

OBJECTION TO TREE PRESERVATION ORDER NO. 58/03 LAND OF 22 ST ANNES GARDENS, LYMINGTON

REPORT OF COUNCIL TREE OFFICER

1. TREE PRESERVATION ORDER HISTORY

- 1.1 Tree Preservation Order (TPO) No. 58/03 was made on 3 June 2003.
The TPO plan and first schedule are attached as Appendix 1. The Order protects two Lime trees (*Tilia* sp.) growing on the eastern side of 22 St Annes Gardens, Lymington, on the Southern Road frontage.
- 1.2 This TPO was made following an informal application to build a dwelling on the end of terrace joining 22 St Annes Gardens. The Council's Tree Officer considered that the two Lime trees provided a special amenity and were worthy of inclusion in a TPO.
- 1.3 In a letter dated 6th June 2003, Mrs C M Evans of 22 St. Anne's Gardens objected to the inclusion in the Order of one of the Lime trees (T2).

2. THE TREES

- 2.1 The trees in question are Lime trees (*Tilia* sp.). They stand on the eastern boundary of 22 St Anne's Gardens, Lymington, on the Southern Road frontage.
- 2.2 The trees are estimated to have heights of approximately 10m and stem diameters of approximately 450mm. They have previously been maintained by a regime of periodic pollarding. With periodic pruning, the trees could safely be retained as an amenity feature for several decades.

3. OBJECTION

- # Copies of correspondence are included as Appendix 2
- 3.1 Mrs Evans has objected to the Order on the grounds that:

It will prejudice the proposed application for development

Only Lime tree T2 might be affected by the proposed development. As this is the end tree in a row of 5 Lime trees, and as there are a large number of trees opposite, the loss of this tree would not be detrimental to the character or appearance of the area.

- 3.2 The Council's Tree Officer wrote to Mrs Evans on 27th June to try and resolve the objection. It was explained that the impact of development upon the tree would be a material consideration in determining an application for development and that any such consent requiring removal of the tree would override the TPO. It was suggested that the possible removal of the tree might therefore be better considered by the Council's Development Control Section, should an application for development be submitted. Mrs Evans nevertheless decided to maintain her objection.

4. OBSERVATIONS ON THE GROUNDS FOR OBJECTION.

- 4.1 The District Council's Tree Officer has advised that in his opinion the informal proposals for development at this site would be likely to cause unacceptable root damage to the Lime tree (T2) and that he would recommend refusal of development, on tree grounds. However, this is not relevant to consideration of the objection to this Order since any consent for development would override the TPO. The only issue for members to consider is the amenity value of the tree.
- 4.2 Both Lime trees are prominent when viewed from St Anne's Gardens and Southern Road. Whilst the presence of surrounding trees may to some degree mitigate the loss of Lime tree T2, it nevertheless makes a significant contribution to the visual amenity of the area and, as such, merits inclusion in the Order.

5. FINANCIAL IMPLICATIONS

- 5.1 If TPO 58/03 is confirmed, there will be the cost of administering the service of the confirmed TPO and any subsequent tree work applications.
- 5.2 If TPO 58/03 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.

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 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).

8. RECOMMENDATION

- 8.1 It is therefore recommended that TPO 58/03 is confirmed without amendment, to include two Lime trees.

Further Information:

John Hearne
Tree Team Leader

Telephone: 02380 285205
e-mail: john.hearne@nfdc.gov.uk

Background Papers:

Tree Preservation Order No. 58/03

DATED 3 JUNE 2003

DISTRICT COUNCIL OF NEW FOREST

Town and Country Planning Act 1990

TREE PRESERVATION ORDER NO. 58/03

**LAND OF 22 ST ANNES GARDENS, LYMINGTON
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
T1	Lime	On or adjacent to eastern boundary of 22 St Annes Gardens, Lymington
T2	Lime	Ditto

Trees specified by reference to an area:

(within a dotted black line on the map)

No. on Map	Description	Situation
None		

Groups of Trees

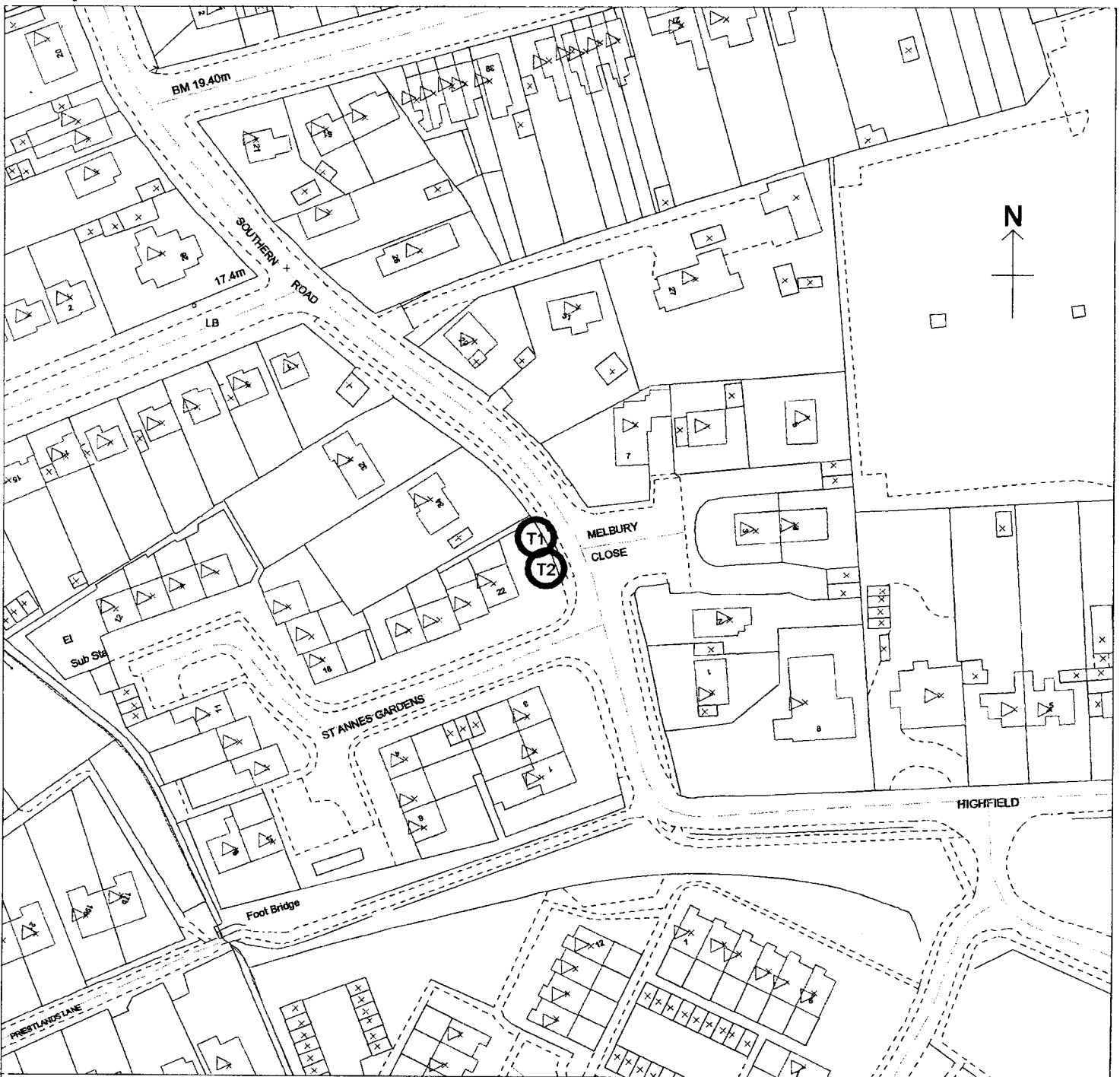
(within a broken black line on the map)

No. on Map	Description	Situation
None		

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: 58/03

Approximate Scale: 1250

Date Printed: 30th May 2003

W 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



New Forest
 DISTRICT COUNCIL

John Ward

 AN AUTHORISED SIGNATORY

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APPENDIX 2



New Forest
DISTRICT COUNCIL

Policy, Design & Information

Head of Service: John Ward

My ref: JH/TPO 58/03

Your ref:

27 June 2003

Mrs C M Evans
22 St. Anne's Gardens
Lymington
Hants
SO41 9HT

Dear Mrs Evans

TREE PRESERVATION ORDER 58/03 – LIME TREES AT 22 ST ANNES GARDEN'S LYMINGTON

I refer to your letter dated 6th June concerning the above Tree Preservation Order (TPO) and would ask that you accept my apologies for the delay in responding on this occasion.

I am processing your letter as a formal objection to the Order but it is also our usual procedure to attempt to resolve objections and thus avoid the need for a formal appeals panel to meet to consider the matter.

I note your reasons for objecting to the inclusion of one of the Lime trees (T2) in the order which are that, in the context of developing the site, the loss of amenity caused by the loss of one of the trees would not be overly detrimental to the character and appearance of the area. This is something that will be given careful consideration when determining your application and, I should advise you, that for reasons of the threat to the tree I have recommended that consent for the development be refused. However, if the view is taken that the loss of one of the trees was acceptable to allow development of the site, then the Consent would override the TPO. In such circumstances if construction works for approved development necessitated the removal of the tree, further consent would not be required.

Your objection to the TPO will be considered by an appeals panel of Councillors who will only be able to consider the merits of the tree without reference to the possible development of the site, which is a separate issue. I believe it may be difficult for an Appeals Panel to uphold your appeal under these circumstances and it would seem that the grounds for your objection are more appropriately being considered by the Council's Development Control Section. However, in saying this I should also stress that you have every right to maintain your objection to the Order which, if successful, would mean the tree was no longer a material consideration in determination of your application.



Disability Helpline
01425 656096


Minicom/Text: 023 8028 5416

Appletree Court, Lyndhurst,
Hampshire SO43 7PA

Switchboard: 023 8028 5000
DX 123010 Lyndhurst 2
www.nfdc.gov.uk

Please do not hesitate to contact me on the number given below to discuss this matter further or for clarification of any of the issues. In the mean time I will continue to progress your objection.

Yours sincerely

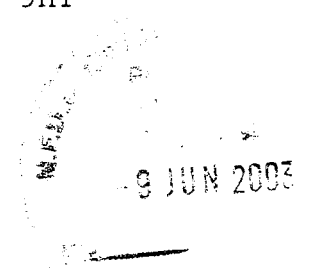

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Arboriculturist

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Rte 58/03

22 St. Anne's Gardens,
Lymington,
Hants. SO41 9HT

6th June, 2003



Dear Mr. Hearne,

My husband and I have just received formal notice that a Tree Preservation Order has been made on the two lime trees on our land.

These trees had no preservation orders on them until we wrote to the Planning Department telling them of our plans to build a smaller additional house to adjoin our end-terrace house.

We are naturally very disappointed that this Order has been made as it will obviously prejudice our proposed application.

If the suggested development did take place, only tree T2 might be affected. As this tree is at the end of a row of five lime trees and is opposite a large number of other trees, we honestly don't think its removal would be detrimental to the character and appearance of the area.

We therefore object to the Tree Preservation Order on tree T2 on the plan.

Yours sincerely,

C.M. Evans

J.Hearne, Esq.,
Tree Team,
Appletree Court,
LYNDHURST SO43 7PA