



**OBJECTION TO TREE PRESERVATION ORDER NO. 3/03  
LAND OF LYSTER ROAD, FORDINGBRIDGE**

**REPORT OF COUNCIL TREE OFFICER**

**1. TREE PRESERVATION ORDER HISTORY**

- 1.1 Tree Preservation Order (TPO) No.3/03 was made on 9<sup>th</sup> July 2003.  
# The TPO plan and first schedule are attached as Appendix 1. The Order protects 8 individual trees.
- 1.2 TPO 3/03 is one of five Orders (TPOs 1 to 5/03) served on 9<sup>th</sup> July to replace TPO 1017 which was made in 1975 and revoked when the new Orders were served. TPO 1017 was a 'blanket' or 'Area' Order covering all trees in the former Burgate Park, the area of land now occupied by the properties of Lyster Road, Bruyn Court, Bruyn Road, Pembridge Road and Langley Garden. The review of TPO 1017 formed part of a District-wide review of 'Area' TPOs which is being carried out in accordance with Government guidance 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 Residents were fully consulted throughout the review procedure and, on 19<sup>th</sup> March 2003, Mr B R Dixon of 26 Lyster Road, telephoned the District Council to express concern at the proposed inclusion of a Monterey Pine as tree T7 of TPO 3/03. The Council's Tree Officer explained the reason for the inclusion of this tree and that, in his view it would be incongruous in the context of the review to exclude it. Mr Dixon agreed to consider the matter but stressed that he may formally object when the Order was served.
- 1.4 Mr Dixon formally objected to the inclusion of Pine tree T7 in TPO 3/03 on 29<sup>th</sup> July 2003.

**2. THE TREE**

- 2.1 The tree in question is a Monterey Pine (*Pinus radiata*). It stands on a small bank on the east side of garages in front of 26 Lyster Road. On the west side of the tree is a narrow path, then a small wooden shed abutting the rear of the garages.
- 2.2 The tree is approximately 16m tall. The stem bifurcates at approximately 0.5m forming two main stems with diameters of approximately 600mm and 450mm.
- 2.3 The tree appears to be in a sound and healthy condition, with no visible defects.
- 2.4 The tree can be seen from surrounding houses and public roads. It is visible from Lyster Road, Salisbury Road and the A31.

**3. THE OBJECTION**

- # A copy of the objection is included as Appendix 2

- 3.1 Mr Dixon's grounds for the objection to the inclusion of the Monterey Pine T7 in TPO 3/03 are that the tree was planted by a resident in about 1985 and has grown very quickly. It now casts considerable shade.

#### **4. OBSERVATIONS ON THE GROUNDS OF OBJECTION**

- 4.1 The tree is situated approximately 17m to the south of Mr Dixon's property. It has a full healthy crown and has attained a height at which it will cast some shade to the front garden. The position of the tree is such that shade will be greatest between late morning and mid-afternoon. The Council's Tree Officer considers that the degree of shading is not excessive. To omit the Monterey Pine from TPO 3/03 purely on the grounds of unreasonable shading may set a precedent threatening many other protected trees.
- 4.2 The growth rate of this tree is probably close to the maximum for the species and there is no reason to suppose this will not continue for the foreseeable future. It will be possible, as height increases, to remove lower branches leaving a clear lower stem and enabling light to pass under the canopy of the tree. The District Council would not withhold consent for reasonable pruning works to increase light levels to neighbouring properties.

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 If TPO 3/03 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 3/03 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. ENVIRONMENTAL IMPLICATIONS**

- 6.1 Uncontrolled cutting or the premature removal of this tree at this time and the lack of controls to plant a suitable replacement will be detrimental to the appearance of the area.

#### **7. CRIME AND DISORDER IMPLICATIONS**

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

#### **8. OTHER IMPLICATIONS**

- 8.1 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.

8.2 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).

## **9. RECOMMENDATION**

9.1 It is therefore recommended that TPO 3/03 is confirmed without amendment.

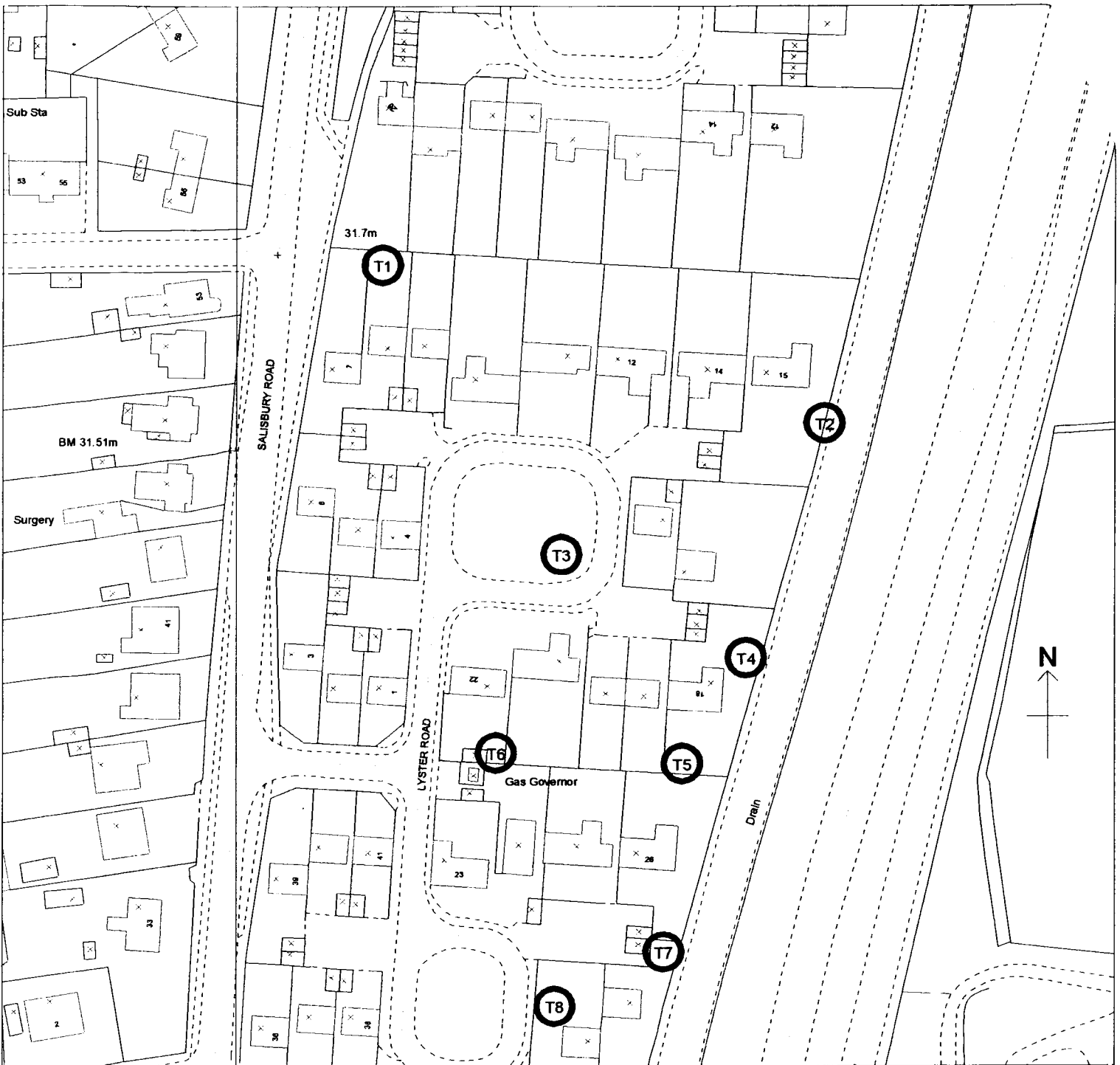
### **Further Information:**

John Hearne  
Arboriculturist

Telephone: 02380 285205

### **Background Papers:**

Tree Preservation Order No. 3/03



## Tree Preservation Order Plan

Town and Country Planning Act 1990

T.P.O Number: 3/03

Approximate Scale: 1250

Date Printed: 03/04/03

W John Ward BSc, MCD, MBA, MRTPI, MIMgt  
 Head of Policy, Design & Information  
 Community Services Directorate  
 Appletree Court  
 Lyndhurst  
 SO43 7PA



**New Forest**  
 DISTRICT COUNCIL

### Key

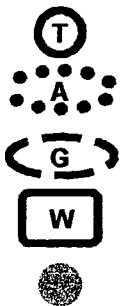
Individual Trees Covered by TPO

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



*[Handwritten Signature]*

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**SPECIFICATION OF TREES**

**Trees specified individually**  
(encircled in black on the map)

No. on Map	Description	Situation
T 1	Oak	Rear garden of 8 Lyster Road
T 2	Field Maple	Garden of 15 Lyster Road adjacent to eastern boundary
T 3	Turkey Oak	South east part of open space enclosed by road of 4-22 Lyster Road
T 4	Ash	Garden of 18 Lyster Road adjacent to eastern boundary
T 5	Field Maple	Garden of 18 Lyster Road adjacent to boundary with No. 26
T 6	Cypress	Garden of 22 Lyster Road adjacent to southern boundary
T 7	Pine	Rear of garages between 26 and 27 Lyster Road
T 8	Oak	Garden of 28 Lyster Road adjacent to western boundary

**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		

Brian R. Dixon  
26 Lyster Road, Manor Park, Fordingbridge, Hampshire SP6 1QY  
Tel: 01425 655417

J. Hearne, Tree Team,  
New Forest District Council.

29th July 2003.

Dear John Hearne,  
Tree Preservation Order 3/03.  
Land at Lyster Road, Fordingbridge.

You will recall that I raised an objection to the inclusion of (T7) on your plan when I spoke to you on the 19th. March 2003.

Now that the Draft Order has been prepared I note that (T7) has been included, and thus letter is to formally object to the inclusion of (T7) on T.P.O. 3/03.

I moved to this address in the early 1980's and the tree was not there at that time, it was planted by the then residents of No. 27 in about 1985, the growth of the tree was extremely quick and the resident was about to cut it well back and possibly remove it completely, then she moved house, and no work was done.

The tree is now a considerable obstacle to light, preventing the sun for much of the time, and I sincerely feel it should not be the subject of a T.P.O.

I would be most obliged if you would consider this letter, and remove (T7) from the proposed T.P.O.

over:-

Yours sincerely

~~Alvin K. Allen~~

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