

APPEALS PANEL – 4 JUNE 2008

OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 62/07, LAND EAST OF 1 NEWBRIDGE DRIVE COTTAGES, EVERTON

1. INTRODUCTION

- 1.1 This meeting of an Appeals Panel has been convened to hear an objection to the making of a Tree Preservation Order.

2. BACKGROUND

- 2.1 Tree Preservation Orders (TPOs, or Orders) are made under Sections 198, 199 and 201 of the Town and Country Planning Act 1990 (the Act). This legislation is supported by guidance issued by the Office of the Deputy Prime Minister on 17 April 2000 called "Tree Preservation Orders A Guide to the Law and Good Practice". This is commonly referred to as the "Blue Book".
- 2.2 This Council follows a procedure that ensures that as soon as an Order is made it gives immediate protection to the specified tree or trees. The owners and occupiers of the land on which the tree or trees are situated, together with all the owners and occupiers of the neighbouring properties, are served with a copy of the Order. Other parties told about the Order include the Town or Parish Council and District Council ward members. The Council may also choose to publicise the Order more widely.
- 2.3 The Order includes a schedule specifying the protected trees, and must also specify the reasons for protecting the trees. Normally this is on the grounds of their amenity value.
- 2.4 The procedure allows objections and representations to be made to the Council, in writing, within 28 days of the Order and corresponding documentation being served on those affected by it. The Council must have a procedure for considering those representations.
- 2.5 Where an objection is made to the Order, in the first instance, the Tree Officers will try to negotiate with the objector to see if it can be resolved. If it cannot, then the objection is referred to a meeting of the Appeals Panel for determination.
- 2.6 The Order, when first made, usually has a life of 6 months. Within that period of 6 months, the Council should decide whether or not to confirm the Order, with or without amendment. If a decision on confirmation is not taken within this time, the Council is not prevented from confirming the Tree Preservation Order afterwards. But after 6 months the trees lose protection until confirmation.

3. CRITERIA FOR MAKING A TREE PRESERVATION ORDER

3.1 A local planning authority may make an Order if it appears to them to be:

“expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”.

4. TYPES OF TREE PRESERVATION ORDER

4.1 The Tree Preservation Order may specify one or more individual trees, groups of trees, woodlands or, more rarely, refer to an area of land.

4.2 As a general rule, an individually specified tree must meet the criteria for protection in its own right.

4.3 A group of trees must have amenity value as a group, without each individual tree necessarily being of outstanding value. The value of the group as a whole may be greater than that of the individual trees.

4.4 A woodland order would be imposed over a more significant area of trees, where it is not practical, or indeed perhaps even desirable, to survey or specify individual trees or groups of trees. While each tree is protected, not every tree has to have high amenity value in its own right. It is the general character of the woodland that is important. In general terms a woodland will be a significant area of trees, that will not be interspersed with buildings.

4.5 An area designation covers all the trees, of whatever species, within a designated area of land, and these may well be interspersed among a number of domestic curtilages and around buildings. An area order may well be introduced, as a holding measure, until a proper survey can be done. It is normally considered good practice to review area orders and replace them with one or more orders that specify individuals or groups of trees. This process has been underway in this District, with the review of a number of older area orders that were imposed some years ago in response to proposed significant development. An area order is a legitimate tool for the protection of trees. It is not grounds for an objection that the order is an area order.

5. THE ROLE OF THE PANEL

5.1 While objectors may object on any grounds, the decision about confirmation of the Order should be confined to the test set out in 3.1 above.

5.2 The Secretary of State advises that it would be inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.

5.3 Amenity value

This term is not defined in the Act, but there is guidance in the Blue Book. In summary the guidance advises:

- TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.
- There must be a reasonable degree of public benefit. The trees, or part of them, should therefore normally be visible from a public place, such as a road or a footpath. Other trees may however also be included, if there is justification.
- The benefit may be present or future.
- The value of the tree or trees may be from their intrinsic beauty; for their contribution to the landscape; or the role they play in hiding an eyesore or future development.
- The value of trees may be enhanced if they are scarce.
- Other factors, such as their importance as a wildlife habitat, may be taken into account, but would not, alone, be sufficient to justify a TPO.

As a general rule, officers will only consider protecting a tree where they are satisfied that it has a safe life expectancy in excess of 10 years.

5.4 **Expediency**

Again, this is not defined in the Act, but some guidance is given in the Blue Book. In essence, the guidance says:

- It is not expedient to make a TPO in respect of trees which are under good arboricultural or silvicultural management.
- It may be expedient to make a TPO if the local authority believes there is a risk of the trees being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate. It may be a general risk from development pressures.
- A precautionary TPO may also be considered appropriate to protect selected trees in advance, as it is not always possible to know about changes in property ownership and intentions to fell.

6. **THE EFFECT OF THE ORDER**

6.1 Once the TPO has been made, it is an offence to do any works to the protected tree or trees without first gaining consent from the Council through a tree work application unless such works are covered by an exemption within the Act. In this respect of the Local Planning Authority consent is not required for cutting down or carrying out works on trees which are dead, dying or dangerous, or so far as may be necessary to prevent or abate a nuisance. Great care should be exercised by individuals seeking to take advantage of an exemption because if it is wrongly misjudged offences may be committed. There is no fee charged for making a Tree Work Application.

6.2 If consent is refused, the applicant has the right of appeal to the Secretary of State.

7. CONSIDERATION

7.1 Members are requested to form a view, based on the evidence before them, whether it appears to them to be expedient in the interests of amenity to confirm the TPO taking into account the above guidance. Members will have visited the site immediately prior to the formal hearing, to allow them to acquaint themselves with the characteristics of the tree or trees within the context of the surrounding landscape.

7.2 The written evidence that is attached to this report is as follows:

Appendix 1 The schedule and map from the Order, which specifies all the trees protected.

Appendix 2 The report of the Council's Tree Officer, setting out all the issues he considers should be taken into account, and making the case for confirming the Order.

Appendix 3 The written representations from the objectors to the making of the Order

Appendix 4 Correspondence from Otter Nurseries, the owners of the trees.

Appendix 5 The tempo form assessing the amenity value of the tree.

Members will hear oral evidence at the hearing, in support of these written representations. The procedure to be followed at the hearing is attached to the agenda.

8. FINANCIAL IMPLICATIONS

8.1 There are some modest administrative costs associated with the actual process of serving and confirming the TPO. There are more significant costs associated with the need to respond to any Tree Work Applications to do works (lopping, topping or felling) see 8.3 below. The officers will normally visit the site and give advice on potential works to the trees.

8.2 The Council does not become liable for any of the costs of maintaining the tree or trees. That remains the responsibility of the trees' owners.

8.3 TPOs make provision for the payment by the Local Planning Authority of compensation for loss or damage caused or incurred as a result of:

(1) their refusal of any consent under the TPO, or

(2) their grant of a consent subject to conditions.

To ascertain whether someone is entitled to compensation in any particular case it is necessary to refer to the TPO in question. It is especially important to note that the compensation provisions of TPOs made on or after 2 August 1999 differ substantially from the compensation provisions of TPOs made before that date.

TPOs made before 2 August 1999

Under the terms of a TPO made before 2 August 1999 anyone who suffers loss or damage is entitled to claim compensation unless an article 5 certificate has been issued by the Local Planning Authority.

TPOs made on or after 2 August 1999

In deciding an application for consent under a TPO made on or after 2 August 1999 the Local Planning Authority cannot issue an article 5 certificate. There is a general right to compensation. However, the TPO includes provisions which are intended to limit the Local Planning Authority's liability to a fair and reasonable extent, and so the general right to compensation is subject to the following exceptions:

- (1) no claim for compensation can be made if the loss or damage incurred amounts to less than £500;
- (2) no compensation is payable for loss of development value or other diminution in the value of the land. 'Development Value' means an increase in value attributed to the prospect of developing land, including clearing it;
- (3) no compensation is payable for loss or damage which, bearing in mind the reasons given for the application for consent (and any documents submitted in support of those reasons), was not reasonably foreseeable when the application was decided;
- (4) no compensation is payable to a person for loss or damage which was (i) reasonably foreseeable by that person, and (ii) attributable to that person's failure to take reasonable steps to avert the loss or damage or mitigate its extent; and
- (5) no compensation is payable for costs incurred in bringing an appeal to the Secretary of State against the Local Planning Authority's decision to refuse consent or grant it subject to conditions.

9. ENVIRONMENTAL IMPLICATIONS

- 9.1 The trees must have significant value within their landscape to justify the confirmation of the TPO.

10. CRIME AND DISORDER IMPLICATIONS

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

11. OTHER IMPLICATIONS

- 11.1 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).

11.2 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).

12. RECOMMENDED:

12.1 That the Panel consider all the evidence before them and determine whether to confirm Tree Preservation Order 62/07 relating to land east of 1 Newbridge Drive Cottages, Everton with, or without, amendment.

For Further Information Please Contact:

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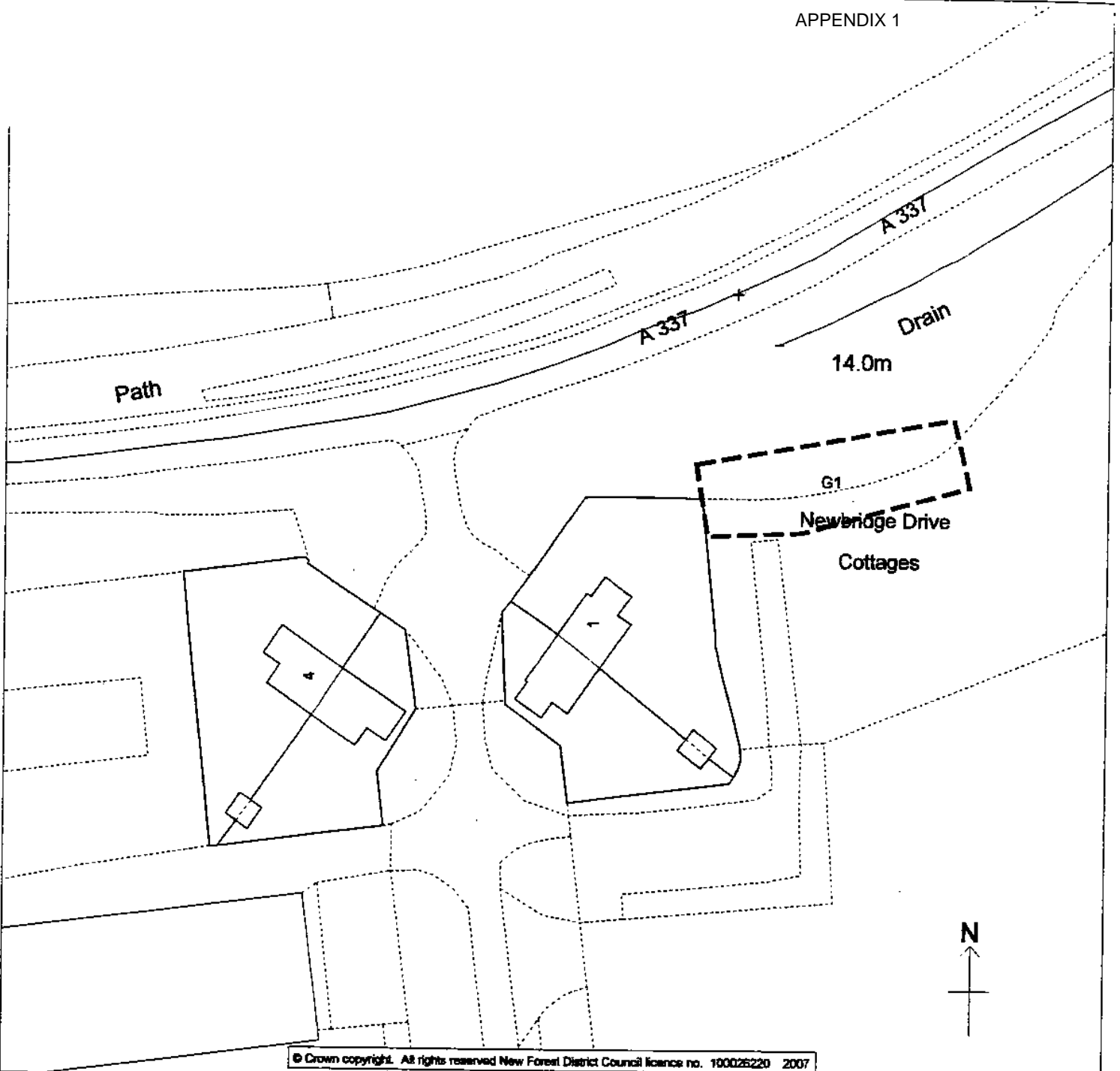
E-mail: grainne.orourke@nfdc.gov.uk

Background Papers:

Attached Documents:
TPO 62/07

Published documents

APPENDIX 1



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Tree Preservation Order Plan

Town and Country Planning Act 1990

T.P.O Number: 62/07

Approximate Scale: 1:750

Date Printed: 19.12.2007

Martin Devine
 Assistant Director of Leisure Services
 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



Neil Witherspoon
 AN AUTHORISED SIGNATORY

SCHEDULE 1

TPO 62/07

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on Map	Description	Situation
None		

Trees specified by reference to an area
(within a dotted black line on the map)

Reference on Map	Description	Situation
None		

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

Reference on Map	Description	Situation
G1	9 Poplar spp (Tag No's 0977 - 0985)	Land to the East of 1 Newbridge Drive Cottages, Milford Road, Everton. As shown on plan.

Woodlands

(within a continuous black line on the map)

Reference on Map	Description	Situation
None		

APPENDIX 2

APPEALS PANEL –4 JUNE 2008

**OBJECTION TO TREE PRESERVATION ORDER NO. 62/07
LAND TO THE EAST OF 1 NEWBRIDGE DRIVE COTTAGES,
MILFORD ROAD, EVERTON**

1. TREE PRESERVATION ORDER HISTORY

- 1.1 Tree Preservation Order (TPO) No.62/07 was made on 20 December 2007. The TPO plan and first schedule are attached as Appendix 1 to Report B. The Order currently protects nine Poplar trees within a group.
- 1.2 The Order was served as a replacement for TPO31/07 which was revoked due to an error in respect of the number of trees covered by the TPO and to allow the Council to resolve freedom of information and data protection issues which an objector had raised.
- 1.3 The original TPO was made as a result of a planning application (07/90171) being submitted by Mr K Verran of 1 Newbridge Drive Cottages to build a bungalow in the rear garden of his property which threatened the retention of the Poplar trees sited adjacent to the eastern boundary.
- 1.4 The Council has received letters of objection to the making of the Order from or on behalf of 3 persons living at 1 Newbridge Drive Cottages. Copies are attached as Appendix 3 to Report B.
- 1.5 Because these objections have not been overcome, it has become necessary to consider the Order at a TPO Appeal Panel meeting.

2. THE TREES

- 2.1 The trees in question are Poplars of varied maturity, size and form. All are located on land immediately adjacent to 1 Newbridge Drive Cottages and are owned by Otter Nurseries, Milford Road, Lymington. Correspondence from Otter Nurseries, who do not object to the making of the Order, is attached as Appendix 4 to Report B.
- 2.2 The trees vary in height between approximately 10m and 17m with stem diameters up to some 600mm. The trees, from a ground level inspection, appear to be in good health, normally vigorous and structurally sound and are considered to have a safe useful life expectancy of some 15-20 years.
- 2.3 The trees can be viewed in each direction from Milford Road, and are prominent in the public view and as such are considered to offer the area a high level of amenity.

3. THE OBJECTION

In summary, the reasons given for objecting to the TPO include:

1. The TEMPO form has been wrongly filled in, giving the trees a higher point score than they should have.

2. The Poplars were planted after the houses were built. Now the trees look out of place and are too dominant. They are closer than the 35m separation from housing recommended in official guidance.
3. Poplars are fast growing, prone to wind damage and are consequently inherently unstable.
4. The trees grow too close to 1 Newbridge Drive Cottage, extract moisture from the soil and thereby are causing subsidence to the property which can only be prevented by the removal of the offending roots.
5. Tree roots are encroaching into the sewerage system and causing damage to that system.
6. Branches from the trees fall onto the house, garden, outbuildings and greenhouse constantly causing damage. Damage has been caused to the conservatory resulting in a roof panel having to be replaced. The danger and nuisance caused by falling branches and other debris makes it impossible to use the garden.
7. Debris from the trees – leaves, twigs etc have fallen onto the roof and gutters causing blockage and overflow of rainwater on the property. As the objector is handicapped he is unable to clear out the gutters. Leaf fall has also blocked the new soakaway.
8. The TPO is not valid as the trees are dangerous.
9. Planning application 07/90171 does not threaten the trees.

4. OBSERVATIONS ON THE GROUNDS OF OBJECTION

1. Local Authorities are advised under section 3.3 of the *'Blue Book' Preservation Orders, A guide to the Law and Good Practice* to develop ways of assessing amenity value of trees in a structured and consistent way. To that end the Council uses the TEMPO system of tree evaluation in respect of making Tree Preservation Orders. As with all such evaluation methods, professional judgement is required. The scores given on the original TEMPO sheet for TPO31/07 in certain instances fall between two scores (Part 1a and Part 2). In such cases the average score is given. In order to confirm the validity of the evaluation a second TEMPO sheet has been filled out rounding down the scores given. When this is done the revised score still confirms the TPO is clearly merited as set out in Part 3 of the evaluation sheet. See Report B Appendix 5
2. The Poplar trees are estimated to be some 40 years old and as such are likely to have been planted after Newbridge Drive Cottages were built. The nearest Poplar within the group G1 of TPO62/07 is estimated to be some 17m from the property from measurements taken via GIS aerial photographs. One of the objections suggests that the trees should be some 35m from 1 Newbridge Drive Cottages. The recommended separation distances from trees to structures relies on a number of factors including tree species, soil type, shrinkage potential of the soil and building foundation depth. It is not accepted that the trees are either too close, dominant or out of place in relation to Newbridge Drive Cottages. The Poplar trees subject of this appeal run adjacent to the Milford Road and contribute, along with previously pollarded trees, to the landscape and character of the area. Sufficient separation currently exists

between the trees and 1 Newbridge Drive Cottages to prevent them from being too dominant.

3. Poplar trees are a relatively fast growing species and as such have a softer wood structure than slower growing trees, such as Oak. Any tree, as a result of high winds, can experience occasional branch failure. It is considered that sufficient separation exists for 1 Newbridge Drive Cottages, so that this is not a significant issue in this case. This was also the conclusion reached by Otter Nurseries, the tree's owners, when they inspected the trees.
4. It is understood from existing records that the ground on which the property is built is made up of a non-cohesive sandy gravel. Whilst this in itself does not guarantee that the trees will not cause damage to the property, it does mean that the likelihood is remote. No substantiating evidence has been submitted to the Council to support the statement that 1 Newbridge Drive Cottages is subject to subsidence and that subsidence is being caused by the adjacent poplar trees.
5. Tree roots can affect underground drainage pipes but no evidence has been submitted to support this claim. This therefore remains unsubstantiated. It is not uncommon for tree roots to occupy drainage pipes but in the majority of cases this follows an initial failure of the drain itself. The tree roots then take advantage of that failure due to the increased moisture levels around the failure point.
6. It is understood that greenhouse glass and a conservatory roof panel may have been broken and a shed roof been damaged due to falling branches. Trees, be they protected or not, require maintenance and will be expected to have some level of dead or weakened branches within their canopies. If it is necessary to alleviate this, crown cleaning, the removal of dead and broken branches, as well as snags and ivy can be undertaken. Proper maintenance work can be carried out to protected trees, following approval of a Tree Works application. In any event, consent is not required to carry out works on trees that are dead, dying or dangerous. Therefore dead wood or dangerous branches from protected trees could be removed without consent.
7. All deciduous trees, whether protected or not, lose their leaves in the autumn and small twigs will fall from them from time to time, which may land in gutters and downpipes. If debris is not removed a blockage can occur. It is a normal part of a householder's responsibilities to undertake, or arrange for others to undertake, routine property maintenance, including clearance of guttering and downpipes from time to time.
8. From a ground level inspection carried out in July 2007 when the trees were originally considered for protection, the trees were found to be healthy, normally vigorous and structurally sound so as not to necessitate further investigation. There is no evidence that the trees are dangerous.
9. The TPO was made as result of the submission of planning application 07/90171 and the proximity of the development proposals to the trees. No information had been submitted with the application, which addressed the issue of the trees in any way. A mature on site Oak tree was felled on site immediately prior to the original TPO being served. The submission of a planning application that threatened the longer term retention of the trees satisfies the test of expediency in making the order.

Since the making of the current Order a number of tree work applications have been submitted to the Council to carry out works to the trees which include: felling the trees mentioned within TPO62/07 and digging trenches 750mm wide and 1200mm deep adjacent to the trees in order to sever the trees roots. For a number of reasons these applications have either been withdrawn or not registered. The applications were not made by the owners of the trees.

5. CONCLUSION

- 5.1 The TPO has been made in respect of the trees held within the Group in response to a planning application to develop the garden area adjacent to these off site trees. The trees offer high level of visual amenity to the surrounding area and their continued presence has been threatened as a result of a planning application which did not identify nor address the issue of the trees adjacent to the site.
- 5.2 The reasons for objection stated by the objectors are either
- a) unsubstantiated or
 - b) matters that can be satisfactorily addressed through routine property maintenance by the householder or are a result of insufficient management of the trees.

As such, none of the reasons for the objection stated should result in any in any modification of the TPO or influence its confirmation.

6 RECOMMENDATION

- 6.1 It is therefore recommended that TPO 62/07 is confirmed without modification.

Further Information:

Andrew Douglas
Senior Arboricultural Officer
Telephone: (023) 8028 5205

Background Papers:

Attached to Report B.
DETR publication:
Tree Preservation Orders A Guide to the Law and Good Practice "The Blue Book"

APPENDIX 3

COM

OFFICIAL OBJECTION to TPO 62/07
From s verran.



Re sent on 15th Jan 08 as the TREE dept said I could not have any confidentiality of this data!

Under TEMPO guidelines it states that most poplars have a life span of 50-70 years.

The Poplars covered in this TPO have been in existence for over 55+ years.

Incidentally

Almost the same age as the local houses near to the site, note the nearby homes were built

Before the Poplars were planted.

This means that the Poplars have a life span of approximately 15 years left, thus under TEMPO

Guidance notes, the Poplars should receive a score of ONE in the retention span section on the form.

Part ONE on the TEMPO form is also scored as FOUR; however there is NOT a definition of what

A score of FOUR means, thus misleading & not obvious to the scoring methodology.

The Poplars in the ¼ mile row of trees are larger than the surrounding other Poplars, thus the

Protected Poplars look out of place & too dominant. The other poplars are at a Pollarded height

Of less than 50% of these trees.

The protected Poplars are too close to housing.

This area is prone to above average wind speeds due to the terrain locally close to the sea etc.

Poplars by their very nature are one of the UKs fastest growing trees.

This leads to fibre defects within the trees structure, i.e. these trees are prone to damage from wind

Speeds in this area due to weak fibres within the canopy areas.

It has been noted that one of the protected Poplars has already caused PROVEN damage to nearby property.

Under TEMPO guidelines, this should be scored as zero in the PART B (retention & suitability section)

, these trees are inherently unstable in moderate to high speeds due to the inherent weakness of the

Trees structure due to rapid growth speeds. Property locally cannot be put at further risk of damage from

Flying or falling debris from these trees. A person has the right to use their property without fear

Of damage / injury from these trees etc. The NFDC has effectively made an area around a home garden

nearby a NO GO ZONE due to the ignorance of the falling debris that originate from these trees.

Part 2 expediency assessment of TEMPO is scored as FOUR, yet there is nothing to indicate exactly

What category a score of FOUR actually means. Misleading to the public?

I feel that the New Forest District Council has been over zealous in the TPO creation.

The TPO is effectively a draconian block on the land owners right to enjoy their possessions &

Property in a peaceful manner. The council must be aware that the human rights laws prevent

Councils from imposing any conditions that breaches human rights of EU citizens.

Effectively the NFDC has condoned the shedding of dangerous levels of debris from the TPO

Trees, & unwilling to take rapid action to prevent further damage of neighbouring property.

The council tree department is hypocritical. Why not protect trees that have a proven record of

Abuse & invasive tree works which resulted in many many trees deaths, so the surviving pollarded

Trees are surely worthy of future protection.

Then the council says that these other trees are NOT worthy of protection, but the HUGE Poplars.

That is causing damage to a house & poses a threat of personal injury to the neighbouring house.

The NFDC say that the proposed building extension was a threat to the retention of these trees,

However the council has FAILED to produce any undisputable proof to prove otherwise!

Then there is the matter of the TEMPO guidance notes on the scoring of the perceived threat to

Trees. I will explain further.

TEMPO guidance clearly states that the scoring should be as a value of THREE points if the following

Applies: Foreseeable threat to tree section' – for example, planning department receives application for outline planning consent on the site where the tree stands. The council score the THREAT as FOUR, however this contradict the OFFICIAL TEMPO guidelines Mentioned!

The scoring of the TEMPO assessment is fundamentally flawed & the TPO should be REVOKED!

Moving on.

As the council is aware, the local soil is clay. Clay soil in this area is a shrinkable type of clay. This means that the NINE POPLARS are removing many THOUSANDS OF LITRES of Moisture from the neighbouring house foundations, thus posing a further threat to the house Structural integrity.

OFFICIAL safe distance for POPLARS are 35METRES away from HOUSING! THESE TREES ARE LESS THAN 17 METRES away!

THIS TPO IS NOT WARRANTED at all.

Please revoke this order ASAP & allow the neighbouring home owner to tackle the proven NUISANCE threat posed by these trees! I.e. destruction of property caused by these trees.

Yours sincerely

s verran

Scott Bailey

Solicitors & Mediators

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New Forest District Council
Legal & Democratic Services
DX 123010 Lyndhurst 2

Our Ref: NPJ/APH/Verran

Your Ref: JMD/JA

Date: 18 March 2008

Dear Sirs

Re: Mr K Verran
Appeal against the making of a Tree Preservation Order 62/07
Land East of 1 Newbridge Drive Cottages Everton

We have been instructed by Mr K Verran of 1 Newbridge Drive Cottages, Milford Road, Everton, Lymington, SO41 0JF. Our client has passed to us your letter of 3 March 2008 and other documents relating to the above Tree Preservation Order and our client's appeal.

Firstly, please confirm whether or not the matter has been set down for a hearing and if so the date and time of that hearing.

Please treat this letter as our client's objection to the Tree Preservation Orders, pursuant to the Town & Country Planning (Trees) Regulations 1999.

The trees to which this objection relates are those referred to in Tree Preservation Order 62/07 being poplar trees on land to the east of 1 Newbridge Drive Cottages, Everton, Lymington, Hampshire.

Our client's reasons for the objections are as follows:-

1. That the trees grow too close to our client's property at 1 Newbridge Drive Cottages. The effect is that roots from the trees are extracting moisture from the soil surrounding and below our client's property, thereby causing subsidence and damage to our client's property. This can only be prevented by the removal of the offending roots.
2. Roots from the trees are encroaching into pipes serving the communal sewerage system causing damage to that system.
3. Branches from the trees fall onto our client's house, garden and greenhouse. Damage has been caused to our client's conservatory roof. The roof panel has had to be replaced.
4. Debris from the trees - leaves, twigs etc have fallen onto our client's roof and into his gutters causing a blockage and overflow of rainwater from the gutters onto our client's property. Our client is handicapped. He is not able to clear out the gutters.

Partners: Ian Davis Suzanne Sutherland Nicholas Jutton Sarah Unsworth Dinshaw Printer James Burford

Solicitors: Barbara Robins Lloyd Thomas

Pamela Francis F.I.L.E.X.



5. We enclose a bundle of photographs which show the following:-
- a. Damage to our client's greenhouse caused by a branch falling from one of the trees.
 - b. Leaves and twigs blocking our client's gutter.
 - c. The effect of water overflowing from blocked gutters causing damage to brickwork.
 - d. Replaced roof panel to the conservatory occasioned due to damage caused by a falling branch.
 - e. Large branches that have fallen into our client's garden.
6. The trees do not, in our client's submission, have a high amenity value. They contain many dying and dangerous branches.

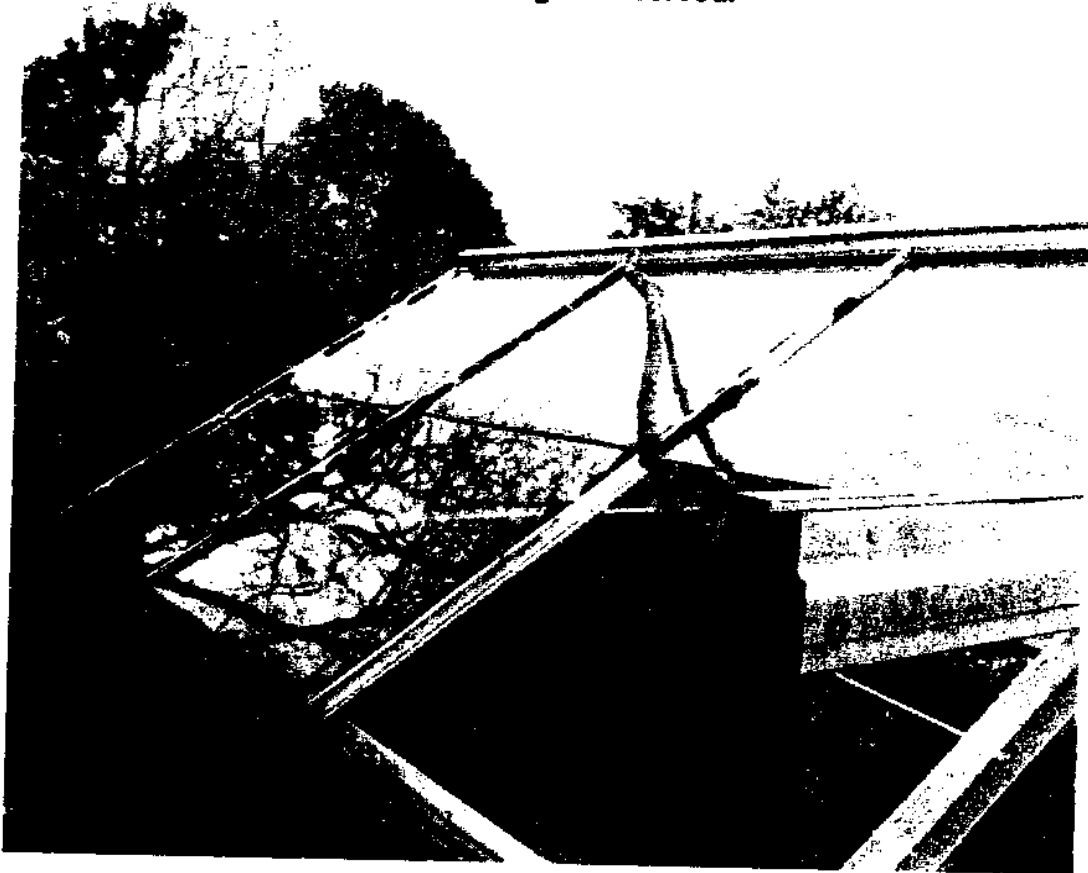
Yours faithfully



Scott Bailey

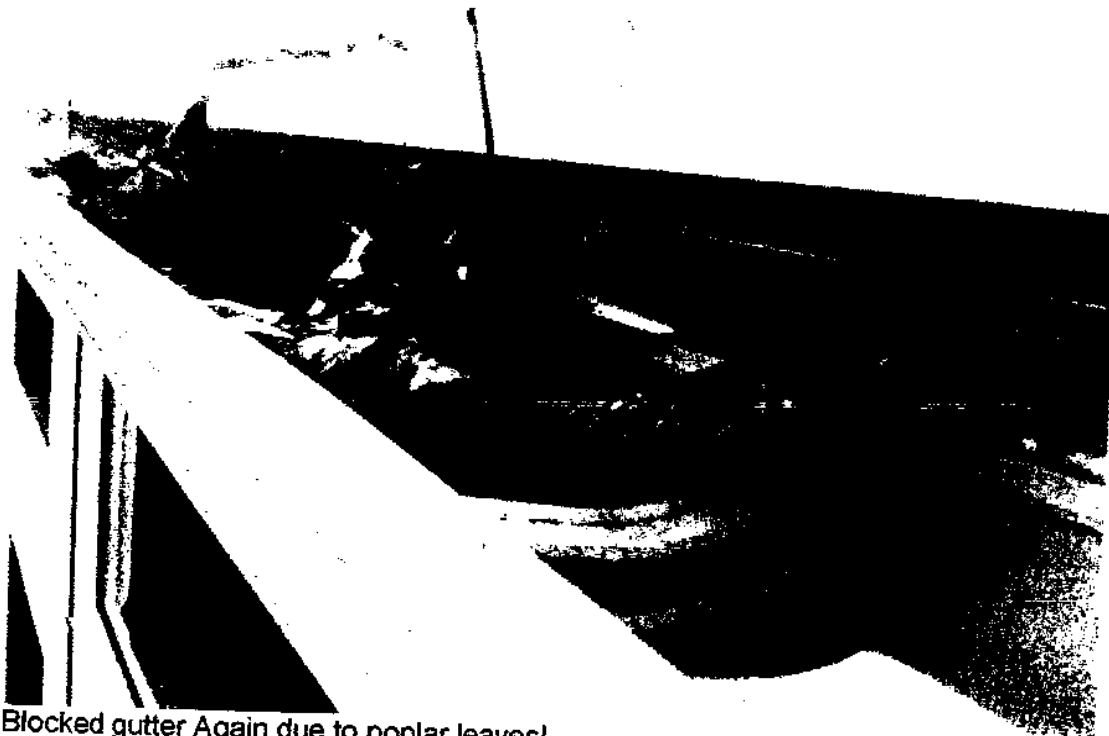
2Nd Dec 07 Storm. Poplar branch in my greenhouse roof!

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Blocked & the leaves & twigs are building up again!

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Blocked gutter Again due to poplar leaves!

As you can see, my gutters & down pipe block very regularly due to tree branches & leaves falling on to my gutters.

This is leading to damage to my brickwork & home fro the near by poplars protected on TPO 62/07 by the new forest district council.

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Yet another twig in my gutter leading to future blockages! The branch will block the downpipe & act to collect more leaf & twigs leading to blocked pipes. I am disabled, having to keep clearing out my gutters is leading to increased spinal pain (my disability is spinal related)

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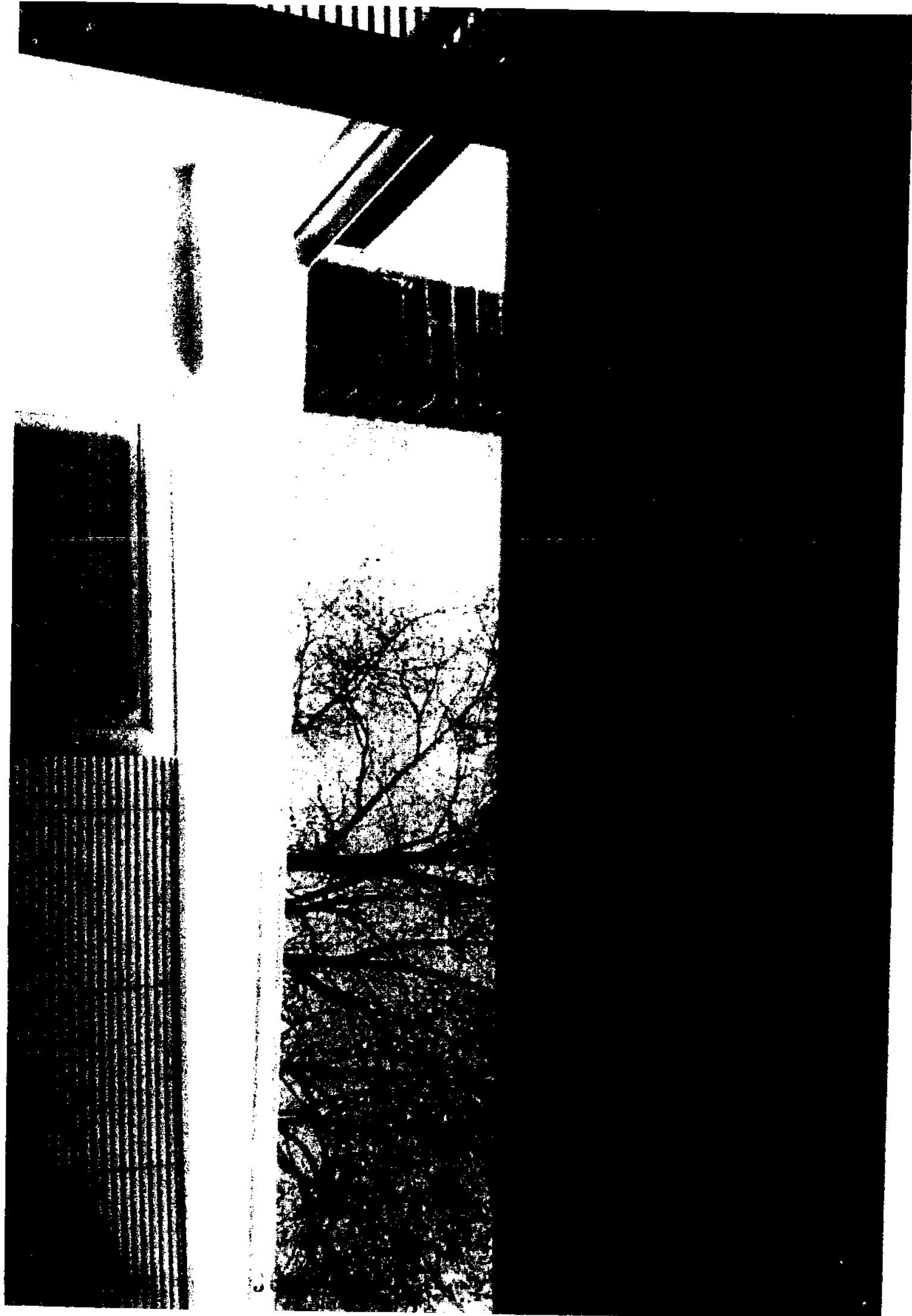


The middle roof panel is a different colour due to the fact it has had to be replaced.

The reason is a fair size branch was blown on to the conservatory roof in 2006 -2007 & cracked the panel leading to rainwater ingress & damage to my home!

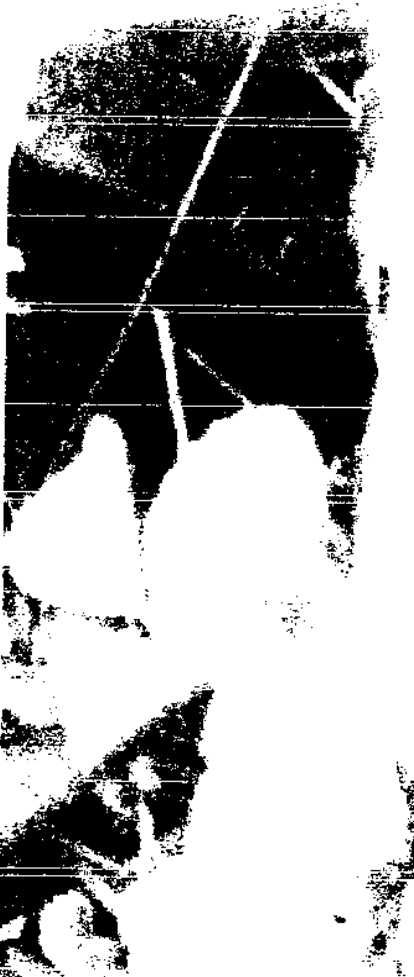
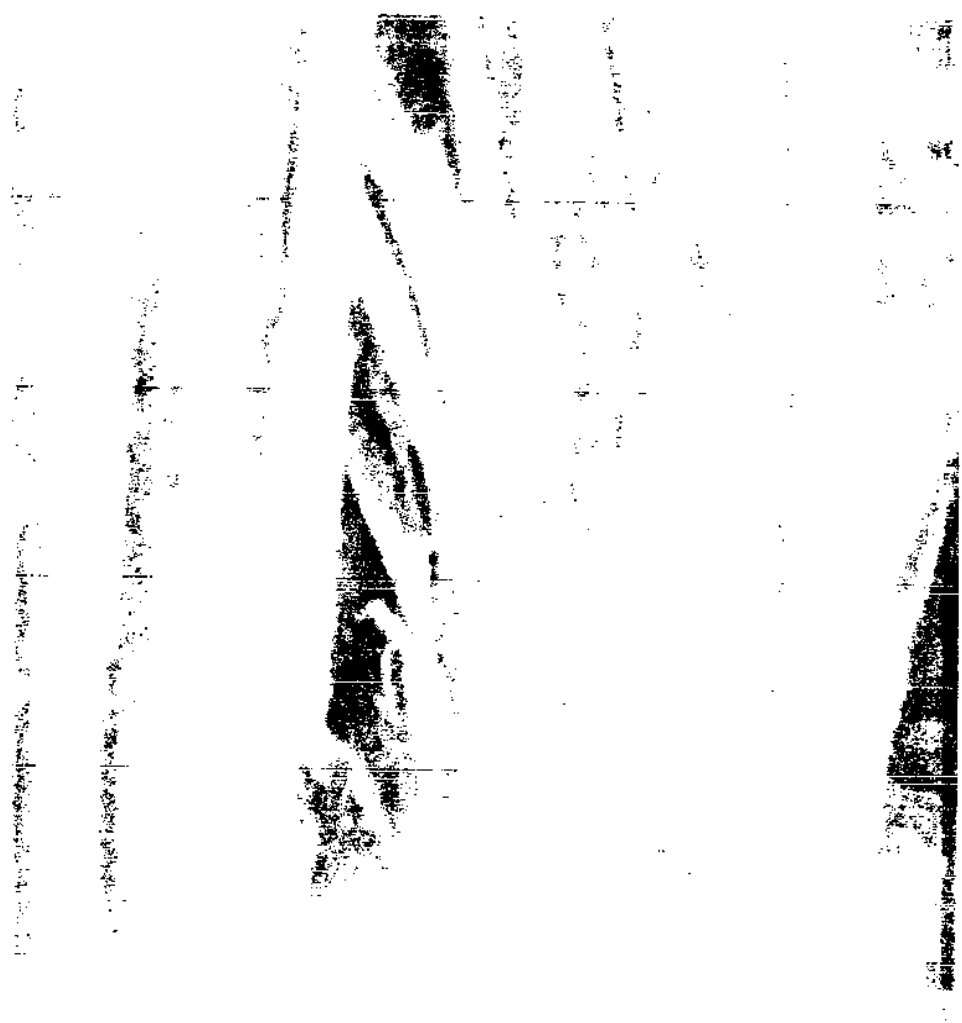
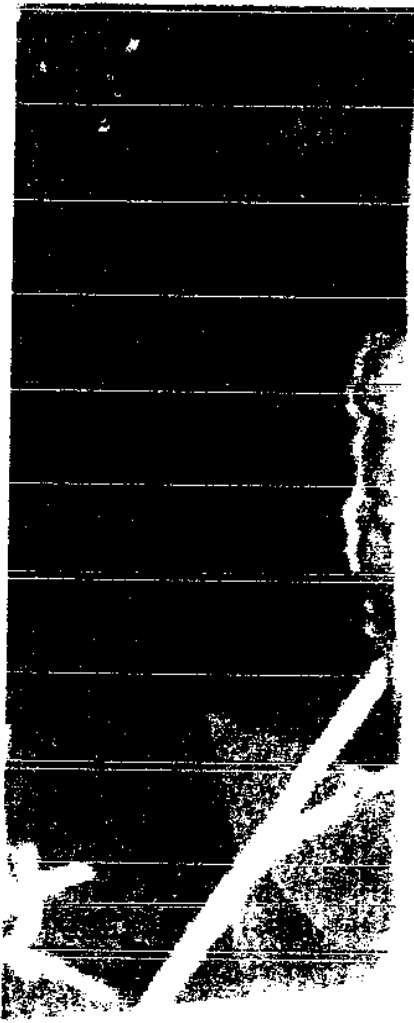
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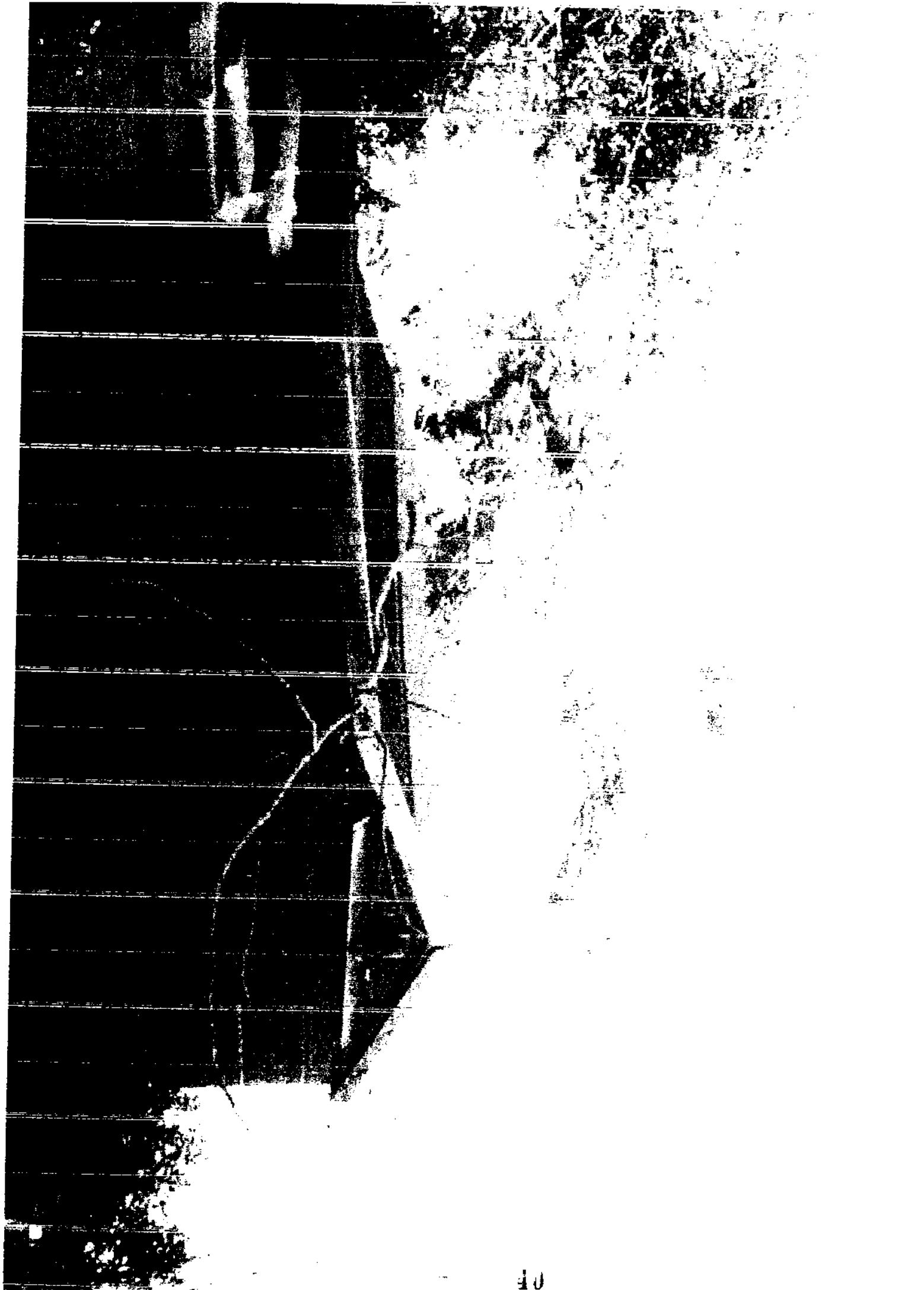














original was written in
yellow highlighter pen &
will not photo-copy so
this was traced over
the original.

COPY

4th April 2008 OFFICIAL OBJECTION to TPO 62/07

From: MRS VERRAN

Address: 1 NEWBRIDGE DR CTS,
MILFORD RD, EVERTON, HANTS, SO41 0JF.

Reason for objection:

The trees are causing an actionable nuisance to my property.

Trees are shedding leaves / twigs & leading to the gutters being constantly blocked. Soak away water drainage system is ruined as a result & now needs replacing as a DIRECT result of these trees! Soak away is less than 6 years old!

Branches have struck the house causing £1000+ damage in one instance! The conservatory roof was compromised leading to water ingress into the home!

The out buildings are constantly being struck from falling branches with damage occurring.

The garden area is a no go zone due to the falling branches & a health & safety risk to my family!

We cannot use / enjoy the garden area for fear of being hit by tree branches! Parts of the trees are dead & rotten. The council tree dept will NOT re-inspect the trees.

The existence of these trees is affecting our right for respect for family life!

The tree roots are encroaching into the sewer system. The roots are causing the house to subside through moisture loss from our land area on clay soil!

As it currently stands, we cannot mitigate this damage, as we are prohibited from removing the nuisance tree roots!

When we try to contact the tree department to report the tree defects, they hang up, thus breaching their duty of care!

END



7/4/08
MVB

|

APPENDIX 4



GARDEN CENTRES



Otter Nurseries Ltd, Gosford Road, Ottery St. Mary, Devon. EX11 1LZ
Telephone (01404) 815 815 Fax (01404) 815 816

Jan Debnam
New Forest District Council
Appletree Court
Lyndhurst
Hampshire
SO43 7PA

4th April 2008

Dear Ms Debnam

**TREE PRESERVATION ORDER 62/07 – LAND EAST OF 1 NEWBRIDGE
DRIVE COTTAGES, EVERTON**

Many thanks for your notice of 1st April. I would think that we shall not be attending the meeting as everything seems very clear to us.

One of our neighbours, Kevin Verran of 1 Newbridge Drive Cottages, had a problem with the poplar trees. I arranged to meet him but, unfortunately, it was at short notice so we didn't actually meet. I did inspect the trees with my Site Manager, Tony Solman, and I have subsequently sent the attached photocopied letter to Mr Verran. I feel that, the distance of the trees from his house, it was very unlikely there would be any limbs falling on his property. If the roots are causing a problem I have offered, as you can see, to make a small trench against our boundary to stop them growing further into his land, but advised him he would need to get the necessary authority before we do this.

At some point we may wish to tidy some of the lower branches or do other work, but we appreciate that we would need to make contact with your arboriculturist before any work was undertaken.

Yours sincerely,

M.J. White
Malcolm J. White
Chairman

44.

From: Claire Tabberer
Sent: 31 March 2008 12:41
To:
Subject: Poplar Trees

Mr Verran

I understand that it was too short notice to meet you on site on Thursday last week, but Tony and I did go and have a look at the nearest poplar tree to you. We felt that really it was probably such a distance away that it shouldn't really cause you a problem. However, to resolve the problem of the roots - if you wanted to - we could put the bucket from the JCB to dig a trench adjoining your boundary, as the poplar tree roots would only be in the top 15". This would then stop them for several years. You would, however, need to get permission for this as you say.

In your email of 14th March, you say you need permission to apply in principal for the licence to fell a set amount of wood, then we certainly don't have any problem with you doing this. I think you would need to add "cutting through the roots against the boundary".

Hopefully, this is useful to you.

Regards

Malcolm J. White
Chairman

APPENDIX 5

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 3/7/07 Surveyor: AL

Tree details
 TPO Ref (if applicable): _____ Tree/Group No: _____ Species: Paplar.
 Owner (if known): _____ Location: land east of 1 Newbridge Drive Ct.

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|---------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead | Unsuitable |
| 0) Dying/dangerous* | Unsuitable |

Score & Notes
4

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes
2

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small trees, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

- Highly suitable
 Suitable
 Suitable
 Barely suitable
 Probably unsuitable

Score & Notes
4

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of arboricultural features, or veteran trees |
| 4) Tree groups, or members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features |

Score & Notes
4

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- | |
|-------------------------------|
| 5) Immediate threat to tree |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only |

Score & Notes
4

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-10 | Does not merit TPO |
| 11-14 | TPO defensible |
| 15+ | Definitely merits TPO |

Add Scores for Total:
18

Decision:
TPO trees.

47

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 20/12/07 Surveyor: AO

Tree details
 TPO Ref (if applicable): 62/07 Tree/Group No: 91 Species: Pokm
 Owner (if known): _____ Location: _____

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|---------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead | Unsuitable |
| 0) Dying/dangerous* | Unsuitable |

Score & Notes

3

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes

2

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

- Highly suitable
 Suitable
 Suitable
 Barely suitable
 Probably unsuitable

Score & Notes

4

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of arboricultural features, or veteran trees |
| 4) Tree groups, or members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features |

Score & Notes

4

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- | |
|-------------------------------|
| 5) Immediate threat to tree |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only |

Score & Notes

5

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-10 | Does not merit TPO |
| 11-14 | TPO defensible |
| 15+ | Definitely merits TPO |

Add Scores for Total:

14

Decision:

TPO

48