

## **OBJECTION TO TREE PRESERVATION ORDER NO. 71/00 LAND OF 5 PENNYS LANE, FORDINGBRIDGE**

### **TREE OFFICERS REPORT**

#### **1. TREE PRESERVATION ORDER HISTORY**

- # 1.1 Tree Preservation Order (TPO) No. 71/00 was made on 27 November 2000. The TPO plan and first schedule are attached as Appendix 1. The TPO protects an Oak tree, denoted T1, growing in the rear garden of 5 Pennys Lane, Fordingbridge.
- 1.2 The TPO was made following notification of extensive pruning of the tree and in recognition of the tree's special amenity value.

#### **2. OBJECTION**

- # 2.1 Following service of the TPO, a letter objecting to the protection of the tree was received from Mr A D Manston, dated 5 December 2000. This is attached as Appendix 2.
- 2.2 Mr Manston feels that it is unfair and unjust of the Council to make the TPO since he was earlier correctly informed that there was no Tree Preservation Order on the land at the time he purchased it.
- 2.3 Although Mr Manston is aggrieved that the TPO has been made, he has not made any objection other than that the order is unnecessary.
- 2.4 Mr Gruber responded in a letter dated 20 December (Appendix 3) explaining that, whilst the tree had been severely reduced in size nevertheless it was still large and its position standing immediately adjacent to the roadway means that it is readily visible to the general public and provides a special amenity feature. In addition, Mr Gruber explained that the Council would hope to work with Mr Manston to retain the tree safely in future.

#### **3. THE OAK TREE**

- 3.1 The Oak tree stands on the rear boundary of the rear garden of 5 Pennys Lane immediately adjacent to Salisbury Road, Fordingbridge. It is a large old tree, apparently in good condition, and is readily visible to the public from Salisbury Road.
- 3.2 On Saturday 23 October the tree was heavily pruned and whilst the work was being undertaken a local resident telephoned the Council's emergency tree help line and Mr Wilson, one of the Council's tree officers, attended the site. At that time he spoke to Mr Manston and the tree work contractor. Mr Wilson agreed that as the tree was not subject to a Tree Preservation Order consent was not required for the work but also pointed out that as a tree of special amenity value and so readily visible to the public it was worthy of a Tree Preservation Order.
- 3.3 This is a large mature, ageing Oak tree. Even with many of the branches removed it could continue to grow safely for at least another forty years. Such

large old Oak trees not only form part of the character of the New Forest but are also hosts to many animal and other plant species.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 If TPO 71/00 is confirmed, there will be the usual cost of administering the service of the confirmed TPO and any subsequent tree work applications.
- 4.2 Where any TPO's are confirmed, compensation may be sought in respect of any loss or damage caused or incurred in consequence of the refusal of any consent required under the TPO or of the grant of such consent which is subject to condition. However, no compensation will be payable for any loss of development or other value of the land, neither will it be payable for any loss or damage which was not reasonably foreseeable.

#### **5. ENVIRONMENTAL IMPLICATIONS**

- 5.1 The premature removal or further extensive work to this tree and the lack of a requirement to control this work or to plant a suitable replacement will be detrimental to the appearance of the area.

#### **6. CRIME AND DISORDER IMPLICATIONS**

- 6.1 There are no crime and disorder implications arising from this report.

#### **7. OTHER ISSUES**

- 7.1 The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy his possessions but is capable of justification under Article 1 of the First Protocol of the Human Rights Act as being in the public interest (the amenity value of the tree) and subject to the conditions provided for by law (Town and Country Planning Act 1990) and by the general principles of international law.
- 7.2 In so far as the tree is or serves private residential property the making or confirmation of a Tree Preservation Order could interfere with the right of a person to respect for his family life and his home but is capable of justification as being in accordance with the law and necessary in a democratic society for the protection of the rights and freedoms of others (Article 8).

#### **8. CONCLUSION**

- 8.1 Irrespective of the work that has been undertaken, the Appeals Panel must judge whether they feel the tree in its present condition still constitutes a special amenity value and is worthy of a Tree Preservation Order.

## **9. RECOMMENDATION**

- 9.1 It is therefore recommended that TPO 71/00 be confirmed without amendment to protect the Oak tree for the amenity value this tree contributes to the appearance of the area.

### **Further Information:**

Bryan Wilson/Nik Gruber  
Tree Team

Telephone: 02380 285330

### **Background Papers:**

Tree Preservation Order No. 71/00

AP100501