

Our Ref: [REDACTED] K/2330

4 May 2011

Head of Legal, Equalities and Democratic services
Bromsgrove District Council
The Council House
Burcot Lane
BROMSGROVE
B60 1AA

Dear Sir

**TREE PRESERVATION ORDER (NO.2) 2011
TREES ON LAND AT BARNT GREEN TO SIDE AND REAR OF BARNT GREEN INN,
KENDAL END ROAD**

I act on behalf of [REDACTED] in respect of Tree Preservation Order (NO.2) 2011 as above. [REDACTED] is the owner of the area of land as shown outlined red on the attached plan (Location Plan 2330-100). The land is under option to Banner Homes Limited.

Having considered the Order [REDACTED] wishes to object for the following reasons:

1. It is inappropriate for the Order to protect trees specified by reference to an area. The Order needs to be refined to apply to the specific trees or groups of trees that are identified through a tree survey as being worthy of protection rather than relate to an area shown on a map wherein all trees, coppice and understorey shrubs are protected. A tree survey of the land outlined red on the location plan has been commissioned and should be available shortly. My client is happy to make available the results of the survey as a base for a detailed assessment of the individual trees which can be used to refine the order.

This approach is in accordance with guidance is offered in the document titled Tree Preservation Orders – A Guide to Law and Good Practice. This document is stated to be the same as a government circular and it should therefore be attributed the same weight as such (paragraph 1.3 refers). This states that area orders should only be used in emergencies and then only as a temporary measure until the trees can be assessed properly and reclassified (paragraph 3.18).

2. The notice states the reason for making the order is that *'the trees provide special amenity value'*. There is no enlargement on this statement or evidence that an assessment has been made. It would appear as this is order is made by reference to an area that no proper assessment has actually been made to demonstrate the contribution the trees make to the amenity of the area. Therefore, to demonstrate the need for a tree preservation order such assessment should be made and the order refined to refer to specific trees that provide the special amenity value referred to.

Whilst there is no definition of 'amenity' in part VIII of the Town and Country Planning Act 1990 which sets out the law on TPOs, guidance is offered on this in the document Tree Preservation Orders – A Guide to Law and Good Practice. It states *'In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed'* (paragraph 3.2).

No evidence is presented to show this test has been met and before the order is confirmed this evidence needs to be available to support the case. In fact the document goes on to state that councils need to be able to explain to landowners why their trees and woodlands have been protected and provides three key criteria to take into account to allow a structured and consistent assessment of 'amenity value'. These focus on visibility, individual impact and wider impact (paragraph 3.3).

3. Understorey shrubs should not be included. Guidance is available in the document Tree Preservation Orders – A Guide to Law and Good Practice. This states a TPO may only be used to protect trees and cannot be applied to bushes or shrubs (paragraph 2.3). As this is an area order with no specific reference to any individual or group elements it is unclear what understorey shrubs are included in any event. This lack of detail is clearly a disadvantage of an area order as it only refers to elements within the area defined by the dotted line and cannot identify the specific items. In this broad brush approach, it would be difficult for the Council to enforce the Order as it would be difficult to prove what understorey shrubs it refers to. As shrubs cannot be protected by a TPO this needs clarification.
4. The Order would appear to have been hastily made in the light of the identification of the land as a development site in Bromsgrove Draft Core Strategy 2 on the basis the trees are now under threat of removal. My client wishes to point out however that both she and the developer partner are keen to work within the constraints of the landscape and her responsible attitude is evidenced by the fact that the site outlined red on the attached plan has been promoted for development over many years and no attempt has been made to remove trees or clear the site. The land was promoted through local plan inquiry, where it was recommended for removal from Green Belt to meet housing needs, it was subsequently considered in the High Court when the recommendation of the independent Inspector was not accepted, it has been promoted through the Strategic Housing Land Availability Assessment and it has been promoted through consultation on the Core Strategy. This work spans a decade and no trees have been removed.

Therefore it is difficult to see why the Order has been hastily made when a better approach would be to carry out a proper investigation. For the Order to have any credibility a detailed assessment of the value of the trees should now be carried out and in the event the case is demonstrated a refined order relating to specific trees or groups of trees can be confirmed. My client is happy to cooperate in this process and as set out above is happy to make available the findings of the tree survey that is currently being prepared on her behalf.

5. The Order requires clarification as to the address of the location which is sometimes stated as Kendal Road and sometimes Kendal End Road. This creates uncertainty. The correct address is Kendal End Road. The Specification of Trees page should be amended accordingly.

6. The Specification of Trees page is I assume Schedule 1 although this is not stated on the page. If this is Schedule 1 this should be stated so as to avoid uncertainty.

We would be pleased if these objections are taken into account and would be happy to discuss the details with you.

Yours faithfully

[Redacted signature]

[Redacted name]

Principal Planner

Email: [Redacted email address]

Enc Location Plan 2330-100

cc [Redacted recipient]



Rev	Date	Name	Revision Details

Client
Mrs S Grant-Nicholas

Project
Land off
Fiery Hill Road
Barnt Green

Drawing
Location Plan

Drawing Number	2330-100	Paper	A3
Date	January 2009	Revision	
		Scale	1:2500

