

**OBJECTION TO TREE PRESERVATION ORDER NO. 48/02
LAND OF HAYTERS GARAGE, BROOKLEY ROAD, BROCKENHURST.**

1. TREE PRESERVATION ORDER HISTORY

1.1 Tree Preservation Order (TPO) No. 48/02 was made on 16 May 2002. The
TPO plan and first schedule are attached as Appendix 1. The Order
protects three ash trees identified as G1 within schedule one of the order and
described as 'growing in a linear group east of 44-48 Brookley Road and to the
west of the masonic hall.'

1.2 This TPO was made following a planning application to redevelop the site, which
involved the removal of the three ash trees.

2. OBJECTION

2.1 Following service of the TPO, a letter of objection was received on 6 June 2002
from Barrell Treecare on behalf of Williams Lester Architects. This is attached
as Appendix 2. The objection relates to the tree at the most northern end of the
group. The basis of the objection was that the tree was not visible from outside
the site.

2.2 A meeting on site was arranged between Williams Lester Architects, Mr
Cashman (Tree Officer) and Mr and Mrs Hayter (the site owners) on 2 July 2002
to inspect and discuss the condition and quality of the trees. The objection was
not resolved and Williams Lester confirmed their client's objection to the order.

2.3 Following this site meeting the Council's Tree Officer wrote in response to this
letter on 22 July 2002 to address the issues raised in the Barrell report.
This is attached as appendix 3. Williams Lester Architects have nonetheless
maintained their objection.

3. THE TREES

3.1 G3 comprises three mature Ash. It is the opinion of the Council's tree officer that
the trees provide a positive contribution to the appearance of the area.

3.3 With sound arboricultural management it is considered that the trees have a safe
life expectancy in excess of 20 years.

4. FINANCIAL IMPLICATIONS

4.1 If TPO 48/02 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 48/02 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 trees and the lack of controls to plant suitable replacements with similar large growing species would 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. RECOMMENDATION

8.1 It is therefore recommended that TPO 48/02 be confirmed, without amendment, to include the group of three ash trees shown as group G1, on the grounds of the amenity value they provide to the area.

Further Information:

David Cashman
Arboriculturist

Telephone: 02380 285329
e-mail: dave.cashman@nfdc.gov.uk.

Background Papers:

Tree Preservation Order No. 48/02 (attached)

DATED 16 May 2002

DISTRICT COUNCIL OF NEW FOREST

Town and Country Planning Act 1990

TREE PRESERVATION ORDER NO.48/02

**LAND OF HAYTERS GARAGE, BROOKLEY ROAD, BROCKENHURST
IN HAMPSHIRE**

Head of Legal and Democratic Services
New Forest District Council
Appletree Court
Lyndhurst
Hampshire
S043 7PA

SPECIFICATION OF TREES

Trees specified individually

(encircled in black on the map)

No. on Map	Description	Situation
		NONE.

Trees specified by reference to an area:

(within a dotted black line on the map)

No. on Map	Description	Situation
		NONE.

Groups of Trees

(within a broken black line on the map)

No. on Map	Description	Situation
G1	consists of 3 x ash.	Growing in a linear group east of 44-48 Brookley Road and to the west of the masonic hall.

Woodlands

(within a continuous black line on the map)

No. on Map	Description	Situation
		NONE.



Tree Preservation Order Plan

Town and Country Planning Act 1990

T.P.O Number: **48/02**
 Approximate Scale: **1:1250**
 Date Printed: **15/05/02**

Elizabeth Malcolm B.A., M.R.T.P.I.
 Director of Environment Services
 Environment Services Directorate
 Appletree Court
 Lyndhurst
 SO43 7PA

Key

- Individual Trees Covered by TPO
- Area of Trees Covered by TPO
- Groups of Trees Covered by TPO
- Woodland of Trees Covered by TPO
- Trees Noted but not Worthy of Preservation





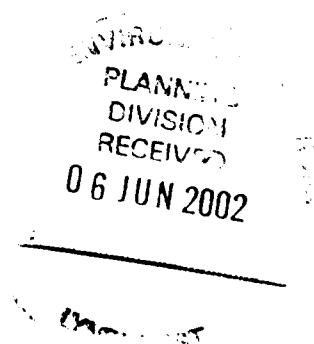
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BARRELL
T R E E C A R E

Director of Environment Services
New Forest District Council
Planning Services
Appletree Court
LYNDHURST
Hants SO43 7PA



Your Ref: DWC/MAC/TPO 48/02
Our Ref: RP204

05 June 2002

Dear Sir

RE: NEW FOREST DISTRICT COUNCIL TREE PRESERVATION ORDER (TPO) NO 48/02 – HAYTERS GARAGE, BROCKENHURST

I am instructed by Williams Lester Architects to inspect the trees included in the above TPO located at Hayters Garage, Brookley Road, Brockenhurst, Hants, and make any appropriate representations on their behalf. I have inspected the trees from ground level and I have seen a copy of the TPO. I identified the three trees in group 1 by a number with tree 1 being furthest Brookley Road, tree 2 in the middle and tree 3 nearest to Brookley Road.

This letter is a brief summary for the purposes of identifying appropriate representations and should not be considered a full and detailed report on each individual tree. It is based on my site observations and the provided information, and my conclusions are drawn in the light of my experience. I am experienced and qualified in arboriculture, biology and forestry as detailed in Appendix 1. All my observations were from ground level without detailed investigations and I estimated all dimensions unless otherwise indicated. The weather at the time of inspection was clear, still and dry, with was good visibility. I took photographs during my visit to illustrate particular points.

I have based my appraisal below on the guidance provided by the DETR publication *Tree Preservation Orders: A Guide to the Law and Good Practice* published in March 2000. I have interpreted this reference in the light of my experience with the DoE specifically dealing with trees the subject of TPOs in this type of situation. In this context, my observations, comments and conclusions regarding the suitability of each tree for inclusion in the TPO are summarised in the table below:-

Tree No	Species	Observations and comments	Suitability for inclusion in the TPO
1	Ash	This tree is severely unbalanced due to shading from the adjacent trees (see photo 1). It has a low branch that extends into the adjacent parking area that has already been pruned but continues to interfere with the normal use. It has no potential to improve and can only be retained with severe pruning. It is not prominent from outside the site and does not have the potential to significantly increase in size.	Not suitable

Tree No	Species	Observations and comments	Suitability for inclusion in the TPO
2	Ash	This tree has a double stem from ground level with an obvious included bark defect. Whilst it is not imminently dangerous, it does require substantial remedial works to establish acceptable levels of safety and is not suitable for retention into the long term. It is visible from outside the site and does make a significant contribution to local amenity.	Barely suitable
3	Ash	This is a well formed tree but is showing signs of reduced vigour as a result of the confinement of the root system. It is visible from outside the site and does make a significant contribution to local amenity.	Barely suitable



Photo1: Tree 1 is severely unbalanced and encroaching into the adjacent parking area (yellow arrow)

In general terms, I believe it to be relevant that the trees are potentially very large forest trees that are located in an area of restricted space, both for rooting and for further branch growth. They are

already taking more space than is available and creating a conflict with the adjacent land use. Low branches are extending into parking areas and too close to buildings; roots are beginning to lift the adjacent tarmac. They are not ideally suited to their surroundings and conflicts will continually arise in the future with their forced retention. There is plenty of space in the surrounding areas for replacement planting and this would be a more sensible long-term strategy than trying to keep them in this inappropriate location.

More specifically, I believe that a TPO application to fell tree 1 on grounds of normal management to restore acceptable levels of safety would be successful because it is so unbalanced with no hope of improvement. It is the smallest of all the trees and not important to local amenity. Its unbalanced structure means that it does not have the potential to significantly increase in size and contribute to future amenity. Furthermore, from my experience as a DOE Inspector, I believe that if the local authority refused such an application, it is unlikely that this stance would be supported at appeal. Including this tree in the TPO would place an unnecessary administrative burden on the tree owner, the local authority and the DTLR. On this basis, I believe that it is not appropriate to include it in the TPO. Turning to trees 2 and 3, I believe they are not ideally suited for inclusion in a TPO but I accept that they can be retained for the short term at least. Tree 2 has a significant structural defect at ground level and although it is not imminently dangerous, it will require significant remedial works to allow it to be retained. They just qualify as suitable for inclusion because both contribute to local amenity. However, I stress that they do not have a realistic long term future and it would be appropriate to remove them if and when new replacements are secured in the vicinity.

In view of these points, I formally request that you amend the TPO by changing the designation of Group 1 from a group to cover the two trees 2 and 3 individually and exclude tree 1.

Please call me if you need any further clarification on any of these points.

Yours faithfully



Jeremy Barrell BSc FICFor CBiol MIBiol FArborA DipArb
Practice Consultant with Barrell Treecare

Enc

COPY: Williams Lester Architects
Hayters Garage

Appendix 1

Brief qualifications and experience of

Jeremy Barrell BSc FICFor CBiol MIBiol FArborA DipArb

- 1 **Formal qualifications:** I hold the Degree of Bachelor of Science with Honours in Environmental Forestry. I am a Fellow of the Institute of Chartered Foresters and a Registered Consultant of that Institute. I am a Fellow, Registered Consultant and Approved Contractor of the Arboricultural Association. I am a Chartered Biologist and a Registered Consultant of that Institute. I also hold the Royal Forestry Society's Professional Diploma in Arboriculture, which is the premier qualification within the Arboricultural Profession. I am a Law Society 'Checked' expert witness and a founding member of the Institute of Expert Witnesses. At this year's AA Conference, I received the 2001 AA Award in recognition of my outstanding contribution to the development of the Arboricultural Profession.
- 2 **Practical experience:** I was brought up in the New Forest and have been closely associated with trees all my life. In 1978, I joined the Forestry Commission as a Field Surveyor and in 1980, I began my tree contracting business. Since then, I have been providing a comprehensive tree consultancy and contracting service dealing with all aspects of tree and woodland management. This involved working for 15 years on a daily basis felling and pruning trees along with my employees. In 1993, I obtained the NPTC FTC Units 20, 21 and 22 for using a chainsaw on the ground and in a tree. In 1995, I sold my contracting business and concentrated solely on consultancy, forming my present Practice, Barrell Treecare, with one other Partner. Additionally, since 1990, I have been growing Christmas trees on a commercial scale, which has kept me in touch with the practicalities of managing trees.
- 3 **Professional experience:** I have been dealing with the assessment of tree hazard and managing trees close to occupied areas throughout my career. Between 1993 and 1996, I was one of eight DoE tree preservation order appeal inspectors subcontracted to carry out site inspections and report to the Secretary of State. This involved impartially assessing a whole range of tree safety issues. During my career, I have been involved in many legal cases as an expert witness, from Magistrates Courts to the High Court. More recently, I have been instructed as a single joint expert in these types of situations. My lifelong association with trees and their management makes me well placed to comment on all the technical issues that arise in this case.
- 4 **CPD summary:** Most of my time is now spent as an arboricultural consultant. I regularly lecture all over the world and have written numerous international papers on tree care. I am internationally recognised as a leading authority on managing trees on development sites and authored the SULE method of assessing trees, which is used throughout the world. Additionally, in conjunction with the AA, I conceived, wrote and presented the first ever course on report writing for arboriculturists and foresters. I am an occasional examiner for the RFS Professional Diploma.

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RP204
BRW/TPO48/02

22 July 2002

5330

Dear Mr Barrell

**TOWN AND COUNTRY PLANNING ACT 1990
TREE PRESERVATION ORDER 48/02
LAND OF HAYTERS GARAGE, BROCKENHURST**

Thank you for your letter of 5th June 2002 and I apologise for the long delay in responding. However, I have now had the opportunity to consider this matter and would offer the following comments in relation to your appraisal of three Ash trees comprising G1 of Tree Preservation Order (TPO) 48/02 which was made on 16th May 2002. The situation of these trees is described in the first schedule of the TPO as growing in a linear group east of 44-48 Brookley Road and west of the Masonic Hall.

From your letter of 5th June, I understand that you have been instructed by Messrs Williams Lester Architects to inspect the trees and make any appropriate representations on their behalf.

The TPO was made following a planning application to develop this site and which required the removal of these three trees. The TPO includes all three trees as a Group rather than as three individuals because they grow so close together making a significant amenity feature. As such it was not felt appropriate to define them in the TPO as individual trees.

Turning to your report and the tree you have listed as number 1. You describe this tree as 'severely unbalanced due to shading from the adjacent trees'. I believe that the form of this tree is a natural consequence of growing in close proximity to other trees. The low branch extending over the parking area could be removed or shortened to obviate any nuisance it may currently be posing. I do not consider that the tree requires severe pruning to retain it.

You also state that this tree does not have potential to significantly increase in size, although you later state that the trees are potentially very large. I share your assessment that, because of the surrounding hard surfacing, there must be a loss of optimal rooting environment which in turn will inhibit branch growth. I consider this to be an asset in this situation, since it lessens the need for routine pruning to contain the size of the tree. This same cause of growth restriction will have a similar consequences for the management of all three of the ash trees. Under these circumstances, I do not believe these trees are potentially very large.

Since the tree numbered 1 in your report is readily visible to the public, I consider that as part of the group of three trees, it does make an important contribution to the amenity value of the local environment. For these reasons I consider that this tree is appropriate for retention as part of the group within the TPO.

Turning to the ash tree numbered 2 in your report. You state the tree is not imminently dangerous but that 'it does require substantial remedial works to establish acceptable levels of safety'. Since I concur with your assessment that the tree is not imminently dangerous, I do not accept that it requires substantial pruning to render it safe. Of course, some pruning will be acceptable from time to time, without being detrimental to its health or appearance. I agree with your assessment that the tree is readily visible from outside the site and so makes a significant contribution to the public amenity of the area. As part of a group of three trees, I therefore consider this tree suitable for inclusion within the TPO.

You state that Tree number 3 is showing signs of reduced vigour as a result of the confinement of the root system. Whilst the vigour of the tree may vary from year to year, I maintain that this tree together with the other two, helps to contribute a positive amenity to the local environment and is therefore suitable for inclusion as part of the group TPO. I consider this tree is appropriate as part of the group of three and that its loss would be detrimental to the appearance of the local environment and as such, I believe that it can safely be retained to provide a positive amenity feature.

You infer that a DoE Inspector would uphold an appeal, should the Council refuse consent to fell one of the trees. My experience of the appeal system is that Inspectors approach each appeal site with an open mind, and reach their decision based upon the unique circumstances pertaining to that site.

In conclusion, I do not feel that an individual assessment of these three trees amenity value is appropriate, and therefore do not support the suggestion that one of them should be omitted and the remaining two included as individuals in a tree preservation order,

Bearing these comments in mind, I should be grateful if you let me know if you wish to submit a formal written objection to this Tree Preservation Order in which case the matter will be put to the Councils' Appeal Panel for a decision.

Once again, I apologise for the delay in responding to your letter of 5th June 2002, but I should be grateful if you could give me an indication of your clients intentions by 9 August. At this point a telephone call to my office will suffice.

Yours sincerely

Bryan Wilson
TREE TEAM LEADER