



**Grove Tompkins Bosworth
54 Newhall Street
Birmingham
B3 3QG**

You Ref: JRD.MS.Freefield
Our Ref: SS/TPO(13)2016

Please reply to: Bromsgrove
Email: s.sellers@bromsgroveandredditch.gov.uk
Direct Dial: 01527 881397

09 September 2016

Dear Sirs
Your client Freefield Investments Limited
Tees on land at 73 Linthurst Road Blackwell
Tree Preservation Order (13) 2016

I write in response to your letter of 05 September and to the earlier correspondence sent to the Council directly by your client.

We have taken instructions on the various points that are raised and would respond as follows:-

1. TPO procedure

We would wish to assure your client that the correct process has been followed as regards the making of the TPO number 13 which affects their land at Blackwell. The rules in relation to the making of TPOs by local authorities are set out in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

The Council has granted a provisional order to protect the trees on the land. We consider that there are currently no grounds on which the Council would act to revoke the current order where it is still in provisional form. Under the rules the order will remain in force for a period of six months from 3rd August 2016 when it was made. During the six month period the Council will then make a decision whether to "confirm" the order which will make it permanent. If the Council does not confirm the



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order before the end of the 6 month period then it would cease to be in effect on 18th January 2017 and a non-confirmation of the order will then be issued. If the order is confirmed with or without any amendment then the confirmed order would come into effect from the day it is made and be permanent thereafter unless revoked or varied.

2. Request for extension of time to lodge formal objection

Before confirmation of a provisional order the Council must under the regulations (Regulation 7) take into account objections and representations made. Accordingly, the Council will of course consider any points your clients wish to put forward. In this regard our tree officer has already had one meeting with your clients Arboriculturist and I am advised that they met on site on Wednesday 10th August and jointly inspected the trees. We note from your letter that the report from the Arboriculturist is not ready and in the circumstances there is no objection to an extension of time for that report to be lodged to **Friday 30th September 2016**.

3. Classification of the trees

The Council does not accept the argument put forward by your client that there was a failure of process on the grounds of the terms of the provisional order defining the class of tree as "woodland". The case of *Evans v Waverley* is not applicable to this Order as that judgement related to a provisional order that initially identified trees by "area" in the provisional Order and then 'upgraded' the classification to a "woodland" designation upon confirmation. The outcome of *Evans v Waverley* is that it is acceptable to classify any of the trees as woodland at the outset and then it is for the local authority to assess whether that is the appropriate category for permanent designation in the confirmed order, as referred to above, after taking into account any representations. So in other words, there is the ability for the terms of the provisional order to be modified. The Council will consider any representations from your client in this regard and hopefully this can be addressed through further discussion between your clients Arboriculturist and the Tree Officer following receipt of your consultant's report.

I trust that the contents of this letter clarifies the position for your client.

Yours sincerely

Sarah Sellers
Principal Solicitor

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