



OBJECTION TO TREE PRESERVATION ORDER NO. 43/04 HILLTOP, APPLES LADE AND CROSSROADS, SANDLEHEATH

REPORT OF COUNCIL TREE OFFICER

1. TREE PRESERVATION ORDER HISTORY

- 1.1 # Tree Preservation Order (TPO) No. 43/04 was made on 3 June 2004. The TPO plan and first schedule are attached as Appendix 1. The Order protects four individual trees (T1 to T4), 3 oaks and 1 walnut, and a group comprising one hawthorn and one yew tree (G1).
- 1.2 The order was made following notification of an informal proposal for development at Hilltop. This development proposed construction of a building and driveway layout which the Council's Tree Officer considers would directly threaten the retention of a large mature oak and a walnut tree. In addition, the tree officer noted yew, thorn and oak trees both within the curtilage of Hilltop and in adjacent properties on both sides which, although not directly threatened by development, nevertheless could be adversely affected and which merited protection for their contribution to the appearance of the local environment.
- 1.3 At the time of notification, the trees were not subject to statutory protection. When the Council's Tree Officer inspected the site he took the view that they made a positive contribution to the public amenity of the area and that their removal at this time would be detrimental to the appearance of the local environment. Although development proposals were only at an informal stage, it was expedient to make the TPO since there was a potential conflict with the trees.
- 1.4 Sandleheath Parish Council wrote on 2 July supporting the TPO but seeking clarification about the definition of trees for inclusion within a TPO. This information was later given by telephone by the Council's Tree Officer
- # Copies of all correspondence referred to in this report is included as Appendix 2

2. OBJECTION

- 2.1 On 16 June, Mary Hancock, daughter of the deceased owner of Hilltop, wrote to the Council querying the TPO and asking for more information. Unfortunately that letter remained unanswered until she wrote again on 26 June formally objecting to the TPO and listing three reasons for the objection:-
- 1 Two oaks (T3 and T4) are outside the bounds of Hilltop although she felt one (T3), being immediately adjacent to a house, was in an inappropriate position for such a large tree.
 - 2 The walnut was not readily visible to the public, and therefore not appropriate for protection by TPO, and Ms Hancock did not intend to cut it down.
 - 3 The hawthorn and yew (G1) are poor specimens, less than ten years old and are bushes rather than trees.

- 2.2 On 8 July, the Council's Tree Officer wrote acknowledging the two letters and responding to each of the reasons for objection issues raised and explaining the reason why the TPO had been made.
- 2.3 Ms Hancock and the Council's Tree Officer then exchanged further correspondence and whilst a reappraisal of the hawthorn within G1 lead to the view that it could be deleted from the TPO, nevertheless there was no agreement between the parties over the protection of the remaining trees. On 8 September Ms Hancock reaffirmed her objection to the TPO.

3. THE TREES

- 3.1 The trees subject to TPO 43/04, with the now acknowledged exception of the condition of the hawthorn forming part of G1, provide an interesting mixture of tree species which make a positive contribution to the public amenity of the local environment, being visible to the public from the road.
- 3.2 With the exception of the hawthorn, no significant defects were noted in the structure or health of the protected trees.

4. FINANCIAL IMPLICATIONS

- 4.1 If TPO 43/04 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 43/04 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 trees at this time and the lack of controls to plant suitable replacements 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 43/04 is confirmed but without the hawthorn, forming part of G1 and that the TPO would be amended to delete G1 and include instead the yew tree as T5.

Further Information:

Bryan Wilson
Tree Team Leader

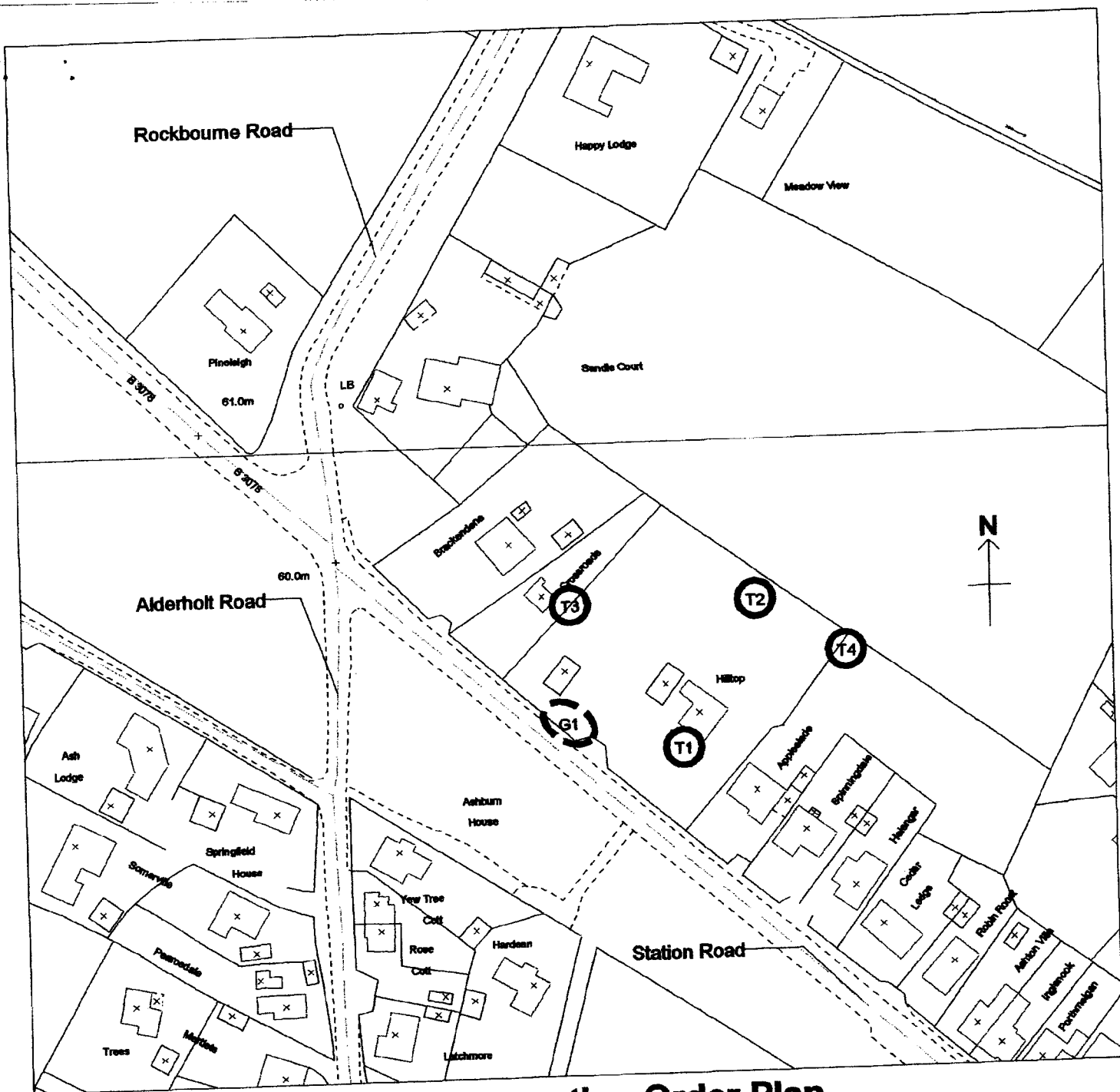
Telephone: 02380 285330
e-mail: bryan.wilson@nfdc.gov.uk

Background Papers:

Tree Preservation Order No 43/04

22 -10-04

APPENDIX 1



Tree Preservation Order Plan

Town and Country Planning Act 1990

T.P.O Number: 43/04

Approximate Scale: 1250

Date Printed: 1st June 2004

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



Graine Burke
 AN AUTHORISED SIGNATORY

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SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

No. on Map	Description	Situation
T1	Oak	Land of Hilltop in grassed area at front of house
T2	Walnut	Land of Hilltop to rear of house near rear boundary
T3	Oak	Land of Crossroads on or adjacent to boundary with Hilltop
T4	Oak	Land of Appleslade adjacent to rear boundary and boundary with Hilltop

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	1 x Hawthorn and 1 x Yew	Land of Hilltop adjacent to front boundary

Woodlands

(within a continuous black line on the map)

No. on Map	Description	Situation
None		

APPENDIX 2



Church Lane Cottage,
Church Street,
Appleford,
Oxon OX14 4PA

8 September 2004

New Forest District Council
Policy Design and Information
Appletree Court
Lynhurst
Hampshire
SO43 7PA

Fao J Hearne
Arboriculturist

Dear Mr Hearne

Objection to tree preservation order 43/04

Thank you for your letter of 31 August. We are continuing with our formal objection to the listing of the trees at Hilltop. The tree preservation orders on the oaks outside our curtilage do not seem to be our affair so we are not objecting to these.

I lay out below our general objection to the TPOs.

The village of Sandleheath is set within wooded areas and has a broad distribution of trees throughout the village. This means that the public amenity is not dependant on any one individual tree or even small groups of trees. This is distinct from the more appropriate use of individual TPOs in more urban areas. Sandleheath is not a conservation area and therefore TPOs are not required to relate to architectural groupings. We have examined some of the tree groups that are most visible and significant in the public areas along Station Road, and towards Rockbourne, Alderholt and Damerham. From information you supplied it seems that of the 16 private gardens and 4 major planted open spaces which are the location of the most visible and largest trees in Sandleheath only two gardens have current tree preservation orders. Trees in the open public locations are all more significant to the public scene than the trees on Hilltop (with the exception of our oak tree). The tree preservation order 43/04 is therefore premature and does not gain a proportional benefit to the public domain.

The absence of TPOs on these most visually significant trees within the main public areas of the village is consistent with the view that with a large number and broad distribution of trees in the area, any one tree is not critical to the overall public amenity for our village.

Objections to TPOs at Hilltop Sandleheath

Item T1 Oak Hilltop

This tree in a private garden was planted by a family member who has now passed away. As a family link it has great sentimental value and is therefore cherished. The tree will be looked after for personal reasons and does not require a TPO as a public amenity.

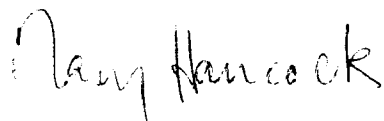
Item T2 Walnut Hilltop

This tree is set back 50 metres from the highway within a private garden. It is not generally visible from the public highway and therefore provides no public amenity. While we will retain this tree as a private pleasure, a TPO is not appropriate in this case. It is not our intention to make the private garden in any way public and this tree would never become a public amenity.

Item G1 group of trees Hilltop

We have agreed that the Hawthorn is not appropriate for a TPO. The Yew close to it is a poor specimen and does not stand out. It is of a common type and is not of particular value due to scarcity in the area or due to unique intrinsic attractiveness. This tree does not contribute uniquely to the public highway. Most of the appearance of the plant is concealed from public view behind a hedge along the property boundary. The individual public impact of the plant is far less than the grouping of trees at the Cross Roads, along Rockborne Rd and along Alderholt Rd. none of which have been considered worthy of a TPO.

Yours sincerely,



Mary Hancock

Mrs M Hancock
Church Lane Cottage
Church Street
Appleford
Oxon
OX14 4PA

My ref: JH/TPO 43/04
Your ref:
31 August 2004

Dear Mrs Hancock

TREE PRESERVATION ORDER 43/04 – HILLTOP, SANDLEHEATH

Further to my letter of 17th August, I have now had an opportunity to reassess the above Tree Preservation Order. I have concluded that although the Hawthorn makes a useful contribution to the amenity of the road, its form and growth habit are such that it is not a suitable candidate for inclusion in the Order. I therefore propose deleting it from the Order if and when it is confirmed.

The Yew tree is a good specimen and has considerable potential and I cannot concur with your opinion that it is entirely out of keeping with its location. I therefore intend maintaining my recommendation that it is included in the Order.

The Red Oak and Walnut (T1 and T2) are visible from the road and provide a public amenity. The remaining two Oaks (T3 and T4) are currently of lesser importance but should be a material consideration when assessing a development proposal. If their retention is considered important the TPO will enable the Council to impose tree protection conditions – such as fencing of the root area - on any consent for development. As they are on the perimeter of the site I do not think they will overly restrict the development potential of the site although I would advise against building within the canopy spread. Some care in design might be necessary to avoid excessive shading of small gardens or areas such as patios, living rooms or conservatories.

Please let me know if, in the light of the omission of the Hawthorn and my further comments above, you wish to maintain your objection to the Order.

Yours faithfully



John Hearne

Tel: (023) 8028 5330
Fax: (023) 8028 5223

Ms Mary Hancock
Church Lane Cottage
Church Street
Appleford
Oxon
OX14 4PA

My ref: JH/430-5 ^{TR} 43/024
Your ref:
17 August 2004

Dear Ms Hancock

TREE PRESERVATION ORDERS IN SANDLEHEATH

Thank you for your letter dated 5th August.

Tree Preservation Orders are currently in force at the entrance to Thorp Farm and Birch Tree Cottage.

My gazetteer does not list properties named Lower Hemden or Hazeldene in the vicinity. If you could advise me of their location I can check if TPOs are in force.

There are no TPOs at the other locations you list.

Yours sincerely



John Hearne
Arboriculturist

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

Church Lane Cottage
Church Street
Appleford
Oxon
OX14 4PA

5 August 2004.

New Forest District Council
Policy Design & Information
Appletree Court
Lyndhurst
Hampshire
SO43 7PA

For the attention Mr John Hearn

Dear Sir

Tree Preservation Order 43/04 Hilltop, Sandleheath

Thank you for your letter of 29 July 2004.

I understand from your letter that you will be visiting the site to reassess the situation and writing to me again because of my formal objection to the tree planning orders.

Would you please advise me if tree preservation orders exist in the following locations in Sandleheath:

Happy Lodge ✓
Sandlecourt ✗
Pineleigh ✓
Springfield House ✗
Pearcedale ✓
Crossways ✗
Thorpe Farm ✓
Fairview ✗
Hardean ✓
Sunnybank ✓
Birchtree Cottage 62189
Arnecourt ✗
Heathside ✓
Lower Hemden ?
Victoria House ✗
Hazeldene ?

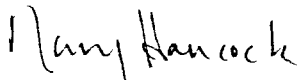
Area known as the Common, marked on attached plan

The allotments, marked on attached plan

Area alongside the road to Fordingbridge, as marked on the attached plan.

Thank you for your help

Yours faithfully,



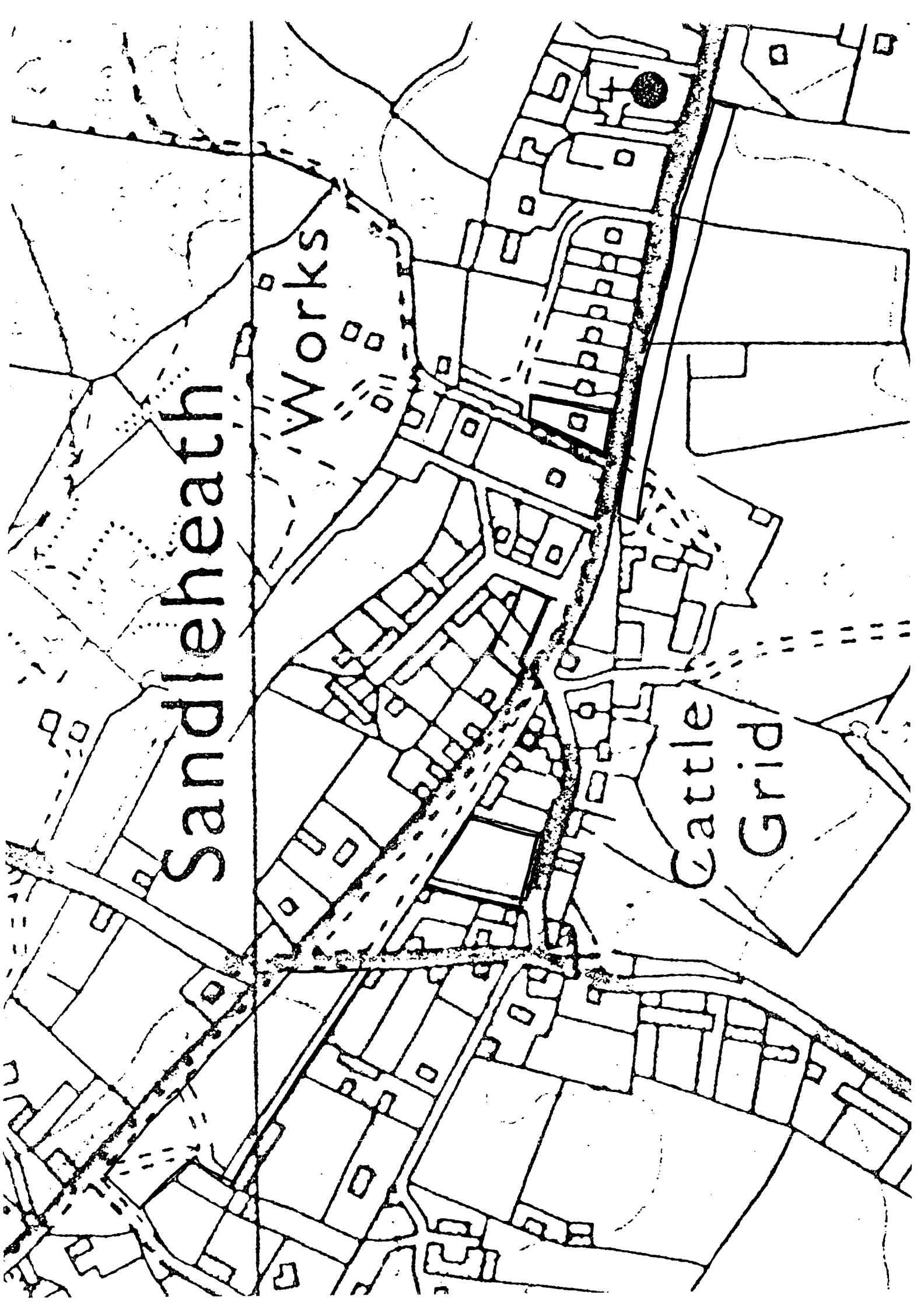
Mary Hancock

RECEIVED
MON
05 AUG 2004
11:15 AM

Sandleheath

Works

Cattle
Grid



Mrs M Hancock
Church Lane Cottage
Church Street
Appleford
Oxon
OX14 4PA

My ref: JH/TPO 43/04
Your ref:
29 July 2004

Dear Mrs Hancock

TREE PRESERVATION ORDER 43/04 – HILLTOP, SANDLEHEATH

I refer to your letter dated 22nd July which I have treated as a formal objection to the above Tree Preservation Order (TPO).

The Order was served in order that the trees could be treated as a material consideration when determining any application for development at this location. If consent is granted it will override the TPO.

Trees that are not currently visible to the public may well become so following development and would certainly provide an amenity benefit to the residents of any new houses on the site. Government guidance states that the amenity provided by TPO trees may be current or future.

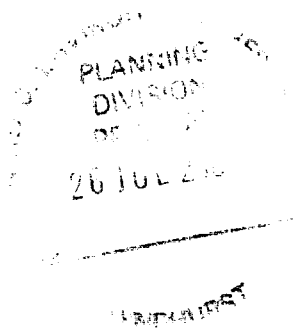
The Hawthorn and Yew provide a valuable group impact on the street scene but, again, their appropriateness in the context of development can be considered when considering any future development application.

Under the circumstances I believe the TPO to be expedient and justified. I have indicated to my colleagues in Development Control that some development would seem feasible and I would be happy to meet you on site to discuss my concerns if you wish. I will, in any case revisit the site to make a new assessment in light of your comments, and will write again at that time.

Yours sincerely

John Hearne
Arboriculturist

Tel: (023) 8028 5330
Fax: (023) 8028 5223



Church Lane Cottage,
Church Street,
Appleford,
Oxon OX14 4PA

22 July 2004

Policy, Design and Information,
New Forest District Council
Appletree Court,
Lyndhurst,
Hampshire SO43 7PA

For the attention Mr John Hearne, Arboriculturist

Dear Mr Hearn,
Your reference: JH/TPO 43/04
Hilltop, Sandheath, Fordingbridge, Hants.

I have to hand your letter of 8 July referring to sketch discussion drawings, submitted by my husband, Mr CJ Hancock, to Development Control to generate discussion on the possible development potential of my mother's house at Sandheath.

You are mistaken to elevate these drawings to an 'outline proposal'. They are not an outline proposal, just the way recommended by Development Control to elicit a response or discussion with them.

We are strongly objecting to the idea that our trees should be listed. The trees are not within the public domain, nor yet visible from the public domain. We understand that, should we make an application to extend the public space into the depths of the site, it would be reasonable to reassess the situation, but at the moment, prior to any application, this is not the time.

The scrub yew and hawthorn which are close to the public boundary seem to be entirely out of keeping with a central village location, and therefore not appropriate to retain. The centre of the village has always been the area of the 'island' (the land bounded by roads in the centre of the village) and, were we to propose some houses, we would be interested in reinforcing the feeling of village centre and feel the preservation of poor woodland species is unsuitable, particularly on the south boundary of the site as it is important that any houses should be as sustainable as possible, regarding land, resource and use of solar energy use.

Should we decide to proceed to a planning application, we will be mindful of the points you have made.

Yours sincerely,

Mary Hancock

Ms M Hancock
Church Lane Cottage
Church Street
Appleford
Oxon
OX14 4PA

My ref: JH/TPO 43/04
Your ref:
8 July 2004

Dear Ms Hancock

**TREE PRESERVATION ORDER 43/O4
HILLTOP, SANDLEHEATH**

I refer to your letters dated 16 June and 26 June and would ask that you accept my apologies for the delay in responding. Your objection to the above Tree Preservation Order (TPO) has been noted and is being progressed.

I would first explain that the TPO was served in the light of an outline proposal to develop the site into a number of residential dwellings. The TPO enables the Council to ensure that the trees form a material consideration when determining a formal application. In effect this would mean that the Council could, if appropriate, require that some or all of the trees are retained, and that if retained, they are afforded adequate protection throughout any development activity.

In response to the specific points you raise in your letter of 26th June I would comment as follows:

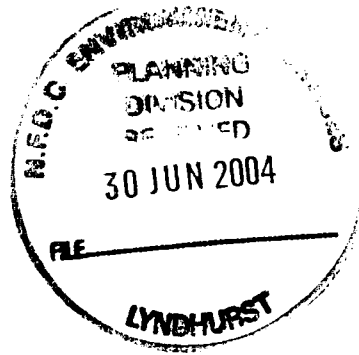
- 1) The Oak adjacent to Mr and Mrs Daniel's home is somewhat close to the building. However, there are numerous protected trees in similar situations throughout the District that are successfully retained without problems. It may reassure you to know that consent is not required to undertake works necessary because trees are dead, dying or dangerous; and also that the District Council would give sympathetic consideration to applications to carry out reasonable pruning (or felling if appropriate) to avoid, remove or abate nuisance.
- 2) Although the Walnut tree is not currently visible from a public place, it is a fine specimen that would provide a valuable amenity to the occupiers and visitors of any dwellings that might be constructed if planning permission is granted. There is precedent that trees may reasonably be included in TPOs if they benefit a number of surrounding properties, even if they are not actually visible from a public place.
- 3) I accept that the Hawthorn and Yew trees on the road frontage are not particularly good individual specimens. However, they do provide an important group impact and visual amenity to the public. They would also help to soften the impact of any new development here. Under the circumstances I consider that their inclusion in the Order in a 'group' designation is expedient.

Apart from the three items above I infer no other objection to the TPO in your letters and, for the reasons I have given, I believe that an Appeals Committee would have difficulty not confirming the Order. As processing any objection requires not inconsiderable time and resources I am hopeful that my reply has reassured you sufficiently and that you will feel able to withdraw your objection but, if you remain concerned or would like clarification of any of the matters mentioned, please do not hesitate to contact me on the number given below.

Yours sincerely

John Hearne
Arboriculturist

Tel: (023) 8028 5205
Fax: (023) 8028 5223
Email: pdi@nfdc.gov.uk



Church Lane Cottage,
Church Street,
Appleford,
Oxon OX14 4PA

26 June 2004

Tree Team,
Appletree Court,
Lyndhurst,
Hants SO43 7PA

Dear Sirs,
Tree Preservation orders at Hilltop, Sandleheath, Fordingbridge, Hants.
Your ref JH/mac/TPO 43/04

I wrote to you on the 16 June querying the listing of trees on my late mother's property and have been disappointed not to receive a reply.

Of the five trees proposed for Tree preservation orders in your letter of 3rd June,

- two are outside the bounds of our property, and not particularly our concern. However the forest oak immediately adjacent to Mr and Mrs Daniel's home seems an inappropriate position for such a large tree. The previous owner, Miss A de Mauny, was disinclined to cut down any plant that seeded with in her boundary and so had a number of trees growing extremely close to her property.
- the red oak tree we intend to preserve and are not unhappy with a preservation order
- the walnut tree is one that we intend to keep. However we believe, as it is not visible from any public space, that the tree preservation order is inappropriately applied, so we formally object to the proposed order.
- The proposed listing of cover to the left of the big gate. We object very strongly to the listing of these multistemmed bushes. The main reason we are against the preservation order on the hawthorn and the yew is that they are poor specimens, starved of light and poorly grown. They are probably not more than ten years old- the sort of bushes that grow up freely as volunteers and are equally freely cut down and replaced by other seedlings. It is difficult to see that these bushes contribute anything at all to public amenity in the village

Please note this formal objection to the proposed Tree Preservation Order.
I will be pleased to receive a reply to this letter and my previous letter of 16 June.

Yours faithfully,

Mary Hancock

Mary Hancock

Church Lane Cottage,
Church Street,
Appleford,
Oxon OX14 4PA

16 June 2004

Tree Team,
Appletree Court,
Lyndhurst,
Hampshire SO43 7PA

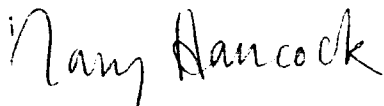
Dear Sirs,
Tree preservation orders at Hilltop, Sandheath, Fordingbridge, Hants.
your ref JH/mac/TPO 43/04

I have to hand your letter of 3 June which my cousin who is living at Hilltop forwarded to me.

I understand that you are intending to make tree preservation orders on a number of trees at Hilltop. In general we are keen to preserve the trees on my mother's site, particularly the red oak planted by my father in the 1940s. However we are concerned that any work to trees with preservation orders will involve considerably more administrative effort, and thus expense. We do not understand why you are seeking to put preservation orders on trees that are not generally visible to the public as that seems to step beyond the provisions of the act. My cousin reported that your tree team said they were interested in maintaining the group of scrub bushes close to the main gate as cover for animals and birds. Similarly this seems not to be within the provisions of the act.

We would be grateful if you could reply to this query as soon as possible because we understand that we must make our formal comments by 1 July 2004. Generally our view is that we want to keep the trees but our options are reduced and our expenses increased if the trees are listed- so we need to know why you are pursuing a listing that appears to be outside the provisions of the act.

Yours faithfully,



Mary Hancock

Sandleheath Parish Council

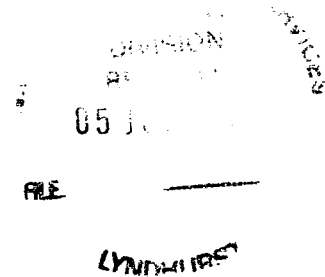
Tel: 01425 656246

'Woodside'
19 Downwood Close
Fordingbridge
Hampshire
SP6 1EA

Your ref: JH/mac/TPO 43/04

2nd July 2004

Mr John Hearne
Tree Officer (West)
New Forest District Council
Policy, Design & Information
Appletree Court
Lyndhurst
Hampshire SO43 7PA



Dear Mr Hearne

TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING (TREES) REGULATIONS 1999
TREE PRESERVATION ORDER No: 43/04
LAND OF HILLTOP, APPLESLADE & CROSSROADS, SANDLEHEATH

Thank you for your letter of the 3rd June & attached schedule outlining the trees which have been covered by the Tree Preservation Order 43/04 as from the 3rd June 04. In fact, my Council were a little surprised to receive details of the TPO as they were unaware that there was any interest in these trees outlined in the Order.

I would confirm that the Parish Council accept the NFDC's decree in respect of the trees concerned provided that they meet the type & size required. However, it would be helpful if you could indicate the actual definition of what is considered by the NFDC as a preservable tree.

I have forwarded a copy of the TPO to our Tree Warden, Mrs Elizabeth Walker, together with a copy of this letter.

Yours sincerely

Brian Shemmings
Clerk to the Council

Replied by phone 8/7/04
Clarified reasons for TPO + blue book
criteria. No objections confirmed
by B.S.

J. Hearne