

Public Document Pack

Date of meeting Tuesday, 5th January, 2016
Time 7.00 pm
Venue Council Chamber, Civic Offices, Merrial Street,
Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Julia Cleary



Civic Offices
Merrial Street
Newcastle-under-Lyme
Staffordshire
ST5 2AG

Planning Committee

SUPPLEMENTARY AGENDA

PART 1- OPEN AGENDA

- 4a Application for Major Development - Tagedale Quarry, (Pages 3 - 6)
Eccleshall Road, Loggerheads. Renew Land Developments
Ltd. 15/00015/OUT
- 6a Application for Major Development - The Hawthorns and Keele (Pages 7 - 8)
Campus, University of Keele. Keele Seddon Ltd. 15/01004/FUL
& 15/1009/FUL
- 9a Application for Minor Development - Broughton Arms, (Pages 9 - 10)
Newcastle Road, Balterley. The Broughton Propco Ltd.
15/00964/FUL
- 10a Application for Minor Development - Former Silverdale Bowling (Pages 11 - 12)
Green, Kinsey Street, Silverdale. Milwood Ltd. 15/01001/FUL
- 11a Application for Minor Development - Audley Community Centre, (Pages 13 - 14)
Audley. Audley and District Community Centre. 15/01022/FUL
- 14a Application for Other Development - Former St Giles and St (Pages 15 - 16)
Georges Primary School, Barracks Road, Newcastle.
Staffordshire County Council. 15 /01077/FUL
- 16a Tree Preservation Order - Fintry, Pinewood Road, Ashley (Pages 17 - 22)
Heath. TPO172

Members: Councillors Braithwaite, Cooper, Fear, Hambleton, Heesom, Mancey, Northcott,

Owen, Proctor, Reddish (Vice-Chair), Simpson, Snell (Chair), Turner, Welsh,
Williams and Williams

'Members of the Council: If you identify any personal training / development requirements from the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Committee Clerk at the close of the meeting'

FIELD_TITLE

ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
5th January 2016

Agenda item 4

Application ref. 15/00015/OUT

Tadgedale Quarry, Eccleshall Road, Loggerheads

Since the preparation of the agenda report the applicant's agent has submitted a letter from a **Heritage Consultant**. The letter has been sent to all members of the Planning Committee. A summary of the comments made is as follows:

- White House Farm is thought to date from about 1800.
- The house was included in the statutory list "partly as an imposing and prominent feature in the landscape" and it is certainly noticeable on the skyline in views from Mucklestone Wood Lane and Rock Lane. There are also extensive views westward from the listed building.
- The proposed new dwellings in Tadgedale Quarry will be set at least 25m lower than the listed building and there will be no possibility of the new development affecting important long distance views out to the west over the trees in Rock Lane or eastward and uphill from Rock Lane and Mucklestone Wood Lane where the "imposing and prominent" role of the listed building in the landscape is best appreciated.
- The effect of the proposed development on the setting of the listed building will be very slight and there will be no erosion of its architectural or historic significance. Therefore there will be no conflict with local policy, no harm to be considered within the NPPF and no harm to be encountered in the Council's discharge of its duty under section 66(1) of the Planning (Conservation Areas and Listed Buildings) Act 1990. By taking a precautionary approach to the consideration of the setting of the listed building and by undertaking a site visit, members of the Planning Committee have clearly given adequate consideration to the NPPF and the Act.
- There are no grounds on which to base any kind of heritage objection and no case at all for a harmful effect on the setting of the listed building.
- The milepost on Eccleshall Road will not be affected by the proposed development.

As referred to in paragraph 6.10 of the agenda report, the **applicant's agent** has provided information regarding the importation of material to the site.

- For pure enabling work the applicant's engineer, E3P's, abnormal costs appraisal identifies a short-fall of 47,900m³ of material. E3P suspect that the number will be lower once development plans are formalised, as they can then work out what the minimum values are that can realistically be achieved.
- They state that the amount of shortfall equates to circa 4,799 lorry loads (based on the assumption that a 4 axle tipper truck can carry 10m³). This is based upon the maximum payload of a round 20t per vehicle for a rigid tipper truck with 4 axles.
- Due to the nature of the site and associated enabling/remediation works required it is anticipated that the housing development would be implemented in two phases. Phase 1 would comprise construction of housing on the front (south) part of the site over say the first three years, whilst the enabling works continue in phase 2 to the rear. So 156 weeks can be assumed for the importation of material in association with the enabling works.
- In reality, given where the site is, the period of the works may take slightly longer than in a more urban area close to a motorway, but based on a period of 156 weeks this would equate to approximately 6 vehicles per day on average (156 weeks at 5.5 days per week = 858 days for the work).
- This equates to less than 1 vehicle per hour during the working day and the routing would be via the A or B class highway network and the primary purpose of these types of roads is to carry traffic. This limited level of increase in HGV movement along the A53 is unlikely to be perceptible.

- Use of articulated tipper trucks would lead to a reduction in the number of trips but the vehicles would be bigger, equally an extension in the timescale for the abnormal work would lead to less lorries per day as well.
- A Construction Management Plan can be conditioned which could formalise the routing for the HGV's, times for delivery and the like.

The **applicant's agent** has sent an item of correspondence to all members of the Planning Committee prior to the site visit. A summary of the points made is as follows:

- The applicant has always acknowledged that as a result of the historic uses of the site further remediation and enabling works will be required.
- Any genuine information regarding the site history and ground conditions is welcomed to inform the further work that will be required.
- This planning application presents Members with the opportunity to address any issues caused by contamination by way of further ground investigations and site remediation.
- Granting planning permission would result in any issues associated with the existing ground conditions at the site being resolved whereas refusal would result in no change to the current situation/ground conditions.
- The proposal includes the provision of a linear park within which a public footpath would connect the dwellings to Eccleshall Road.
- Evidence has been provided previously to demonstrate that the application site is accessible.
- The proposed footpath connections to and from the site and Loggerheads would enable members of the local community to use the open space and play facilities.
- White House Farm is some distance away and well screened from the application site by trees along Rock Lane and given the topography and vegetation, the proposed development would be barely visible from the listed building. The proposal would not adversely affect the setting of the listed building.

Further correspondence has been received from the **applicant's agent** following the Committee site visit. It is advised that there are two lollipop persons/crossing guards present at school time in the village. It is also confirmed that the applicant would support either the provision of a signalised crossing at the village centre or alternatively making a financial contribution towards highway upgrades in Loggerheads to the same value of the proposed crossing if Members would prefer funds to be used towards other improvements that the Parish Council would like.

Following the Committee site visit, a plan has been received from the **applicant's agent** showing the proposed site access, the road widening, and the provision of the required visibility splays. A plan prepared by your Landscape officers shows the trees likely to be lost as a result of the works and the visibility splays. Both will be available to view at the Committee.

One further **representation** has been received from Taywaste Consultancy, a Consultant employed by the former owner of the site. He expresses surprise that the content and conclusions of his report have been ignored in the officer's report. It is requested that the existence of the report and its conclusions be brought to the attention of members at the site visit and subsequent discussions.

Correspondence has been sent to all members of the Planning Committee providing some details of correspondence between solicitors acting for the applicant and a member of the public.

Your Officer's comments

The issues of land contamination and impact on White House Farm Listed Building are considered fully in the agenda report and it is not thought necessary to consider them again now other than to confirm that a summary of the Taywaste Report is included within the agenda report to the 5th January meeting.

The Environment Agency has advised that they are likely to submit further comments on the application and any comments received will be reported to Members in a subsequent report.

Regarding the importation of material to the site, whilst the levels information upon which these calculations are based is indicative at this stage (proposed levels are the subject of a recommended condition) the information provided by the applicant's agent appears to be a reasonable estimate of the likely number of lorry movements were such levels to be achieved. Given the period of time over which the material would be imported, it is not considered that there would be any significant adverse impact on the highway network. The County Council have not indicated to your officers that a separate planning approval would be required from them for such works, nor is that considered to be the case given that such works are an integral part of the proposed development. A condition requiring the submission of a Construction Management Plan, which would include a requirement for details of the routing of construction vehicles, is included in the recommendation section of the agenda report.

The issue of the proposed crossing to the west of the double mini-roundabout junction in the centre of Loggerheads is considered within the agenda report. The recent suggestion by the applicant's agent regarding the making of a financial contribution towards highway improvements in Loggerheads as an alternative to the provision of a crossing will be considered fully by your Officer and a further report will be given.

As previously indicated the proposed road widening and visibility splay requirements would result in the loss of a number of trees along the frontage of the site. The Landscape Development Section is satisfied that given that the majority of those trees categorised as of high and moderate quality are relatively young, replacement planting would be appropriate and therefore their loss would not have a significant adverse impact on the amenity of the area.

At the Committee site visit, it was queried whether a connection is proposed to Rock Lane. Although the application does not at present include such a proposal, it is considered that a pedestrian connection to Rock Lane could be achieved at the north eastern corner of the site and that such a connection would be desirable in improving connectivity. An additional condition is recommended requiring a pedestrian connection from the site to Rock Lane.

If members wish advice on why the correspondence between a member of the public and the applicant's solicitor is immaterial to the planning decision such advice should be given with members of the public excluded from the meeting by reason of paragraphs 2 and 5 of Schedule 12A of the Local Government Act 1972 (as amended).

The RECOMMENDATION remains as per the main agenda report with an additional condition requiring a pedestrian connection from the site to Rock Lane.

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ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
5th January 2016

Agenda item 7

Application ref. 15/01004/FUL & 15/01009/FUL

The Hawthorns and Keele Campus, University of Keele

Since the preparation of the agenda report the views of Staffordshire County Council as the **Lead Local Flood Authority** have been received. With regard to both the campus and the Hawthorns developments they have no objections subject to a condition, in each case, requiring the submission, for approval and implementation, of a detailed surface water drainage scheme prior to development.

Revised comments have been received from **Keele Parish Council**. They state that they welcome the removal of plots 77 and 78 from the planning application and although they still have concerns about many aspects of the proposed development they are not supported by the Inspector's report and they therefore withdraw their objection. They retain their previous comments regarding conditions.

Correspondence has been received from the applicant's **Arboricultural Consultants** stating that they are satisfied that the mitigation method proposed in the bowl area will not impact in tree retention in this area.

With respect to paragraph 16.2 of the agenda report, the report of the District Valuer has now been received. The report concludes that it is not viable for the applicant to provide any Section 106 contributions or affordable housing contribution and maintain a reasonable profit.

Your Officer's comments

Your Officer is satisfied that the conclusion of the District Valuer is a sound and robust one. Notwithstanding the viability issue, the applicant has agreed to make an upfront payment of £132,976 towards secondary school education places at Madeley High School.

Every indication is that if the Council were to pursue affordable housing and the full education contributions that a policy compliant scheme would require, the development would simply not happen, and accordingly no contribution would be received, the University's accommodation and its attractiveness would not be improved and much needed housing development would not take place. Your Officer's view is that given that the viability case is established with evidence verified by the District Valuer, and the advice in the Framework that the scale of obligations and policy burdens should not threaten the ability of a development to be delivered viably, there are sufficient circumstances here to justify accepting the development without all of these contributions and requirements.

That said, market conditions, and thus viability, can change. On this basis it would be quite reasonable and necessary for the Local Planning Authority to require the independent financial assessment of the scheme to be reviewed if the Hawthorns development has not been substantially commenced within one year of the grant of the permission, and any resultant adjustment then made to the contributions to be made, including payment of a contribution to offsite provision of affordable housing. These matters would need to be secured via a Section 106 agreement which is also needed to secure the long term maintenance, availability and management of the public open space within the development.

RECOMMENDATION 1 (Ref. 15/01004/FUL) is therefore revised as follows:

- (A) Subject to the applicant entering into a Section 106 obligation by 8th February 2016, or 5th March 2016 if the applicant agrees to similarly extend to that date the statutory period for this application and application 15/01009/FUL, to require: -**

1. A financial contribution of £132,976 towards education places at Madeley High School
2. Reappraisal of the development's viability in the event of the development not being substantially commenced within 12 months of the permission, and a consequential upward adjustment of the contribution should the viability reappraisal so indicate
3. A scheme to be provided to and agreed by the Council for the long term management, availability, and maintenance of the public open spaces within the development

PERMIT subject to the conditions indicated in the agenda report

- (B) Failing the securing of the above obligations by the date indicated above, that the Head of Planning be authorised to refuse the application on the grounds that without such obligations, insufficient provision would be made for the provision of additional secondary education places to meet the need for such places generated by the development, account would not be able to be taken of a change in market conditions and a development that could have made required contributions would not do so, and appropriate long term arrangements would not have been made for the public open space within the development; or if he considers it appropriate, to extend the period of time within which the obligation can be secured.**

ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
5th January 2016

Agenda item 9

Application ref. 15/00964/FUL

Broughton Arms, Newcastle Road, Balterley

Since the preparation of the main agenda report the applicant has submitted revised plans which reduce volume of the development proposals.

The fundamental design of the proposals remains the same but the applicant indicates that the volume has been reduced by a further 96.4 m³. The proposed replacement extensions would not result in additional volume over and above that which already exists, other than the volume created by the covered overhangs which will allow outdoor seating. The reduction in volume as now proposed is considered to address concerns raised by officers, as set out in the main agenda report.

A revised car parking plan has also been provided to reduce the number of spaces within the overspill section from 41 to 30. The applicant has also provided additional screening from the main road as advised by the landscape officer.

The amount of car parking is detailed as 90 spaces which is 30 spaces over the maximum standards set out in policy T16. The applicant has other successful establishments that have similar parking provision which is considered necessary for the viability of the business.

Whilst the overspill car parking would encroach further into the Green Belt than the existing site it is considered that the benefits of the development would outweigh this harm.

It is now considered that very special circumstances exist that justify planning permission as any harm arising from the development is outweighed by the development.

The RECOMMENDATION is now to permit the application with the conditions set out in the main agenda report set out in A).

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ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
5th January 2016

Agenda item 10

Application ref. 15/01001/FUL

Conservative Club Bowling Green, Kinsey Street

Since the preparation of the main agenda report the applicant, having read the concerns of local residents, has submitted that the proposal is not intended for student accommodation. They are local housebuilders who focus on small developments across Staffordshire comprising of family housing for private sale.

The RECOMMENDATION remains as per the agenda report

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ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
5th January 2016

Agenda item 11

Application ref. 15/01022/FUL

Audley Community Centre, Nantwich Road, Audley

Since the preparation of the main agenda report two representations have been received on the application of which the key points are summarised as follows:

- There are already three storage containers on the site
- Questions the need for a fourth unit
- CCTV required at premises due to vandalism issues

The applicant cites within their supporting Design and Access Statement that the additional storage is required to store donated items to be sold for fundraising for the Centre. The comment regarding CCTV is not relevant to the determination of the application.

The RECOMMENDATION remains as per the agenda report

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ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
5th January 2016

Agenda item 14

Application ref. 15/01077/FUL

Former St Giles and St Georges Primary School, Barracks Road, Newcastle

Since the preparation of the main agenda report a further 15 representations have been received, one of which is on behalf of the **Watlands Park Residents Association**, objecting to the proposal and raising concerns relating to the following:

- Further loss of a historical building by the Borough Council.
- Loss of one of the few architecturally interesting Victorian school buildings remaining.
- Lack of public consultation.
- Lack of information as to what will replace the former school. The demolition proposal should not be considered before consideration of the proposed replacement building.
- The façade of the building could be kept if it is accepted that the building may not be suitable for the new use.

Some of the representations raise concerns about the scale and appearance of the building to replace the former school on this site. Such concerns are not relevant to the determination of this application.

The **Environmental Health Division** have made comments on this application suggesting a number of conditions covering matters such as hours of demolition, the submission, approval and implementation of an Environmental Management Plan/Method Statement, steps to be taken to prevent mud and debris getting onto the Highway, dust mitigation measures, etc..

Your officer's comments

The further comments received are similar to those reported and addressed within the main agenda report.

Section 66 of Planning (Listed Buildings and Conservation Areas) Act 1990 indicates that the local planning authority shall have special regard to the desirability of preserving a building or its setting or any features of special architectural or historic interests which it possesses. Reference is made to the development's impact on the setting of the listed Queen Victoria statue located within Queens Gardens within the report but the report does not clearly assess this. Reference is also made to the Listed building at No.31 Ironmarket. For the avoidance of any doubt it is confirmed that it is considered that the demolition of the building would not adversely affect either the setting of the listed statue or that of the listed building at No.31.

The RECOMMENDATION remains as set out in the main agenda, but additional conditions as suggested by the Environmental Health Division are considered appropriate, with the exception of that which refers to piling operations which does not appear to be required in relation to an approval of demolition works

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Confirmation of Tree Preservation Order

Land at Land at Fintry, Pinewood Road Newcastle under Lyme

Tree Preservation Order No.172 (2015)

Town & Country Planning Act 1990

Town & Country Planning (Tree Protection) (England) Regulations 2012

The Provisional Order

The order protects two Oak trees on land within the front garden of Fintry on Pinewood Road, Ashley. The order was made to safeguard the longer term visual amenity that these trees provide following concerns that the owner may wish to fell or extensively prune these trees.

On 7th July 2105 the Tree Preservation Order was made to safeguard the longer term visual amenity that these trees provide.

Approval is now sought for the Order to be confirmed as amended.

The 6 month period for this Order expires on 7th January 2015.

RECOMMENDATION

That Tree Preservation Order No 172 (2015), on land at Fintry, Pinewood Road Ashley is confirmed as amended and that the owners of the site are informed accordingly.

Reasons for Recommendation

It is considered that the trees have a high amenity value, and that their loss or disfigurement would have a negative impact upon the visual amenity, not only of the site but also to the locality.

Other adjacent trees are affected by Tree Preservation Order No. 9 (1967). Prior to this order being made it had become apparent that the two roadside Oaks are not covered by Tree Preservation Order No 9.

An assessment of the site found the two affected Oak trees both worthy of an order, other roadside trees did not meet the criteria for protection. The two Oak trees occupy a highly prominent position at the front of the property and are clearly visible from Pinewood Road.

The trees make a significant visual contribution to the character of Ashley Heath being at the forefront of views of the Heath, when observed from the wider valley setting (from the Jugbank direction), and from nearby public footpaths.

There is concern of a risk that these trees may be felled or extensively pruned in a way that would damage their health and appearance.

In order to protect the long-term wellbeing of these trees they should be protected by a Tree Preservation Order.

Representations

Following the TPO publicity process, a statement of objection, and subsequent email communications to members of 3rd and 7th December 2105 (which were outside the 28 day period allowed for comment) were received from the owner of Fintry:

1.1 The objections cover many points that include:

- **Procedural aspects** of the way in which the council served the TPO, which the objector feels was incorrect.
- **Technical aspects concerning permissible work to trees already affected by Tree Preservation Orders.**
- The objector considers that it is not **expedient to protect these trees and that they do not meet the amenity requirement.**

1.2 **Procedural Aspects**

The objector points out a word on the schedule that is incorrectly placed. The word ‘none’ below the schedule of work specified has been deleted and as such the recommendation is to confirm the order as amended.

The objector points out in his statement that the order was not served on his son (whose details are on the electoral register). He considers the order has not been served correctly. The Council ascertains land ownership by carrying out a Land Registry search, not by checking the electoral register. To cover all eventualities, it is usual practice that the Council would serve letters, one addressed to the owner(s) (individually if more than one) and one addressed to ‘the occupier’. The objector followed this response with an email to members of 7th December 2015 stating that only two letters were posted and as such the order was incorrectly served. Your Officer can confirm that two letters (with copies of the order) were indeed delivered to Fintry, one addressed to the objector, and one to the owner/occupier of Fintry. Following consultation with the council’s Legal section, your officers can confirm that it is considered that the correct procedure has been followed.

1.3 **Technical aspects concerning permissible work to trees already affected by Tree Preservation Orders.**

The objection statement refers to a previous refusal for pruning work at Fintry on trees affected by another Tree Preservation Order and for which the objector made no appeal. These matters are not connected to the process for serving and confirming a new Tree Preservation Order, and as such are not discussed in detail in this report.

Confirmation of this Tree Preservation Order will not prevent the objector from applying for works to his trees, and should he wish he may appeal any future refusal or condition within 28 days of receiving the decision. To date, no application for tree works for trees affected by TPO172 has been received.

1.4 The objector’s statement considers that **it is not expedient to protect these trees, and that they do not meet the amenity requirement.**

The Local Planning Authority is empowered to make Tree Preservation Orders if ‘*It appears to be expedient and in the interests of amenity to make provision for the preservation of trees.*’ The objector queries why T1 and T2 haven’t been protected up to now. As is the case for all local authorities, in many situations where trees (or woodlands) may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under

good arboricultural or silvicultural management, and for which there is no reason to believe that there is a risk of them being felled, pruned or damaged in a way which would have a significant impact upon the amenity of the area. Local authorities may only make a TPO where it appears to them to be 'expedient' to protect a tree, group of trees or woodland which makes a significant contribution to amenity. In this case there wasn't sufficient reason to believe that the Oak trees were at risk until the intention to prune these trees was made clear by email. The objector has stated that the trees were not under immediate threat from felling or damaging to the point of destruction, although it is admitted that pruning works were to be carried out on these trees. Given our knowledge of the objectors' previous desire to carry out major pruning it was considered that there **was** a risk of the trees being felled or pruned in a way that would damage their health and appearance. The required assessment of the present and future contribution of trees on this site was undertaken. The outcome was that two Oak trees that weren't currently protected met the criteria and had significant amenity value and that as a result of the risk it was considered expedient that an Order be served on these trees.

- 1.5 There are trees at Fintry that are affected by another Tree Preservation Order (Tree Preservation Order No 9:1967), and there are also trees at the property that did not meet the criteria for protection by an Order.
- 1.6 As members will be aware, this item (Agenda item 12 of the agenda of 8th December 2015) was deferred to allow time for a site visit following new information from the objector stating that the effect of the Order would be to deprive the property of the benefit of the works recently approved and undertaken. This site visit took place on 21st December 2015.
- 1.7 The effects of the approved works on T81 (an Oak tree standing between T1 and the objectors' home covered since 1967 by Tree Preservation Order No. 9) were assessed. It was noted that works had been carried out accurately and to a good standard and that they considerably increase the amount of light that reaches the objectors home, (whilst reducing other effects such as effect of leaves blocking gutters). The approved works have been completed without a negative effect upon the visual appeal of the tree.
- 1.8 Following inspection of the position of T1 and T2 and the recent approved pruning, your officers are not of the opinion that the T1 and T2 dramatically add to the overshadowing effect on Fintry, (given the positions of other intervening trees) and that the benefit gained by the approved works upon T81 does ensue.
- 1.9 Discussions were had concerning the objectors' intention to remove additional smaller trees and shrubs on the roadside frontage. This will further increase light penetration to the objectors' garden.
- 1.10 The structure of T1 (high crown) would mean that the amount of pruning works that would be permissible without causing harm to the visual appeal of this tree would be quite limited, although there may be scope for some minor thinning and selective removal of minor branch tips which may give some increase in light penetration to the objectors' garden.
- 1.11 The full effect of works carried out will be realised once the trees are in leaf in summer. Should the TPO be confirmed your officer would suggest that the objector and his arboricultural consultant consider submitting an application for works to T1 and T2 that would further contribute towards the objectors' requirement, whilst not compromising the trees health or visual amenity. The objector would be able to appeal any refusal decision or condition within 28 days.

- 1.12 A previous application for works to trees at Fintry (ref 15/00070/TWA) was to: *reduce the density of the canopy by 50%, lift the canopy substantially and to remove all branches over the driveway and near electric cables and phone cable and to 'lop three of the trees'*. These works were refused. Whilst the description of the works was considered vague, there was no doubt that the desire was to carry out major pruning which would have significantly reduced the trees safe life, and their visual appeal.
- 1.13 Confirmation of the tree preservation order will not prevent the objector from carrying out works on his trees (as has been completed successfully to increase light levels to his property for T81), however it will allow the council to control the extent of the pruning in a way that will not reduce the trees' safe life, and/or significantly reduce their visual appeal.
- 1.14 The objector challenges the impact that the trees have upon amenity and the process by which the trees are assessed. Your officers' response is that the method of assessment is based upon recommendations under the Tree Preservation Legislation.
- 1.15 The objector 'entirely refutes' that T1 and T2 are visually prominent. Your officer maintains that the trees are at the forefront of views of Ashley Heath from the Jugbank direction and are clearly visible from Pinewood Road and nearby public footpaths.
- 1.16 The objector 'denies' that the trees contribute visually to Ashley Heath. Your officer maintains that the trees contribute visually to Ashley Heath being in a prominent visual location and that they meet the criteria for protection by a Tree Preservation Order.
- 1.17 In the email to members of 3rd December the objector states that the trees are not visible from Jug Bank and as such have little amenity value. It is accepted that views of Ashley Heath are restricted from nearby narrow lanes due to hedgerows/copse. The order does not state that the property is visible from Jug Bank, rather that the trees are at the forefront of views of Ashley Heath from the Jugbank direction, the footpath to which the objector refers to is a designated Public Right of Way, from which there are wide views of Ashley Heath, a locality which is characterised by individual properties within a mature treed setting. Your officer maintains that the trees contribute visually to Ashley Heath.
- 1.18 The objector considers that neither tree is worthy of protection:
- T1 due to its position in front of T81 (protected by another Order) which towers above T1.

Your officer acknowledges that T81 (Oak tree to the rear of T1) is an important and visually significant tree, however maintains that T1 to the front of this tree is highly visually prominent roadside frontage tree.
 - T2 due to its being 'misshapen' and 'stunted'.
It was noted in the assessment that the tree is somewhat 'one-sided' due to the presence of other trees at Fintry, however the tree does have sufficient room for future growth and meets the criteria for protection.
- 1.19 With respect to the objectors' suggestion that the planning committee confirm only T1. Your officer would point out that both trees would meet the requirement for protection by a Tree Preservation Order.
- 1.20 The objector considers that the 'local authority has failed to *'strike the correct balance between the interests of the local community in preserving an amenity and those who have to suffer permanently darkened rooms in summer months where trees dominate the garden*

environment to the detriment of those denied the opportunity to properly control what is rightfully their property’.

- 1.21 Your officer considers that recent approved and implemented works to T81 demonstrate how some works can be completed to lessen the impact of trees in a way that will not reduce the trees safe life, and/or significantly reduce their visual appeal.
- 1.22 Further improvements to light penetration will be gained by the removal of trees and shrubs that are not affected by the order, and limited pruning in accordance with BS3998:2010 (for which a Tree Work Application would be required) will go some way further to remedying the objectors concern.
- 1.23 Confirmation of this Tree Preservation Order will not prevent the objector from applying for works to his trees, and should the objector wish he may appeal any future refusal or condition within 28 days of receiving his decision.
- 1.25 Should this Tree Preservation Order not be confirmed then there is a risk that the objector may carry out major pruning works on these trees in a way which could significantly reduce the trees safe life, and their visual amenity.
- 1.26 Your officers do not consider that there is sufficient justification for this order not to be confirmed.
- 1.27 In order to protect their long-term well-being and their future potential as an amenity, the two Oak trees should be protected by a confirmed Tree Preservation Order.
- 1.28 Your officers recommendation is that Tree Preservation Order T172 (2015) be confirmed as amended, and that copies of the confirmed order be served as required.

Date report prepared:
21st December 2015

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