

08/10/2002

Item **2.1****Reg. No.** **9 2002 0786 TP****Applicant:**

Mrs Marlene Griffiths
 27, Wilne Lane
 Shardlow
 Derby
 DE722HA

Agent:

Kedleston Arboricultural & Tree Services Ltd
 582 Kedleston Road
 Allestree
 Derby
 DE22 2NH

Proposal: **The felling of a birch tree at 27 Wilne Lane Shardlow Derby****Ward:** **Aston****Valid Date:** **01/08/2002****Site Description**

The tree is located at the rear of 27 Wilne Lane about 300mm from the boundary wall between the property and No 29 Wilne Lane. It is about 20 m in height and is clearly visible from the adjacent Trent and Mersey Canal. The tree is subject to Tree Preservation Order No.189.

The boundary wall between the two properties comprises two layers of brick, one contemporary with No 29 and the other being much older.

Proposal

The applicant wishes to fell the tree, a mature Silver Birch.

Applicant's Supporting Information

- a) Consultants' reports support the view that the tree needs to be removed.
- b) Within the last 2 months East Midlands Electricity have notified the applicant of their intention to prune the tree away from electricity cables. This will necessitate severe pruning, which will not suit this species of tree.
- c) The tree leans towards No 29 and there is damage to the boundary wall, causing safety concerns.

Two consultants, one an arboriculture and tree services firm and one a local authority grounds maintenance manager have commented. The salient points of their appraisal and conclusions are as follows:

- a) The tree has a notable lean towards No 29, with the prevailing westerly wind.
- b) The tree appears to be healthy and is expected to continue to grow.
- c) The roots have damaged the boundary wall pushing the bricks towards No 29 and causing a crack.

- d) Due to the proximity of the tree to the wall it is likely that the prevailing wind causes the tree to bounce against the wall.
- e) The tree will continue to grow and cause catastrophic failure of the wall.
- f) The tree has outgrown its current position in relation to the two adjacent brick walls.
- g) The tree is likely to become unstable in the future due to its lifting root plate.
- h) The age of the tree is at the highest limit of a tree of this species and is starting to show signs of decline.
- i) Damage to the neighbouring wall is only likely to increase with time and will eventually result in the wall becoming dangerous also.
- j) Due to the nature of the tree and its likely intolerance of pruning, any remedial works are only going to increase the likelihood of the tree's death.
- k) There are safety implications as the tree overhangs a garden path and conservatory. Any large falling branch would certainly cause injury to any individuals in the locality of the tree.
- l) If the pruning works required for the electricity wires are undertaken the tree would become unbalanced and a desirable tree would not result from the remains.

Site History

A copy of the report to Committee in respect of the Tree Preservation Order attached for information.

Responses to Consultations

The Parish Council has no objection.

Responses to Publicity

The neighbour at No 29 supports the application, commenting that the tree leans noticeably towards his property and damage to the boundary wall has increased. Work is also needed to prune branches that interfere with electricity cables.

Structure/Local Plan Policies

None relevant.

Planning Considerations

The main issues central to the determination of this application is:

- Whether the tree can be considered to be sufficiently dangerous as to warrant its removal with the consequent loss of its high public amenity value.
- Compensation.

Planning Assessment

- The tree is leaning, but this is because of the prevailing wind and not because it is dangerous.
- The tree is unlikely to grow significantly as it has reached full maturity.
- The tree is sufficiently far away from buildings so as not to cause direct damage in strong winds.
- The boundary wall has suffered damage. However this occurred primarily before the Order was made and with or without the subject tree, the wall is likely to need some repair. It

appears to have moved on the damp proof course. The cracked brickwork could be removed (with appropriate works to the foundation) and a gap could be left (possibly infilled with a timber panel) to reduce the risk of further damage by the tree.

- There is no evidence of decay or instability. Branch drop in high winds is not uncommon and does not indicate that the tree is unhealthy.
- Electric cables can be kept free from the tree without the need to remove it.
- Regular monitoring of the tree would reduce any risk.

On balance the tree has not yet reached the stage of its life at which felling is necessary. Its retention would enable its high amenity value to be enjoyed for several years to come. The owner's ability to deal with unforeseen problems with the tree would not be prejudiced. Whilst damage to the boundary wall has occurred it is likely that this could be remedied so that both the wall (in a modified form) and the tree will survive.

Where damage to an existing structure is caused by a tree subject to an Order, the Council may be subject to a claim for compensation under certain circumstances. However this cannot be retrospective and damage caused prior to the making of the Order will be discounted. The damage already caused to the wall appears capable of repair in such a manner as to reduce to a minimal degree the risk of further damage.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

REFUSE consent for the following reason:

1. The Silver Birch does not show any signs of dying or becoming inherently dangerous. Therefore the loss of its high amenity value is not warranted at the present time. The adjacent boundary wall displays signs of damage but there is no evidence that it could not be repaired in such a way as to secure its stability without the need to fell the tree, particularly as the tree is unlikely to be subject to significant additional growth.

08/10/2002

Item 2.2**Reg. No.** 9 2002 0826 F**Applicant:**

Mr Mrs G Cerrone
 Briar Lee, Etwall Lane
 Burnaston
 Derby
 DE65 6LF

Agent:

Montague Architects
 9 Vernon Street
 Derby
 DE11FR

Proposal: The erection of an extension at Briar Lee Etwall Lane
 Burnaston Derby

Ward: Etwall

Valid Date: 12/08/2002

Site Description

The site is located is located outside the framework of Burnaston village within open countryside.

The site itself comprises the house, a detached outbuilding and the associated domestic curtilage. To the east, south and west are open countryside whilst the road bounds the northern boundary.

There is a substantial hedge to the road frontage and to the track (public footpath) to the eastern site boundary.

Proposal

The applicant seeks consent to erect extensions to the dwelling house. The proposal involves the extension of the dwelling in the form of the erection of two wings and a conservatory across the whole of the rear of the dwelling. It is also proposed to erect a garage block on the west side of the extended dwelling linked to the house by a newly erected corridor.

Applicants' supporting information

The agent has stated that the applicants are committed to the project and wish to produce an extension of high quality that respond to the architectural style of the existing dwelling using materials that are also of a high quality.

Planning History

This application reverts to extensions first proposed in 2001, later subject to a revised smaller extensions albeit of significance. The current proposal omits a conversion and link to the outbuilding and a link to it from the house that was proposed in the original application. Both the previous applications were withdrawn before being considered by the Committee.

Responses to Consultations

Burnaston Parish Council has the following concerns: -

- a) The hedge to the front of the property should be retained as this will help to reduce the impact on a visual basis
- b) The extensions should match the existing building to the same standard as portrayed in the artist's impression. This is particularly important given the position of the dwelling at the entrance to the village.
- c) There is concern that the entrance and exits are not safe and the Parish Council is concerned that there is sufficient space for the splays that have been shown on the drawings.
- d) The existing stable block should have been converted to garage accommodation to reduce the size of or remove the need for the new block. As proposed the view is that the garage would be highly visible and imposing.

The County Highways Authority notes that the proposed access would be severely substandard but not materially worse than the existing access. Thus, there would be no objection provided the existing access was closed and visibility improved across the whole frontage.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Housing Policy 13.

Planning Considerations

The main issues central to the determination of this application are:

- The development plan policies
- The impact of the proposal on the character and appearance of the countryside
- Other material considerations

Planning Assessment

The site is located outside the confines of any village and within the open countryside. In such areas, new residential development is strictly controlled. Whilst domestic extensions may be acceptable in certain circumstances this will only be the case where the extension does not have an adverse impact on the character and appearance of the area in which it is to be located. Housing Policy 13 of the South Derbyshire Local Plan specifies this approach.

In this case, the dwelling is located in a prominent position at the entrance to, but outside, the village of Burnaston. The extensions and other buildings proposed would approximately double the size of the dwelling.

The size of the extensions, including the mass of the proposal, would greatly add to the prominence of the house and would result in a significant urbanisation of the area. Therefore, the proposal would have an adverse impact on the character of the dwelling and the area in which it is located. In this regard, it is contrary to planning policy.

The comments made by the applicant concerning the design of the dwelling are noted. However, the submitted scheme is not considered to be of such an outstanding design such that this outweighs the other considerations and the impact the proposal would have on the area.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

REFUSE permission for the following reasons:

1. Housing Policy 13 of the adopted Local Plan requires that all extensions should be of a scale and character in keeping with the property and not adversely affect the amenities of adjoining properties. The size of the extensions, including the mass of the proposal, would greatly add to the prominence of the unit and would result in a significant urbanisation of the area. Therefore, the proposal would have an adverse impact on the character of the dwelling and the area in which it is located contrary to the above policy.

08/10/2002

Item 2.3**Reg. No.** 9 2002 0917 U**Applicant:**

Mrs L Haynes
 The Pastures
 Rosliston Road, Walton On Trent
 Swadlincote
 Derbyshire

Agent:

Siobhan Spencer
 Moorend Cottage
 Beeley
 Matlock
 Derbyshire
 DE42NR

Proposal: The siting of three caravans and facility block on land at Land
 To The North Of Rosliston Road Walton-on-Trent
 Swadlincote

Ward: Walton

Valid Date: 03/09/2002

Site Description

The site is part of a field located measuring 24.4 metres by 82.9 metres. The site is located within the open countryside close to the edge of the village of Walton on Trent. A length of hedgerow has been removed along the front boundary of the site and the site is separated from the surrounding field by a post and rail fence and from the adjacent field to the west by a hedgerow.

Proposal

The application is retrospective and is for the siting of three caravans and a facilities block. The caravans are sited towards the rear of the piece of land and the facilities block is adjoining the hedge on the western side of the field.

Responses to Consultations

The Environment Agency has no objection if the drainage is to mains sewer but require further information if a septic tank is to be used.

The County Highway Authority object to the proposal on the grounds that visibility for vehicles emerging from the site onto the highway is substandard and would be detrimental to highway safety.

The Environmental Health Manager has no objections but advises that if permission is granted the applicant would require a site licence from his department and that foul drainage details should be submitted.

Responses to Publicity

Thirteen letters of objection have been received, twelve from local residents and one from the local branch of the NFU, raising the following points:

- Concern that the planning application is retrospective.
- Concern that the hedge at the front of the site has been removed.
- If accepted the proposal could set a precedent for other development in the area, the site is agricultural land outside the village development boundary.
- The access is dangerous, on a blind bend and in a dip.
- Nearby properties will be devalued.
- Other caravan parks exist only a few miles away.
- Generators running on the site cause noise problems.
- The land may become untidy and additional buildings/ caravans may be added.
- Permission was refused and an appeal lost for a house on this site in 1972. The Inspector found that any expansion to the village would be detrimental and that there was a lack of amenities in the village.
- Hardcore has already been laid down to create an access and there is already a lot of rubbish on the site.
- There is a potential hazard from inadequate waste facilities on the land.
- A previous planning decision made in 1973 considered that the expansion of the village would be detrimental and new development should be confined to infilling which this is not.

Structure/Local Plan Policies

The relevant policies are:

Local Plan: Housing Policies 8 and 15.

Joint Structure Plan: General Development Strategy Policy 3 and Housing Policy 8.

Circular 1/94

Planning Considerations

The main issues central to the determination of this application are:

- The suitability of the site in meeting the criteria set out in the policies for gypsy sites.
- The effect of the proposal on the character of the countryside and the impact of the development on highway safety and whether these override the provisions for gypsy caravan sites.

Planning Assessment

The intentions of Circular 1/94 are stated to be, a) to provide that the planning system recognises the need for accommodation consistent with gypsies' nomadic lifestyle, b) to reflect the importance of the plan-led nature of the planning system in relation to gypsy site provision.

Location criteria suggested at para. 14 are that sites be situated outside existing settlements, but within reasonable distance of local facilities and services such as shops, schools and hospitals.

Sites on the outskirts of built-up areas may be appropriate provided that care is taken to avoid encroachment on the open countryside. Many sites may be found in rural or semi-rural settings, but care needs to be taken to ensure consistency with agricultural and countryside policies, including protection of the best and most versatile agricultural land.

Housing Policy 15 of the Local Plan and Housing Policy 8 of the Structure Plan lay down criteria for assessing planning applications for gypsy caravan sites. The Local Plan policy seeks to ensure that sites are permitted where they are: in an area frequented by gypsies, satisfactorily located in relation to other development, acceptable in environmental terms, reasonably accessible to community services and facilities, capable of sympathetic assimilation into their surroundings and adequately provided for in terms of vehicular and pedestrian access. The Structure Plan policy has many of the same criteria but in addition requires that the provision of sites should relate to the scale of demand and in terms of highway requirements states that access should be good without causing traffic or road safety problems.

In terms of the development plan criteria, the site is in an area frequented by gypsies. The site is close to the village of Walton on Trent which although it has been determined not to be a sustainable settlement, is nevertheless of a reasonable size with several local services and facilities. The site is not well screened at the moment due to the hedge removal along the front boundary, although it is considered that planting and landscaping could be carried out to effectively screen the site. No information has been submitted with the application to prove that there is a demand and need for the site or to justify why an exception should be made to the normal presumption against residential development in the countryside. Despite the fact that the site may be suitable on many grounds, the site is not acceptable on highway grounds.

The County Highways Authority have recommended refusal of the planning application because the site access has substandard visibility and use of the access is considered to be detrimental to highway safety.

Recommendation

A. REFUSE permission for the following reason:

The siting of the caravans in the location proposed would result in vehicles emerging onto the classified highway on the inside of a bend where visibility is substandard to the detriment of highway safety. Therefore the site does not have adequate provision for vehicular access and will cause road safety problems. As such the site does not comply with the highways/ access requirements of Housing Policy 15 of the Local Plan and Housing Policy 8 of the Structure Plan.

- B. That the Planning Services Manager and the Legal Services Manager be authorised to pursue the necessary enforcement action to secure the cessation of the use and the site restored to its former state.
- C. That the Planning Services Manager and the Legal Services Manager be authorised to issue a Hedgerow Replacement Notice to require a hedgerow to be replanted along the front boundary.

04/09/2001

Item **A8**

Reg. No. **9 2001 0593 O**

Applicant:

Mr M S Tomlinson
84, Victoria Street
Melbourne
Derby
DE731FQ

Agent:

Mr M S Tomlinson
84, Victoria Street
Melbourne
Derby
DE731FQ

Proposal: **Outline application (all matters except means of access to be reserved) for the erection of a bungalow on land forming part of the garden at 84 Victoria Street Melbourne Derby**

Ward: **Melbourne**

Valid Date: **21/06/2001**

Site Description

The site is part of the rear and side garden to 84 Victoria Street, Melbourne. The site is located within the village framework for Melbourne.

There are mature hedges to the boundaries.

Proposal

The applicant seeks consent in outline, with all matters except means of access to be determined at a later date, to erect a single bungalow on the site. Access to it would be gained by breaching the hedge along the Victoria Street frontage.

No details of siting or design have been submitted.

Responses to Consultations

The Parish Council objects strongly for the following reasons:

- a) A precedent would be set for the building of other dwellings in the long back gardens of Victorian properties in the street, which would lead to two rows of houses either side of the road.
- b) A large well established tree would be lost.

Melbourne Civic Society objects as follows:

- a) Tandem development is opposed in principle.
- b) The proposal would seriously compromise the privacy presently enjoyed by neighbours.
- c) The application is incomplete.

Councillor Harrison raises strong objection on the following grounds:

- a) The development would be out of character with the other surrounding properties in Victoria Street. All have long gardens, with the exception of 92A, a traditional two storey stable block, which has been converted in to a domestic dwelling.
- b) An unacceptable precedent would be set.
- c) The development would be an intrusion into the privacy, and perhaps light, of the properties to the rear in Spinney Hill.
- d) It may be necessary to cut down a mature tree.

The Highway Authority and Severn Trent Water Ltd have no objection in principle.

Responses to Publicity

Two letters have been received from neighbours objecting as follows:

- a) The proposal would not be in keeping with its surroundings, as there is no other housing in the rear gardens of the dwellings in Victoria Street, apart from the converted stable at 92A.
- b) There would be severe overlooking to adjacent dwellings and gardens.
- c) A fine mature tree would be removed.
- d) The proposal would be over development of the site. Guidance on density is not meant to facilitate backland development.
- e) All the long gardens in Victoria Street could be developed for housing to the detriment of residents in Spinney Hill.
- f) A precedent would be set.
- g) If the debate is finely balance the application should be rejected and tested on appeal.
- h) There would be loss of light to adjacent dwellings.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5.
Local Plan: Housing Policy 5 & 11.

Planning Considerations

The main issues central to the determination of this application are:

- a) The principle of development.
- b) The impact on the character of the area.
- c) Residential amenity.
- d) Trees.
- e) Highway safety.
- f) Prejudice to possible further desirable development on land in the vicinity.

Planning Assessment

The site lies in the confines of the village and residential development is supported in principle, subject to it being in keeping with the scale and character of the settlement.

Whilst previous editions of PPG3 (1992) offered guidance on backland development, and acknowledged that it would be sometimes acceptable to develop back gardens for new housing which would be in keeping with the character and quality of the local environment, the latest issue has no reference to backland development and emphasises the desirability of making the best use of land and seeking generally higher density of development, to relieve pressure on greenfield sites.

Victoria Street contains a substantial proportion of traditional Victorian villa and terraced housing. There are also enclaves of more modern development. The subject site and its neighbour at 82 are bungalows. 84 in particular has a wide plot (some 22 m). To the rear of properties on this side of Victoria Street the relatively new dwellings at the edge of the Spinney Hill development are partly visible. In this case a bungalow is proposed and this would be lower than the properties in Spinney Hill. Therefore in the context of the site, it being located in an area of mixed development, the character of this part of Victoria Street would not be adversely affected by the development.

The proposed access, which would not be shared, could potentially affect two dwellings, 82 and 84 Victoria Street. The applicant controls 84 and would be able to implement screening to protect the amenities of that property. There is a screen conifer hedge along the boundary of the site with 82, which has a non-habitable aspect facing the affected boundary. Subject to conditional control to ensure that screening is maintained the impact on the living conditions of the occupier of that property, who has not raised objection, would be adequately protected and not adversely affected by this proposal.

A single storey dwelling on the plot is unlikely to give rise to demonstrable loss of light to neighbouring properties. The supplementary planning guidance on new housing layout acknowledges that screening can be used to overcome overlooking problems. This is particularly the case with a bungalow which would have no first floor windows that could look over the top of normal height fencing and walling. Subject to conditions requiring a bungalow to be erected on the site and screen fencing to be provided and retained at the appropriate boundaries there would be no harmful overlooking to neighbouring dwellings.

There are a number of garden trees, including a weeping cedar planted some 27 years ago and at a height of about 8 metres, on the site. The tree is visible but not prominent from Victoria Street. It is visible from some of the neighbouring properties either side and in Spinney Hill. Its lack of prominence to the public at large is such that a Tree Preservation Order is not appropriate in this instance.

The Highway Authority has no objection and there is adequate room to park cars off the road. The existing parking and access arrangements for 84 Victoria Street would be unaffected.

The back gardens to properties in Victoria Street do not present a realistic opportunity to develop in a comprehensive manner because of insufficient space to incorporate the size of adoptable access road that would be necessary, both in terms of amenity and the constraints imposed by existing development. Therefore the proposal would not prejudice any desirable development in the vicinity. For similar reasons and because of a general lack of suitable access points in the street a precedent for significant amounts of backland development in Victoria Street is unlikely to be set.

Recommendation

GRANT permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- (b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the siting, design and external appearance of the building(s) and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

4. The means of enclosure required pursuant to condition 2 shall be completed in accordance with the approved details before the development is first occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority. It shall then be retained as such thereafter.

Reason: In the interests of the appearance of the area and to protect the amenities of the occupiers of adjoining dwellings.

5. The dwelling shall be single storey only.

Reason: To protect the amenities of the occupiers of neighbouring dwellings.

6. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of the dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site.

Reason: To ensure that adequate parking/garaging provision is available.

7. The access shall be provided with 2 m x 50 m vehicular visibility splays and 2 m x 2 m pedestrian visibility splays, within which there shall be no obstruction to visibility exceeding 1 m above the level of the adjoining carriageway.

Reason: In the interests of highway safety.

8. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of adjoining properties and the locality generally.

REPORT TO:	DEVELOPMENT CONTROL COMMITTEE	AGENDA ITEM:	7
DATE OF MEETING:	16 April 2002	CATEGORY:	DELEGATED
REPORT FROM:	DEPUTY CHIEF EXECUTIVE	OPEN	
MEMBERS' CONTACT POINT:	TONY YOUNG (5745)	DOC:	
SUBJECT:	TREE PRESERVATION ORDER 189 (2001) – 27, 29 AND 31 WILNE LANE, SHARDLOW	REF:	
WARD AFFECTED:	ASTON		

1.0 Recommendations

- 1.1 That this Tree Preservation Order be confirmed without modification.

2.0 Purpose of Report

- 2.1 To consider confirmation of this Tree Preservation Order.

3.0 Detail

- 3.1 This Tree Preservation Order was made on 30 November 2001 in respect of one individual tree (Weeping Ash) on land at 31 Wilne Lane, Shardlow and a group of trees (one Birch, one Weeping Birch, one Willow, one Holly and one Rowan) on land at 27 and 29 Wilne Lane, as indicated on the plan attached at Annexe 'A'. The Order was made for the following reasons:

T1 – Weeping Ash. This is a healthy specimen of a mature Weeping Ash, which is highly visible in the street scene and contributes to the established character of the Shardlow Wharf Conservation Area. The section of crown overhanging 29 Wilne Lane has been pruned in the past, which has affected the shape of the tree and there is a proposal to do further pruning work. The Council therefore considers it expedient to protect the tree in the interests of safeguarding the amenities of the area.

G1 – Rowan, Holly, Willow, Birch (Weeping), Birch. This group of trees is highly visible from the canal and towpath and partially visible from the highway. They enhance the setting of the canal, soften the visual impact of buildings in the area and contribute to the established character of Shardlow Wharf Conservation Area. There is currently a proposal to fell one of the birches and severely prune the other. The Council therefore considers it expedient to protect the trees in the interests of safeguarding the amenities of the area.

- 3.2 In October 2001 a Conservation Area tree notice was accepted for the felling of a leylandii tree in the front garden of 29 Wilne Lane, Shardlow.
- 3.3 In November 2001 a Conservation Area tree notice was allowed for the felling of a Lawson Cypress and the crown thinning of a Weeping Ash at 31 Wilne Lane. It was noted at the time that unauthorised pruning had already been done to branches of the ash tree overhanging 29 Wilne Lane.
- 3.4 In December 2001, following the submission of a further Conservation Area tree notice to fell a Birch tree at 27 Wilne Lane, next to the boundary of 29 Wilne Lane, the Tree Preservation Order was made on the birch tree along with other trees in close proximity to 29 Wilne Lane.
- 3.5 Three letters of objection have been received to the making of the order from the occupier of 29 Wilne Lane. The objections are summarised as follows:

- The birch tree next to the boundary is 30 years old, has achieved its full height and is breaking off at the top.
- Its diameter is such that it is pushing over the boundary wall.
- The tree has outgrown its position and has commenced its dying phase.
- The tree sheds small branches and twigs throughout the year and spits sticky sap over a wide area.
- The main problem is the seeds from the tree which fall over several months. It is reported that it is like snowing seeds which result in blocked gutters and drains, windows cannot be open without the room filling with seeds and they even get into the bed, the bath and they blow under the doors when they are shut.
- The objector would be prepared to replace the tree with one more suitable.
- The objector would like to register his concern of how the TPO was made without him being told beforehand.
- There is no intention to remove the rowan or holly but the objector would like to give the holly an annual prune to keep it in shape.
- Concern is raised about the severe pruning of a hedgerow opposite the property.

Following strong winds the occupier expressed the following concerns:

- The falling of debris and clearing up is a daily event and the amount of debris has increased and falls on the roof, paths and garden.
- The tree is close to overhead electricity cables. At the top of the tree are broken branches that could interfere with the cables and damage the conservatory that is below the tree.

In the final letter the objector makes the following points:

- He has never applied to have the weeping birch severely pruned. He was following the advice of his tree surgeon that while the birch was being removed the weeping birch could be lightly pruned.
- Part of the weeping ash overhangs his property and he trimmed the ends of branches to stop them scraping his house.

- 3.6 A letter of objection has been received from the occupier of 27 Wilne Lane, which is summarised as follows:

- She is concerned about the birch that she believes has grown too wide and with the broken top could be dangerous.

- She agrees with her neighbour that the tree could be replaced with one more suitable to its surroundings.
- She says it has started to damage the boundary wall and is near to the overhead electricity cable that supplies her workshop, house and 25 Wilne Lane.
- The cost of having the trees pruned regularly is worrying, as is the threat of damage to her own and her neighbour's property.
- She considers that in view of the severe pruning of the hedge opposite her house double standards are being applied.

3.7 British Waterways comments that it would like the Authority to provide sound advice to landowners as to how to manage these trees. It says that such a service will protect the trees from further damage and enhance the local environment for visitors, residents and wildlife. This will also prevent the trees from requiring radical management in the future, which may result in their loss if they pose a threat to the safety of British Waterways operatives and canal users. It adds that it hopes the site continues to contribute towards the individual character of Shardlow Wharf.

3.8 In answer to the comments made officers have the following comments:

- The mature Birch tree is 2.2m from the new conservatory. The Birch is not in a vigorous stage of its growth cycle as it has reached maturity. Therefore it should not cause damage to the twin layered brick wall. There has been some minor damage to the lower three courses of the brick wall. This could be due to root damage causing minor movement. Alternatively the soil is stacked proud of the surrounding soil levels on the neighbours garden. The wall is therefore acting as a retaining wall. The wall could be repointed and reinforced.
- The soil is sandy therefore Birches can be grown in close proximity to buildings.
- Birch does produce minute clusters of seed in autumn but this is generally insufficient to justify the removal of a tree.
- There has been some comparatively minor storm damage to 2 or 3 branches in the upper crown. These are hung up in the crown and it would be pertinent to remove them for safety reasons. However they are well hung up and have survived very strong gales and minor crown damage occasionally happens to Birch and the tree will compartmentalise the infection with the wounds callusing over and the tree will naturally shut out the dead wood area. Many birches have their tops cut out and yet they do survive. In effect this has happened in this case following minor storm damage.

4.0 Planning Assessment

- 4.1 The primary concern of the objectors relates to a Birch tree. The tree is of high amenity value both visually in the streetscene and in terms of the contribution it makes to the setting of the canal, which is within the Shardlow Wharf Conservation Area. The blockages to drains and gutters and the scattering of twigs, leaves, sap and seeds is common when residential properties are so close to trees and is normally a matter of routine garden and building maintenance. Whilst these matters are clearly inconveniencing the occupier they are not sufficient reason to justify removing the tree with the resultant loss of amenity.
- 4.2 The tree is mature and therefore past its vigorous growth stage. This combined with its position on sandy soil is unlikely to result in the tree damaging the property from below ground activity. The top tip of the tree has been snapped off in the gales and

is well lodged high in the canopy. It would be advisable for this to be removed and the occupier has been informed of this. Apart from small twigs there is no evidence to suggest that larger branches will fall from the tree that could be a threat to life and property.

- 4.3 There is some slight disturbance at the base of the boundary wall next to the tree, but this is only minor and could be rectified if considered necessary.

5.0 Conclusion

- 5.1 The concerns expressed by the objectors relating to the Birch tree are insufficient to warrant its removal from the proposed order. The other trees proposed in the order are not areas of concern. Therefore, there is no justification to confirm the order other than in its draft form.

6.0 Financial Implications

- 6.1 None

7.0 Corporate Implications

- 7.1 None

8.0 Community Implications

- 8.1 None

9.0 Background Papers

- 9.1 30 November 2001 Tree Preservation Order
5 January 2002 letter and photographs from neighbour
4 January 2002 e-mail from neighbour
29 January 2002 e-mail from neighbour
8 February 2002 letter from owner
28 February 2002 e-mail from neighbour
28 February 2002 letter from British Waterways

