

**MEMORANDUM****APPENDIX 1**

From:	<b>Andy Bucklitch</b> <b>Tree &amp; Woodland Officer</b>	To:	<b>Kam Sodhi</b> <b>Legal Officer</b>		
My Ref:	<b>TPO (2) 2009</b> <b>TPO (6) 2009</b> <b>TPO (8) 2009</b> <b>TPO (10) 2009</b> <b>TPO (12) 2009</b>	Your Ref:	<b>TPO (2) 2009</b> <b>TPO (6) 2009</b> <b>TPO (8) 2009</b> <b>TPO (10) 2009</b> <b>TPO (12) 2009</b>		
Please ask for:	Andy Bucklitch	Ext	1320	Date	25 November 2010

Further to our conversations regarding the abovementioned TPO's, please find my comments below.

**TPO (2) 2009 - Land at and adjoining 64 Worcester Rd, Hagley**

**TPO (6) 2009 - Land at rear of 21 May Lane, Hollywood**

**TPO (8) 2009 - Rear of New Road & Woodleaves, Hollywood**

**TPO (10) 2009 - 25 Sycamore Drive, Hollywood**

**TPO (12) 2009 - Land at Pumping Station, Brake Lane, Hagley**

**Background**

The provisional Tree Preservation Orders listed above were made in provisional form in 2009. After allowing a minimum of 28 days for those people affected by the Order to make representations, the trees would normally then have been reviewed to assess their merit and in response to any points raised by any parties affected. A report and recommendation would then be made to confirm, amend or revoke the provisional Order within 6 months of being made.

Due to unforeseen and difficult staff circumstances during 2009, it was unfortunately not possible to carry out these reviews as normal and so these Order all went outside their 6-month provisional period. These Orders are therefore no longer in force although they still exist on the land. In all these cases, however, I consider that the trees are of sufficient merit and under such reasonably foreseeable threat to merit the continued protection of a TPO.

Due to the period of time which has passed since the end of the provisional period, it is possible that those parties who may be affected by any of these TPO's may now be different from those when these Orders were originally made. Consequently, these new parties can be considered to have not been afforded reasonable opportunity to make representations regarding the TPO which may affect their properties.

In such a situation, the Secretary of States guidance as detailed in Chapter 3 of "Tree Preservation Order: a guide to the law & good practice" is that the existing Orders are certified as "non confirmation" and that new provisional Orders are put in place such that all parties are given adequate opportunity to make comment before confirmation. I therefore recommend that all five Orders are certified as "non confirmation" and replaced at the earliest opportunity.

Although the Head of Planning & Environment has delegated authority to make new provisional Orders, the non confirmation of Orders under any circumstances currently requires the prior approval of the Planning Committee.

Further information on the currently known merits of each Order are detailed below.

### **TPO (2) 2009 - Land at and adjoining 64 Worcester Rd, Hagley**

This Order comprises 2 trees – a large Cedar located on the frontage of 64 Worcester Road and a young Oak located in the rear garden of 4 South Road overhanging the boundary of 64 Worcester Road.

The Cedar is an excellent example of a relatively rare species and due to its size and location is highly visible and significant in the street scene of this southerly approach to Hagley. Although the owner states that his intention is to retain the tree and it appears to have been reasonably well managed thus far, I consider that the size of the tree, the space it occupies on the frontage and its relatively close proximity to houses will all lead to pressure for works to the tree or even felling to be carried out in the future.

The Oak is less visible but is a good example of its species and has considerable value for screening, biodiversity and general amenity of the area. Tree on this boundary have already been subject to pruning and felling resulting in an ongoing neighbour dispute between the two parties. There is therefore a risk that this tree will be harmed or lost by the actions of, or under pressure from, the neighbouring party.

**I recommend that both trees are made subject to a new provisional TPO and the existing Order is certified as a "non confirmation".**

### **TPO (6) 2009 - Land at rear of 21 May Lane, Hollywood**

This Order comprises just 1 tree – a large mature Oak located in the rear garden of 21 May Lane. The tree is a good example of the mature Oaks that are a characteristic feature of the Wythall landscape. Due to its size and spread, the tree overhangs the boundaries of several neighbouring properties and this appears to have led to pressure upon the owner to fell the tree to remove amenity issues such as falling leaves and sap and concerns over safety issues from falling branches or risk of building damage.

A small number of objections were received along these lines but as yet the latter concerns would appear to be unsubstantiated fears where further investigation is required. The review process following the making of a new provisional Order will include and allow this investigation.

**I recommend that this tree is made subject to a new provisional TPO and the existing Order is certified as a "non confirmation".**

### **TPO (8) 2009 - Rear of New Road & Woodleaves, Hollywood**

This Order comprises a number of trees of different species along the rear boundaries of approximately 20 properties. Originally this boundary line appears to have been a hedgerow with a number of hedgerow trees including several of the hedgerow Oaks which are a distinct feature of the Wythall landscape. As this boundary has now been 'chopped up' into many different ownership, the original natural hedgeline and hedgerow trees has suffered a gradual process of attrition. Many trees and sections of hedgerow have been lost either deliberately or through poor management and without the protection of a TPO, the remaining trees would gradually go the same way.

The remaining trees and hedgerow, form a significant amenity feature providing screening and biodiversity value to both current residents and the wider landscape

**Some visits have been carried out to individual properties affected by the current Order but a full assessment and review has yet to be carried out. A new provisional Order will allow time for this to be done to ensure continued protection on those trees of merit and so I recommend that the existing Order is certified as a "non confirmation" and the making of a new Order in the same form.**

### **TPO (10) 2009 - 25 Sycamore Drive, Hollywood**

This Order currently comprises of two Oak trees referred to as T2 (on the frontage) and T1 (on the south-west boundary) of 25 Sycamore Drive. Upon visiting the site to examine the trees, however, it was evident that T1 is actually two trees that have grown so close together that they have formed a shared canopy such that there are actually three trees encompassed by the Order.

All three trees are good examples of their species and contribute significantly to the amenity of the property and the local street scene and are of merit for a TPO. Although the current owners wish to retain the trees, their close proximity to the properties at 25 and 27 Sycamore Drive does inevitably lead to pressure to prune the trees back to prevent perceived or actual problems. Consequently there is an ongoing risk that without the protection of a TPO, the trees may be damaged through poor pruning or removed by less enlightened future owners.

Although there were no objections to the making of this Order, amending the Order at Confirmation to 'add' one Oak tree, while administratively simple, would be against Government guidance as it would be creating a 'different animal' as the Confirmed Order would then include more trees than the existing provisional one. To be legally sound, it is therefore necessary to revoke the existing Order and create a new provisional one including three trees referenced T1 (single Oak tree on the frontage) and G1 (Groups of 2x Oak trees on the south-west boundary).

**I recommend that these trees are made subject to a new provisional TPO with a revised map and schedule as detailed above and the existing Order is certified as a "non confirmation".**

#### **TPO (12) 2009 - Land at Pumping Station, Brake Lane, Hagley**

This Order consists of a blanket Area classification over the whole site. There are a number of trees across the site, particularly those on the north-west and south-east boundaries that contribute significantly to the amenity of the area and provide valuable screening between the site and The Sidings residential development on one side and Haybridge High School on the other.

While many of the trees are of sufficient amenity, some are not and therefore a more detailed assessment is required prior to confirmation and with a site of this size and number of trees, this was not possible prior to the expiry of the provisional Order. In addition, the residents of one property within the site had made objections and a full appraisal of the points raised is required before confirmation.

It is understood that, although no works or proposals are known to be imminent, the owners are considering the site either for the construction of a new pumping facility or residential development. In either situation, the retention of the majority of the trees would be desirable to protect the amenity of the area and neighbouring residents and so I consider that the trees do merit the protection of a TPO subject to individual assessment.

**I recommend that the site is made subject to a new provisional TPO with the same Area classification and the existing Order is certified as a "non confirmation".**