



**OBJECTION TO TREE PRESERVATION ORDER NO. 54/04
LAND OF 48 ST. GEORGES DRIVE AND POPLAR LANE, BRANSGORE**

REPORT OF COUNCIL TREE OFFICER

1. TREE PRESERVATION ORDER HISTORY

- # 1.1 Tree Preservation Order (TPO) No. 54/04 was made on 17 June 2004. The TPO plan and first schedule are attached as Appendix 1. The Order protects 34 trees as a group (G1).
- 1.2 The order was made following a tree work application to fell three oak trees at 26 St. George's Drive, Bransgore, which were protected by TPO 484/1, an order that was made in 1984.
- 1.3 During his inspection of the trees for this application, the Council's tree officer noted several anomalies between the existing tree cover and those protected by TPO 484/1. In order to clarify the situation, a survey of existing trees was undertaken. TPO 484/1 was then revoked and TPO 54/04 made in its place. TPO 54/04 includes some of the trees originally protected by TPO 484/1 but also some other trees not previously protected.

2. OBJECTION

- # Copies of correspondence are included as Appendix 2
- 2.1 Following service of the TPO, Mr. C R Splatt of Lysways, Poplar Lane emailed the Council with some concerns and then wrote on 2 July stating his objection to the TPO. Mr. Splatt listed seven reasons for his objection and the Council's tree officer responded to each of these in a letter dated 16 July. In summary, Mr Splatt's reasons for objection appear to be:
- Poplar Lane is not in a conservation area, the Heritage Area or the proposed National Park
 - Why impose the TPO on a tree that had already been there for 50-60 years?
 - The issues have been considered by the Council and the Dept of the Environment in the past.
 - The tree is on private land and not in a public place for public viewing
 - The tree is only visible from limited view points in Poplar Lane, and would not be seen at all if it was topped.
 - The TPO imposes a burden on the tree's owner to manage it
 - As he owns the tree, he should decide what happens to it.
- 2.2 Mr. Splatt wrote to the Council again on 27 July. In the conclusion of this letter Mr. Splatt stated he did not wish the TPO to include the Holm (evergreen) oak growing in his garden. The Council's tree officer replied on 3 August informing Mr. Splatt that his objection would be put to the Appeals Panel for consideration.

- 2.3 Mr Splatt was subsequently invited to submit additional information in support of his appeal. The majority of the information he supplied was of a personal nature and irrelevant to the issue of the Tree Preservation Order. Only the covering letter, which is relevant, has been included.

3. THE TREE

- 3.1 The tree in question is a Holm Oak (*Quercus ilex*). It stands near the western boundary of the rear garden of Lysways, near to properties in St. George's Drive.
- 3.2 The tree is a large, mature specimen, with no obvious defects. With suitable management, the tree should have at least ten years safe life but this could be much longer. It is visible to surrounding houses and from St. George's Drive and Poplar Lane. It is the opinion of the Council's tree officer that the loss of this tree at this time would be detrimental to the appearance of the local environment.

4. FINANCIAL IMPLICATIONS

- 4.1 If TPO 54/04 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 54/04 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 Uncontrolled cutting or the premature removal of this tree at this time and the lack of controls to plant a suitable replacement with a similar large growing species 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 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 54/04 is confirmed without amendment.

Further Information:

Bryan Wilson
Tree Team Leader

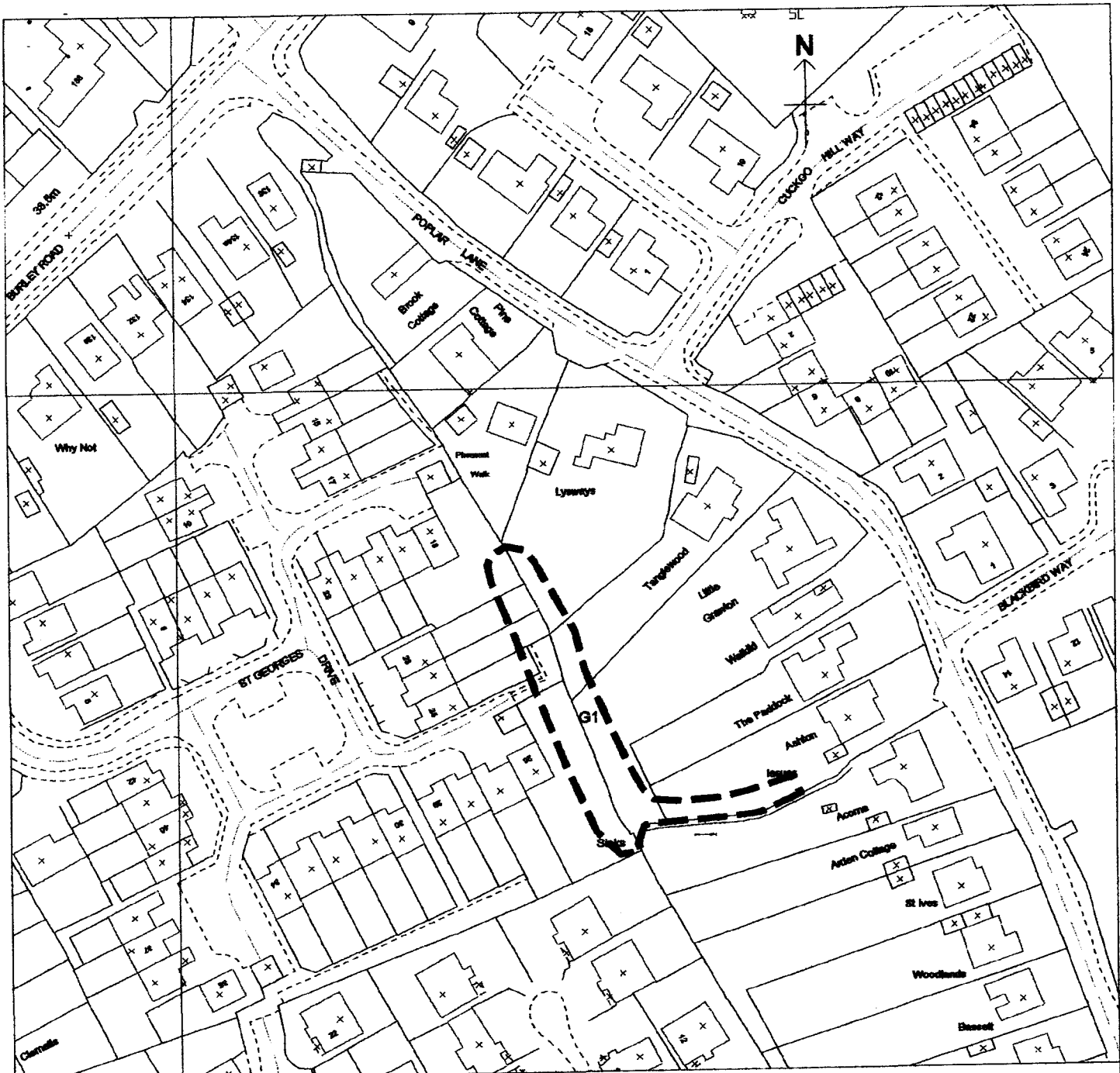
Telephone: 02380 285330

Background Papers:

Tree Preservation Order No 54/04

01-01-04

APPENDIX 1



Tree Preservation Order Plan

Town and Country Planning Act 1990

T.P.O Number: 54/04

Approximate Scale: 1250

Date Printed: 14th June 2004

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]

 AN AUTHORISED SIGNATORY

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SCHEDULE 1**SPECIFICATION OF TREES**

Trees specified individually
(encircled in black on the map)

None

Trees Specified By Reference To An Area
(within a dotted black line on the map)

None

Groups of Trees
(within a broken black line on the map)

No. on Map	Description	Situation
G1	17 x Oak, 1 x Holm Oak, 13 x Pine, 2 x Poplar and 1 x Birch	One Holm Oak within the rear garden of Lysways, one Poplar on or adjacent to the boundary between the rear gardens of Little Granton and Tanglewood, six Scots Pine and one Birch in the rear garden of Little Granton, six Pine and one Poplar within the rear garden of Ashton, nine Oak within the rear garden of 26 St Georges Drive along eastern boundary, four Oak on land of St Georges Drive adjacent to rear boundary of Tanglewood, one Pine and one Oak in rear garden of 24 St Georges Drive, one Oak in rear garden of 23 St Georges Drive and two Oak in garden of 18 St Georges Drive

Woodlands
(within a continuous black line on the map)None

APPENDIX 2

Lysways
Poplar Lane
Bransgore
Christchurch
Dorset BH23 8JE.

Sheets 1 to 5

New Forest District Council
Legal & Democratic Services
Appletree Court
Lyndhurst
Hampshire SO43 7PA.

Date: 27.09.04

Tree Preservation Order (TPO) 54/04
Objections (continued Doc No 3)
Your Ref JMD/TMH/TPO 54/04

For the attention of: Jan Debnam.

Dear Sir,

We thank you for your letter dated the **22nd of September 04** and confirmation of the TPO meeting and viewing date; as explained in our telephone conversation it is unlikely that I will be able to attend due to a hospital appointment arranged sometime ago and especially with their present waiting list problems, proof of which is enclosed.

I also wish to review the public amenity aspect of the Holm Oak TPO in that it is not readily noticed by neighbours other than in St Georges Drive where their light is reduced by its presence together with other TPO Oak trees on its south side. On the north side in front of the Holm, it is mostly screened by our dying Red Oak to the extent that it is not seen from Poplar Lane except from the front drive entrance of Lysways, for this you would need to make a deliberate point of looking in that direction.

I only hope that people are not being confused as to which tree is the Holm and the Red Oak?

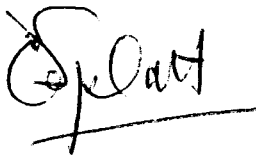
When the committee are standing at this point could they please stand over on the far side of the Lane near to the hedge and then look up the lane (eastwards) towards Harrow Wood Caravan Park; I think they will appreciate the lovely tree view at the top of the Lane.

Please ensure that this correspondence, sheets 1 to 5 are advised to the Panel together with **full previous information** for their consideration, all this reflects our objections against TPO 54/04.

Trusting you find this adequate and vote in favour of our views.

Yours sincerely,

Colin R Splatt.



PS. It is suggested that previewing the tree by the NFDC is best carried out now to assure like observations.

cc. **Head of Policy, Design and Information.**

Mr C R Splatt
Lysways
Poplar Lane
Bransgore
Christchurch
Dorset
BH23 8JE

My ref: BRW/vmw/TPO 54/04
Your ref:

3 August 2004

Dear Mr Splatt

**OBJECTION TO TREE PRESERVATION ORDER(TPO) 54/04
LAND OF ST GEORGES DRIVE AND POPLAR LANE, BRANSGORE**

Thank you for your letter of 27 July in response to Mr Hearne's letter of 16 July. Mr Hearne is currently on leave for 2 weeks and your letter has been passed to me for attention.

Having read Mr Hearne's letter of 16 July, following yours of 2 July, it seems to me that Mr Hearne was endeavouring to provide answers to the questions which you ask again in your letter of 27 July. Having read both these letters I do not believe there is anything further I can usefully add to that which Mr Hearne has already said.

At the end of your letter of 27 July you state that you wish to appeal against the TPO being placed on the Holm Oak in the rear garden of Lysways. In cases where my colleagues and I are unable to resolve TPO objections, the issue is decided following a public meeting, by a panel of elected Councillors. Since you have stated that you wish to maintain your objection to the inclusion of one of the trees within the TPO, I shall notify the Council's Appeals Panel Administrator who will contact you shortly to explain the procedure and arrange a meeting to consider your objection.

Yours sincerely

Bryan Wilson
Tree Group Leader

Tel: (023) 8028 5327
Fax: (023) 8028 5223
Email: pdi@nfdc.gov.uk

Lysways
Poplar Lane
Bransgore
Christchurch
Dorset BH23 8JE.

New Forest District Council
Central Administration
Appletree Court
Lyndhurst
Hampshire SO43 7PA.

Date : 27.07.04

Tree Preservation Order (TPO) 54/04
Objections (continued)
Your Ref JH/TPO 54/04

For the attention of: Head of Policy, Design and Information.

Dear Sir,

We thank you for your letter dated the **16th of July 04** and advise the following comments.

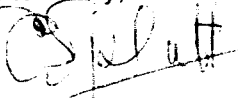
- h) Re your first / second Para's: Comments follow in item i)
- i) Re your third para: We were merely indicating the lack of consistency in NFDC planning policy Your new TPO lists only one Polar tree (**Tanglewood**) within the specified plan area; so if the other two are not listed **why should Tanglewood be included?** I hope this clarifies any **misinterpretation on your part?**
What distance does a tree need to be from a property for a **TPO exemption?**
- j) Re your forth para: There is no point in assisting any further with the TPO as we have already provided hospitality and trusted information without avail.

Previous TPO Objection review

- k) Re your item para a : If necessary the NFDC would allow the removal of TPO trees to accommodate a planning application and the Highways Dept likewise would not hesitate in removing TPO trees in carrying out road maintenance / works. **Why the double standard?**
- l) Re your para b) Somebody must have **requested** a TPO on the Holm Oak, how come Mr Wilson knows of the tree yet and has never queried / raised a TPO in the past?
The age of trees has nothing to do with TPO's, our (**deceased**) **Red Oak**, which had a TPO when it was a mere sapling did **nothing for it's protection.**
Why not answer our questions?
- m) Re your para c) Why inflict unnecessary bureaucracy on other residents due to one works application in St Georges Drive?

- n) Re your para d & e) Please ask the numerous residents, especially backing onto Lysways (St Georges Drive etc) if they would like more **daylight** by topping the Holm Oak (refer Mr Wilson), and **who** would like to pay for it?
If there is any credibility in the tree receiving a TPO it has been to the efforts of its owners in caring and maintaining it without any help from the NFDC.
- p) Re your para f) The NFDC incurs no cost in maintaining a private TPO trees either.
- q) We would ask you to consider revoking the new TPO and reinstate the old one allowing a simpler approach in resolving **the application for works to trees in St Georges Drive** this prevents inconvenience to other residents.
Should a TPO be issued on the Holm Oak we will need to appeal to The Department of the Environment. (Please advise the required application form / address)

Yours faithfully,

A handwritten signature in black ink, appearing to read 'C. Splatt', written over a horizontal line.

Colin R Splatt.

Mr C R Splatt
Lysways
Poplar Lane
Bransgore
BH23 8JE

My ref: JH/TPO 54/04
Your ref:
16 July 2004

Dear Mr Splatt

TREE PRESERVATION ORDER (TPO) 54/04

I refer to your letter dated 2 July and to your email of 19 June, to which my colleague, Mr Wilson, replied on 23 June.

With regard to points 'b' and 'c' of your email, which Mr Wilson was unable to respond to in detail, I can advise as follows:

The new TPO protects two Poplar rather than one as you suggest. A third Poplar was omitted due to its close proximity to a building.

The schedule of the Order describes in some detail the locations of all the trees. Every effort is made to ensure that no errors are made but, if you believe there is an inaccuracy, I would be very grateful if you would let me know what it is so that, if necessary, it can be corrected before the Order is confirmed.

Your letter dated 2 July provides six reasons for objecting to the Order. The following comments refer to the reasons as listed in your letter.

- a) That Poplar Lane is not within a Conservation Area or the New Forest Heritage Area is not relevant to the serving of a TPO.
- b) The inclusion of the Holm Oak did not result from a request. As Mr Wilson has explained, the new Order seeks to include all worthy trees on land affected by the revoked Order which had become unmanageable due to its age.
- c) The review of TPO 481/1 was expedited in light of an application for works to trees in St Georges Drive.
- d & e) The tree is visible from numerous surrounding properties and as such is worthy of inclusion in a TPO.
- f) Owners of trees incur no cost from the serving of the TPOs.

I hope that this information allays your concerns about the serving of the Order and that you will find no valid objection to the Order. However, if you remain concerned please do not hesitate to contact me on the number given below. I would happily visit to discuss any specific concerns you may have and ways in which any problems can be alleviated.

Yours sincerely

A handwritten signature in black ink, appearing to be 'JH' with a small dash to the right.

John Hearne
Arboriculturist

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

cc John Ward

Lysways
Poplar Lane
Bransgore
Christchurch
Dorset BH23 8JE.

New Forest District Council
Central Administration
Appletree Court
Lyndhurst
Hampshire SO43 7PA.

Date : 02.07.04

Your Ref JH/MAC/TPO 54/04 & 484/1
Objections

For the attention of: Head of Policy, Design and Information.

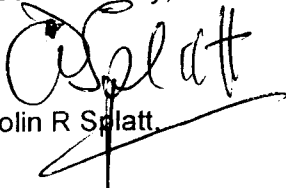
Dear Sir,

We refer to the above TPO, my email / recorded letter dated the 25th of May and express our objections for the following reasons: -

- a) Poplar Lane is not in a conservation or heritage area and is outside the proposed National Park boundary.
- b) The Holm Oak in question has never had a TPO before and it has only taken the NFDC some 50/60 years to do so. **Why now and who requested it?**
- c) There have been many other previous opportunities for this to be imposed which is supported by recorded information held in achieves at the NFDC / Dept of the Environment.
- d) The tree is on private land and not in a public place or woodland for the purpose of public or amenity viewing.
- e) The tree is only noticed from Poplar Lane in one position and if it had **been topped** as suggested by your **Mr Wilson** it would not be noticed at all.
- f) There is no prestige in having TPO`s enforced on owners when no assistance or finance is offered to accommodate the maintenance of private trees. (as with our Red Oak)
The objective seems to be that Councils etc like to burden tree owners with carrying out their policies to the cost of the owner.
- g) Either the tree is yours or ours. **Which way do you want it?**

We would appreciate in writing, by return, your solutions to our problems. Many thanks.

Yours faithfully,


Colin R Splatt.

Bryan Wilson

From: Bryan Wilson
Sent: 23 June 2004 16:24
To: 'colina@splatt2668.fsnet.co.uk'
Cc: Jean Jackson; John Hearne
Subject: Tree Preservation Order 54/04

Dear Mr Splatt,

Your email of 19 June regarding Tree Preservation Orders (TPO) 54/04 and 484/1 has been passed to me for attention. These TPOs are being dealt with by my colleague Mr Hearne, who is on leave until next Monday 28 June. He will contact you following his return to work for a fuller response to some of the more detailed points you raise. However, in the meantime I can let you have some initial information. The following letters refer to the list in your email

a) TPO 484/1 was made in 1984. It has recently been reviewed since it no longer protects all the trees considered worthy of protection at this time. Therefore TPO 484/1 has been revoked and is no longer effective. At the same time a new TPO 54/04 has been made. TPO 54/04 now protects some of the trees that were protected by TPO 484/1 as well as others.

b) and c) Mr Hearne will comment more fully on the protection of individual trees and their locations.

d) The holm oak tree has now been included in the new TPO 54/04

e) It may be the out of date survey plan you refer to is that for TPO 484/1, which was made in 1984. The plan accompanying TPO 54/04 is the most up to date digital plan supplied to the Council by the Ordnance Survey, but it may still contain inaccuracies as boundaries and other features can change from time to time.

f) Your comment about a written request for an appointment is noted.

I trust this clarifies some of the issues you raised but Mr Hearne will give you more specific details about individual trees.

Tree Team Reference: TPO 54/04

If a Tree Team reference number has been included in this message, please quote it in any future correspondence relating to this matter. Thank you.

Bryan Wilson
New Forest District Council
Tree Team Leader
Tel: 023 80 285327
8 777 5327 [HPSN OnNet]
Fax: 023 80 285223
bryan.wilson@nfdc.gov.uk

Colin R Splatt

From: "Colin R Splatt" <Colina@splatt2668.fsnet.co.uk>
To: <pci@nfdc.gov.uk>
Sent: 19 June 2004 18:17
Subject: Revocation Order No : 484/1 Tree preservation TPO 54/04 & 484/1 (what ever ?)

PRIVATE & CONFIDENTIAL Mr & Mrs C R Splatt. Lysways , Poplar Lane, Bransgore, BH23 8JE. (Non Heritage Area)

Dear Sirs,

After briefly reading your documentation we wish to inform you that the details are incorrect.

Therefore before taking further advice / action we would point out the following :-

- a) The number and type of trees do not match the original TPO. **WHY!**
- b) There are also **three** Poplar trees (hence the name Poplar Lane) within the drawn boundary and not **one**.
- c) We cannot account for all the trees (Oaks / Pines) which are presently involved.
- d) The Holm Oak at Lysways does not have nor ever had a preservation order on it - this is recorded in the case history of

NFDC achieves and with the **Department of the Environment** resulting after many years of dispute with the NFDC over our dispute concerning a Red Oak which also does not fall within your indicated area.

- e) The NFDC land survey plan presented is at least **17 years** out of date and in addition planning permission was granted for the building of St Georges Drive when **builders** never completed property / boundary fencing !
 - f) Next time your agent requires a visit ensure that the NFDC **applies in writing**.
- We request a response within 7 days otherwise we assume our comments are accepted !

21/06/2004

Mr S G Quinton C.B.E
Tanglewood
Poplar Lane
Bransgore
BH23 8JE

My ref: JH/TPO 54/04
Your ref: .
16 July 2004

Dear Mr Quinton

TREE PRESEVATION ORDER 54/04

Thank you for your letter dated 29th June concerning the above Tree Preservation Order.

The new Tree Preservation Order has been made to replace an older Order that was becoming unmanageable due to its age, and which has now been revoked. The protected status of the trees has therefore remained unchanged. However, I do appreciate the difficulty you are experiencing from shade to your vegetable garden and would assure you that the District Council gives sympathetic consideration to any application for reasonable pruning works that might help to alleviate the situation. The Council would seek to preserve the visual amenity and health of the group of trees but this need not preclude works that will increase light.

Your letter does not specifically object to the new Order, although you are free to make such an objection if you wish. A formal objection would be considered by an Appeals Committee who would visit to view the trees and then decide whether or not to confirm the Order in light of the reasons for your objection and any representations made by other affected residents. However, given the circumstances mentioned above I am hopeful that you will not think this procedure necessary.

If you wish to discuss the matter further please do not hesitate to contact me on the number given below. Alternatively, I would be happy to visit to discuss ways in which you might achieve increased daylight to the vegetable plot.

Yours sincerely



John Hearne
Arboriculturist

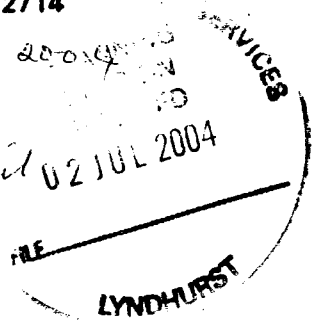
Tel: (023) 8028 5330
Fax: (023) 8028 5223
Email: pdi@nfdc.gov.uk

54/04

Stanley G. Quinton C.B.E.
"Tanglewood"
Poplar Lane
Bransgore BH23 8JE
Tel. 01425 672714

29th June 2004

The Tree Team,
New Forest District Council
Community Services
Appellate Court,
Lymington, HANTS SO43 7PA



I understood on a previous occasion in conversation with your department that Bransgore is not a conservation area, and I have no objection to the oak trees at the bottom of my garden which are the outgrowth of an old hedge.

I am 92 years old and my hobby is growing vegetables. The trees of my neighbour and I have now with a T.P.O. cut off light for these

quarters of the day and make
my hobby much less productive.

I feel at this time that
you people gave some thought
to the needs of gardeners

Yours Sincerely

W. P. ...
