

LAND AT PETERBROOK ROAD, MAYPOLE LANE AND GAY HILL GOLF CLUB, HOLLYWOOD

TREE PRESERVATION ORDER OBJECTION

ON BEHALF OF JJ GALLAGHER LTD

**SECTION 198 TOWN AND COUNTRY PLANNING ACT 1990. REGULATION 6
TOWN AND COUNTRY PLANNING (TREE PRESERVATION)(ENGLAND)
REGULATIONS 2012**

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CONTENTS:

	Page No:
1. BACKGROUND	1
2. GUIDANCE	2
Amenity	Error! Bookmark not defined.
Expediency	Error! Bookmark not defined.
3. GROUND FOR OBJECTION	3
Amenity	3
Expediency	4
Tree quality and appropriateness	4
Inaccuracy	4
4. CONCLUSION	6

APPENDICES:

APPENDIX 1 – ASSESSMENT OF SUITABILITY FOR TPO

1. BACKGROUND

- 1.1 A Tree Preservation Order (TPO) has recently been served by Bromsgrove District Council.
- 1.2 The title of the TPO is '*Bromsgrove District Council Tree Preservation Order (No19) 2014 Trees on land between Peterbrook Road, Maypole Lane and Gay Hill Golf Club, Hollywood*'.
- 1.3 The above address is hereafter referred to as 'the site'.
- 1.4 The TPO protects:
 - 33 individual trees
 - 14 groups of trees
- 1.5 The reason for serving the order as stated within the Regulation 5 notice that accompanied the TPO is:

"The trees provide special amenity value and the Tree Preservation Order is made in the interests of amenity."
- 1.6 The TPO was served on 19 September 2014 and takes provisional effect for six months from this date. After this time, if the TPO has not been formally confirmed by the Local Planning Authority (LPA) its provisional effect will lapse.
- 1.7 The deadline for objections to be received by the LPA in relation to the Order is 31 October 2014.
- 1.8 Pegasus Group has been instructed to formally object to the TPO by their client JJ Gallagher Ltd.
- 1.9 The objection is made in accordance with Regulation 6 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012. It states the reasons for the objection and specifies the trees and groups of trees in question.

2. GUIDANCE

- 2.1 Guidance is provided to local planning authorities on the central government Planning Policy Guidance Suite website¹. Local Planning Authorities should make a Tree Preservation Order if it appears to them to be expedient in the interests of amenity. The guidance sets out the grounds on which a TPO might be served.

¹ <http://planningguidance.planningportal.gov.uk/blog/guidance/tree-preservation-orders/>

3. GROUNDS FOR OBJECTION

- 3.1 The objection applies to all the trees contained within the TPO.
- 3.2 The grounds for objection are as follows:
- a. The TPO is not expedient in the interests of public visual amenity. No information has been supplied to support the Authority's rationale for serving the order. No information has been supplied to explain the Authority's stance that the trees have 'special' amenity value, nor is this value defined.
 - b. The trees are not under threat. The TPO is not expedient.
 - c. Many trees within the TPO are of inappropriate species and location. In many cases they are of insufficient quality to merit protection.
 - d. The order is not specific enough to enable it to be effectively administered by the LPA. It therefore results in ambiguity in relation to the protected status of trees and an unreasonable burden of responsibility on the owners of the trees.
 - e. Some trees are offsite and no evidence has been provided to ensure that the TPO has been served on all relevant tree owners.

Amenity

- 3.3 There is very limited public access to much of the land that is covered by the TPO. The public visual amenity value of many of the trees on the site is therefore considered to be insufficient to justify TPO status. The amenity value of the trees is in no way considered to be "special."
- 3.4 Reference to the 1:25000 OS map of the area indicates that a public footpath passes north/south through the centre of the site and that a second public footpath passes along its western/south-western boundary. Some of the trees on the boundary of the site are also visible from public spaces beyond the site boundary. However, the majority of trees in the western section of the site are screened from view by a dense hedgerow that is located to the west of the central path. It is considered that the trees to the west of this footpath should therefore not be included within the TPO as they do not have sufficient public visual amenity value.

- 3.5 It is considered that the Council's reason for serving the TPO is therefore partially incorrect.

Expediency

- 3.6 It is not considered that the trees on the site are under sufficient threat for the Council to justify the serving of the TPO. In serving the order the Council has not demonstrated any degree of threat applies to the trees that have been made subject to protection. Some scrub clearance works have been carried out recently on the site but this is presumed to be simply in accordance with appropriate land management practice.

Tree quality and appropriateness

- 3.7 A preliminary visual assessment of all trees and groups covered by the TPO has been carried out. This assessment shows that many of the trees that are protected by the TPO are of such poor quality that they will need to be removed in the short term on the grounds of appropriate and reasonable arboricultural management.
- 3.8 The TPO protects a number of trees, for example G5, that abut the southern edge of small residential gardens. It is considered that these trees will block unreasonable levels of light to occupiers. No assessment has been provided by the Council in relation to "reasonableness" in this or any other aspect of the TPO. It is noted that adjacent landowners affected by the TPO have their own right of objection.
- 3.9 The TPO makes repeated reference to hawthorn as components of the groups that it protects. Hawthorn is not considered to be a species that is normally referred to as a tree. It is considered that in almost all situations, hawthorn is a shrub that occurs "only occasionally as a tree".²

Inaccuracy

- 3.10 The 'group' designation has in many cases appears to have been applied incorrectly, apparently as a means of swift recording of information. It is therefore not possible to distinguish between the most important component trees within groups. This has obvious implications for management practicalities,

² Field Guide to Trees of Britain and Europe. Mitchell, A. Collins. 1974. pp274

for example unreasonable levels of difficulty for the tree owner when submitting applications to carry out works to protected trees.

3.11 Many of the tree groups that are shown on the TPO plan are in actual fact hedgerows. The scope of TPO legislation does not extend to hedgerows and it is therefore considered that TPO (19) 2014 has not been applied correctly in this respect.

3.12 A number of items, for example G2, appear to have been plotted with a degree of inaccuracy. The outlines of several groups do not apply to conditions encountered on site.

3.13 The 'group' designation has in many cases appears to have been applied incorrectly, apparently as a means of swift recording of information. It is therefore not possible to distinguish between the most important component trees within groups. This has obvious implications for management practicalities, for example ambiguity, irrelevance of many trees as well as unreasonable levels of difficulty for the tree owner when submitting applications to carry out works to protected trees.

3.14 Comments in relation to each individual tree are provided in the attached table.

APPENDIX 1 - ASSESSMENT OF SUITABILITY FOR TPO

4. CONCLUSION

- 4.1 It is respectfully requested that TPO No32/2013 is not confirmed by the council for the stated reasons.
- 4.2 If, however, the council is minded to confirm the TPO (having given due consideration to the reasons for objection set out above), it is requested that the TPO be confirmed subject to modifications that omit any tree/tree group that cannot be demonstrated in a consistent and structured way to make a significant contribution to public visual amenity as well as the local environment and its enjoyment by the public.
- 4.3 In the event of the TPO being confirmed, it is expected that the Council will have considered how best to demonstrate that it has made its decision in a balanced and open manner. It is requested that a site visit is carried out by independent persons as part of the decision making process. In particular, and in accordance with due democratic process, it is expected that Pegasus Group shall be provided with reasonable time prior to the confirmation date of the TPO in which to provide further comments and clarification to any Officer comments that are made in response to this objection.

APPENDIX 1

ASSESSMENT OF SUITABILITY FOR TPO

TPO (19) 2014 - objection comments relating to tree condition with reference to schedule of protected trees

No on map	Objection comments	No on map	Objection comments	No on map	Objection comments
T1	Inaccurately plotted on plan. Possibly offsite.	T15	None	G1	Plotted group does not reflect site conditions. Not a cohesive group. Does not indicate main component trees worthy of retention.
T2	Very heavily crown reduced. Significant levels changes within root plate area. Likely to decline in the short term. Insufficient public visual amenity.	T16	None	G2	Plotted group does not reflect site conditions. Not a cohesive group. Does not indicate main component trees worthy of retention. Insufficient public visual amenity.
T3	Insufficient public visual amenity.	T17	Incorrectly plotted on plan.	G3	Not a cohesive group. Does not indicate main component trees worthy of retention. Large willow tree is structurally unsound.
T4	Thin foliage. In decline. Large cavity at base. Short term life expectancy. Insufficient public visual amenity.	T18	Incorrectly plotted on plan	G4	Plotted group does not reflect site conditions. Does not indicate main component trees worthy of retention. Possibly offsite.
T5	Outgrown hedgerow coppice. Likely to require recoppicing soon as part of normal hedgerow management. Insufficient public visual amenity.	T19	Incorrectly plotted on plan. Insufficient public visual amenity	G5	Contains various trees in very poor structural condition, leaning over private gardens. Does not indicate main component trees worthy of retention. Insufficient public visual amenity.
T6	Too small to merit TPO status. Insufficient public visual amenity.	T20	Incorrectly plotted on plan. Insufficient public visual amenity	G6	Does not indicate main component trees worthy of retention. Insufficient public visual amenity.
T7	An over mature tree in advanced decline. Insufficient public visual amenity.	T21	Incorrectly plotted on plan. Insufficient public visual amenity	G7	Plotted group does not reflect site conditions. Not a cohesive group. Does not indicate main component trees worthy of retention. Includes hawthorn hedge, an inappropriate species and landscape feature for TPO. Insufficient public visual amenity.
T8	Located beside power cables. Statutory pruning distance will require shape-altering heavy pruning of the tree. Insufficient public visual amenity.	T22	Insufficient public visual amenity.	G8	Includes hawthorn hedge, an inappropriate species and landscape feature for TPO.
T9	Cavities in some main branches over adjacent garage. Insufficient public visual amenity.	T23	Insufficient public visual amenity.	G9	Plotted group does not reflect site conditions. Does not indicate main component trees worthy of retention.
T10	Excessive lean into site. Insufficient public visual amenity.	T24	None	G10	Plotted group does not reflect site conditions. Does not indicate main component trees worthy of retention.
T11	Located offsite? Evidence of previous limb loss. Insufficient public visual amenity.	T25	Substantial basal decay and weak union between main stems.	G11	Majority of trees are offsite. No evidence TPO served on land owner. Does not indicate main component trees worthy of retention.
T12	Weak fork with included bark at base. Insufficient public visual amenity.	T26	None	G12	Partially offsite and no evidence TPO served on tree owners. Plotted group does not reflect site conditions. Does not indicate main component trees worthy of retention.
T13	None	T27	None	G13	Plotted group does not reflect site conditions. Does not indicate main component trees worthy of retention. Contains one dying tree and one damaged tree with decay fungus <i>Laetiporus sulphureous</i> in large failure wound on main stem. Insufficient public visual amenity.
T14	None	T28	Exposed roots	G14	Does not indicate main component trees worthy of retention. Incorrectly described in TPO schedule.
		T29	Stock damage and damage to limbs. <i>Laetiporus sulphureous</i> on trunk		
		T30	Significant decay in main stem.		
		T31	Advanced crown dieback. Large area of dysfunctional wood at base.		
		T32	None		
		T33	None		