

**OBJECTION TO TREE PRESERVATION ORDER NO. 76/00
LAND ADJACENT TO DURLSTON COURT SCHOOL, TO SOUTH OF
HIGHLANDS ROAD & SPINACRE, BOUNDED TO THE EAST OF
BECTON LANE, NEW MILTON IN HAMPSHIRE**

TREE OFFICERS REPORT

1. TREE PRESERVATION ORDER HISTORY

- 1.1 Tree Preservation Order (TPO) No. 76/00 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 TPO 520 was the existing Order when the review was carried out and this was revoked and made into 5 new Orders (No's 73/00 and 76 to 79/00 inclusive).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. 76/00 was made on 26th January 2001. The TPO plan and first schedule are attached as Appendix 1. The TPO protects a group of 31 Pines, denoted G1, growing on the east boundary of the site adjacent to Becton Lane, A group of 2 Pines, denoted G2, growing near to the south boundary of the site adjacent to Durlston Court Kindergarten and three individual Oaks, denoted T1, T2 and T3, one growing adjacent to G2 and the others growing near the north boundary of the site.

2. OBJECTION

- 2.1 Following service of the TPO, a letter objecting to the protection of some of the trees was received from Barrell Treecare, acting on behalf of Pennyfarthing Construction Ltd, dated 7th February 2001. This is attached as Appendix 2.
- 2.2 The basis of the objection put forward by Barrell Treecare is that there are 5 Pine trees within G1 and 1 Pine tree within G2 that they consider to be structurally unsafe and therefore should not be included within a new TPO. Also that there is a discrepancy with regard to the number of trees within G1, Barrell Treecare considers there to be only 25 trees in the group.
- 2.3 A site visit was arranged to discuss the points raised in the letter of objection, however, due to the outbreak of foot and mouth disease and a ban on vivts to sites like this, it was not possible to meet with Barrell Treecare. Therefore, after waiting to see if the ban would be lifted, I finally had to respond by a letter dated 6th April 2001, answering the points raised by Barrell Treecare. In my considered opinion none of the trees are imminently dangerous and are worthy of protection. Also the land plot survey provided by Barrell Treecare does not show all the trees on site and I maintain that there are 31 trees worthy of protection in G1. I also suggested that adding the word "larger" to the situation in Schedule 1 of the TPO would help to clarify which trees in the group were covered. See Appendix 3.
- 2.4 Barrell Treecare wrote back on 26th April 2001 reiterating their grounds for objection and suggesting that their accurate plan be used to identify which trees are covered. See Appendix 4.

3. THE TREES

- 3.1 I surveyed the site on 14th 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.
- 3.2 G1 is a group of 31 pines forming a very prominent group running along the east boundary of the site adjacent to Becton Lane. It is likely that these trees were planted as part of a screen to shelter what used to be a playing field, when the area was owned by Durlston Court School. There are numerous smaller stunted and suppressed Pines within the group along with some other less significant species, such as small elders and hawthorns, and these have not been included within the Group of 31 Pines counted.
- 3.3 G2 is a group of two Pines that form a single crown. Individually one of the trees is dominant and the other has become misshapen due to the proximity they are growing together. However as a group they do form a prominent feature and are considered worthy of protection.
- 3.4 The other individual trees are all young Oaks with the potential to become very prominent landscape features in the future.

4. FINANCIAL IMPLICATIONS

- 4.1 If TPO 76/00 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 76/00 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 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. 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 In order to clarify which trees are protected it is therefore recommended that TPO 76/00 be confirmed with an amendment to Schedule 1 of the TPO under G1. The amendment should be as follows:

“Linear group along the east boundary with Becton Lane”

is changed to

“Larger trees within linear group along east boundary with Becton Lane”

Further Information:

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Background Papers:

Tree Preservation Order No. 76/00