




Telford & Wrekin Council, Democratic Services
Governance & Legal Services
Addenbrooke House
Ironmasters Way
Telford
TN3 4NT
By email: 

Friday, 14 May 2021

Dear Sir/Madam,

Town and Country Planning Act 1990
Town and Country (Tree Preservation) (England) Regulations 2012
Borough of Telford & Wrekin (Trees on land to the north of Haygate Road, Wellington, Shropshire, TF1 2FP) Tree Preservation Order 2021

OBJECTION/REPRESENTATION

I am instructed to write on behalf of my clients, Vistry Homes Mercia Region and Anwyl Construction Company Ltd., to formally object to the above Tree Preservation Order ('the TPO'). My clients are jointly and severally "*persons interested*" in the affected land, as defined in Regulation 2 of the above Regulations.

I am familiar with the site, having visited it and inspected the trees on Friday the 23rd April 2021, and the representations made below are based on my observations and findings from that visit.

Our objection to the TPO is both general and specific. The general objection relates to all the individual trees included within the Order, namely T1 to T15; and the specific objection relates to the inclusion of trees T1, T4, T7, T8 and T15 within the TPO, on the grounds of their very poor condition. The inclusion of T5, T10, T11 and T14 is also questionable, as in our view these do not fully satisfy well-established criteria for inclusion within a TPO.

Our general ground of objection is as follows:

1. Non-expediency of the TPO

The land to the north of Haygate Road, where the trees are located, is the site of a development of 289 new dwelling houses by my clients, pursuant to outline planning permission TWC/2013/1003 and subsequent reserved matters application TWC/2017/0643 and other associated applications. A considerable proportion of the development is now completed and occupied. The trees which are subject of the recent TPO have been successfully retained within the context of the new development, in most cases within the generous areas of amenity open space within the scheme which have been designed and planned to include them, precisely for their contribution to the landscape and amenity of the development overall.





With the exception of only three trees (T5, T14 and T15), the areas within which the trees stand have been successfully completed and landscaped, and are now no longer potentially subject to encroachment or possible damage as a result of construction operations or activity, since the relevant spaces are now available and accessible to new residents and/or their guests, visitors, or the wider public, for the informal recreational and amenity purposes for which they are intended.

The three trees which are still within, or which adjoin, parts of the site which remain in active construction are, as I saw on site, satisfactorily protected by robust enclosures of temporary protective fencing encompassing their root protection areas ('RPAs'), the fencing being constructed as specified in Section 6.2 of British Standard BS 5837: 2012, *Trees in relation to design, demolition and construction – Recommendations*. Examination of Google Earth images through time indicates that these protective measures, (and equivalent provisions to protect those trees and landscaped areas which are now completed), have been maintained throughout the course of the construction period since its commencement in 2017-18.

This all being so, it is hard to understand why the Local Planning Authority has only now considered it necessary to impose statutory protection on these trees by means of a TPO, when their retention, and future continuing landscape contribution, have already been secured and assured both through the planning of the development, and adherence to appropriate protective measures during construction. Whilst it might have been considered reasonable to seek to ensure the trees' protection as a precautionary measure at the outset of the planning process, and before commencement of any construction operations on site, it is difficult to identify what degree of public benefit is likely to be achieved by doing so now, so close to the completion of the development.

Government guidance¹ advises that *"Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future."* However, it then goes on to advise that *"Although some trees or woodlands may merit protection on amenity grounds, it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management."*

As noted above, the trees subject of the TPO are within areas of planned open space within the development, which will be subject to future maintenance and management by an appropriate responsible management company. They will therefore not be within the ownership or control of individual owner/occupiers within the development. Given that they (with the specific exceptions detailed below) make a generally positive contribution to the setting and appearance of the development and are likely to be valued by residents for that reason, there are no grounds for believing that those entrusted with their future management will not undertake this responsibly, with due regard to good arboricultural advice and practice. This consideration further diminishes any claimed basis on the Local Planning Authority's part of 'expediency' for the making of the TPO at this juncture.

¹ <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>





The Council's stated reason for the making of the TPO is weakly expressed, stating merely that *"The Council has made the Order on the grounds that the trees are worth preserving [for] their current or potential visual amenity and historic significance."* It does not identify, or allude to, any perceived change in circumstances or increased evidence of any threat to the trees' well-being, which might provide a justification for the Order's making at this stage in the process of the surrounding development of the site, which is well advanced and largely completed, with the trees satisfactorily retained and protected. In the absence of any such additional justification, the imposition of the TPO appears to a large extent superfluous, conferring no significant level of additional public benefit.

I am aware that the Council has recently contended, in its third reason for refusal of TWC/2021/0110 for the retention of landscaped mounding in the south-western section of the site, that pooling of surface water run-off from the mounding around the bases of trees T1 and T5 will cause them harm, and it is possible that this concern may, at least in part, underlie the making of the TPO. However, examination of the site and relative levels of the mounding and the trees' locations makes it clear that this concern is ill-founded, as is argued in more detail in my clients' appeal against that refusal; and even if there were good grounds for supposing that the mounding might result in injurious effects on these particular two trees, this would not constitute a valid basis for making a TPO on all the others.

For these reasons, we consider the making of this TPO is not justified, when considered in the light of relevant Government guidance, as no clear basis of expediency underpins or supports its imposition.

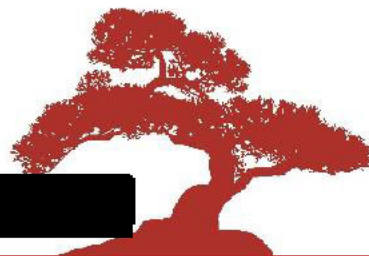
2. Specific objections

Government guidance states that Local Planning Authorities are advised to undertake assessments of trees in a structured and consistent way, taking into account the key criteria of their visibility by the public, and their individual, collective and wider impact. The guidance also makes it clear that the public visibility is not, of itself, sufficient to warrant a TPO; the authority should assess a tree's particular importance by reference to its size and form, and future potential as an amenity, taking into account special factors such as rarity, cultural or historic value, contribution to and relationship with the landscape, and contribution to the character or appearance of a Conservation Area. The significance of the trees in their local surroundings should also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.

There is no evidence that in selecting the trees for inclusion within the TPO, the Council has undertaken such an assessment of the trees in this case, or that it has recently inspected them. Instead, it appears to have relied purely upon the trees' retention categories as assigned in an earlier pre-development tree survey undertaken by FPCR Environment & Design Ltd. in June 2013, seven years ago, without regard to any changes in their condition which may have occurred since.

On the basis of my recent inspection, I consider the following five trees to be wholly unsuitable for inclusion within the TPO, for the reasons stated in each case. Further details of the inspection findings are set out in the schedule which is attached at **Appendix 1** to this letter.





T1 English Oak: In hazardous condition, due to extensive main trunk tear-out wounding and decay, and advanced decay and hollowing of main upper stem; extensive branch and wound decay cavities, and large diameter dead branches. Liable to major collapse or failure within near future; not capable of safe retention.

T4 English Oak: Structurally very poor, due to major tear-out wound down main trunk with extensive internal heartwood decay, dead upper stem and split and broken branches. Structurally compromised and not capable of safe retention in the long term.

T7 English Oak. Extensive storm damage and major branch losses and breakages, creating large gaps in crown and significantly impaired appearance; sparse crown with foliage confined to distal branch ends only. Impaired by past damage and of reduced future potential.

T8 English Oak. Extensive crown dieback, with 90% of crown dead and live foliage only on small branch and trunk epicormics. Established infection of *Ganoderma resinaceum*. Tree moribund.

T15 Sycamore. Main ascending stem split to over half its diameter at 9m, liable to breakage or collapse; extensive dieback of upper crown, with bark loss over many stems and branches, and little evidence of live growth at date of inspection. Structurally compromised and not capable of safe retention in the long term.

In addition to the above five trees whose defects in our view render them unsuitable for TPO protection, I consider that the following four trees to varying degrees exhibit deficiencies of structure, physiological health or form, such that they fall short of clearly satisfying the relevant criteria set out in Government guidance for inclusion. These are summarised below, as follows:

T5 English Oak: Exhibits general and long-established crown retrenchment, with extensive deadwood of up to 150mm diameter; of impaired visual appearance and merit.

T10 English Oak: Two extensive areas of former fire damage between buttresses at base, with exposed heartwood, limited occlusion and incipient decay; of reduced future potential.

T11 English Oak: Previous main stem failure at main trunk fork, leaving large tear-out wound and lop-sided and unbalanced form; more recent large branch failure at 5m, leaving long tear-out wound; sparser than average foliar growth; of reduced visual merit and potential.

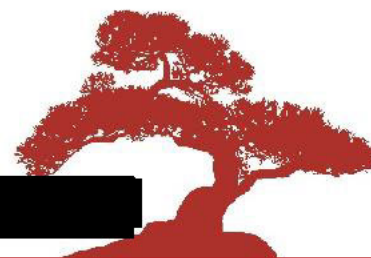
T14 English Oak: Large area of bark loss from former fire damage or lightning strike, with exposed heartwood and associated fungal infection. Large long broken and lopped branch stubs, deadwood and sparse branch ends; of doubtful potential due to effects of past damage.

Of the fifteen trees included within the TPO as made, therefore, in my view five are demonstrably unsuitable for inclusion, and a further four are dubious or questionable, in the light of their observed deficiencies.

3. Appropriate survey/re-inspection

Without prejudice to our objection in principle to the TPO as set out under (1) above, in a spirit of co-operation and in an effort to achieve consensus with the Council on the matter, my clients have authorised



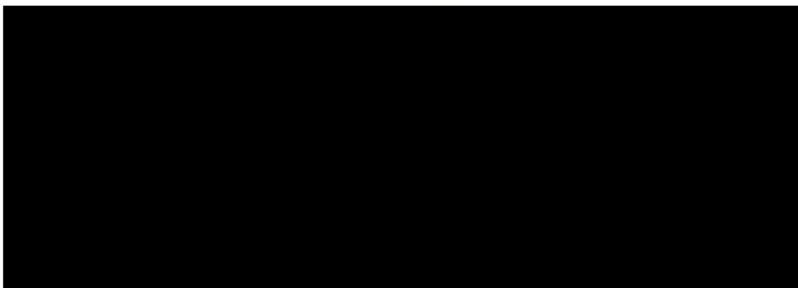


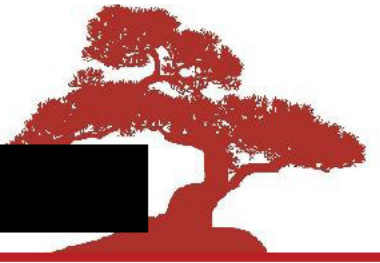
me to engage in a dialogue and/or a site meeting with your Tree Officer, if agreeable, in order to review each of the trees in detail on site. This would be with a view to reaching agreement between us as to their suitability or unsuitability for inclusion in an Order, should the Council decide that the imposition and/or confirmation of the TPO is warranted, notwithstanding the view we have argued above as to the lack of any need for one in the specific circumstances of this case.

For the reasons set out above, therefore, I submit that the Council should not confirm this TPO, in the absence of any need for it to ensure the long-term protection of the subject trees; or, alternatively, that it should not confirm it in respect of the specific trees which are identified as exhibiting defects of structure or health to an extent which renders them unsuitable or unsafe for long-term retention and protection. On behalf of my clients, I therefore formally request that it does not do so.

I trust this letter sets out our position clearly, but please do not hesitate to contact me if there are any further details or information you require which may be of further assistance.

Yours faithfully





APPENDIX – Tree Schedule



Explanatory Notes for the Tree Schedule

Site:- Haygate Fields, Land north of Haygate Road, Telford TF1 2DA

This schedule is based on an inspection carried out by Mark Mackworth-Praed on Friday the 23rd April 2021. Weather conditions at the time were fine and dry. Deciduous trees were in partial leaf.

The information contained in this schedule reflects the condition of the trees as inspected on the date stated, comparing this with a survey undertaken by FPCR Environment & Design in June 2013. They were inspected from the ground only; they were not climbed and no internal investigations were undertaken. Photographs were taken of all the trees, with general views and detailed views of particular features or defects. Estimated dimensions are marked 'est.'

- 1. TPO no.:** - The tree's number as designated in Tree Preservation Order 191 made by Telford and Wrekin Council.
- 2. FPCR Dec 2013 survey no.:** - The tree's equivalent number as given in the 2013 FPCR survey.
- 3. Species:** - Common names are used.
- 4. Height:** - An approximate measure with the aid of a 'Disto' laser range finder, given in metres.
- 5. Trunk diameter:** - Measured at 1.5m above ground level and expressed in millimetres.
- 6. Average Radial Crown Spread:** - Average distance from the centre of the trunk to edge of canopy; taken as an average of measurements or estimates in four cardinal directions.
- 7. Life Stage:** - Young; Semi-mature; Mature; Veteran.
- 8. Physiology:** - Health and function of the tree in comparison to a normal specimen of its species and age: Average, Below average, Poor, Dead.
- 9. Structure:** - The tree's structural condition based on assessment of visible roots, trunk and crown, noting the presence of any defects or decay: Good, Moderate, Poor, Hazardous.
- 10. Landscape Value:** - Reflecting the tree's visibility and importance in the local landscape: High, Some, Low, None.
- 11. Est Years:** - An estimate of the tree's likely remaining contribution in years: < 10, 10-20, 20-40, 40+.
- 12. Comments:** - Notes relating to health and condition, structure and form, estimated life expectancy and importance.
- 13. Category:** - A rating given to individual trees based on Table 1 in the British Standard, BS 5837 (2012) "*Trees in relation to design, demolition and construction - Recommendations*":
Category 'U' - Trees in such a condition that any existing value would be lost within 10 years and which should, in the current context, be removed for reasons of sound arboriculture management.
Category 'A' - Trees of high quality and value; in such a condition as to be able to make a substantial contribution (Normally a minimum of 40 years).
Category 'B' - Trees of moderate quality and value; those in such a condition as to make a significant contribution (Normally a minimum of 20 years).
Category 'C' - Trees of low quality and value; currently in adequate condition to remain until new planting could be established (Normally a minimum of 10 years), or young trees with a stem diameter below 150mm.

Site: Land north of Haygate Road, Telford

Date of inspection: Friday 23rd April 2021
 Weather conditions: Fine and dry

Surveyed by: Mark Mackworth-Praed

TPO No.	FPCR Dec 2013 survey no.	Species	Height	Trunk Diameter @ 1.5m	Average Radial Crown Spread	Life Stage	Physiology	Structure	Landscape Value	Est Years	Comments	Category
T1	3	English Oak	15m	1565mm	6m	Veteran	Average	Hazardous	High	< 10	Single trunked specimen, exhibiting major structural defects, with significant progressive decay within main trunk due to tear-out wound at crown break on N side, down to 1.5m above ground level; visibly hollow main stem and lateral large stub above crown break; extensive branch and wound cavities, and cavities at branch ends at former lopping points; large dead branches and major and minor dead wood throughout crown. Flushing out over 95% of remaining live canopy at date of inspection, no evidence of recent further physiological decline. Structurally hazardous and liable to major collapse or failure.	U
T2	6	English Oak	19m	1365mm	9.5m	Mature	Average	Good	High	40+	Single trunk, with swollen burls and dense lower epicormic growth. Moderate storm damage including large broken branches 7m NW side and 8m NE side; cavity 1m above main fork on NW side; branch cavities at former pruning wounds, minor to moderate dead wood and branch stubs. Only just starting to flush at date of inspection, but no obvious evidence of decline or dieback.	A
T3	7	English Oak	17.5 m	1325mm	10m	Mature	Average	Moderate	High	40+	Single trunk, with large occluded and non-occluded pruning wounds below crown break on W side; lower branches lopped on S and E sides. Dead wood in mid-crown, 2 dead branches to 120mm diameter at 8m. <i>Ganoderma</i> fungal brackets on E side of base at 300mm above ground, up to c.200mm across, but no external signs of significant decay at present. Crown almost fully flushed at date of inspection, no obvious dieback or decline.	B

TPO No.	FPCR Dec 2013 survey no.	Species	Height	Trunk Diameter @ 1.5m	Average Radial Crown Spread	Life Stage	Physiology	Structure	Landscape Value	Est Years	Comments	Category
T4	6	English Oak	11.5 m	960mm	7m	Mature	Average	Poor	Some	10-20	Single trunk, with major wound damage on E side from crown break down to 3m from former tear-out, and visible extensive heartwood decay within. Dead upper stem at 10m; split and broken branches, cavities in lopped branch ends on W side. Flushing to branch tips over 90% of crown at date of inspection; slight indications of dieback. Structurally compromised and not of long-term potential.	C
T5	9	English Oak	14m	1115mm	8.25m	Mature	Below average	Moderate	High	20-40	Single trunk, with dense and long-established lower trunk epicormic growth. General crown retrenchment, with major and minor deadwood to c.150mm diameter, but not all recent; some signs of more recent decline on branch tips mainly on W side. Pruning wounds and areas of torn bark. Flushing over c.80% of crown at date of inspection, but somewhat sparse foliar canopy overall.	B
T6	10	English Oak	21m	1265mm	11m	Mature	Average	Good	High	40+	Single trunk, dividing at 5m to two main ascending stems. Clusters of established root suckers partially encircling base; deep trunk cleft on SW side but sound. Flushing to branch tips over c.95% of crown at date of inspection; minor deadwood in inner crown to c.100mm diameter, but no obvious signs of decline or dieback.	A
T7	15	English Oak	22m	1390mm	10m	Mature	Below average	Impaired	High	10-20	Single trunk, with very pronounced basal flare and deep clefts indicative of reaction to infection by <i>Pseudoinonotus dryadeus</i> , but no brackets present at date of inspection. Extensive storm damage and branch losses/breakages, especially in mid-crown on S and W sides, creating significant gaps in canopy. Sparser than average foliar canopy, with foliar flushing noticeably confined to distal branch ends only. Significantly impaired appearance by past damage, and of reduced potential.	C
T8	17	English Oak	14m	880mm	8m	Mature	Low	Poor	Some	< 10	Single trunk, with three outcrops of <i>Ganoderma resinaceum</i> fruiting bodies on S side of base in trunk cleft, 200-300mm in width. Massive crown dieback, with 90% of crown dead and live foliage on only small branch epicormic growth and trunk epicormics. Of little potential.	U

TPO No.	FPCR Dec 2013 survey no.	Species	Height	Trunk Diameter @ 1.5m	Average Radial Crown Spread	Life Stage	Physiology	Structure	Landscape Value	Est Years	Comments	Category
T9	18	English Oak	9.5m	345mm	4m	Semi-mature	Average	Moderate	Low	40+	Younger tree, main single trunk with subsidiary stems from ground level on NW and NE sides, mutually competing with main canopy. No obvious defects noted; of some potential, but currently not of great value due to small size.	C
T10	19	English Oak	15m	1130mm	6.5m	Mature	Average	Good	High	20-40	Single trunk, with two extensive areas of former fire damage between buttresses on S and W sides to c.600mm from ground level, with exposed heartwood, limited occlusion and incipient decay. Dead stem in upper crown, but otherwise fully flushing over canopy at date of inspection. Impaired by past damage and hence of reduced potential.	B
T11	20	English Oak	13m	1000mm	6m	Mature	Below average	Impaired	Some	20-40	Single trunk, forked at 2m but stem to NE has previously failed leaving torn stub and large exposed wound. Large branch failure on S side at 5m leaving long tear-out wound and fallen branch resting on ground. Dense lower trunk epicormic growth. Sparser than average foliar flushing at date of inspection, c.75-80% of crown only. Of unbalanced and lop-sided appearance due to past failures, and not of great merit.	C
T12	27	English Oak	17m	950mm est.	7.5m	Mature	Average	Moderate	High	40+	Single kinked trunk, dividing at 5m, with dense epicormic growth. Large tear-out wound at 6-7m N side, some deadwood and one broken hung-up branch. Previously lopped/high pollarded at c.12m with established and profuse regrown branches from former lopping points. Of moderate quality.	B
T13	26	English Oak	14.5 m	675mm	7m	Semi-mature	Average	Good	Some	20-40	Single trunk, growing close to new side garden boundary fence, crown overhanging adjacent garden. Some slightly sparse branch tips, some deadwood and branch loss wounds. Noticeably sparser on W side of crown, but no major defects observed.	B

TPO No.	FPCR Dec 2013 survey no.	Species	Height	Trunk Diameter @ 1.5m	Average Radial Crown Spread	Life Stage	Physiology	Structure	Landscape Value	Est Years	Comments	Category
T14	23	English Oak	22m	1800mm est.	10m est.	Veteran	Below average	Impaired	Some	10-20	Single trunk, large area of bark loss from ground level to 2m from former fire damage or possible lightning strike NE side, with exposed heartwood and growth of <i>Ganoderma</i> brackets above, also noted on W side in 2013 survey. Large long broken and lopped branch stubs in lower and mid-crown, deadwood and sparse branch ends, especially on SE side. Of doubtful potential due to past damage and evidence of subsequent fungal infection.	C
T15	24	Sycamore	16m	1030 est.	8m est.	Mature	Low	Poor	Some	< 10	Single trunk, dividing to ascending stems from 3m. One main ascending stem shows major split through to over half its diameter at c.9m, liable to breakage or failure. Extensive dieback in upper crown, with bark loss from many stems and upper branches and little evidence of live growth at date of inspection. In poor condition, and of limited or little potential.	U