

**TREE PRESERVATION ORDER NO. 122/02
LAND ENCLOSED BY CHAPEL LANE, SANDY LANE, AND SHRUBBS
HILL ROAD, LYNDHURST**

REPORT OF COUNCIL'S TREE OFFICER

1. TREE PRESERVATION ORDER HISTORY

- 1.1 Tree Preservation Order (TPO) No.122/02 was made on 4th April 2003.
The TPO plan and first schedule are attached as Appendix 1. The Order protects 15 individual trees and 14 groups of trees.
- 1.2 TPO 122/02 was served to replace Area TPO 320 which was made in 1962 and revoked when the new Order was served. This formed part of a District-wide review of 'Area' TPOs which are 'blanket' Orders protecting all trees within a given area marked on a plan. Government guidance is that such 'Area' Orders should be reviewed with a view to revoking them and, where appropriate, replacing them with Orders that protect individual trees, groups of trees or woodlands.
- 1.3 An objection to the inclusion of a Holm Oak (T6 of the new Order) was submitted on 8th April 2003, by its owner, Mr E. J. Prout of 19 Cedar Mount, Lyndhurst.
- 1.4 Following this appeal being arranged, 3 further letters of objection have been received. These are from Mr and Mrs Hughes of Springwood, Chapel Lane, Lyndhurst who object to the inclusion of two English Oak (G3 of the Order), Mrs Heasman of 8 Cedar Mount Lyndhurst, who objects to two Scots Pines (T14 and T15 of the Order) and Mr Jackman of 7 Oak Close, Lyndhurst who objects to the protection of a sycamore tree in his garden.

2. THE TREES

2.1 The Holm Oak (T6)

- 2.1.1 The tree to which Mr Prout objects is a Holm Oak (*Quercus ilex*). It stands in the south east part of the rear garden of 19 Cedar Mount, adjacent to the boundary with No. 18. The rear garden is south facing and measures approximately 13m long by 7m wide.
- 2.1.2 Following recent pruning to reduce its height, with the Consent of the Council, the tree is approximately 15m tall. It has a stem diameter at 1.5m of approximately 800mm and the average crown spread is estimated to be approximately 4m. The tree leans slightly toward 18 Cedar Mount.
- 2.1.3 The tree appears to be in a sound and healthy condition, with no significant visible defects.

2.1.4 The tree can be seen from surrounding houses and public roads. It is visible from Cedar Mount and is a particularly important amenity feature when viewed from Chapel Lane.

2.2 The Two English Oak (G3)

2.2.1 Mr and Mrs Hughes object to the principle of the protection of 2 oak trees which are in their front garden. The garden is south west facing and measures approximately 36m long by 18m wide.

2.2.2 These trees English Oaks (*Quercus robur*). They are relatively young specimens with approximate heights of 12m and stem diameters of approximately 350mm. They are situated adjacent to the Chapel Lane frontage and are growing to form a single canopy. The crowns appear to have been cut back on the garden side. These trees also appear to be in a sound and healthy condition, with no significant visible defects.

2.2.3 The trees on Mr and Mrs Hughes' property are an important amenity feature when viewed from Chapel Lane.

2.3 The Scots Pines (T14 and T15)

2.3.1 Mrs Heasman of 8 Cedar Mount objects to the inclusion of 2 pine trees, one of which is in her rear garden, and the other at the rear of a neighbour's property, in No. 9.

2.3.2 These trees are Scots Pines (*Pinus sylvestris*) and are approximately 16m tall with stem diameters of approximately 350mm. The rear gardens are east facing and measure approximately 10m x 10m. These trees also appear to be in a sound and healthy condition with no significant visible defects.

2.3.3 These trees can be seen from surrounding properties and public roads. They are visible over the roof tops from Cedar Mount and are an important amenity feature when viewed from Shrubbs Hill Road.

2.4 The Sycamore (part of Group G8)

2.3.1 Mr Jackman of 7 Oak Close objects to the inclusion of a sycamore tree in his garden. Together with 2 Holly trees, this Sycamore forms Group B8 of the Order.

2.3.2 The sycamore tree is approximately 14 m tall, while the hollies, to which Mr Jack man does not object, are still relatively small.

2.3.3 The tree appears to be in a sound and healthy condition with no significant visible defects The trees can be clearly seen from Chapel Lane. Its loss would create a large gap in the tree screen along the side of the road.

3. THE OBJECTIONS

Copies of correspondence are included as Appendix 2

3.1 The Holm Oak (T6)

3.1.1 The grounds for the objection to the inclusion of Holm Oak T6 in TPO 122/02 are given by Mr Prout as:

- Maintaining the tree is costly. The most recent pruning works carried out in April 2003 cost £350.00
- The tree discharges brown catkins which stain everything throughout the year.
- Leaves and dead branches create further mess.
- Arisings from the tree blocks the gutters of about 4 properties.
- The tree was growing before the development of the properties. Development has rendered the tree unsuited to its location.

3.1.2 Mr Prout also notes that previous applications to fell or pollard the tree (remove all branches) were supported by his neighbour Mr J. W. Evans of 18 Cedar Mount.

3.1.3 Mr Prout also requests that consideration again be given to granting consent to pollard the tree in the event that the Order is confirmed without modification.

3.2 The Two English Oaks (G3)

3.2.1 Mr and Mrs Hughes object to the principle of a tree preservation order restricting their right to decide the future of the trees on their land.

3.2.3 Mr and Mrs Hughes have particularly mentioned the potential of the trees to deprive their garden of light.

3.3 The Two Scots Pines (T14 & T15)

3.3.1 Mrs Heasman objects to the pine trees dropping needles into her garden and also taking nutrients from the soil. She also states that she is concerned about the possibility that the trees may fall onto her house.

3.4 The Sycamore Tree (part group G8)

3.4.1 Mr Jackman objects to the principle of protecting a sycamore tree.

4. OBSERVATIONS ON THE GROUNDS OF OBJECTION

4.1 In considering whether or not to confirm a tree preservation order, Members must be satisfied that the trees that would be protected have sufficient amenity value to warrant the imposition of controls on their future. If they are satisfied that they do have sufficient amenity value, they must also decide if it is expedient to confirm the order. The process therefore allows members to consider the principles involved. Further information on the balance that members must

reach on this issue is set out in section 9. A TPO does not prevent the owners from managing the tree, provided consent is sought for any proposed works.

- 4.2. The grounds for objection to the Holm Oak relate to the nuisance caused by acorns, leaves, catkins and dead wood falling from the tree, its current and potential size making it an unsuitable tree for this location, and to the periodic cost of alleviating this nuisance. It is the Council Tree Officer's opinion that the tree provides a very important amenity feature which contributes to the character of the built-up area of Lyndhurst. When seen over the rooftops from the Cedar Mount Estate it contributes to the impression that the area is surrounded by trees. When seen from Chapel Lane it forms part of an important screen of trees, softening the approach to the town from the countryside.
- 4.3. Falling acorns, catkins, leaves and dead wood may be seen as an inconvenience and the tannins from the catkins can stain laundry and paving stones. Furthermore the tree is on the south side of the property and garden and causes shading. However, these problems can all be alleviated by periodic pruning and the installation of mesh guards to reduce debris accumulation in gutters.
- 4.4. The tree was growing before development of the estate. It was included within Area A4 of TPO 320 (1969) and will have been a significant size when Mr Prout occupied the premises 29 years ago. Although the tree will have grown during this time, the recent pruning has reduced the tree to a similar height to that measured in 1990 when an application to fell the tree was refused. A subsequent Appeal was dismissed by the Departments of the Environment and Transport. Future periodic applications for consent for reasonable pruning works would be given sympathetic consideration. However, it is the Council Tree Officer's view that pollarding, as requested by Mr Prout in applications made in 1996 and 1998, would create large wounds, truncate the tree and leave little or no amenity value. This opinion was supported by the Secretary of State for the Environment, Transport and Regions when dismissing a second appeal, this time against a refusal of Consent to pollard the tree in 1999. Mr Prout has asked that if the current objection is unsuccessful, further consideration be given to granting consent to pollard the tree. It is the Council Tree Officer's view that such work should be resisted.
- 4.5. Mr and Mrs Hughes object to the principal of a tree preservation order restricting their right to decide the future of the trees on their land, in particular the right to carry out pruning works to reduce the trees' potential to shade their garden. These trees were not included in TPO 320 and were presumably too young when surveyed at that time. However, throughout the current district-wide review of preservation orders the Council has taken the view that it is expedient at this time to serve new orders to protect any trees within any particular review survey area that have since developed to provide significant public benefit.
- 4.6. Mrs Heasman's objection, like that of Mr Prout, relates to the alleged nuisance caused by the trees through shedding needles and pine cones and taking nutrients from the soil. The quantities of falling needles and cones will be relatively light when compared to other species and, in the opinion of the Council's Tree Officer, this is not sufficient justification for their omission from the Order.
- 4.7. Mrs Heasman also refers to the threat posed by these trees in the event that they were to fall. These trees were included in TPO 320 and were growing when the site was developed. They are exhibiting no signs of any defects that may render them unstable and they therefore pose no greater threat than other pine trees in similar proximity to buildings.

- 4.8 Mr Jackman considers that a sycamore tree does not warrant protection. Again, Members must regard only the amenity value of the tree. Sycamores are not excluded from protection by the legislation.

5. PREVIOUS APPLICATIONS ON TREE T6

- 5.1 Mr Prout submitted an application to fell the tree in 1989. Consent was refused and a subsequent Appeal dismissed by the Secretary of State for the environment in 1990.
- 5.2 Consent to prune the tree (thinning crown by 15%) was granted in 1994.
- 5.3 Consent to pollard the tree was refused in 1996.
- 5.4 Consent to pollard the tree was again refused in 1999. A subsequent Appeal was dismissed by the Secretary of State for the Environment Transport and Regions.
- 5.5 Consent to prune the tree (thinning crown by 25%) was granted in 2001.
- 5.6 Consent to prune the tree (reducing and shaping crown by 3m) was granted in 2003.

6. FINANCIAL IMPLICATIONS

- 6.1 If TPO 122/02 is confirmed, there will be the cost of administering the service of the confirmed TPO and any subsequent tree work applications.
- 6.2 If TPO 122/02 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.

7. ENVIRONMENTAL IMPLICATIONS

- 7.1 Uncontrolled cutting or the premature removal of these trees at this time and the lack of controls to plant suitable replacements would be detrimental to the appearance of the area.

8. CRIME AND DISORDER IMPLICATIONS

- 8.1 There are no crime and disorder implications arising from this report.

9. OTHER IMPLICATIONS

- 9.1 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.

- 9.2 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).

10. RECOMMENDATION

- 10.1 It is therefore recommended that TPO 122/02 is confirmed without amendment.

Further Information:

John Hearne, Arboriculturist
Telephone: 02380 285205
e-mail: john.hearne@nfdc.gov.uk

Background Papers:

Tree Preservation Order No. 122/02

SPECIFICATION OF TREES

Trees specified individually

(encircled in black on the map)

No. on Map	Description	Situation
T 1	Sycamore	Front garden of Stoneleigh, Chapel Lane
T 2	Oak	Oak Close, adjacent to boundary with Chapel Lane
T 3	Cypress	Rear garden of 6 Oak Close
T 4	Scots Pine	Garden of 5 Fir Close adjacent to boundary with Chapel Lane
T 5	Yew	Garden of 20 Cedar Mount adjacent to boundary with Chapel Lane
T 6	Holm Oak	Garden of 19 Cedar Mount adjacent to boundary with Chapel Lane
T 7	Oak	Garden of 17 Cedar Mount adjacent to boundary with Foxlease Cottage
T 8	Norway Maple	Front garden of 12 Cedar Mount
T 9	Norway Maple	Garden of 11 Cedar Mount adjacent to boundary with parking area
T10	Birch	Garden of 11 Cedar Mount adjacent to rear boundary
T11	Cypress	Garden of 11 Cedar Mount adjacent to rear boundary
T12	Oak	Garden of 11 Cedar Mount near southern boundary
T13	Birch	Garden of 11 Cedar Mount near southern boundary
T14	Scots Pine	Rear garden of 9 Cedar Mount
T15	Scots Pine	Rear garden of 8 Cedar Mount

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
G 1	8 x Douglas Fir	Garden of Drenewydd, Sandy Lane, adjacent to front boundary
G 2	2 x Douglas Fir	Garden of Hamilton, Chapel Lane, adjacent to boundary with Sandy Lane
G 3	2 x Oak	Front garden of Springwood, Chapel Lane
G 4	1 x Oak, 1 x Beech	Front garden of Orchard Gate, Chapel Lane

2 x Cedar
2 x r
G 6
G 7

	2 x Douglas Fir, 1 x Blue Cedar	Front garden of Orchard Gate, Chapel Lane
G 6	2 x Cypress	Front garden of Timbers, Chapel Lane
G 7	The larger 3 x Sycamore, 1 x Holly	Front garden of Timbers, Chapel Lane
G 8	1 x Sycamore, 2 x Holly	Garden of 7 Oak Close near southern boundary
G 9	1 x Sycamore, 1 x Yew, 1 x Holly	Gardens of 6 and 7 Oak Close near southern boundary
G10	3 x Holly	Garden of 6 Oak Close near southern boundary
G11	3 x Sycamore, 1 x Holly	Garden of 4 Fir Close and rear of Cedar Mount garages
G12	1 x Oak, 1 x Yew	Garden of 17 Cedar Mount adjacent to southern boundary
G13	2 x Yew, 1 x Oak	Rear gardens of 12 & 14 Cedar Mount
G14	1 x Birch, 1 x Sycamore	Front garden of 1 Fir Close

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: 122/02

Approximate Scale: 1250

Date Printed: 7/1/03

John Ward BSc, MCD, MBA, MRTPI, MIMgt
 Head of Policy, Design & Information
 Community 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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New Forest
 DISTRICT COUNCIL

AN AUTHORISED SIGNATORY

MR J. Hearne
N F D C arboriculturist
TREE TEAM
HILLSTREE COURT
LYNDHURST SO43 7FA

MR E.T. PENT
19 CEDARHURST
LYNDHURST
HAMPSHIRE
SO43 7ED
02380 282088
08/04/2003

TPO NO 122/02

Dear John,

Further to my call to you today, I would like to formally object to the TPO on my tree.

The tree was protected by TPO 320, which has now been revoked.

I have maintained this tree for 29 years (1974 - 2003). The most recent cost being £350.00 paid 02/04/03

The tree discharges brown catkins, which stain everything throughout the year, leaves, and dead branches also create further mess.

The discharge from this tree has, and continues to block the gutters of about 4 properties

The tree was in situ prior to development of the properties.

It is a fine tree in the wrong location.

I have applied on 2 previous occasions for permission to fell this tree supported by my neighbours. The time has come to say

enough is enough.

It is very noble of NFOC to avoid TPO's, but it is not they that have to pay the costs of looking after the tree.

This tree has outgrown its location, and its time for it to go.

Each time the tree grows bigger the mess is greater to the home owner.

I feel that at the very least I should be given permission to pollard this nuisance. This is of course secondary to my request to fell this tree.

In signing off I would like to thank ~~that~~ you for your help with my earlier request to reduce the foliage, which prevents any sunlight in my garden.

Hoping for permission to fell this Horn oak

Yours sincerely

E. J. M. +

John.

Springwood
Chapel Lane
Lyndhurst
Hants SO43 7FG

Tel: 02380 282451

August 15th.2003

Dear Mr Hearne

Re: Tree Preservation Order No 122/02 – G3

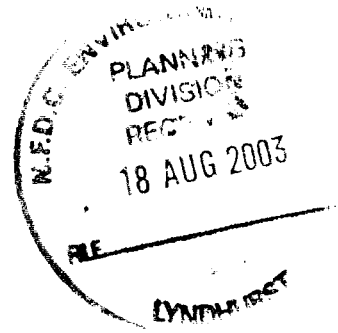
With reference our letter dated, 26th. April 2003, and you subsequent reply dated 30th. April 2003, we are writing to confirm our objection to the above proposed Tree Preservation Order being placed on the two oak trees on our site. We feel strongly that we should retain the right and responsibility to decide the future of these trees in the event of them of outgrowing their situation and depriving our garden of natural light.

We would be grateful if you could forward a copy of this letter to the relevant department in preparation for the appeal meeting on Monday 8 September 2003.

Yours sincerely



Mr & Mrs V Hughes



Mr and Mrs V O Hughes
Springwood
Chapel Lane
Lyndhurst
Hants
SO43 7FG

My ref: JH/TPO 123/02
Your ref:
30 April 2003

Dear Mr and Mrs Hughes

TREE PRESERVATION ORDER 122/02 – TREES AT SPRINGWOOD, CHAPEL LANE

Thank you for your letter dated 26th April.

The Tree Preservation Order will not prevent reasonable works to the tree and the District Council will give sympathetic consideration to applications for works to alleviate problems you may be experiencing although works that are overly harmful to the health or appearance of the trees are likely to be resisted. I enclose an application form that you would need to submit if you wish to prune the trees as well as some additional information that you may find useful.

If you have any queries or would like to discuss this matter further please do not hesitate to contact me on the number given below.

Yours sincerely



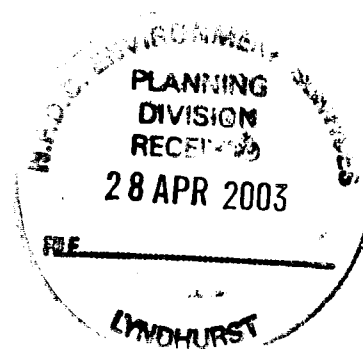
John Hearne
Arboricultural Officer

Tel: (023) 8028 5330
Fax: (023) 8028 5223
Email: pdi@nfdc.gov.uk

Springwood
Chapel Lane
Lyndhurst
Hants SO43 7FG

Tel: 02380 282451

April 26 2003



Dear Mr Hearne

Re: Tree Preservation Order No 122/02

We are writing with reference to the above T.P.O., in particular to 'G3' incorporating two oak trees on our property, which are included in your T.P.O. review.

As you are aware the trees are on the south/west boundary and in time threaten to deprive the garden of natural light. As keen gardeners, we are concerned that should the trees be allowed to grow unrestrained the garden will be deprived of sufficient light to sustain its character. We already have our neighbour's beech tree (G4) canopy spreading well into our garden, and therefore request that, subject to professional and judicial pruning, we be permitted to maintain the trees at their present height.

There is also the question of public safety. The branches on one oak are heavily weighted on the drive and public highway. These may become unstable and require attention. Again we request permission to seek professional advice and take appropriate action.

We would be grateful if you would consider the above points and would be happy to meet you on site to discuss them.

Yours sincerely

Mr & Mrs V O Hughes

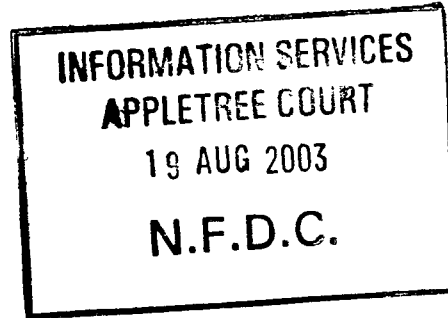
V.O. Hughes
V.O. Hughes

8. Cedarhurst.
Lyndhurst.
Hants.

SC43 7ED.

13-8-'03.

Mrs San Diebnam.
Appletree Court.
Lyndhurst.
Hants. SC43 7PA.



Dear Mrs Diebnam.

Appeal Against The Making of Tree Preservation Order 1240
hand enclosed by Chapel Lane, Sandy Lane and Shrubbs Hill Rd

Thankyou for your letter dated 31st July 2003. I am sorry but I shall be unable to attend the meeting on September 8th 2003, but would like to put a few personal points to the objection of the preservation order on the pine tree in my garden.

My garden is not very big, and to keep it reasonably neat and tidy with a huge pine tree in it is the hardest job I have ever done. For the whole year it drops cones and needles all over the garden. These have to be raked up every time prior to mowing the grass, otherwise if this important job is left out, the ground would soon resemble that in the forest; i.e., practically sterile, with only ferns and blackberries growing in it. It takes every bit of goodness out of the soil which not only makes it difficult to get growth

and colour into the garden, but makes it very expensive to keep going. On top of this, there is a worry that when it gets windy and turns to gale force, the tree will fall onto my house. There is also just such a tree close to my fence in my neighbour's garden which gives me this worry too.

These sort of trees are forest trees not garden trees, especially not for small gardens, and I'm sure would be better situated to their natural surroundings. I would be more than happy to hear that the preservation order on these trees be rescinded.

Yours sincerely

Olivia Heasman.

Jan Debnam

From: derekjackman [derekjackman@supanet.com]
Sent: 21 August 2003 16:13
To: Jan Debnam
Subject: Tree preservation order 122/02

Jan Debnam

Regarding your letter ref No JMD/ASF/tpo/122/02 on the 31st July 2003.

My wife and I wish to attend the site and Committee room 3 meeting on Friday 5th September regarding the Tree preservation Order.

I wish to bring to the attention of the Panel that a preservation Order G6 has been placed on a Sycamore tree in my garden (7Oak Close).

I was not aware that a sycamore tree warranted a preservation order.

Derek Jackman.

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