

SOUTH STAFFORDSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

TREE PRESERVATION ORDER 251, 2010 RELATING TO HIMLEY HALL, DUDLEY ROAD, HIMLEY

The SOUTH STAFFORDSHIRE DISTRICT COUNCIL in exercise of the powers conferred on it by sections 198, 201 and 203 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

- 1.** This Order may be cited as the **South Staffordshire District Council Tree Preservation Order No 251, 2010, Himley Hall, Dudley Road, Himley.**

Interpretation

- 2.** In this Order "the authority" means the SOUTH STAFFORDSHIRE DISTRICT COUNCIL and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

- 3.** The authority hereby directs that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on **19th November, 2010.**

Prohibited acts in relation to trees

- 4.** Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), and subject to article 5, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

- 5.—(1)** Nothing in article 4 shall prevent—

- (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary—
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or

- (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
- (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);
- (ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;
- (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
- (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
- (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development Order) 1995;
- (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or
- (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

(2) In paragraph (1), "statutory undertaker" means any of the following—

- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,
- a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
- the holder of a licence under section 6 of the Electricity Act 1989,
- a public gas transporter,

- the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,
- a water or sewerage undertaker,
- the Civil Aviation Authority or a body acting on behalf of that Authority,
- the Post Office.

Application for consent under the Order

6. — deleted.

Application of provisions of the Town and Country Planning Act 1990

7.—(1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

8.—(1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

(3) A direction under paragraph (1) may include requirements as to—

- (a) species;
- (b) number of trees per hectare;
- (c) the preparation of the relevant land prior to the replanting; and
- (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9.—(1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of—

- (a) the refusal of any consent required under this Order; or
- (b) the grant of any such consent subject to conditions,

he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this article—

- (a) if more than 12 months has 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.
- (3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.
- (4) In any other case, 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 his 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 this Order or the grant of any such consent subject to conditions.
- (5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.
- (6) In this article—

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

[Application to trees to be planted pursuant to a condition

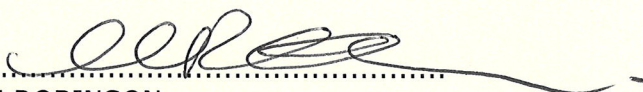
[10.] In relation to the tree[s] identified in the first column of Schedule 1 by the letter "C", being [a tree] [trees] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees)), this Order takes effect as from the time when [that tree is planted] [those trees are planted].]

18/2010

Dated this 19th day of November, 2010

The Common Seal of SOUTH STAFFORDSHIRE DISTRICT COUNCIL was hereunto affixed in the presence of -




.....
LIN ROBINSON
HEAD OF GOVERNANCE AND SCRUTINY SERVICES

CONFIRMATION OF ORDER

This Order was confirmed by the SOUTH STAFFORDSHIRE DISTRICT COUNCIL without modification on the 22ND day of FEBRUARY, 2011.

OR

~~This Order was confirmed by the SOUTH STAFFORDSHIRE DISTRICT COUNCIL subject to the modifications indicated by [state how indicated], on the _____ day of~~


.....
Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by SOUTH STAFFORDSHIRE DISTRICT COUNCIL on the _____ day of _____

.....
Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by the SOUTH STAFFORDSHIRE DISTRICT COUNCIL on the _____ day of _____ under the reference number _____

.....
Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by the SOUTH STAFFORDSHIRE DISTRICT COUNCIL on the _____ day of _____ under the reference number _____

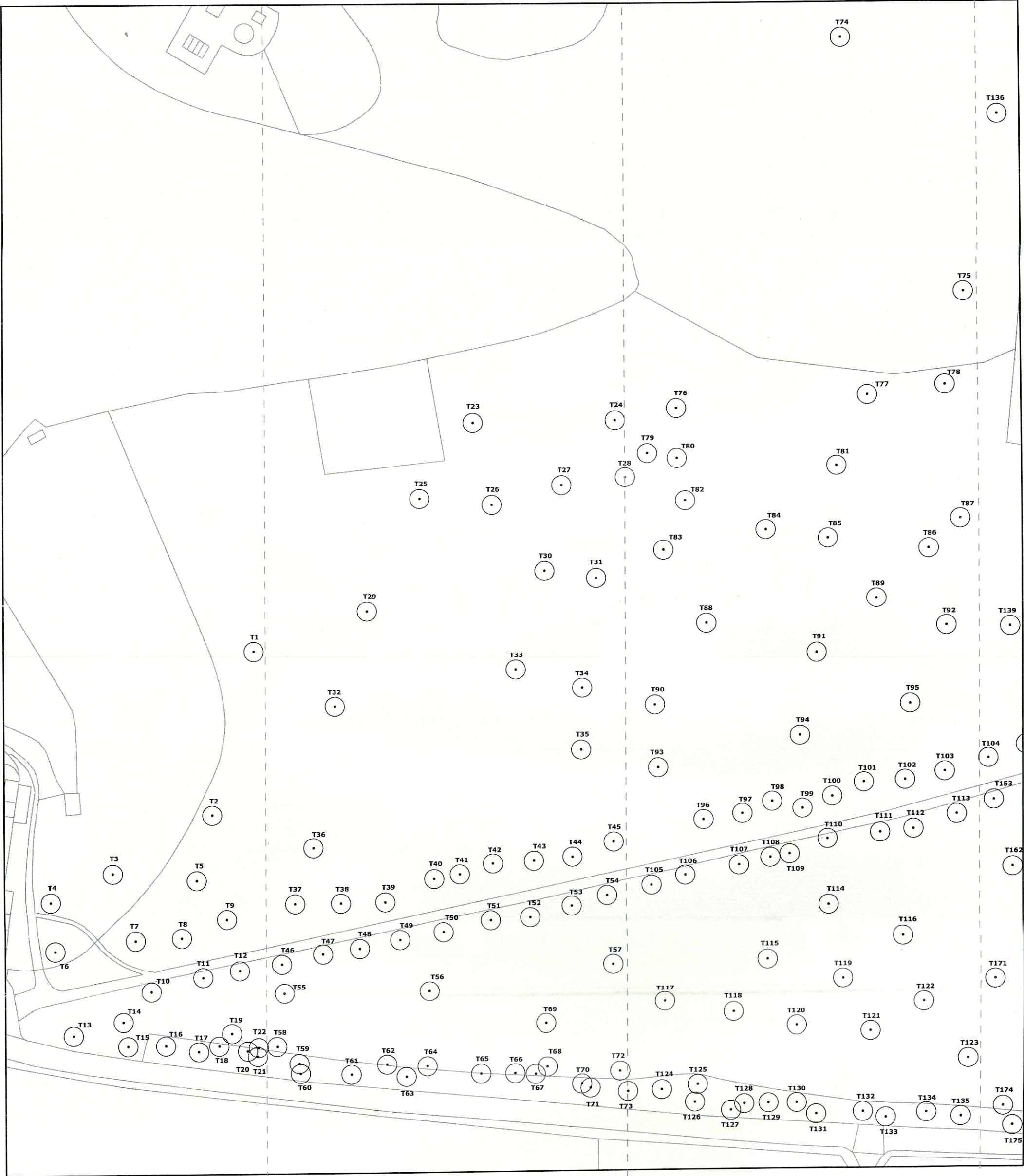
.....
Authorised by the Council to sign in that behalf

**SOUTH STAFFORDSHIRE DISTRICT COUNCIL
TREE PRESERVATION ORDER No. 251/2010**

**HIMLEY HALL,
HIMLEY**

Grid ref. SO 887913

Map 1 of 2



Council Offices
Codsall
South Staffordshire WV8 1PX
Scale : 1/2500

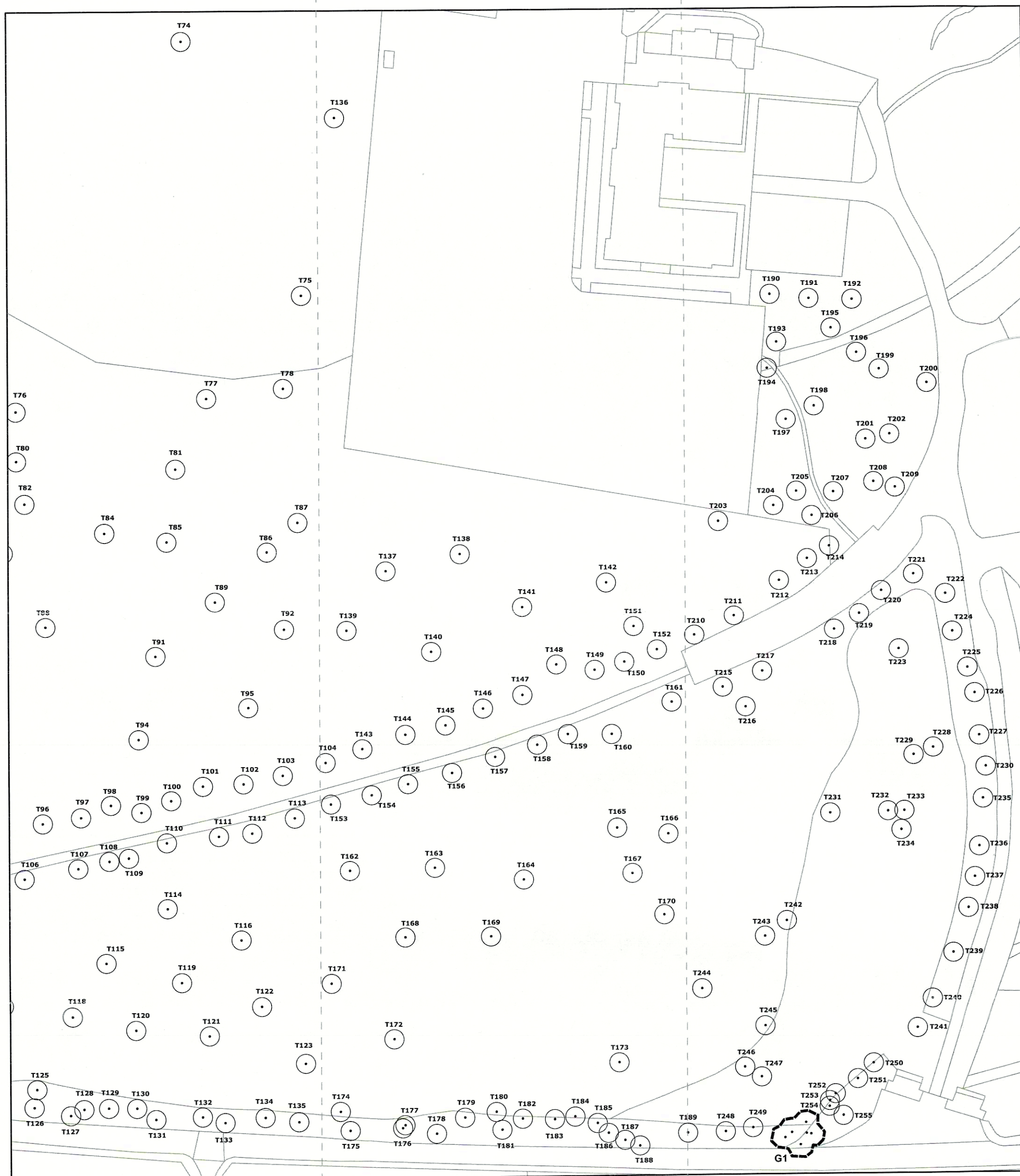
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(Overlap with map 2)



HIMLEY HALL, HIMLEY

Map 2 of 2



———— (Overlap with map 2) ————

Council Offices
Codsall
South Staffordshire WV8 1PX
Scale : 1/2500

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SCHEDULE 1 **SPECIFICATION OF TREES**

Trees specified individually (encircled in black on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
All trees referred to in this schedule are in Himley Hall parkland. <i>Italic numbers refer to tree tag numbers present on the tree at time of survey.</i>		
T1	Oak	238
T2	Sycamore	193
T3	Beech	191
T4	Spruce	187
T5	Lime	195
T6	Yew	185
T7	London Plane	183
T8	Hornbeam	182
T9	Hornbeam	181
T10	Horse Chestnut	59
T11	Lime	58
T12	Lime	57
T13	Wellingtonia	No Tree Tag
T14	Sycamore	61
T15	Sycamore	62
T16	Cherry	63
T17	Sycamore	65
T18	Horse Chestnut	66
T19	Sycamore	180
T20	Sycamore	67
T21	Sycamore	70
T22	Horse Chestnut	68
T23	Sycamore	No Tree Tag
T24	Red Oak	No Tree Tag
T25	Sycamore	235
T26	Sycamore	246
T27	Norway Maple	247
T28	Sycamore	255
T29	Beech	241
T30	Sycamore	248
T31	Sycamore	253

T32	Beech	240
T33	Beech	245
T34	Norway Maple	249
T35	Cedar	250
T36	Beech	239
T37	Lime	196
T38	Lime	197
T39	Lime	198
T40	Lime	199
T41	Lime	200
T42	Lime	201
T43	Lime	202
T44	Lime	203
T45	Beech	204
T46	Lime	56
T47	Lime	55
T48	Lime	54
T49	Lime	53
T50	Lime	52
T51	Lime	51
T52	Lime	50
T53	Lime	49
T54	Lime	48
T55	Lime	179
T56	Sycamore	178
T57	Scots Pine	176
T58	Beech	69
T59	Sycamore	72
T60	Wellingtonia	No Tree Tag
T61	Gingko	No Tree Tag
T62	Sycamore	75
T63	Cherry	76
T64	Spruce	77
T65	Sycamore	78
T66	Gingko	79
T67	Cherry	80
T68	Lime	81
T69	London Plane	177
T70	Birch	82
T71	Cherry	83
T72	Birch	84
T73	Cherry	85
T74	Cedar	
T75	Lime	271
T76	Sycamore	No Tree Tag

T77	Lime	270
T78	Sycamore	<i>No Tree Tag</i>
T79	Ash	259
T80	Ash	261
T81	Robinia	269
T82	Red Oak	262
T83	Beech	258
T84	Sycamore	263
T85	Robinia	268
T86	Lime	273
T87	London Plane	276
T88	Sycamore	257
T89	Oak	267
T90	Lime	252
T91	Sycamore	264
T92	Sycamore	274
T93	Cedar	251
T94	Cedar	265
T95	Cedar	266
T96	Lime	205
T97	Lime	206
T98	Lime	207
T99	Lime	208
T100	Lime	209
T101	Lime	210
T102	Lime	211
T103	Lime	212
T104	Lime	213
T105	Lime	47
T106	Lime	46
T107	Lime	45
T108	Lime	44
T109	Lime	43
T110	Lime	42
T111	Lime	41
T112	Lime	40
T113	Lime	39
T114	Ash	168
T115	Lime	172
T116	Lime	<i>No Tree Tag</i>
T117	Red Oak	174
T118	Lime	173
T119	Norway Maple	<i>No Tree Tag</i>
T120	Lime	171
T121	Lime	170

T122	Red Oak	166
T123	Red Oak	165
T124	Dawn Redwood	86
T125	Ginkgo	No Tree Tag
T126	Hawthorn	87
T127	Lime	No Tree Tag
T128	Sycamore	No Tree Tag
T129	Wellingtonia	No Tree Tag
T130	Birch	No Tree Tag
T131	Cherry	No Tree Tag
T132	Wellingtonia	No Tree Tag
T133	Cherry	No Tree Tag
T134	Cherry	No Tree Tag
T135	Cherry	97
T136	Lime	No Tree Tag
T137	Sycamore	278
T138	Lime	280
T139	Norway Maple	275
T140	Sycamore	279
T141	Sycamore	281
T142	Norway Maple	284
T143	Lime	214
T144	Lime	215
T145	Lime	216
T146	Lime	217
T147	Lime	218
T148	Lime	282
T149	Lime	No Tree Tag
T150	Lime	220
T151	Sycamore	283
T152	Lime	221
T153	Lime	38
T154	Lime	37
T155	Lime	36
T156	Lime	35
T157	Lime	34
T158	Lime	33
T159	Lime	149
T160	Lime	32
T161	Lime	31
T162	Lime	161
T163	Horse Chestnut	160
T164	Lime	159
T165	Red Oak	150
T166	Red Oak	151

T167	Red Oak	152
T168	Beech	<i>No Tree Tag</i>
T169	Red Oak	158
T170	Lime	153
T171	Lime	164
T172	Lime	163
T173	Oak	<i>No Tree Tag</i>
T174	Sycamore	99
T175	Cherry	100
T176	Sycamore	102
T177	Beech	101
T178	Cherry	<i>No Tree Tag</i>
T179	Horse Chestnut	105
T180	Beech	106
T181	Cherry	107
T182	Sycamore	108
T183	Sycamore	109
T184	Sycamore	110
T185	Horse Chestnut	<i>No Tree Tag</i>
T186	Sycamore	112
T187	Cherry	<i>No Tree Tag</i>
T188	Cherry	115
T189	Horse Chestnut	116
T190	Magnolia spp	302
T191	Cherry	<i>No Tree Tag</i>
T192	Horse Chestnut	305
T193	Cherry	304
T194	Cherry	301
T195	London Plane	306
T196	Weeping Willow	291
T197	Lime	288
T198	Ash	289
T199	Purple Leaf Plum	<i>No Tree Tag</i>
T200	Prunus	<i>No Tree Tag</i>
T201	Laburnum	<i>No Tree Tag</i>
T202	Oak	<i>No Tree Tag</i>
T203	Walnut	227
T204	Red Oak	286
T205	Cherry	287
T206	Beech	289
T207	Ash	300
T208	Sycamore	297
T209	Cherry	298
T210	Lime	222
T211	Lime	223

T212	Lime	224
T213	Lime	225
T214	Sycamore	226
T215	Lime	30
T216	Horse Chestnut	147
T217	Lime	29
T218	Lime	28
T219	Lime	27
T220	Horse Chestnut	26
T221	Lime	25
T222	Lime	24
T223	Horse Chestnut	133
T224	Lime	23
T225	Norway Maple	22
T226	Norway Maple	21
T227	Norway Maple	20
T228	Norway Maple	134
T229	Norway Maple	135
T230	Norway Maple	19
T231	Horse Chestnut	146
T232	Norway Maple	137
T233	Norway Maple	136
T234	Norway Maple	138
T235	Norway Maple	18
T236	Norway Maple	17
T237	Norway Maple	16
T238	Norway Maple	15
T239	Norway Maple	14
T240	Norway Maple	13
T241	Norway Maple	132
T242	Norway Maple	No Tree Tag
T243	Norway Maple	142
T244	Oak	154
T245	Oak	141
T246	Maple	140
T247	Norway Maple	139
T248	Lime	117
T249	Norway Maple	118
T250	Red Oak	131
T251	Beech	130
T252	Lime	128
T253	Oak	127
T254	Hornbeam	125
T255	Wellingtonia	126

Trees specified by reference to an area

(Within a dotted black line on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
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NONE

Groups of Trees

(Within a broken black line on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
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All trees referred to in this schedule are in Himley Hall parkland. *Italic numbers refer to tree tag numbers present on the tree at time of survey.*

G1	Group consisting of 4 Ash (single and multi-stemmed) 1 Lime and 1 Elm	<i>119, 120, 123 and 124</i> <i>No Tree Tag</i> <i>121</i>
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Woodlands

(Within a continuous black line on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
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NONE