

**MEMORANDUM****APPENDIX G**

From:	[REDACTED] <b>Tree &amp; Woodland Officer</b>	To:	[REDACTED] <b>Legal Officer</b>
My Ref:	<b>TPO (14) 2010 Land south of Poplar Close &amp; Woodbank Drive, Carshill</b>	Your Ref:	
Please ask for:	[REDACTED] Ext	1320	Date 16 February 2011

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

**Summary**

This provisional Tree Preservation Order was made on 24<sup>th</sup> September 2010 and is now due to be either confirmed or revoked.

The Order covers an area of natural woodland of considerable biodiversity and amenity value to the locality and nearby residents. The Battlefield Brook runs along the northern edge of the site and a public footpath runs through from west to east.

The Order was made as changes in the ownership of the land and enquiries regarding it's possible use led Officers to consider that there was a risk of trees being unnecessarily felled. Prior to the making of the Order, the Council's Tree Officer had been in contact with the original owner regarding the carrying out of works to some trees to ensure the safety of adjacent residents and users of the public footpath which runs through the site. A number of works were subsequently carried out in respect of these safety concerns.

The woodland consists of numerous trees of various ages growing from a sloping site with a sandy soil undercut by the Battlefield Brook. As many of the trees thus overhang both the Brook course, the public footpath and adjacent residential gardens there is an ongoing possibility of damage, injury or flooding should trees along the northern boundary suffer failure. As with any trees or woodland, the responsibility for carrying out any specific safety works identified rests with the owner of the land as does the liability for any damage or injury which may occur as a direct result of failing to do those works.

Despite this possibility, I consider that the woodland is of sufficient merit and under such reasonably foreseeable threat to merit the continued protection of a TPO.

Although the Head of Planning & Environment has delegated authority to make new provisional Orders, their confirmation requires the approval of the Planning Committee.

My comments in respect of points raised within representations received are detailed as follows:

**Catshill – New Site Owners**

The new owners have stated an intention to maintain the woodland as wildlife habitat and use the field which can only be accessed through it. While the intention to maintain the woodland is welcomed, woodland management is such a specialised area that this maintenance would be likely to result in considerable damage to the biodiversity and amenity value if not carried out correctly and in accordance with a considered woodland management plan. The continued presence of the TPO will ensure that works damaging to the woodland cannot be carried out without the advice and consent of the Council's Tree & Woodland Officers.

In respect of the access through the woodland, due to the extremely soft and unstable ground of the site, regular access would only be possible after a solid trackway has been constructed. Attempting such access without such construction would cause considerable damage to both the woodland and the public footpath. The construction of

a trackway could be done without causing undue damage providing that suitable methods of construction and tree protection are used but without the continued presence of a TPO such methods could not be enforced.

**[REDACTED] - adjacent occupier**

While the continued presence of the TPO will require consent to be sought for the pruning back of overhanging branches, the growth rate of the species concerned is such that such consent should only be required every few years at most if the works are carried out correctly in accordance with British Standards of tree work as would be a requirement of any consent under the TPO. Carrying out works to these standards would also be expected to leave the trees in a condition where they were less prone to developing areas of disease and decay and thus improving the safety of adjacent residents.

Applications for tree works under a TPO do not require the payment of a fee and by law must be determined within a set period of time and thus are not considered to place an undue burden on an applicant. Where trees are preventing access such applications would generally be looked upon favourably.

In respect of the concerns raised regarding tree safety, as trees are self modifying structures, they adapt themselves to support their own weight as well as the normal working conditions to which they are exposed. Trees may fail as a result of factors such as natural disease or storm damage but the most common cause of tree failure results from human activities causing damage to roots or decay following incorrect pruning. Consequently the continued presence of the TPO will serve to ensure a higher quality of tree work where required rather than any inexperienced 'judicious pruning'.

**[REDACTED] adjacent occupier**

As discussed above, the responsibility for trees lies with the owner of the land and this situation is unchanged by the continued presence of a TPO. The ongoing involvement of Council Officers as a result of a permanent TPO would, however, increase the likelihood of hazardous trees being detected and appropriate works to prevent damage or injury being carried out before failure occurs.

With regard to the height of trees and the blocking of light, there is no maximum height of a tree or automatic right to light in such a situation. Given the sloping aspect of the site, only the clearance of the whole woodland would have any significantly affect on light levels while the amenity and biodiversity value of the woodland would be destroyed.

In respect of future maintenance of the woodland, the requirement for consultation and consent as a result of the woodland TPO, will ensure that only the appropriate works are carried out and that these are carried out correctly by suitable trained, qualified, experienced and insured tree surgeons. In the absence of the TPO, the likely result of maintenance sympathetic to the desires of residents would be unsympathetic or highly damaging to the ecology of the woodland and reduce the amenity value of the site.

**Recommendation**

That the Order is confirmed without amendment.

**Appendices:**

- A – Objection [REDACTED]
- B – Objection [REDACTED]
- C – Objection [REDACTED]
- D – Letter [REDACTED]
- E – Photos of Site
- F – Plan of Woodland