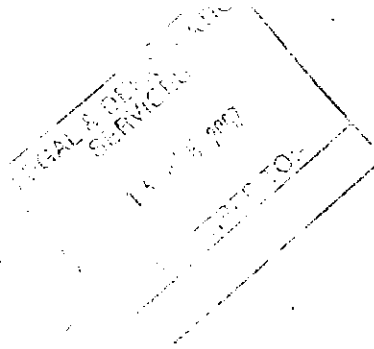


# Appendix 1

10 August 2007

**Your Ref: TPO No 8 2007**  
**Our Ref: 37014/2446379/Butt**

Mrs C Felton  
Head of Legal and Democratic Services  
Bromsgrove District Council  
The Council House  
Burcot Lane  
Bromsgrove  
Worcestershire  
B60 1AA



4 THE COURTYARDS  
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Recorded Delivery

Dear Madam

**TOWN & COUNTRY PLANNING ACT 1990**  
**TOWN & COUNTRY PLANNING (TREES) REGULATIONS 1999**  
**The District Council of Bromsgrove TPO (No8) 2007**  
**Risk address 50 Lea Green Lane Wythall Birmingham B47 6HN**

We refer to the above Tree Preservation Order, (the Order) and by way of this letter we object to the Order on behalf of our client Cunningham Lindsey and respectfully request that the Order is not confirmed. This detailed objection is in accordance with Regulation 4(1) of the Town & Country Planning (Trees) Regulations, 1999.

We object to the Order on the grounds that (i) the reasons for the making of the Order are not explained and (ii) the tree is implicated in subsidence damage to a neighbouring property.

**(i) The Reasons for Making the Order are not Explained**

The current Government advice about the creation and service of Tree Preservation Orders is found in the DETR (now DCLG) publication 'Tree Preservation Orders: A Guide to the Law and Good Practice 2000' (the Blue Book 2000). This publication has largely replaced Circular 36/78 'Trees & Forestry' but the Circular has not been formally withdrawn. Therefore both documents together represent Government advice.

The Council states that the order was made on the grounds that the tree provides special amenity value. However the Council has not stated how it assessed the 'amenity' value of the tree or how it contributes to amenity.

Chapter 3 of the Blue Book 2000 contains detailed advice on making and confirming Tree Preservation Orders. Paragraph 3.3 deals with the issue of reasons and states clearly that:

**ALSO AT**  
GOODLASS HOUSE, GOODLASS ROAD  
SPEKE, LIVERPOOL L24 9HJ  
Tel 0151 485 7200  
Fax 0151 485 7171

UNIT 6, PARKSIDE, 15 HEADLEY ROAD,  
WOODLEY, READING, BERKSHIRE RG5 4JB  
Tel 0118 901 4646  
Fax 0118 901 4458

## **Bromsgrove District Council**

**“3.3 LPAs should be able to explain to landowners why their trees or woodlands have been protected by a TPO. They are advised to develop ways of assessing the ‘amenity value’ of trees in a structured and consistent way, taking into account the following key criteria:”**

The paragraph goes on to list the criteria as (1) **visibility**; (2) **individual impact**; (3) **wider impact** and (4) **expediency**, with detailed guidance as to what is meant by each of these criteria.

With respect the Council has not provided any evidence nor indicated that it has in fact assessed the ‘amenity’ of the tree. The Council does not say whether it means ‘visual amenity’ or simply ‘amenity’ in the wider context. If it has made such an assessment, it has not provided the evidence to support the making of the Order.

We therefore respectfully suggest that the Council has not acted in accordance with best practice or with Government advice and on that basis we request that based on this ground for objection, the Order is not confirmed.

### **(ii) The tree is implicated in subsidence damage**

The Order seeks to protect T1 however in our opinion T1 should not be protected, due to the qualification under Section 198 (6)(b); that the tree is causing actionable nuisance because the trees is implicated in the damage to the neighbouring risk address.

On this basis also, we formally object to the Order and request that it is not confirmed.

In summary therefore, we formally object to the Order on the above grounds and we respectfully request that the Council gives serious consideration to the grounds of objection as set out herein and reconsiders the confirmation of the Order.

Please acknowledge this objection and address the acknowledgement and any other correspondence in the matter of the objection and this order, to this office.

**Bromsgrove District Council**

Yours sincerely

A handwritten signature in black ink that reads "Margaret MacQueen". The signature is written in a cursive style with a long horizontal flourish at the end.

**Margaret MacQueen BSc CBiol MIBiol MICFor  
Senior Consulting Arboriculturist  
D/E Team**

**OCA UK Limited**

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Cc Mr Butt, Insured  
Mr Coney, Neighbour  
Cunningham Lindsey

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