



**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE PLANNING COMMITTEE**

MONDAY 9TH JANUARY 2017  
AT 6.00 P.M.

PARKSIDE SUITE, PARKSIDE, MARKET STREET, BROMSGROVE, B61 8DA

:

**SUPPLEMENTARY DOCUMENTATION**

The attached papers were specified as “to follow” on the Agenda previously distributed relating to the above mentioned meeting.

4. Updates to planning applications reported at the meeting (to be circulated prior to the start of the meeting) (Pages 1 - 4)

Parkside  
Market Street  
BROMSGROVE  
Worcestershire  
B61 8DA

K DICKS  
Chief Executive



## Bromsgrove District Council Planning Committee

### Committee Updates 9th January 2017

#### **Tree Preservation Order (no.13) 2016 – Trees on land adjacent to 73 Linthurst Newtown, Blackwell**

Comments were received from the 2 objectors, Freefield Investments Limited and Mr Matthew Fell and Ms Posser on Friday, 6 January 2017 as follows:

#### Mr Fell and Ms Posser:

*“We refer to your report dated 9th January 2017, Mr Boyes Statement and additional documents. There has clearly been some misunderstanding regarding the facts and background of this case. No.73 Linthurst Newtown, is owned by myself, Matthew Fell & my Fiancee Emma Rosser. As previously advised we do not own or control the land surrounding our personal residence. We instructed Andy Warren of Cotswold Wildlife Services to act on our behalf and object to the Woodland TPO. We note that this has been incorrectly listed as an objection from Freefield Investments. We further note under 5.2, para. 3 that the reports states, ‘...the property and garden of 73 Linthurst Newtown is also in the control of the objector...’. The objector being Freefield Investments, this is again incorrect.*

*We request an Erratum to correct the errors of fact, which otherwise give a misleading view of and is prejudicial to the true position.*

*We are extremely concerned to note that TPO's have been recommend for T17 & T19. Both trees are on our boundary, both have had branches snap out of them in recent months and land in our garden. This is clearly dangerous and an actionable nuisance. Please can the scores for these trees be reassessed, especially as the Yew Tree, T18 is recommended for protection.*

*We are also concerned to note that parts of the proposed W1, cover the pigs sties, a greenhouse, a barn and a large area of brambles. These areas are all an eyesore from our property and we ask that the area of the W1 is pushed further back into the site so that the ongoing scrub clearance can continue.*

*And finally, we are most concerned over the proposed Area Order A1. This will exasperate the problems with road safety and access to our property. We have to have the frontage of A1 regularly cut back so we can see the oncoming traffic. This is done almost every month during the spring/summer when the bushes/trees/saplings are growing. To proceed with this Area Order will directly impact on our personal safety and road safety. We strongly urge that this Area Order is reassessed.”*

#### Freefield Investments Limited

*“Thank you for your email of 15th November 2016 regarding TPO no.13.*

*I note that the tree officer’s report has been prepared ahead of the planning committee meeting next Monday, and appreciate him letting me know that the order is due to be*

*discussed then.*

*Having reviewed his report and the recommendation to the committee to confirm the order subject to modifications, I contacted the relevant person to request that we are allowed to make a verbal representation at the planning committee meeting. In particular, I would like to comment on the amended order, which now includes a woodland (albeit of smaller size), two 'areas' and 25 individual trees. However, I have been informed that public speaking is not allowed at the committee meetings regarding TPOs.*

*I am not sure what the rationale for not allowing members of the public to comment on TPOs is, but it seems to me to be rather undemocratic to not allow the owner of the trees to comment on the amended order which will affect his land and the way he manages it.*

*I had hoped to inform the planning committee of the following points to aid and inform their discussion:*

- a) many of the comments received from local residents that purport to be in support of the TPO contain little or no relevant comments on the trees or the TPO itself. Many of the comments are focussed on not wishing to see the land developed for housing. I understand that these are concerns for local residents, but they are not relevant to the serving of a TPO, which is intended to safeguard the amenity value of trees, not to be used as a method to block future development of land.*
- b) the modified order contains two 'areas' of trees. However, published government guidance clearly states that "The area category is intended for short-term protection in an emergency and may not be capable of providing appropriate long-term protection". I am also rather doubtful that small trees such as hazel, holly and yew arranged to form an informal hedgerow are of adequate amenity value to merit protection, despite the assessment of the tree officer.*

*In my opinion, the order has undergone substantial changes and should therefore not be confirmed following the provisional order, but served as a new TPO in order to give the opportunity for comments and objections."*

The tree officer's response to the points raised above are as follows:

## Comments from Mr Matthew Fell and Ms Rosser on 6 January 2017

1. In relation to the objection from Cotswold Wildlife Services not being from Freefield Investments Limited, although Mr Matthew Fell is the son of Mr Martin Fell who is currently a director of Freefield Investments Limited and until recently was one of the directors of Freefield Investments Limited himself, it is acknowledged that Cotswold Wildlife Services was instructed on behalf of Mr Matthew Fell and Ms Rosser, separate legal persons from Freefield Investments Limited and therefore members should be aware objections were received from 2 separate parties. It is also acknowledged that the property and garden of 73 Linhurst Newtown are owned by Mr Matthew Fell and Ms Rosser
2. The defects identified with trees T17 and T19 may be remedied by suitable pruning but the trees are otherwise still of sufficient merit to include in the TPO.
3. The building structures specified are not included within the TPO and these could be removed (subject to planning procedures) provided that such work could be done without damage to the protected trees. Should there be a risk of damage or need to remove protected trees, there is still provision for works to be approved through a TPO or planning

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application. Outside the modified W1 area, brambles are not included within the TPO. Within W1, removal of brambles could, if necessary, be authorised through an application.

4. The issue of highway visibility was not raised in previous correspondence so it has not been possible to seek Highways comments on this but there is still the provision for works to be authorised if necessary. The officer's view remains that the trees specified within A1 and A2 remain of merit to be included in the confirmed TPO.

## Comments from Mr P Barton

5. The relevance of the various comments received from local residents in relation to non-tree matters have already been addressed in the report.
6. In regard to the use of the Area category for A1 and A2, while the guidance advises that an area is normally only used as a temporary measure, the legislation requires that the trees be clearly and accurately specified in the confirmed order (Regulation 3 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012). Also, it is clear from the legislation and the Planning Practice Guidance that it is still lawful to use an area category in a confirmed order.

In the case of A1 and A2, these contain a large number of individual small trees forming part of the valuable screening features on the 2 sides of this property and so their amenity value lies in their collective effect. The description of A1 and A2 in the new schedule has been changed to specify individual species and in this situation this is considered the most appropriate way of clearly specifying what is included as required by the legislation. Given the large number of small trees present, it is not considered that this clarity could be achieved by use of any of the other categories.

## **16/1163 Mereside Farm Childrens Nursery Mereside , Peterbrook Road**

Comments have now been received from Worcestershire Regulatory Services and Worcestershire Highways. Highways have raised no objection to the proposal. Worcestershire Regulatory Services have confirmed: *as no changes have been made that would affect considerations of noise for this application the comments submitted previously by WRS would still apply and were as follows:-*

*"I have had a look at the property history and cannot see any complaints about anything. Obviously there is the potential for increased noise from additional traffic and children but I would say it will be up to the business owners to ensure noise from the commercial operation is controlled as far as possible so as not to cause any nuisance to the nearby neighbour.*

*Regarding the proposed demolition / construction activities, in order to minimise any nuisance during these phases the applicant should refer their contractor to the WRS Demolition and Construction Guidance (attached) and ensure it recommendations are complied with."*

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