

OBJECTION TO TREE PRESERVATION ORDER NO. 28/02 LAND OF 25 ASHLEIGH CLOSE, HYTHE

TREE OFFICERS REPORT

1. TREE PRESERVATION ORDER HISTORY

1.1 Tree Preservation Order (TPO) No. 28/02 was made on 27 March 2002. The TPO plan and first schedule are attached as Appendix 1. The Order protects three individual trees identified as T1 Oak, T2 Silver Birch and T3 Norway Maple.

1.2 This TPO was made following planning proposals for development of the site.

2. OBJECTION

2.1 Following service of the TPO, a letter of objection was received on 3 April 2002 from Mrs Ryan at 25 Ashleigh Close. A response by the arboriculturist was sent on 16 April 2002, and Mrs Ryan responded on 21 April 2002 stating she wished to maintain her objection to the TPO. The correspondence is attached at Appendix 2.

3. THE TREES

3.1 T1 is an Oak tree growing directly adjacent to the access off Fleuret Close to 25 Ashleigh Close. T2, a Silver Birch grows in the northern corner of the corner of the garden of 25 Ashleigh Close adjacent to Fawley Road. T3, a red leaf Norway Maple also grows on the north-east boundary of the garden at 25 Ashleigh Close, adjacent to Fawley Road. All three trees provide a positive contribution to the area. It is the Secretary of State'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 The three trees grow close to the property boundary and immediately adjacent to Fleuret Close and Fawley Road. They are readily visible from both these public roads and their removal will have a detrimental impact on the appearance of the local environment.

3.3 With sound arboricultural management of all three trees it is considered that they would have a safe useful life expectancy well in excess of twenty years.

4. FINANCIAL IMPLICATIONS

4.1 If TPO 28/02 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 28/02 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 of the tree 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. OTHER 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 it 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 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 28/02 be confirmed without amendment to include one Oak T1, one Silver Birch T2 and one Norway Maple T3 for the amenity value they provide to the area.

Further Information:

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Background Papers:

Tree Preservation Order No. 28/02