

**Bromsgrove District Council
Planning Committee**

**Committee Updates
4th December 2017**

Tree Preservation Order (No. 7) 2017

**Trees on land adjoining Harris Brush Works and Saxon Business Park,
Hanbury Road, Bromsgrove**

1. The purpose of this update report is to reiterate the legal tests and statutory guidance for the consideration of tree preservation orders. Members are asked to consider the following tests when considering whether or not to confirm TPO (No. 7) 2017.
2. The power to make a TPO is found at section 198 of the Town and Country Planning Act 1990.

Section 198 of the TCPA 1990 provides (emphasis added):

“(1) If it appears to a local planning authority that it is **expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order** with respect to such trees, groups of trees or woodlands as may be specified in the order.

(2) An order under subsection (1) is in this Act referred to as a “tree preservation order”.

3. Regulation 7 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 provides (emphasis added):

“7.—(1) The authority **shall not confirm an order which they have made unless they have first considered objections and representations duly made in respect of it and not withdrawn.**

(2) An authority **may confirm an order with or without modifications.**

(3) Where an order is confirmed it shall be endorsed to that effect and the endorsement shall also indicate—

(a) that the order was confirmed with modifications or without modifications, as the case may be; and

(b) the date on which it was confirmed.

(4) Where an order is confirmed with modifications, the modifications shall be indicated in the order by distinctive type or other means.

(5) A modification under paragraph (2) may not add to the Schedule to the order (and the map) references to a tree to which the order did not previously apply.”

4. A TPO may be made where it appears that such an order is 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands'. The question is therefore: is it expedient in the interests of amenity to confirm this order? It is possible for this committee to confirm this order without modification, confirm the order with modification or not to confirm the order.
5. The National Planning Practice Guidance (PPG) provides guidance on what 'amenity' and 'expedient' mean in practice and is attached at Appendix 5. Members are invited to consider this guidance carefully.