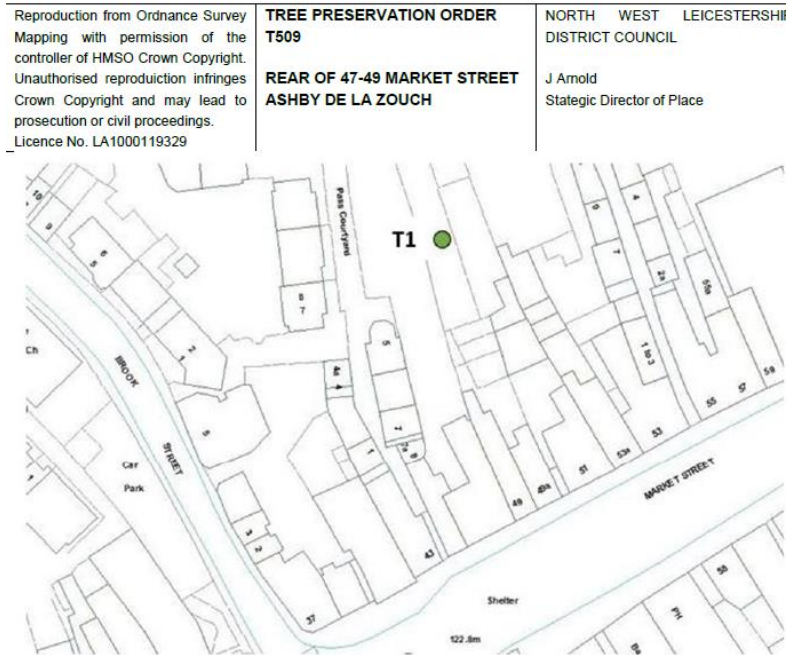


<b>Title of Report</b>	<b>TO CONSIDER AN OBJECTION MADE BY BTA PARTNERSHIP IN RESPECT OF NWLDC TREE PRESERVATION ORDER T509 – LAND TO THE REAR OF 47-49 MARKET STREET ASHBY DE LA ZOUCH</b>	
<b>Presented by</b>	Julian Simpson Tree Officer	
<b>Background Papers</b>	None	<b>Public Report: Yes</b>
<b>Financial Implications</b>	None	
<b>Staffing and Corporate Implications</b>	None	
	<b>Signed off by the Director of Place: Yes</b>  James Arnold	
<b>Legal Implications</b>	None	
	<b>Signed off by the Legal Advisor: Yes</b>  Stephen James	
<b>Purpose of Report</b>	A provisional TPO was made on 30 <sup>th</sup> May 2023 to protect T1 Silver Birch located in the parking area to the rear of the property. The TPO needs to be confirmed within six months. The tree will lose its TPO protection if the TPO is not confirmed before 30 <sup>th</sup> November 2023.	
<b>Recommendations</b>	<b>IT IS OFFICER RECOMMENDATION THAT THE TPO BE CONFIRMED.</b>	

## 1. BACKGROUND

- 1.1 In April 2023 a S211 notice was submitted of the intention to fell 2no. Ash trees and carry out a crown reduction to 1no. Silver Birch tree (unprotected trees in a conservation area) under application 23/00398/TCA. Due to the Ash trees being of poor quality and unsuitable for their positions, the council had no objection to them being felled. Due to the damaging nature of a crown reduction to amenity value and health of the Silver Birch, provisional TPO T509 was made (*see appendix 1 for details of the provisional TPO*).

1.2 The location of the Silver Birch is shown in the plan below with a photograph taken of the tree from Market Street to show its visibility from within the Conservation Area:



T1 Silver birch on the right viewed from North Street



- 1.3 Subsequently an application was received on 26<sup>th</sup> June (23/00795/TPO) to fell the Silver Birch. The applicant submitted a structural report and tree report and subsequently, the application was refused for the following reason:

*The application to fell is refused to ensure that unnecessary work is avoided and maintain amenity value. The proposals would result in the removal of a mature Silver Birch tree, protected for its amenity value, without any arboricultural justification or proven technical evidence that the tree has caused structural damage being demonstrated.*

## **2. OBJECTIONS**

- 2.1 One objection to the TPO was received from the applicant referring to the crown reduction having been carried out on the advice of a specialist to reduce the risk of uprooting and falling of branches which were unstable onto structures and buildings and onto an adjacent lane which is a private right of way (not a public footpath). (See appendix 2 for full details of the objection).

## **3. OFFICER COMMENTS**

- 3.1 The submitted Tim Alden Consultancy tree report (see appendix 3 for full details of the report) concluded that damage to the existing boundary wall which lies next to the Birch tree is fairly likely and that proper repair of a retaining wall is quite expensive and if the tree issue is not addressed properly, that damage is likely to re-occur. It recommends that the tree should be removed or reduced in size, even though a crown reduction would not alter the position of the tree's root system or its interaction with nearby structures in any way. The report provides no evidence of instability or poor structural condition to justify the works proposed.
- 3.2 Pibworth Associates Consulting Civil and Structural Engineers (see appendix 4 for full details of the report) inspected the site on the 20<sup>th</sup> of June 2023 and noted several mature broadleaf trees growing close to the rear boundary wall. They concluded that the wall is already leaning significantly, bricks are weathered, and they are of the opinion that the action of tree roots is undermining the wall. They also state that tree canopies will cause damp damage to brickwork. The report is not specific to Birch tree T1 and no investigation has located any tree roots specific to this tree.
- 3.3 The report also does not refer to the raised bed behind the wall to the east, with the weight of soil against it or the Conifers located directly behind the wall. The wall is leaning towards the Birch to the west on the lower side and away from the Conifers. No evidence has been submitted that the Birch roots have caused any damage.
- 3.4 The Council's Tree Officer re-visited the site on 18<sup>th</sup> August 2023 and re-confirmed that the tree is in good condition. The weight of soil behind the wall and with the Conifers being so close, are more likely to be the cause of the damage in addition to the wall's aged and neglected condition. Depth of wall foundations and soil type are unknown.
- 3.5 With or without Birch T1, the wall will need to be dismantled and re-constructed. A re-built wall design could bridge any important Birch roots and can be carried out to withstand any future direct influence.
- 3.6 The Tree Officer's conclusion therefore is that due to the tree's good condition, the positive contribution it makes to the conservation area with it being clearly visible to the public, both from North Street and the adjacent alley and thoroughfare connecting North Street to Market Street, Silver Birch tree T1 should be retained and the TPO order made.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	<ul style="list-style-type: none"> <li>- Developing a clean and green district</li> <li>- Our communities are safe, healthy and connected.</li> </ul>
Policy Considerations:	None
Safeguarding:	None
Equalities/Diversity:	None
Customer Impact:	The cost of a bridging lintel.
Economic and Social Impact:	The economic and social impact of trees in urban areas is positive and well documented.
Environment, Climate Change & Zero Carbon:	A TPO will help protect the local natural environment and as trees absorb carbon dioxide and filter pollutants from the atmosphere it will support Council policy on climate change.
Consultation/Community Engagement:	People with a legal interest in the land affected by the Order have been consulted and members of the public were consulted by the placing of site notices.
Risks:	None
Officer Contact	Julian Simpson Tree Officer Planning and Development <a href="mailto:julian.simpson@nwleicestershire.gov.uk">julian.simpson@nwleicestershire.gov.uk</a>