



Committee and date

South Planning Committee

20 November 2018

## Development Management Report

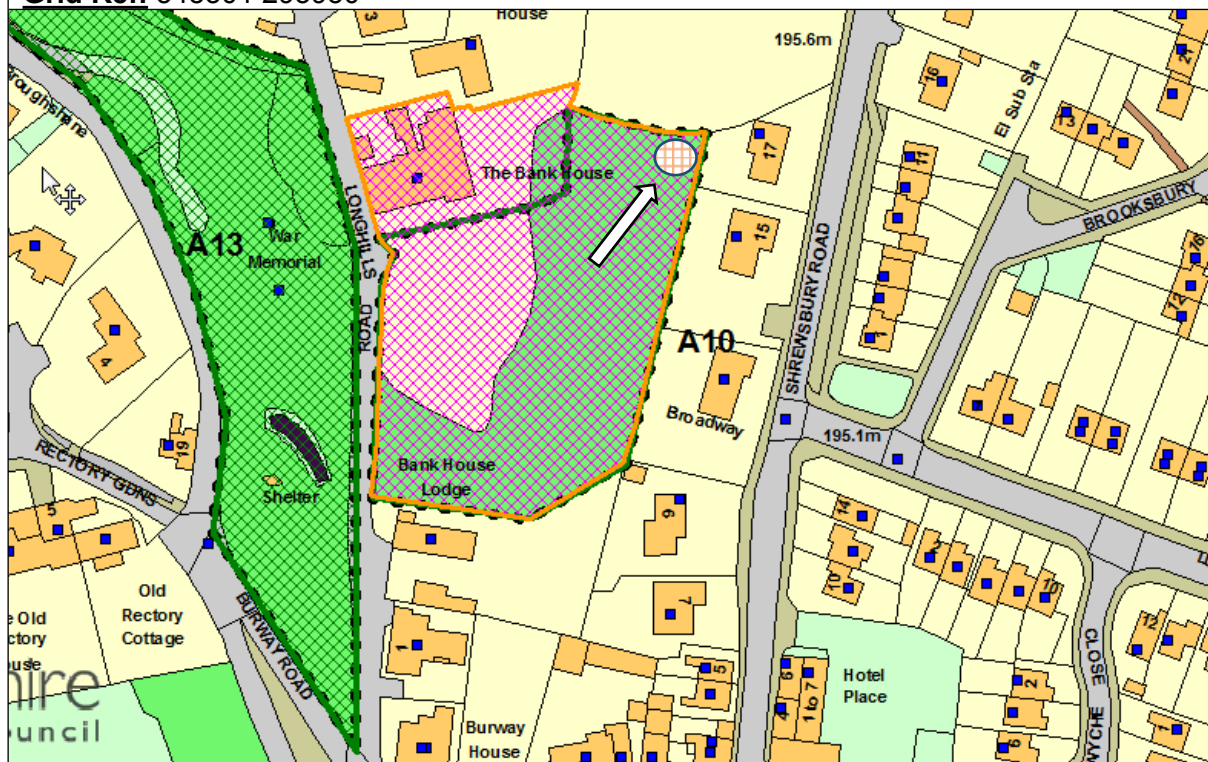
Responsible Officer: Martin Sutton

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### Summary of Application

<b><u>Application Number:</u></b> 18/04768/TPO	<b><u>Parish:</u></b>	Church Stretton
<b><u>Proposal:</u></b> To fell 2 No Douglas fir trees protected by The Council of the South Shropshire District Council, (Church Stretton)		
<b><u>Site Address:</u></b> Bank House, Longhills Road, Church Stretton, Shropshire, SY6 6DS		
<b><u>Applicant:</u></b> Mr D Newbrook		
<b><u>Case Officer:</u></b> Dougald Purce	<b><u>email:</u></b> <a href="mailto:trees@shropshire.gov.uk">trees@shropshire.gov.uk</a>	

**Grid Ref:** 345301 293930



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Contact: Tim Rogers (01743) 258773

**Recommendation:- Refuse**

The trees make a contribution to the diversity and character of the Church Stretton skyline and tree-scape, as such they help to contribute to the character and amenity of the area; therefore, in accordance with the aspirations set out in the Church Stretton Town Design Statement, the loss of these trees should be a matter of necessity rather than convenience.

This application has been supported by submissions from a Civil Engineer an Estate Agent and a report from a Consulting Arboriculturist and whilst some of the points raised in this supporting information are pertinent others are essentially conjecture. From a purely technical assessment, at this time the trees appear to be in good condition and many of the concerns raised regarding falling branches could be addressed through appropriate management of the trees. It is recommended that light, targeted pruning coupled with monitoring is a more appropriate alternative in the short to medium term to the removal of these trees.

**REPORT****1.0 THE PROPOSAL**

- 1.1 To fell two Douglas fir trees protected by the South Shropshire District Council, (Church Stretton) Tree Preservation Order 1959 that are located on the boundary between Bank House and 17 Shrewsbury Road.
- 1.2 The applicant has submitted the application in response to concerns raised by their neighbour, the owner of number 17 Shrewsbury Road (a bungalow), regarding the size and proximity of the trees and past history of branch failures onto the garden / property and the possibility of future branch or whole tree failures and how they could affect the safety of the property and its occupants and the market value of number 17 Shrewsbury Road.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The trees are situated in the north east corner of the grounds at Bank House, Longhills Road and have grown in close proximity to each other. Tree 48 is growing hard up against the boundary with number 17 Shrewsbury Road and tree 49 is set back from the boundary by approximately 5m and is to the north and west of tree 48; in recent reports by the applicant's arboricultural advisor the trees are identified as being between 25m and 30m tall.
- 2.2 The garden boundary at Bank House is between 10m and 11m to the west of the dwelling at 17 Shrewsbury Road and is on raised ground approximately 6m above the bungalow's floor level. The surrounding ground comprises shallow soils over a substrate identified on the geology of Britain website as "Stretton Shale Formation – Mudstone". To accommodate number 17 Shrewsbury Road, a section of the shale bank has been excavated leaving the lower reaches of the western plot of garden at a level with the gutters on

the bungalow, the garden then climbs approximately 4m over a distance of 8m to the boundary.

### **3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION**

- 3.1 The Local Member has requested that the application be referred to the relevant Planning Committee within 21 days of electronic notification of the application and as agreed by the Service Manager with responsibility for Development Management in consultation with the committee chairman or vice chairman, based on material planning reasons.

### **4.0 COMMUNITY REPRESENTATIONS**

Pease Note: All representations and supporting documents are available to view in full on the Council's website.

#### **4.1 Consultee comments:**

Three consultee comments have been received, two are in support of the application; the other raised no comment.

- 4.1.1 Church Stretton Town Council raised the following representation:  
*"We would not want to see any other trees lost from this bank as they are prominent in the landscape. Support this proposal on grounds of perceived risk".*
- 4.1.2 The Shropshire Council Historic Environment team had no comments to make on this application in respect of archaeological matters".
- 4.2 Public Comments:**
- One public comment has been received in support of the application and this was submitted by the owner of the neighbouring property 17 Shrewsbury Road. It is presented in full below:
- 4.2.1 Representation by Dr Norwich owner of 17 Shrewsbury Road:  
*"As the owner of the property most badly affected by these trees I strongly support this application.*

*Douglas fir are non-native forest trees which can grow to 300 feet and which have no place in the urban environment let alone close to housing. In their native area they are regarded as a menace in any built environment they are regarded as a menace to property and persons because of their size and their propensity to drop heavy branches quite sporadically and without reference to any particular or severe weather conditions.*

*These trees have grown very substantially in the 41 years since my family has owned 17 Shrewsbury Road, Church Stretton and the property and its rear garden are totally dominated by the trees causing loss of light, invasion of the garden by huge roots, damage to the dividing fence and a constant fall of brash and intermittent dropping of very heavy branches which have caused repeated damage to the roof of the house and on one occasion knocking my then 90 year old Mother over as she emerged from the back door of the house. The rear garden which was once fully cultivated is now covered in thick brash and totally unusable,*

*There is a constant risk of further damage to the roof of the house and further costs of repairs in fact the roof is now going to have to be replaced owing to the damage but this work cannot be done until the risk of further damage is alleviated.*

*It is completely obvious to any reasonable person that these trees represent a significant danger to lives and property. Reports by Mr Newbrook's tree expert and an independent structural engineer attest to that. In addition the property is blighted and seriously devalued by the risks described above and by the related ongoing legal and insurance risks.*

*It is high time that the Council recognised the dangers of this situation about which they have been repeatedly warned and they should now do the right thing and give permission for these trees to be removed without further delay and before someone is killed or injured”.*

## **5.0 THE MAIN ISSUES**

- 5.1 The applicant wishes to fell two mature Douglas fir trees protected by an area Tree Preservation Order raised by South Shropshire District Council, and whilst the applicant has not stated that they will plant replacement trees they have indicated a preference for replacement planting with a dwarf conifer *Abies delavayi* Var *Forestii* (Jacks Forrest's Silver fir).
- 5.3 The applicant's stated reasons for wanting to remove the trees are that: These trees are growing rapidly, and are now posing a nuisance and grave danger due to their inordinate size and location, because:
  - (a) The trees are growing on a steep slope on friable soil.
  - (b) The bungalow is exactly down wind and down the gradient and complete failure of either tree would result in a direct hit on the bungalow which would be decimated
  - (c) Falling material from the trees has caused structural damage to the roof of the bungalow.
  - (d) Dr Norwich (Owner of 17 Shrewsbury Road) is constantly troubled by brash and debris from the trees falling into his garden.
  - (e) Such falling debris represents a prospective risk to life.

- (f) The trees are now so large that they are robbing light and making the garden at the bungalow impossible to manage.
- (h) With the trees remaining the value of 17 Shrewsbury Road will be seriously affected and may put off potential buyers and or make the property uninsurable.
- (g) All this amounts to a blight ever advancing, being visited on my neighbours property.

## 6.0 OFFICER APPRAISAL

### 6.1 The trees are growing on a steep slope on friable soil [Point (a)]. –

- 6.1.1 The applicant has raised this point to support their concern that one or both of the trees if it / they fell over could cause catastrophic damage to the neighbouring bungalow and its residents.
- 6.1.2 The Civil Engineer's notes submitted in support of the application discusses briefly the properties of shale, suggesting how it might through weathering associated with root activity become disrupted and further weakened by root penetration affecting the shear strength of the substrate (shale), reducing its strength as the trees become wind loaded. The report offers no information on what assessments such as trial holes or other tests were made to corroborate the immediate or near future likelihood of such an occurrence and as such can only be considered as informed conjecture.
- 6.1.3 The Civil engineer's report suggests that the root systems of Douglas fir trees "*normally consist of tap roots but that in shallow soils plate like systems develop*". Typically Douglas firs can develop a tap root where conditions are favourable - this tends to be a characteristic of young trees on deep well drained soils, but with age Douglas fir typically develop root systems comprised of shallow and sloping lateral roots and where circumstances are favourable, sinker roots dropping down from the laterals. However, Douglas fir like most potentially large trees, are capable of adapting their root systems in response to the mechanical influences of above ground factors and in accordance to a range of ground constraints, such as physical barriers and water / nutrient gradients; this allows them to establish and thrive on a wide range of terrains and soil types.
- 6.1.4 Section 2.1 of the arboricultural report submitted by Marlow Consulting Ltd states that there is no evidence of instability or movement in the ground around the base of the trees and no obvious significant defects in the trunks, the Council Tree Team agree with this finding. The majority of mature trees and woodland to the west of Ludlow road are either in the conservation area or part of a tree preservation order and since Shropshire Council became the planning authority for Church Stretton we have not observed or had reports to

indicate a significantly higher incidence of tree failures along the band of Stretton Shale substrate than on the numerous other rock substrates' in the area.

- 6.1.5 Whilst it is reasonable to assume that there is some potential for the trees to be windblown as a result of the growing medium and substrate sheering, the applicant has provided no actual evidence that this is in fact an imminent threat meriting the removal of the trees. Regular monitoring for ground cracks, heave or a decline in the conditions of the trees could be monitored as indicators of possible problems.

**6.2 The bungalow is exactly down wind and down the gradient and complete failure of either tree would result in a direct hit on the bungalow which would be decimated. [Point (b)]**

- 6.2.1 As discussed above, it has not been established that complete failure of one or both trees is an immediate likelihood. This particular concern appears to be based on the assumption that the tree would fall towards 17 Shrewsbury Road if windblown, but a number of factors suggest that this is only one of a number of possible directions they could go if failure occurred:
- (a) Tree 48, which is the closest to the boundary, has a slight growth lean to the north-west meaning its weight is to some extent away from the boundary.
  - (b) As is shown on the plan in appendix A, prevailing winds are from the South-West, storms from that direction pass across the site tangentially from SW to NE rather than towards the bungalow, suggesting that the most likely storm loading would push the trees to the north-west of the bungalow.
  - (c) Tree 49 is set back from the steeper section of the bank and is on a flatter section of ground, its crown load and weight distribution do not indicate that it is more likely under extreme loading to fall towards the bungalow than in some other direction.

**6.3 Falling material from the trees has caused structural damage to the roof of the bungalow [Point (c)]:**

- 6.3.1 The Structural Engineer's report states that he understands that the trees have shed branches some estimated to weigh 20kg and that this has resulted in structural damage to the roof of the property. This statement is not supported by any evidence such as photographs, tenders for repairs or a building surveyor's assessment etc. identifying the extent or nature of the structural damage.
- 6.3.2 In 2017 the owner of the 17 Shrewsbury Road (Dr Norwich) stated that “, *For the sake of clarity the recent Storm Doris resulted in the roof of the house sustaining 6 holes and given the weight of the branches which fell on the old but substantially stable roof which did not need immediately replacing it now needs to be replaced at accost of £16,000.*” Since 2017 Dr Norwich has had

the opportunity to support this claim with evidence as discussed above in section 6.3.1, but to date has not done so.

6.3.3 In paragraph 1 of his identification of the trees and description of the works the applicant states that: *“,,, Then during storm Doris on 23<sup>rd</sup> February 2017 a bough flew of one of the trees onto the roof of the bungalow holing it and requiring immediate reinstatement by a builder to stem water egress. Fortunately a builder was on hand and repairs partly carried out during the storm, and I gladly settled the invoice of £60 knowing that even a minimal delay in repairs would have resulted in extensive damage.”*

6.3.4 The above statements appear to offer some minor contradiction between the extent of damage caused during storm Doris. Photographs of the roof of 17 Shrewsbury Road certainly show that there has been a need to replace a number of slates in the recent past (See Appendix 3), this accords with the applicant's statement. But in the absence of evidence supporting the claims of structural damage necessitating £16,000 pounds worth of roof repairs we can only assume that the damage to date, although distressing for the owner, has required £60 worth of repairs and was arguably superficial not structural.

6.4 **Dr Norwich (Owner of 17 Shrewsbury Road) is constantly troubled by brash and debris from the trees falling into his garden and Such falling debris represents a prospective risk to life.** [Points (d) & (e)].

6.4.1 It is clear that there has been some incidence of branches from one of these trees falling into the grounds of 17 Shrewsbury Road, this was an integral consideration in the previous two applications for the removal of these trees (17/00982/TPO & 18/00741/TPO). In both instances the Council refused consent to remove the trees but instead recommended that the likelihood of branch failures could be significantly reduced through the light end weight reduction of the longest branches and removal of poorly formed lion's tailed branches, although this should not exceed one in 4 branches; to date this advice has not been acted upon.

6.4.2 The arboricultural report contests this approach stating the following:

- *“Marlow Consulting Ltd recommended thinning of the branches of an adjacent Douglas fir (Tree 37) to reduce the risk of branch failure, which was carried out. I understand from Mr Newbrook that the tree has continued to shed branches since the thinning works were carried out.”*  
And
- *“In my opinion, the thinning and end weight reduction of branches is ineffective in reducing the risk of branch failure. Reducing the end weight of branches would be expensive, would stimulate side growth, which would increase the risk of branch failure and would have to be repeated regularly, at the same time only marginally reducing the risk of branch failure, if at all. In my experience Douglas fir have a propensity to shed*

*branches as a result of moderate winds and snow fall, and not as a result of exceptional weather events such as storms. Given the trees' exposed and alleviated (sic) position this potentially could be at any time of year."*

- 6.4.3 The thinning of the neighbouring Douglas fir was given consent under application 17/00982/TPO but we consider that the extent of the subsequent thinning operation was overly heavy and contributed to the further failures. The Council's recommendations for trees 48 & 49 was not for a wholesale crown thinning operation but rather for the targeted removal or end weight reduction of branches with form that made them more prone to failure than the average well formed branch on the trees'. This point would have been discussed and clarified had an application been submitted to the Council for such works, but to date no such application has been received by the Council.
- 6.4.4 The winter of 2017-18 saw four named storms hit Shropshire between September and January (Storms Aileen, Ex-Hurricane Ophelia , Brian, & Eleanor) and more recently storm Bronagh & Callum. Most of these storms included sustained and strong winds with gust of over 50Mph. Further to this the county had three bouts of heavy snow last winter, the first of which stuck and froze to trees, and across the county a great many trees failed or lost large limbs. It is notable that whilst some small branches have snapped from these two trees the extent of large branches lost over that period has been low.
- 6.4.5 The applicant states that: *"...on one occasion a few years ago, a falling branch narrowly missed striking Dr Norwich's elderly mother who happened to be in the garden at the time"*. Dr Norwich in his representation expands upon this stating that trees have caused: *"...invasion of the garden by huge roots, damage to the dividing fence and a constant fall of brash and intermittent dropping of very heavy branches which have caused repeated damage to the roof of the house and on one occasion knocking my then 90 year old Mother over as she emerged from the back door of the house"*.
- 6.4.6 Using the peer reviewed Quantified Tree Risk Assessment methodology developed by Mike Ellison of Cheshire Woodlands, we consider that the likelihood of harm occurring from a falling branch is actually quite low and the fact that it did occur was at the unfortunate end of odds that appear to have been in the region of a 1 in 50,000 likelihood of a person suffering significant harm. This conclusion is based on the following considerations:

<b>Assessment based on Quantified Tree Risk Assessment - version 5.3/17</b>		
<b>QTRA Headings</b>	<b>SC Trees Comments</b>	<b>QTRA wheel value</b>
Target occupancy	Assuming the average use of the garden is ≤2.4 hours a day (876 hours/year or 36 whole days per year) and typically people tend not to spend prolonged periods of time in their gardens during bad or poor weather when the risk of failures is highest, and that a branch could fall anywhere in the garden but the area occupied	2



	is likely to be varied making a person a moving target e.g. they can only occupy a small section of the garden at any one time and the branch might not necessarily land in that spot at the same time as it is occupied.	
Size of falling part	The applicant's arboriculture report identifies a section of a large branch in the garden of 17 Shrewsbury Road 75mm in diameter. Using this as an indicator we shall assume branches as large as 100mm in diameter might fall into the garden.	4
Probability of failure	To be conservative we shall assume that the probability of failure of a branch between 100mmØ and 25mmØ is between 1 in10 and >1 in100 in any given year.	2
An explanation of how the QTRA functions can be viewed at: <a href="https://www.qtra.co.uk/cms/index.php?section=4">https://www.qtra.co.uk/cms/index.php?section=4</a>		

Whilst we do not refute the possibility of a branch falling into the garden the above assessment suggests the likelihood of harm occurring is relatively low.

**6.5 Dr Norwich (Owner of 17 Shrewsbury Road) is constantly troubled by brash and debris from the trees falling into his garden. [Point (e)].**

6.5.1 The fall of larger brash is discussed above in section 6.4 but consideration should also be given to the fall of smaller brash / detritus. The fall of small detritus such as twigs, small branches and fruit / cones is common amongst most trees and in this case the detritus appears to have accumulated over a considerable period of time and could have been collected as it fell; as such it would not have been a significant chore any worse than that tolerated by any other resident living next to mature trees. We do not consider this in itself to be a good reason for the removal of two prominent, protected trees.

**6.6 The trees are now so large that they are robbing light and making the garden at the bungalow impossible to manage. [Point (f)].**

6.6.1 The property's orientation faces east to south-east in a valley running more or less south to north, this means the property receives direct sunlight from when the sun rises over the hills to the east until at least 13:00hrs. After this time some trees at Bank House may have a shading effect, but due to the steep ground behind No 17 this effect is also caused by the physical geography and the loss of these trees would only provide a marginal increase in afternoon light. Trees 48 & 49 are to the west- west-north of the bungalow and are unlikely to cause direct shade to much of the grounds other than when the sun is at its highest part of its solar path during the summer months.

**6.7 With the trees remaining the value of 17 Shrewsbury Road will be seriously affected and may put off potential buyers and or make the property uninsurable. [Point (g)]**

This point is supported by a letter from Wrights Estate Agents of Church Stretton to Dr Norwich which concludes *“Taking into account the above with the trees remaining the value of the property will be affected and seriously may put all potential buyers off.”* The statement is based on the following summarised points:

**6.7.1 Report comment – “If damage to the roof continues a roofing company would consider the wholesale replacement of the roof more expedient than effecting repairs, and if the damage had not occurred the life of the roof might have been extended”.**

**SC Trees response -** This point has been discussed in section 6.3 above and is not supported by hard evidence, so at this time it can only be regarded as conjecture rather than fact.

**6.7.2 Report comment -** The report notes that tree roots can have detrimental effects on buildings and walls which can affect the saleability of a property.

**SC Trees response -** The bank has been excavated into bedrock between the tree and the bungalow it is highly unlikely that roots have crossed this excavation and are a structural issue in this instance, certainly no evidence has been supplied to support the comment.

**6.7.3 Report comment -** When selling a property the seller is obliged to advise potential buyers of any disputes or problems associated with the property and bring to the fore any insurance claims that have taken place.

**SC Trees response -** It is not clear that there is a dispute between the owner of 17 Shrewsbury Road and the applicant. The applicant has in fact stated that he gladly settled the £60 invoice to effect repairs after storm Doris and has obligingly submitted three applications to remove the trees. To date, to the best of the Tree Team’s knowledge Shropshire Council has not been informed of any historic or pending insurance claims associated with the Douglas firs. With regards to problems, we consider appropriate crown management ought to significantly reduce the occurrence and severity of many of the problems highlighted by the applicant.

**6.7.4 Report comment -** The insurance issue is also a concern, because if there has been a claim this will affect premiums and possibly make the property uninsurable; in this paragraph the report draws attention to tree 48 having a detrimental effect on a section of the boundary fence.

**SC Trees response -** As discussed above in section 6.7.3 the Council is unaware of any relevant insurance claims and with regards to the matter of the fence it seems reasonable to suggest that the fence could be repaired without the need to resort to an insurance claim, especially if it is likely to affect the value of the property or the cost of insurance in the future.

- 6.7.5 **Report comment** - If legal action has occurred between the owner of the property and Shropshire Council resulting from the refusal of a planning application to work on the trees “*...this certainly will cause serious problems in selling.*”

**SC Trees response** - the Council's Tree Team is not aware that the owner of the bungalow has engaged in any actual legal action against the Council resulting from the refusal of applications to remove these two trees, so at this time the point is academic. If this application is refused consent and the applicant for a third time opts not to use their right to challenge the decision by an appeal to the planning inspectorate, there is still no good reason why the owner of 17 Shrewsbury Road should immediately choose to resort to legal action. As has always been the case if Dr Norwich considered the decision to be wrong, there is nothing stopping him from submitting his own application to fell the trees and if not satisfied with the outcome making an appeal to the Planning Inspectorate.

- 6.7.6 There are many properties in Church Stretton along streets such as Madeira Walk, Trevor Hill or Woodcote Edge that enjoy an intimate relationship with large trees, including Douglas fir. In recent years many of these properties have been put on the market and been sold without a rush of applications for the removal of the surrounding trees, suggesting that the housing market in Church Stretton is more tolerant of large trees than is being suggested in this application.

## 6.8 Effects on the immediate and broader amenity of the area

- 6.8.1 The Church Stretton Town Design Statement states that “*A particular feature of Church Stretton is the presence of many fine specimen conifers on the valley sides. Many of these evergreens were planted in the mid-19<sup>th</sup> century when there was a desire to create a landscape of trees interspersed with large houses. This rapid development of the town at the end of the 19<sup>th</sup> century and beginning of the 20<sup>th</sup> century was accompanied by further tree planting, designed to complement the town's status as a resort.*”
- 6.8.2 As is shown in the photographs in Appendix 3, these two Douglas fir trees fit with the description in the Town Design Statement and as such they play an important part in the character and amenity of the area. The loss of these trees may at some juncture be necessary, but at this time it is not evident that their removal is necessary without first seeking retention through appropriate management.
- 6.8.3 Because there are many parts of Church Stretton where properties enjoy an intimate relationship with large trees the removal of these two trees at Bank House might very well be taken as setting the bar against which the retention of other equally prominent trees will or won't be tolerated.

## **7 CONCLUSION**

- 7.1 Whilst the trees are large, at this time they are exhibiting signs of good physiological condition and whilst the incidences of branch failures have indicated structural failures, these have primarily been under adverse weather conditions and there has to date been no apparent attempt to take the option of crown management in order to reduce the likelihood and significance of future branch failures.
- 7.2 The supporting documents have introduced a number of pertinent points for consideration, but many of them are unsupported by strong evidence that from a technical stand point makes the removal of the trees imperative before other methods of management have been tried. As has been discussed in section 6.4.6 the probability of harm occurring is relatively low at this time and can be reduced by appropriate crown management.
- 7.3 Review of the growth rate and stability of the structural parts of these trees over the long term will almost certainly lead to the removal of these trees at some point in the future. The Council Tree Service's interpretation of the current situation is founded on a technical assessment of the application. It is acknowledged that other non technical considerations regarding the effects of overbearing trees might support the expedience of letting the trees go, but such a conclusion must be drawn with due consideration for the context of these trees in relation to the many other trees in Church Stretton where comparable situations exist.

## **8. RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

- 8.1.1 There are two principal risks associated with this recommendation as follows:
- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
  - The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way

of Judicial Review must be made a) promptly and b) in any event not later than three months after the grounds to make the claim first arose.

- 8.1.2 Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

## **8.2 Human Rights**

- 8.2.1 Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

- 8.2.2 First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

- 8.2.3 This legislation has been taken into account in arriving at the above recommendation.

## **8.3 Equalities**

- 8.3.1 The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

## **9. FINANCIAL IMPLICATIONS**

- 9.1 There are likely financial implications of the decision and/or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal.

- 9.2.1 If a person establishes that loss or damage has been caused or incurred in consequence of:

- (a) the refusal of any consent required under The Town and Country Planning (Tree Preservation)(England) Regulations 2012;
- (b) the grant of any such consent subject to conditions; or
- (c) the refusal of any consent, agreement or approval required under such a condition,

Subject to the following points below that person could be entitled to compensation from the authority.

- 9.2.2 No claim, other than a claim may be made under the regulations—

- (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
- (b) if the amount in respect of which the claim would otherwise have been made is less than £500.

9.2.3 No compensation shall be payable to a person—

- (a) for loss of development value or other diminution in the value of the land;
- (b) for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
- (c) for loss or damage reasonably foreseeable by that person and attributable to that person's failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
- (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under these Regulations or the grant of any such consent subject to conditions.

9.3 The financial implications of any decision are not a material planning consideration and should not be "weighed" in planning committee members' mind when reaching a decision.

## 10. BACKGROUND

10.1 Relevant Planning Policies:

Core Strategy and Saved Policies: CS6 & CS 17  
SAMDev Plan MD2 & MD12  
Church Stretton Town Design Statement  
AONB Management Plan

10.2 Relevant planning history:

17/00982/TPO  
18/00741/TPO

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information):**

- (i) The applicant has submitted an extended (4 sided) section 7 to their application form titled identification of trees and description of works.
- (ii) Civil Engineers statement to Dr Norwich – Longmynd Consultants dated 21 May 2018
- (iii) Estate agents statement to Dr Norwich – Wrights Estate Agents dated 13<sup>th</sup> April 2018
- (iv) Tree Condition Report – Marlow consulting dated 14<sup>th</sup> May 2018.

11. Additional Information

View details online:

<https://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=details&keyVal=PGOLIHTD09600>

**Cabinet Member (Portfolio Holder)**

Cllr R. Macey

**Local Member**

Cllr David Evans

Cllr Lee Chapman

## Appendices

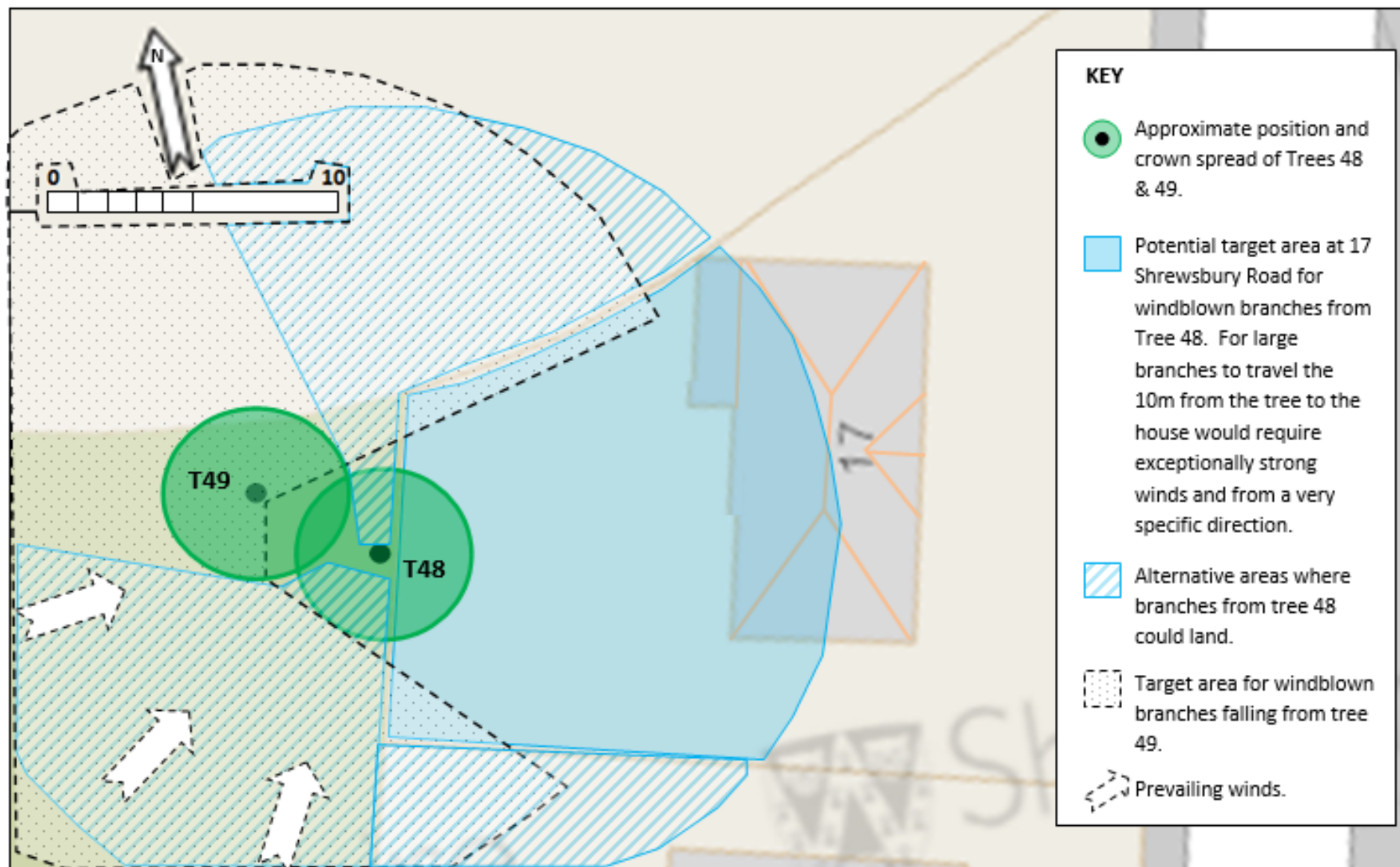
### APPENDIX 1 – Conditions

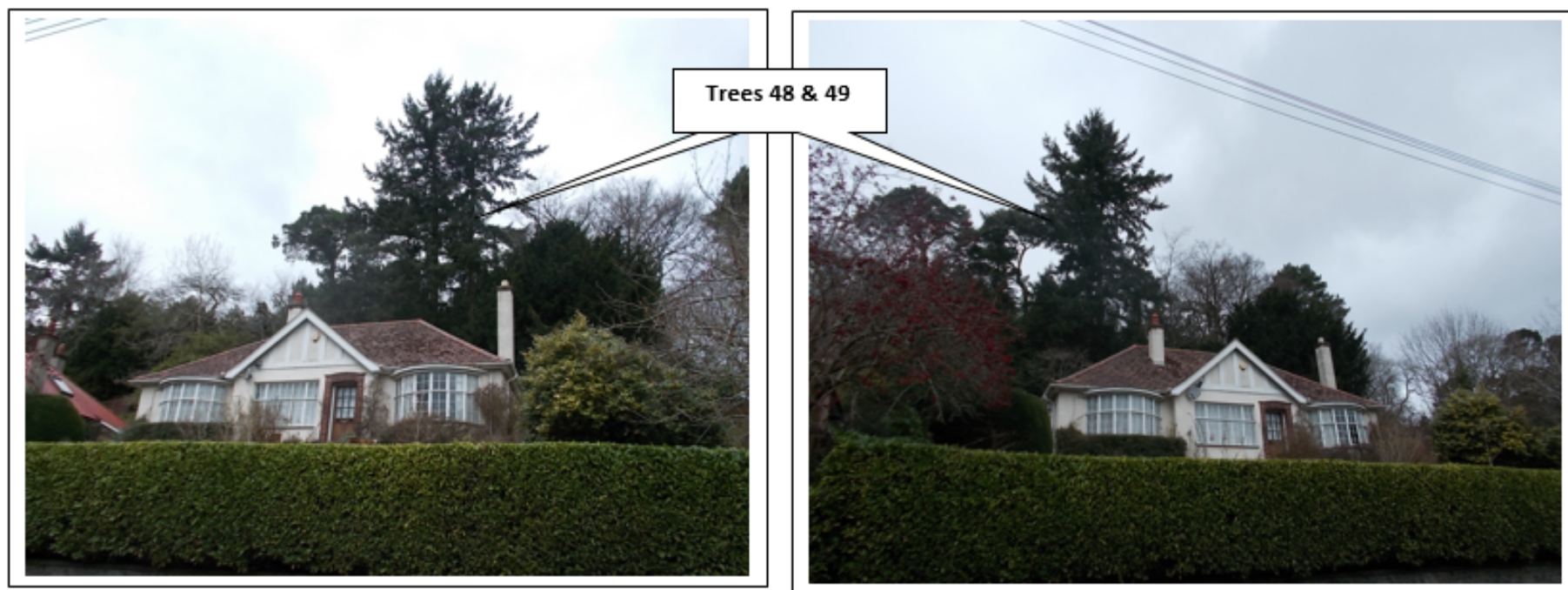
In the advent of the Planning Committee determining in favour of this application the following conditions are recommended.

- 1      The works shall be carried out as described in the application and in accordance with the recommendations of BS3998 2010.  
Reason: In the interests of visual amenity.
- 2      The works shall be carried out within 2 years from the date of this permission.  
Reason: To avoid confusion over unimplemented consents.
- 3      Any tree removed as a result of this application being approved shall be replaced. Details of species, planting stock size and exact location of replacement tree/s to be submitted and agreed in writing with the Local Planning Authority prior to the felling of the protected tree. The replacement tree/s is/are to be maintained for a minimum period of 5 years and any replacement tree that fails within that period shall be replaced by another of similar specification. Replacement trees are to be planted in the next planting season following the felling of the protected trees.  
Reason: To ensure the current level of amenity tree cover is maintained in the long-term.



**Plan 1** – The plan offers an indication of the possible target zones for windblown branches from trees 48 & 49. As is shown by the solid blue zone the rear garden and west facing elements of the bungalow form only a segment within the possible direction that branches could be carried, and whilst the prevailing winds have potential to carry branches into the grounds of No17 it takes an uncommonly strong wind to carry a branch heavy enough to cause structural damage 8 to 10m.





The trees as seen from Shrewsbury Road with No17 in the foreground



The trees ringed in yellow as seen in context with the broader landscape





Front side and rear views of 17 Shrewsbury road the new tiles show the extent of damage to the bungalow