadwood.
T24	Asymmetric canopy (W) over adjacent gardens. <i>I.Hispidus</i> in main stem.	Pollard at approx. 5m, 1m from main bole.
G1		Prune as far as necessary to allow inspection of adjacent trees.

It's recommended to remove deadwood as necessary (BS3998:2010 7.3), to include that which overhangs or is within falling distance of adjacent properties and to sever ivy on trees within falling distance of a boundary in order to improve surveying capacity. It's recommended to retain the standing dead stems of trees; T17 (as is) and T23 (reduced to 2m+ habitat pole).

All works are to be carried out by a suitably qualified and insured Arborist to BS3998:2010 'Tree works – recommendations' which revises and supersedes all previous issues and includes updated information based on the very latest Arboricultural research. Section 7 refers specifically to pruning and related work and gives detailed guidance about deadwood, standing dead stems, crown thinning, crown reduction, pollarding, number of pruning cuts in relation to trunk diameter and the correct targeting of such cuts.

As stated, the submitted Arboricultural survey, and thus the associated recommended works are in the context of development. Recommended reports in the context of safety (as indicated by the applicant) and correct management include Woodland Management Plans and Tree Condition Surveys.

A Woodland TPO protects all trees present and future within the defined area, including natural regeneration and covers all stages of a trees life, subject to the exclusion of a mere seed. Future applications should be made so far as accords with the practice of good forestry and to secure the maintenance of the special character of the woodland.

This report does not constitute a valid Tree Condition Survey for insurance purposes.

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BACKGROUND PAPERS

1. 18/00006/TPO



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