

APPENDIX (3)

Plymouth Drive
Barnt Green
Birmingham
B45 8JB

Head of Legal, Equalities and Democratic Services
Bromsgrove District Council
Parkside
Market Street
Bromsgrove
Worcestershire
B61 8DA

28th December 2016

Dear Mrs Sultana,

**Re: Town and Country Planning Act 1990
Bromsgrove District Council Tree Preservation Order (No.19) 2016
Tree/s on land at Plymouth Drive, Barnt Green**

We write as the owners of the private road, Plymouth Drive, Barnt Green and the property of Peterscourt as situated on this private road. Please accept this letter as a formal **OBJECTION** to the Tree Preservation Order (TPO) as detailed above. Notification of this Order was received on 1st December, 2016 and an invite to object or comment in writing given before the deadline of 30th December, 2016.

Having consulted with legal, planning and arboricultural experts we strongly **object** to this TPO on the grounds that the **reason** given for making it and its **purpose**, as defined in the Department for Communities and Local Government guide (April 2012), is not fulfilled. We also consider that the approach used by your authority has been unstructured, ill-prepared, and discriminatory. We elaborate on these points further below.

1.0 Reason for TPO (No.19) 2016

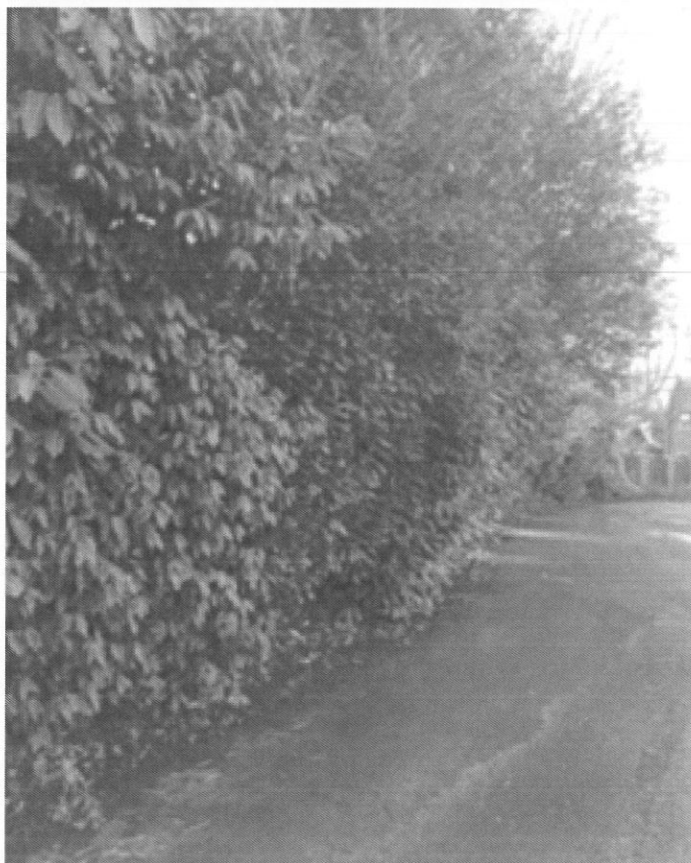
- 1.1 The Council's reason for making this order is that the trees provide special amenity value and the TPO is made in the interests of amenity.

The legislation for the creation of Tree Preservation Orders is within The Town and Country Planning (Tree Preservation) (England) Regulations 2012 and guidance in respect of a TPO is contained within the National Planning Policy Framework, Planning Practice Guidance – Tree Preservation Orders and Trees in Conservation Areas. In this guidance, General, Paragraph 7 states:

Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

- 1.2 The trees selected for protection on our land are identified in the schedule as groups of trees G2 and G3.

- 1.3 G2 is situated towards the rear of our property. It is in excess of 30 metres distance from the private road, Plymouth Drive and is not visible to the public at all being secluded behind a line of laurels on the boundary of Ashley Court at the rear. Please see photograph below.



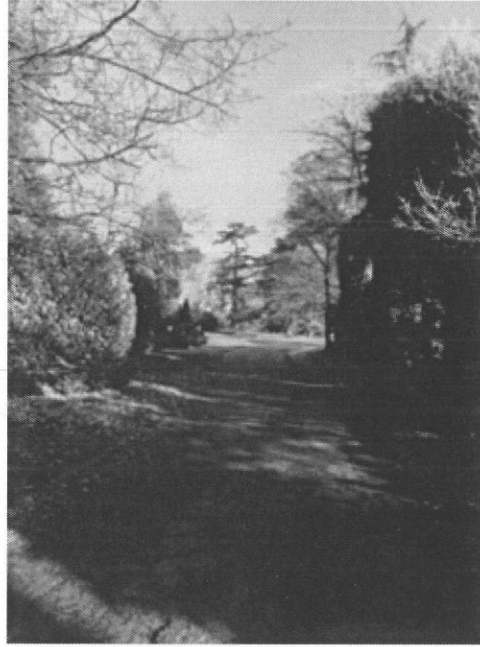
Obstructed View of G2 group of trees from Ashley Court

It is perhaps significant that no specific trees are listed in the description of this area. We can only assume the reason for this is that they are simply not visible!

We fail to see how this area is worthy of protection and brings any, let alone reasonable, degree of public benefit now or indeed in the future. Trees in this area are not visible from outside the property and as such do not meet the criteria that if they were to be removed it would have a significant negative impact on the local environment and its enjoyment by the public.

- 1.4 Government Guidance states 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 visibility and the extent to which trees or woodlands can be seen by the public to inform the authority's assessment of whether the impact on the local environment is significant.

The area described as G3 is situated on our land and is the island within Plymouth Drive, our private road. As a private road it is not open to the public. Residents of this drive have right of access to and from their properties only. There is no through traffic and there is only limited access to the wider public. Trees identified in this area in the schedule are only visible from a distance more than 75 metres from the public highway, Plymouth Road. Please see photograph below.



View of G3 group of trees from the public highway.

In both areas G2 and G3 there is only very limited views of the trees to the public and therefore the impact of them on the local environment and its enjoyment by the public is not significant.

2.0 Purpose of TPO (NO.19) 2016

2.1 The purpose of a TPO, as defined in the Department for Communities and Local Government guide (April 2012), is:

To protect trees which bring significant amenity benefit to the local area. This protection is particularly important where trees are under threat.

2.2 Government Guidance states 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 not only visibility but the individual, collective and wider impact. They are advised to assess the importance of trees against the following criteria: size and form of trees, future potential as an amenity, rarity, cultural or historic value and contribution to relationship with the landscape.

2.3 It is clear that a thorough assessment has not been made prior to this TPO being made. Some of the trees that are subject to this TPO are not suitable for retention as they are either in a poor condition, causing significant damage to property, in poor form and shape or of such a small size that they do not add any significant value to the local landscape.

2.4 The photograph below shows how one of the Cedar trees identified in the schedule as being part of G3 group of trees has a split trunk. It is also leaning considerably.



View of a Cedar Tree with split trunk in G3 group of trees.

- 2.5 The Red Oak within G1 has a basal cavity, other defects and is of poor form and shape.
- 2.6 In a recent full arboricultural report, prepared by Marlow Consulting Ltd for us, at the request of your planning department, one of the Sycamores, the Oak and the Lawson Cypress included within the G1 group of trees were all identified as being of low suitability for retention.
A Sycamore and a Beech tree identified within the G2 group of trees were also identified in the Marlow Consulting Ltd arboricultural report as requiring to be felled due to their very poor condition. Please see photos below.



View of the trunk of Sycamore Tree in G2 group of trees.



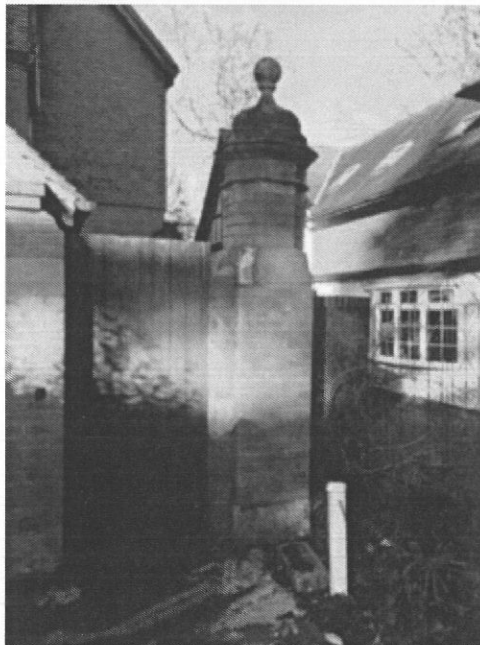
View of the trunk of a Beech tree in G2 group of trees.

It seems ridiculous that these trees are now subject to a TPO without any clear assessment having been made, other than that we had instructed. Surely the authority needs to equally follow guidelines and make an informed decision based on accurate assessment? I am somewhat incensed that we have paid for an expensive, full arboricultural report at the request of your Council but then are subjected to a TPO order when clearly guidelines have not been followed and adhered to.

- 2.7 The Town and Country Planning (Tree Preservation) (England) Regulations 2012, provides details of what should be included in the TPO. For groups of trees identified it clearly states that the number of trees of each species in the group should be listed. Within the schedule of this TPO the description of the G2 group of trees is 'All trees with a stem diameter greater than 100mm at 1.5m'. This does **NOT conform** to the 2012 regulations as it is non-specific, vague and inaccurate.
- 2.8 The Redwood tree identified as T4 on the schedule at the front of 10, Plymouth Drive is causing considerable damage to both ours and our neighbouring property. As it has started to lean over the last few years the roots of the tree are uplifting and damaging the driveway, gate post, garage and possibly the cellar of Peterscourt. Please see the photographs below.



Damage to the driveway of Peterscourt from roots of Redwood tree (T4).



Leaning gate post between Peterscourt and 10, Plymouth Drive from roots of Redwood tree (T4).



Damage to driveway and garage of 10, Plymouth Drive from roots of Redwood tree (T4).

We have been advised that we can seek **compensation** from the local planning authority for loss or damage which results from the authority's conditions.

- 2.9 Indeed there is nothing to demonstrate that the Council has followed Government guidance and has approached the creation of this TPO and identified trees in need of protection in a structured or consistent way.
- 2.10 When assessing the importance of trees, authorities are advised to assess the importance of trees for their future potential as an amenity. The trees in group G2 of the schedule are not currently visible and in G3 are only from a public highway at a distance more than 75 metres. This situation is unlikely to change as we are the owners of Peterscourt and the private road.
- 2.11 Authorities are also advised to assess the rarity, cultural or historic value of the trees subject to a TPO. The trees in question are not rare and have no cultural or historic value.
- 2.12 It is also advised that authorities consider the contribution to, and relationship with, the landscape. Many of the trees identified in this TPO contribute little to the wider landscape and have no special or important relationship to it.
- 2.13 The purpose of a TPO (as defined in the Department for Communities and Local Government Guide (April 2012)) is **particularly important where trees are under threat**. How could the trees on our property be under threat? As owners of Peterscourt for 20 years we have been complete guardians of the trees on our property. We have endeavoured to maintain the trees around our property and only removed any if they had come down due to inclement weather, posed a danger or simply died. Whilst we have witnessed neighbours consistently remove trees, without any intervention from the Council, we have endeavoured to retain the greenery surrounding our property. On more than one occasion we have contacted tree officers concerned that trees are being removed in our vicinity and in one instance without the permission of the owner. On this occasion your officer advised us to contact the police as there is nothing he could do! Your council records will indeed confirm this.
- 2.14 To impose this TPO now when for 20 years we had every opportunity to remove trees but have not chosen to do so, in fact quite the reverse, feels very unfair and quite frankly vindictive. At our own expense, we paid for a full arboricultural survey on our neighbouring property. Why would we do so unless we were keen to protect the trees in our vicinity?
- 2.15 If the Council is of the opinion that trees on our land are under threat perhaps they would enlighten us as to why they consider them to be so?

At the start of this letter I described the approach used by your Council in making this TPO as being unstructured, ill-prepared and discriminatory.

As detailed it would appear legislation has not been adhered to. Before authorities make a TPO they should show that protection would bring a degree of public benefit in the present or the future. This would not appear to have been fulfilled.

As detailed it would appear government guidance has not been followed and no structured and consistent assessment of the amenity value of the trees identified in this TPO has taken place.

It is also quite clear that the focus of this TPO is restricted to the trees located only on the properties adjacent to Plymouth Drive, the private road owned by us. No consideration has been given to the trees on other properties in the local vicinity even though as owners we have endeavoured to keep all the trees on our land when others have not. This TPO would appear to be not only discriminatory but personal and grossly unfair.

Anne Eden

Roger Eden