

**OBJECTION TO TREE PRESERVATION ORDER NO. 23/01  
LAND OF CULL LANE, NEW MILTON**

**TREE OFFICERS REPORT**

**1. TREE PRESERVATION ORDER HISTORY**

- # 1.1 Tree Preservation Order (TPO) No. 23/01 was made on 7 March 2001. The TPO plan and first schedule are attached as Appendix 1. The Order protects fourteen individual trees and three groups along the frontage of properties to the south-east end of Cull Lane, New Milton.
- 1.2 This TPO has been made following notification from a local resident in respect of trees to the rear of 12 Marston Road.

**2. OBJECTION**

- # 2.1 Following service of the TPO, a letter of objection dated 27 March 2001 was received from Mr P J Young of 8 Cull Lane. This letter is attached as Appendix 2.
- 2.2 Mr Young made specific objections to several trees including T5, T6, T4, T3 and G2. Mr Young states in his letter that the Oak trees T5 and T6 are small, immature trees in a small front garden and are of no prominence as specimen trees. Concerns are also raised about the potential height and shading from these two trees. Beech tree T4 and Oak T3 growing in neighbouring properties are also mentioned as overshadowing his property in late afternoon and evening.
- 2.3 G2 comprising of two Oaks and one Beech are included in the objection with regard to shading and danger from a large branch overhanging Cull Lane. Mr Young believes a TPO to be irresponsible when placed on a property where the owner is recently deceased and is unable to make representations.
- # 2.4 Mr Gruber wrote a response to this objection letter dated 4 April 2001. This is attached as Appendix 3. In this response it is mentioned that whilst the two Oak trees T5 and T6 are currently less prominent than the surrounding mature trees, however, they have the potential to grow and will become equally prominent as the larger trees seen here today.
- 2.5 All the trees were surveyed on 27 February 2001 and consideration given for their suitability for inclusion in a TPO. At that time they were all found to be outwardly sound and in normal health including the trees growing in G2.

### **3. THE TREES**

- 3.1 The trees are situated in a residential area and can be clearly seen from numerous public vantage points including Hollands Wod Drive, Cull Lane, Cullwood Lane, Ashley Common Road, Oakwood Avenue and Marston Road. All these trees are considered to make a significant positive contribution to the treed character of the area and it is the Secretary of States's view that

*“TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. The trees, or at least part of them should therefore normally be visible from a public place, such as a road or footpath, although, exceptionally the inclusion of other trees maybe justified. The benefit may be present or future.”*

- 3.2 With sound arboricultural management these trees are considered to have a safe useful life expectancy in excess of forty years.

### **4. FINANCIAL IMPLICATIONS**

- 4.1 If TPO 23/01 is confirmed there will be the cost of administering the service of the confirmed TPO and any subsequent tree work applications.
- 4.2 If TPO 23/01 is confirmed, compensation may be sought in respect of 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 Extensive or uncontrolled cutting or the premature removal and the lack of controls to plant suitable replacements 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. HUMAN RIGHTS ACT IMPLICATIONS**

- 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 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 trees are on or serve 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. RECOMMENDATION**

- 8.1 It is therefore recommended that TPO 23/01 be confirmed without amendment to include fourteen individual trees and three groups for the amenity value they provide to the area.

### **Further Information:**

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### **Background Papers:**

Tree Preservation Order No. 23/01