

## PLANNING COMMITTEE – 09 February 2021

**REFERENCE NUMBER:** 20/00506/TPO      Application Expiry Date: 31.08.2020  
**Application Type:** Application for Tree Works

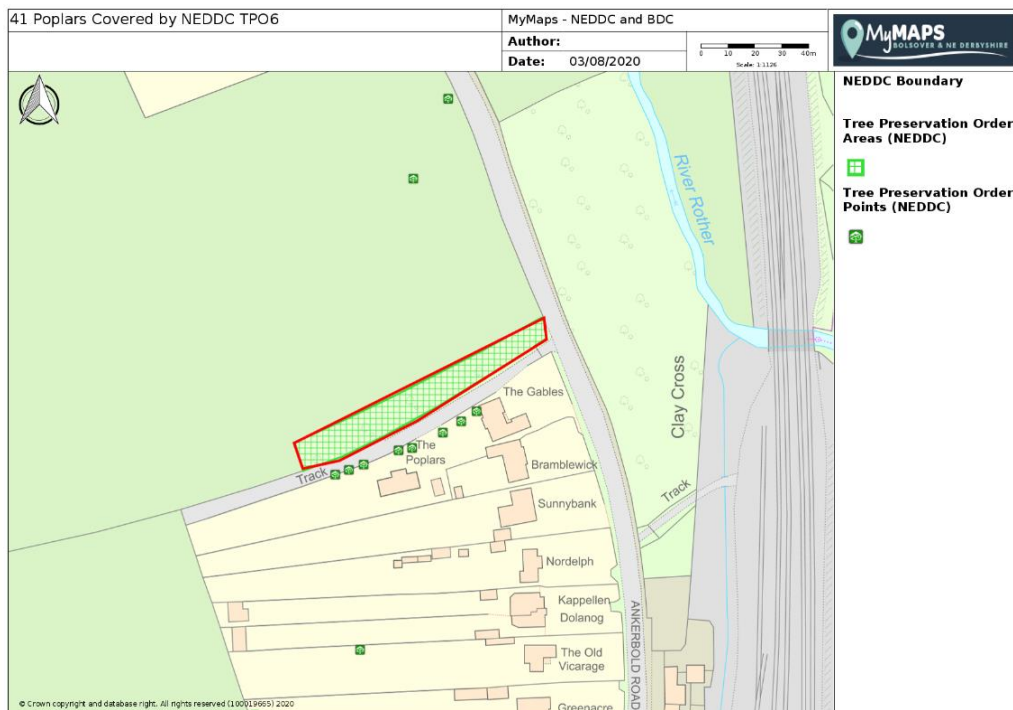
**Proposal Description:** Application for the removal of 34 poplars covered by TPO number 6 in various stages of decline, with previous failures. Risk now associated with these trees re-evaluated as high, in proximity to development and with only a short viable life expectancy. (Amended Plans) (Amended Title)

**At:** Land To The North And West Of The Poplars  
Ankerbold Road  
Old Tupton

**For:** Mr Edward Chandler - TEP Ltd  
**Third Party Reps:** 2      **Parish:** Tupton Parish Council  
**Ward Name:** Tupton Ward

**Author of Report:** Case Officer Alice Lockett      **Date of Report:** 14/1/2021  
Alice Lockett

### MAIN RECOMMENDATION: GRANT



## **1.0 Reason for Report**

- 1.1 Objections have been received from two members of the public, the parish council and three ward members. Cllr David Hancock has called the application into Committee on the grounds that there are too many inconsistencies and potential environmental harm resulting from this application that needs to be assessed by the Planning Committee. This application was considered before the planning committee of 22<sup>nd</sup> September 2020 and it was resolved to defer the application so that a further independent assessment of the health and viability of the trees can take place. This assessment was carried out by AWA Tree Consultants in December 2020.

## **2.0 Proposal and Background**

- 2.1 This proposal is for the felling of 34 Poplar trees protected under NEDDC TPO 6. The Poplar trees are located on the land to the North and West of "The Poplars" on Ankerbold Road, the site has permission for 193 dwellings. Works have recently begun.
- 2.2 It is proposed that the 34 Poplars will be replaced with 14 trees of a variety of native species
- 2.3 The application as originally submitted proposed that 41 poplars were to be felled. This has now been changed to 34 as subsequent surveying has shown that only 34 Poplars are still present on the site due to natural loss and the presence in the group of trees of other species which are not part of this application.
- 2.4 No EIA or screening opinion is required.

## **3.0 Relevant Planning History**

- 3.1 Planning Permission was granted in 2018 for the erection of 193 dwellings and associated infrastructure (18/000056/FL)
- 3.2 In May 2020 an application was submitted to fell the trees in stages over 5 years (20/00419/TPO). This was withdrawn and the current application which supersedes it applies for permission for all the trees to be felled and replaced at one time.

## **4.0 Consultation Responses**

### **4.1 Tupton Parish Council Comments:**

- Members discussed the application and it was Proposed, Seconded and unanimously resolved
- To object to this application
  - To oppose this proposal on the basis of its immense environmental impact on this site and the surrounding area
  - To receive confirmation of an independent report on the condition of the trees which sets out evidence of the life expectancy of each of the 41 poplars – the application has been submitted by a tree surgeon, a justification for felling was submitted by email on 31 July 2020 (see section 2.3 above)
  - If the application is approved a condition be placed on the application for the replacement of all the trees, or more, like for like (This is dealt with in section 7 below)
  - To raise extreme concerns about the contribution of this proposal to an already big issue of local flooding. This area has been suffering severe flooding which had not been experienced before and appears to be associated with the tree removal and ground works already undertaken on this site. (This is dealt with in section 7 below)
  - To enquire if NEDDC have a tree policy and, if so, how that policy has been applied in relation to this application (This is dealt with in section 7 below)
  - If this application is approved to provide evidence on how the flooding problems caused by the removal of these and previous trees will be mitigated (This is dealt with in section 7 below)

### **4.2 Parks Department Comments**

Parks Officers' comments as follows:

- From ground level the trees are in very poor condition and decline showing signs of stress, decay and some signs of canker. Any pruning works (pollarding) to try and regenerate new growth and maintain the poplars would be unsuccessful, in my opinion, and in time they may become dangerous to pedestrians and properties in the immediate vicinity.
- A large proportion of the trees have dead wood in the crown, ivy suffocating the growth which in turn is hiding cavities and restricting any growth and it is clearly evident that the decline has occurred since last pruning works. This could be due to a number of reasons for this poor ground conditions, disease or age of the trees etc.
- I would comment that if the application was approved for the removal of the 41 poplars then they are replaced with other indigenous species of trees and hedgerow. I would suggest oak, field maple, beech or

rowan trees etc. to give more natural look and spaced to give the new trees a chance to grow in its natural form.

- I would also suggest planting and filling in between the trees with natural hedgerow of hawthorn, blackthorn, hazel to create a haven for wildlife and also to create a future screen for properties in the surrounding area. I believe that the long term benefits of this would outweigh the loss of the poplar trees creating a natural habitat and biodiverse area.

In response to the planting scheme Parks Officers have no objections with the amount of trees suggested as this would give them the space to establish naturally and when become mature will potentially cause less problems to nearby properties.

### **AWA report:**

AWA were appointed by the council to survey the group of poplars. They found that there were 34 surviving poplars in the group and these were the trees they surveyed. In summary their findings were:

- The group of trees do form a significant landscape feature and provide some screening between the residential properties to the south and the new development site
- Most of the trees are in poor condition and decline and all have a limited future
- T2 to T5, T7, T8, T10, T11, T12, T14 to T26, T28, T29, T30, T32, T33 and T34 are in particularly poor condition, with moderate to major dieback in their crowns, significant deadwood and numerous significant snapped branches. The main stems of trees T2 to T5, T17, T22, T24, T26, T28 and T29 appear to have snapped out completely, leaving large portions of their crowns absent.
- Trees T1, T6, T9, T13, T27 and T31 were in slightly better condition than the other trees, but these also have minor dieback, minor deadwood and minor snap-outs in their crowns.
- In addition to the crown defects, trees T1, T2, T4, T5, T8, T9, T16, T18, T22, T30 and T32 have bark wounds, cavities, and decay to their stems. T22 has a *Pleurotus ostreatus* fungal bracket to the southern side of its stem and there was a degraded *Fomes fomentarius* fungal bracket at the base of T16, likely detached from the stem of the tree. Trees T2, T11 and T12 also have included bark unions to their main stems, which are more prone to failure.
- Most of the trees are leaning, with only trees T5, T11, T25, T26 and T34 being vertical. Trees T3, T4, T6 to T10, T14, T24, T30, T32 and T33 are leaning slightly, while trees T1, T2, T12, T13, T15 to T23, T27, T28, T29 and T31 are leaning significantly.

- In conclusion: The surveyed trees are all in decline with poor prospects. The removal of all 34 of the surveyed trees is recommended.

## 5.0 Representations

5.1 Two of the **Local Ward Members** have objected to the felling of the trees highlighting concerns that:

- Scientific evidence of the condition of the trees had not been submitted (*Officer comment: reasons for removal were submitted on 31<sup>st</sup> July 2020*)
- A plan to replace the trees had not been submitted (*Officer comment: A plan for replacement was submitted 31<sup>st</sup> July 2020*)
- Removal is detrimental to the local environment and biodiversity (*Officer Comment: this is dealt with in section 7*)
- The arboricultural report, undertaken by The Environment Partnership, in February 2017 and submitted along with the developer's application 18/00056/FL identified only ONE category U tree within influencing distance of the site. (*Officer comment: This is dealt with in section 7 below*)
- There is no mention of the impact on flooding. (*Officer comment-the impact on flooding is a matter for the planning permission for the site not the TPO application*)

5.2 Four letters of representation were received from **two objectors** with the following comments (in summary):

- The application to fell 41 poplar trees is in complete contrast to the previous application submitted just a month earlier for '**a phased removal and replacement process**' and to '**establish new trees beneath and around them**'. (*Officer comment: this is dealt with in the reasons for removal and section 7 below*)
- Screening from the new development properties to protect our privacy is imperative and by removing trees in the G10 group we believe this will significantly reduce our privacy. (*Officer comment: this is dealt with in section 7 below*)
- Replacement trees should be of mature stock (*Officer comment: This is dealt with in section 7 below*)
- The removal of trees will increase the risk of flooding (*Officer comment: this is a matter for the planning permission for the site not the TPO application*)
- TPO'd trees that are removed should be replaced like for like
- A reason for removal has not been submitted (*Officer comment: reasons for removal were submitted on 31<sup>st</sup> July 2020*)
- The trees provide important bird nesting habitat (*Officer comment: this is dealt with in section 7 below*)

- A number of concerns about the landscaping of the wider site (*Officer comment: This application is in reference to the TPO'd trees only there is no scope within this permission to deal with the wider site.*)

## **6.0 Relevant Policy and Strategic Context**

- 6.1 The development Plan comprises the **North East Derbyshire Local Plan**. The policies applicable to this development are as follows:  
NE7 Protection of trees and hedgerows

- 6.2 The Local Plan (2014-2034) was submitted for examination in May 2018, with public hearings taking place in November/December 2018 and March 2019. The Inspector issued her interim findings in letters dated 18 February and 21 March, 2019.

Following local elections in May 2019, the Council paused the Plan, pending consideration of its options around housing numbers and Green Belt release.

On 27 February, 2020 the Council announced the un-pausing of the Plan to allow it to proceed to the next stage of consultation on the Main Modifications, which began on the 2<sup>nd</sup> November. It is expected that the Plan will achieve adoption in spring 2021.

The emerging Local Plan is therefore at an advanced stage and, in accordance with the advice set out in paragraph 48 of the National Planning Policy Framework, significant weight should be attached to the Plan in decision making.

The most relevant policies in respect of determining this application are as follows:

SDC2 Trees, Woodlands and Hedgerows

- 6.3 National Planning Policy Framework  
The overarching aims of the National Planning Policy Framework (NPPF) are also material in the assessment of this application

- 6.4 The Town and Country Planning (Tree Preservation) (England) Regulations 2012  
The above regulations and the purposes for the making of a Tree Preservation Order are material in the assessment of this application

## **7.0 Planning Issues**

The following guidance can be found on the .Gov website  
(<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in->

[conservation-areas#amenity-means](#)) with regard to how Local Authorities should deal with applications for work on trees protected by TPOs:

### **What might a local authority take into account when assessing amenity value?**

When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

#### **Visibility**

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

#### **Individual, collective and wider impact**

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- Contribution to the character or appearance of a conservation area.

- 7.1 This is an application to fell 34 Poplars, covered by NEDDC TPO 6 (A1). This assessment will consider whether the application is acceptable in terms of the potential impact on the public amenity value of the group of trees protected by the above TPO and whether any identified harm can be offset by appropriate conditions.
- 7.2 Policy NE7 of the adopted Local Plan and the equivalent policy SDC2 of the emerging Local Plan require that where trees, woodland or hedgerows are lost to development, and this is considered to be acceptable, suitable replacement planting on site where it is practicable to do so, or off-site where not, will be required.

7.3 This application is proposed by the applicant because:

“The original planning approval demonstrated a pruning back and phased replacement approach to the G10 group. However, following site visits by the design team and our arboricultural consultants, it was noted that G10 is in poor quality and at risk of natural collapse. Following further research with North East Derbyshire Council’s Estate Team relating to access and ownership, a solution was arrived at to fell these trees and replace with similar to reinstate and improve the screening with the site and its context. Due to the change in approach to the scheme, the design team has submitted a TPO to amend the approach from the original planning application to design out risk and to improve and enhance the development.”

7.4 The 34 Poplars subject to this application are a group of trees (A1) located on the southern boundary of the site known as Land To The North And West Of The Poplars, Ankerbold Road. The trees are situated to the north of the hedge which runs between the site and the properties to the south; “The Poplars” and “The Gables”



*Figure 1 Aerial photo showing the trees proposed for removal and neighbouring properties; The Gables and The Poplars.*

7.5 The trees were made subject to Tree Preservation Order in 1980.



7.6 The Arboricultural Association publish a guide the life expectancy of common trees which suggest that most poplars have a life expectancy of 50-70 years. This is quoted in Forbes Laird Arboricultural Consultancy 2009 TEMPO Tree Evaluation Method for Preservation Orders p3. This is backed up by AWA Tree Consultants who describe poplars as “relatively fast-growing, short-lived species that have wood that becomes brittle with age, and they have a propensity to internally decay without any outward signs”

7.7 Impact on amenity



*Figure 2 poplars as viewed from Ankerbold Road*

The trees are visually prominent from Ankerbold Road to the north as shown above. This will be reduced by the new housing which has been granted permission on this part of the site. The trees are also prominent from the south but are obscured by the hedge which runs along the southern boundary of the site. The trees in this location have high public amenity value and make a positive contribution to the character of this part of Ankerbold Road.

7.8 Impact on neighbours

It is accepted that the poplar trees will go some way to screening the new homes from the neighbours at The Poplars and The Gables. However, the

hedge along this boundary serve this purpose more effectively. The hedge is not covered by the TPO and is not subject to this application. The hedge is proposed to be retained as part of the approved landscaping scheme.

## 7.9 Reasons for removal

### 7.9.1 Reasons put forward in the application

The 34 trees subject to this application are in very poor condition and in decline. They are showing signs of stress, decay and some signs of canker and there is a considerable amount of dead wood in their crowns. The tree survey submitted by the applicant which was carried out in November 2019 show the group of trees as Category C (low quality) and the applicant has taken this along with the condition of the trees to make the decision to apply to fell and replace rather than take a phased approach to management.

These trees are not outstanding specimens in their own right and that their age and condition suggest that they appear to be nearing the end of their lives. The Council's Parks Officer is in agreement with the condition assessment and is of the opinion that pruning (pollarding) would not be successful. He therefore raises no objections to the proposed felling of the trees.

### 7.9.2 AWA assessment and recommendation

Following the deferral of the application by members, a further independent survey has been carried out by AWA in December 2020. This survey found the following:

Collectively the trees form a significant landscape feature and provide some screening between the residential properties and access track to the south and new development site to the north. However, most trees are in poor condition and decline and they all have limited future prospects and limited long-term value.

Trees T2 to T5, T7, T8, T10, T11, T12, T14 to T26, T28, T29, T30, T32, T33 and T34 are in particularly poor condition, with moderate to major dieback in their crowns, significant deadwood and numerous significant snapped branches. The main stems of trees T2 to T5, T17, T22, T24, T26, T28 and T29 appear to have snapped out completely, leaving large portions of their crowns absent.

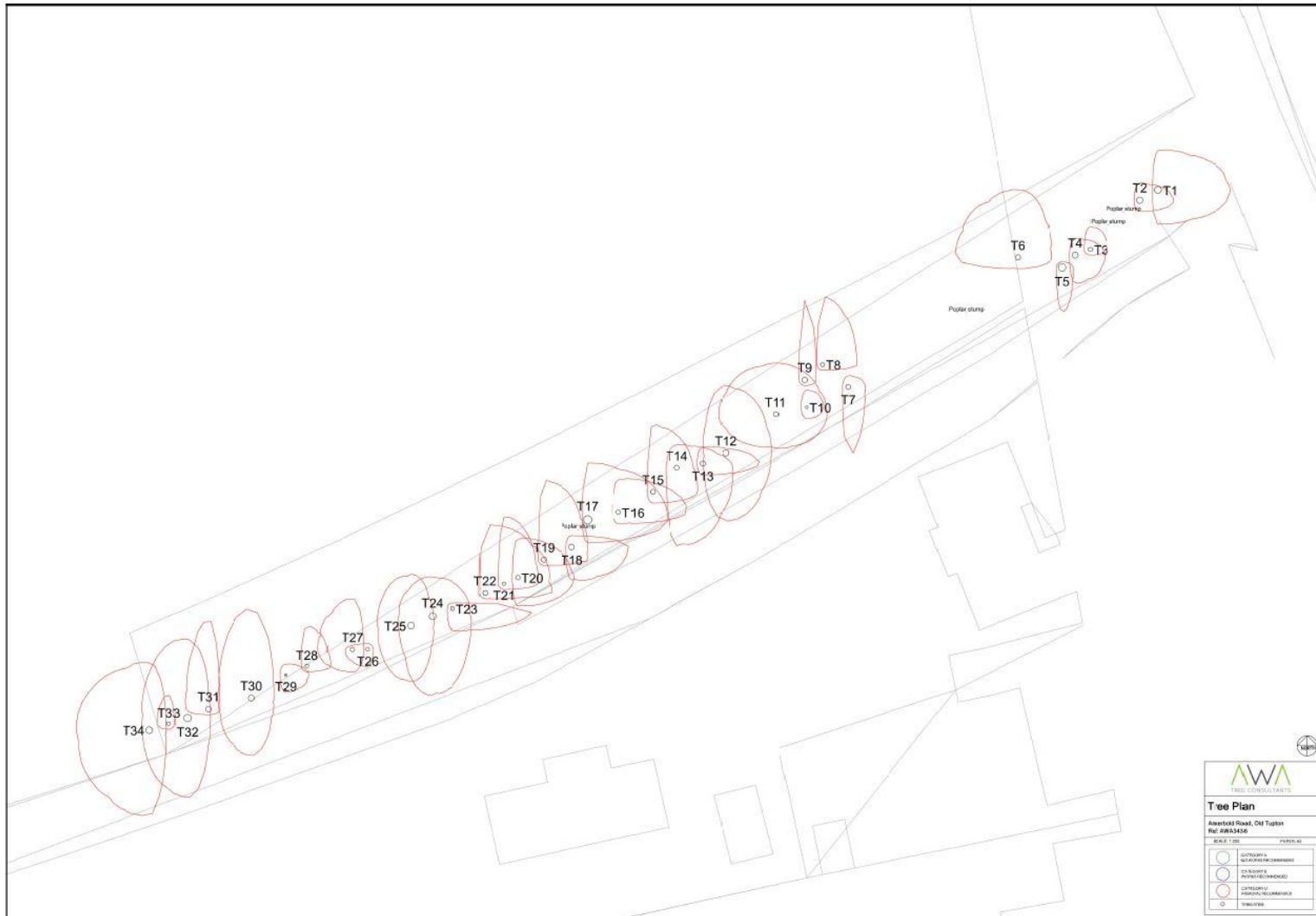


Figure 3 Plan to show trees surveyed by AWA

Trees T1, T6, T9, T13, T27 and T31 were in slightly better condition than the other trees, but these also have minor dieback, minor deadwood and minor snap-outs in their crowns.

In addition to the crown defects, trees T1, T2, T4, T5, T8, T9, T16, T18, T22, T30 and T32 have bark wounds, cavities, and decay to their stems. T22 has a *Pleurotus ostreatus* fungal bracket to the southern side of its stem and there was a degraded *Fomes fomentarius* fungal bracket at the base of T16, likely detached from the stem of the tree. Trees T2, T11 and T12 also have included bark unions to their main stems, which are more prone to failure.

Most of the trees are leaning, with only trees T5, T11, T25, T26 and T34 being vertical. Trees T3, T4, T6 to T10, T14, T24, T30, T32 and T33 are leaning slightly, while trees T1, T2, T12, T13, T15 to T23, T27, T28, T29 and T31 are leaning significantly.

The AWA report recommends the removal of all 34 of the surveyed trees to ground level. Often when trees are removed, the stems can be retained for their habitat value, however, due to the leans of most of the trees' stems and the new development site to the north of the trees, this is not considered suitable in this instance.

The AWA survey found 34 semi to early mature poplars within the group they also found several decayed stumps of previously failed poplar trees. The discrepancy between this number and that of the number of trees stated in the application is likely to do with differences in survey method and natural loss of some specimens since the original survey was carried out.

On 25<sup>th</sup> January the applicant agreed a change of title to

“Application for the removal of 34 poplars covered by TPO number 6 in various stages of decline, with previous failures. Risk now associated with these trees re-evaluated as high, in proximity to development and with only a short viable life expectancy. (Amended Plans)(Amended Title)”

This is the application being decided.

### 7.9.3 Conclusion

The above assessment by AWA supports the applications assertion that the trees are elderly and in poor condition.

Whilst AWA agree that ground work on the site will impact the tree's they do not attribute the work to being the cause of the general poor condition and limited prospects of the trees at the time of survey.

AWA agree that in the current context of the site as an approved housing development it is appropriate to carry out the felling of the trees applied for in the application.

It is accepted that the felling of these trees will have an impact on the visual amenity of the area however, this can be ameliorated with appropriate replacement planting which can be conditioned if consent is granted.

7.10 Impact on Biodiversity

In the short term there may be an impact on biodiversity during the works to remove the trees and the period during which the replacements are reaching maturity. This can be ameliorated by the work being carried out during the winter when birds are not nesting, a condition can be imposed to ensure that the trees are replaced in the next planting season after felling. Further the proposed mix of long lived native species should, in the long term, provide a more diverse variety of habitat which in turn should be more supportive of biodiversity than the present single species situation.

7.11 Proposed replacement trees

The plan and planting scheme details below show that in this case the replacement planting is for a reduced number of trees: 14. However the proposed replacement trees are a mixture of longer lived native species suitable for hedgerow edge habitat as exists here. The species chosen are those recommended by the Parks Officer. The proposed replacement species have a lower more spread out shape and therefore require more space between them. It is officer's opinion, supported by the Parks officer that replacement trees of this type and density will be appropriate for the area and that these trees will grow to be more attractive and longer lived than the poplars they will replace. In time they should grow to contribute to the biodiversity of the site by providing a variety of tree types and therefore habitats for birds and insects in particular.



Figure 4 plan showing location of replacement trees (green circles)

| PLANTING SCHEME DETAILS   |          |                        |                   |              |              |                   |               |          |
|---|----------|------------------------|-------------------|--------------|--------------|-------------------|---------------|----------|
| Client: Northwood - Location: Ankerbold Road  |          |                        |                   |              |              |                   |               |          |
| Created by: Bond Bryan Architects - Landscape                                       |          |                        |                   |              |              |                   |               |          |
| PLANTING SCHEDULE: Rev P01 - (22.07.20)   |          |                        |                   |              |              |                   |               |          |
| Refer to dwg nos.: AKB-BBA-ZZ-ZZ-DR-L-1311 LANDSCAPE TREE REPLACEMENT PLANTING PLAN |          |                        |                   |              |              |                   |               |          |
| Name  | Ctr<br>m | No.<br>/m <sup>2</sup> | Girth/<br>Dia. cm | Height<br>cm | Root<br>zone | Container<br>Size | Clear<br>Stem | Quantity |
| <b>Individually Planted Tree Species</b>  |          |                        |                   |              |              |                   |               |          |
| Field maple / <i>Acer campestre</i>   |          |                        | 10-12             | 300-350      | BR           | Standard          |               | 3        |
| Downy Birch / <i>Betula pubescens</i>   |          |                        | 10-12             | 300-350      | BR           | Standard          |               | 2        |
| Fascination   |          |                        | 10-12             | 300-350      | BR           | Standard          | 200           | 3        |
| Sessile oak / <i>Quercus petraea</i>  |          |                        | 10-12             | 300-350      | BR           | Standard          |               | 1        |
| Aspen / <i>Populus tremula</i>  |          |                        | 10-12             | 300-350      | BR           | Standard          |               | 2        |
| English Oak / <i>Quercus robur</i>  |          |                        | 10-12             | 300-350      | BR           | Standard          |               | 1        |
| Small Leaved Lime / <i>Tilia cordata</i>  |          |                        | 10-12             | 300-400      | BR           | Standard          |               | 2        |

#### 7.12 Age of replacement trees

The proposed replacement trees will be of a size and age which balances the best chance of survival to maturity against immediate impact on the site. The proposed replacement trees will be of a girth of 10-12cm and height of 3.0m-3.5m (4.0m in the case of the Small Leaved Lime)

7.13 In addition to the 14 replacement trees, the applicants propose management work to the boundary hedge which to increase its density and vitality. Whilst this is outside of the remit of the TPO this is a welcome

addition to the replacement trees. In the case of an area TPO it is not possible to condition replacement trees outside of the area protected. The applicants have indicated that they intend to include a large amount of new tree planting throughout the site. These trees, along with the hedge management will be included in an application to vary the landscaping condition of the planning permission for the site which will be submitted if this TPO application is approved.

## **8.0 Summary and Conclusion**

- 8.1 This application seeks permission for the removal of 34 Poplar trees protected by NEDDC TPO6 (A1). The trees in question are in poor condition and at the end of their natural lives. They do not contribute to the amenity of the area as they once did and will continue to deteriorate. This assessment is supported by the tree survey carried out by AWA Tree consultants who surveyed the trees in December 2020. The applicant proposes to replace the trees with 14 mixed native species which will grow to as size and shape which will fill the area protected. Replacement trees will remain protected under the TPO. The proposal provides an opportunity to replace trees which are in poor condition and at the end of their life with ones which should be longer lived, more attractive and which therefore have a more positive impact on the amenity of the area than those they are replacing. The proposal is therefore in keeping with Local Plan policy and the terms of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. It is recommended to approve for the felling of these trees with a condition requiring their replacement as proposed in the replanting plan.

## **9.0 Recommendation**

- 9.1 GRANT Full Planning Permission subject to the following conditions

### **TPO completion of work**

The work hereby granted consent shall be completed within two years from the date of this decision notice.

**Reason** – For clarity and the avoidance of doubt.

### **TPO Scheme for Replacement**

The replacement tree(s) shall be planted in accordance with the approved scheme in the next planting season following the felling works.

**Reason** - In the interest of the appearance of the area and in accordance with Policy

NE7 of the North East Derbyshire Local Plan.

### **Tree protection**

The replacement trees shall be subject to the same protections afforded to existing trees as laid out in the landscaping details submitted to discharge condition 6 pursuant of 18/00056/FL. The means of protection shall be installed in accordance with the approved scheme before any other works commence on site and retained in position until all the building works hereby approved have been completed. The area within the fenced/protected area shall not be used for storage or the parking of machinery or vehicles and the ground levels shall not be altered.

**Reason** - In the interest of the amenity of the area and in accordance with Policies NE7 of the North East Derbyshire Local Plan

### **9.2 Informatives**

The applicant should note that in order to reduce the potential impact on nesting birds and to the benefit the health of the tree, the works should be carried out between October and February. It is an offence to kill, injure or take any wild bird or take, damage or destroy its nest whilst in use or being built, or take or destroy its eggs.