

## OBJECTION TO TREE PRESERVATION ORDER NO. 73/00 LAND OF DURLSTON COURT SCHOOL, BARTON ON SEA

### TREE OFFICERS REPORT

#### 1. TREE PRESERVATION ORDER HISTORY

- 1.1 Tree Preservation Order (TPO) No. 73/00 was made following a survey carried out as part of a review being undertaken to update all TPO's with area designations. TPO 520 was the existing Order when the review was carried out and this was revoked and made into 5 new Orders (No's 73/00 and 76 to 79/00 inclusive).
- 1.2 Tree Preservation Order No. 73/00 was made on 26<sup>th</sup> January 2001. The TPO plan and first schedule are attached as Appendix 1. The TPO protects 22 individual trees, 11 groups of trees and 2 woodland groups of trees.

#### 2. OBJECTION

- 2.1 Following service of the TPO, a letter objecting to the protection of some of the trees was received from David A. Farrant (the agent for the freehold owners), dated 30<sup>th</sup> April 2001. This is attached as Appendix 2.
- 2.2 The basis of the objection put forward by David A. Farrant is that the "*amenity value of the trees has been overstated and a number of them are in poorer condition than seems to be understood*".
- 2.3 A site visit was arranged to discuss the points raised in the letter of objection, and Mr D Gruber (NFDC) and myself met with Mr Farrant, Mr J Barrell and Mr Farrant's Architect. A number of points were raised at the site visit and it was decided that the best way forward would be for Mr Barrell to carry out a site survey and submit a report listing any objections to the TPO. See Appendix 3.
- 2.4 Following receipt of Mr Barrell's report I attended site again to see if there was any common ground for agreement. I prepared a summary of my site notes and e-mailed them to Mr Barrell see Appendix 4. I agreed with Mr Barrell on a number of points, mostly regarding to tree health, however his client still wished to uphold the objection.

#### 3. THE TREES

- 3.1 I initially surveyed the site on 14<sup>th</sup> November 2000 and at that time all the trees appeared to be in good health with minimal wind damage. None appeared imminently dangerous or in a condition that could not easily be rectified with remedial tree surgery. However, over the winter months some of the trees conditions have changed for the worse (see Appendix 4).
- 3.2 I do consider the trees to be prominent and a recent application to fell certain trees caused a lot of local interest, with many objections to the application being received. The resulting appeal was dismissed with regard to the felling of two large Monterey cypress.

- 3.3 Unfortunately many of the Monterey cypress trees have succumbed to a fungal disease called Coryneum canker. This can ultimately kill the tree which dies off slowly. It is very difficult to put a useful life expectancy on these trees and I have therefore agreed that the diseased trees should be removed from the TPO.
- 3.4 This is a fairly exposed site and many of the trees are beginning to reach a size where they are being affected by the saline winds. This has resulted in some broken branches, browning of foliage and minor die back of branch ends. However, I do not feel this is reason enough to fell them and they could easily be managed by pruning works. G4 has suffered particularly badly from extreme weather conditions and some of the trees within it are now considered dangerous. I have advised the owner's agents and the groundsmen verbally that the dangerous trees are exempt and should be made safe as soon as possible. I also advised the groundsmen that they should reduce the height of the remainder of the group (back to a visible inner crown level, approximately 40% - 50%) in order to limit the amount of future wind related damage.

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

- 4.1 If TPO 73/00 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 73/00 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 Without the protection of a TPO the premature and uncontrolled removal of these trees, and the lack of a requirement 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 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. RECOMMENDATION

8.1 The trees within this TPO have an amenity value and on the whole can be seen by the general public. I consider that any loss would be to the detriment of the landscape. However, due to the spread of a prevalent disease that could ultimately kill the Monterey cypress I recommend that the following trees are removed from the order:

- The Monterey cypress within W2
- T5
- All the Monterey cypress in G5

8.2 For health and safety reasons I also recommend that G4 is removed from the TPO, I have also reassessed G9 and agree with Mr Barrell that the pine tree is unlikely to positively contribute to the group in the future.

8.3 I therefore recommend that TPO73/00 is confirmed with the following amendments:

The description of W2 is changed from

*“Mixed deciduous and Coniferous Species”*

to

*“Mixed deciduous species”*

The description of G5 is changed from

*“15 x Cypress, 1 x Pine”*

To

*“10 x Leyland Cypress, 1 x Pine”*

The description of G9 is changed from

*“2 x Holm Oak, 2 x Pine”*

To

*“2 x Holm Oak, 1 x Pine”*

The following trees are removed from the order:

T5  
G4

**Further Information:**

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**Background Papers:**

Tree Preservation Order No. 76/00