



APPEALS PANEL – 20 FEBRUARY 2012

OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 28/11, LAND OF 98 EVERTON ROAD, HORDLE

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 Written representations from any supporters of the Order.

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 28/11 relating to land OF 98 Everton Road, Hordle with, or without, amendment.

For Further Information Please Contact:

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Background Papers:

Attached Documents:
TPO 28/11
Published documents

APPENDIX 1

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Walnut	Situated in the north-east corner, adjacent to the rear boundary of the property.

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 (including number of trees in the group)	Situation
None		

Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
None		









New Forest
DISTRICT COUNCIL
Chris Elliott
Head of Planning and Transportation

Tree Preservation Order Plan

Town and Country Planning Act 1990

TPO Number: 28/11
Approximate Scale: 1:1000
Date Printed: 17/10/11

Map 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

APPENDIX 2

**OBJECTION TO TREE PRESERVATION ORDER NO. 28/11
LAND OF 98 EVERTON ROAD, HORDLE.**

REPORT OF THE COUNCIL TREE OFFICER

1 TREE PRESERVATION ORDER HISTORY

- 1.1 Tree Preservation Order (TPO) No.28/11 was made on 17th October 2011. The TPO plan and first schedule are attached as Appendix 1 to Report A. The Order protects an individual Walnut tree situated in the rear garden of 98 Everton Road, Hordle.
- 1.2 The TPO was made after the Council received an e-mail from the tree's owner in which they stated their concerns regarding their neighbour's intention to remove all of the tree's branches that overhang their garden. A copy of the e-mail is attached as Appendix 4 to Report A.
- 1.3 The Council's Tree Officer inspected the tree and determined that the tree offers a good level of amenity, with the potential to have significant future amenity. The neighbour's proposal to cut back overhanging branches would equate to the removal of over 30% of the tree's live crown. This was considered excessive and as such it was expedient to protect the tree via a TPO.
- 1.4 A tree work application has not been submitted following the making of the TPO.

2 THE TREE

- 2.1 The TPO was served on an individual Walnut tree as this was the subject of the intended tree work. Other trees within the garden were not threatened or not of sufficient quality to warrant protection by TPO.
- 2.2 From a ground level inspection the tree appeared to be in good physiological and structural condition, exhibiting no defects that would necessitate secondary investigation or give rise to concerns regarding its safety.
- 2.3 The tree offers a good level of visual amenity to the immediate and surrounding area and can be seen by the public from Everton Road one of Hordle's main thoroughfares. As the tree ages and becomes larger its visual amenity will only increase further.

3 THE OBJECTION

- 3.1 Copies of the objection letter and a petition are included in Appendix 3.

3.2 The grounds for objection include:

- Walnuts have the potential to cause allergic reactions.
- Concern over the restrictions a TPO imposes in terms of cutting back overhanging branches and the removal of deadwood.
- Cost of tree work applications.
- Perceived lack of maintenance by the tree's owner.
- Potential damage to the greenhouse from falling fruit.
- Potential injury to users of the trampoline.
- Concern over the potential for walnuts to contaminate the food chain by falling into the vegetable patch.
- Lack of consideration to the contents of the Human Rights Act.
- The tree's owner's negligence in terms of duty of care.
- The tree is a nuisance.
- The tree is trespassing
- Petition signed by 110 residents of various towns the signatories requested that the petition's author is allowed to cut back overhanging branches and criticising the tree's owner.

4 **OBSERVATIONS ON THE GROUNDS OF OBJECTION**

- 4.1 Allergic reactions can be caused by many organic and inorganic substances. It is not reasonable to eradicate allergy causing agents from the environment. There are many nut bearing trees such as Oak, Beech, Plane, Hazel, Horse chestnut, Sweet chestnut that are common throughout the New Forest area. The removal of trees or unsympathetic pruning due to the fruit, nuts and seeds that they produce would have a significantly adverse effect on the character of the District. Wherever there are people there are diverse dietary requirements or restrictions and these must be considered as part of the general risk assessment and management of a business.
- 4.2 A TPO does not mean that overhanging branches cannot be reduced; however it does mean that the extent of work can be controlled via a tree work application. Any deadwood can be removed as it is exempt from application, however the Council requires notification.
- 4.3 There is no charge for the submission of tree work applications.
- 4.4 As the tree is not of an advanced age it would not necessarily require frequent work to maintain it.
- 4.5 A walnut within its husk is, on average, 5cm long (More and White, 2003). When it falls from the tree it has a soft outer covering. Greenhouse glass is typically toughened to ensure the safety of people using it. A small and infrequently falling nut is unlikely to cause significant damage. The tree's owners have stated that the tree has borne rather sparse crops of small walnuts and that these are generally removed by the local squirrel population.

- 4.6 Children's play equipment is portable. If there is concern regarding injury caused by falling nuts it is not an unreasonable suggestion that equipment such as a trampoline is relocated.
- 4.7 A decomposing walnut within a vegetable patch will not result in any of the growing vegetables having the properties of a nut.
- 4.8 The Human Rights Act is considered when a TPO is made and it is cited in the documents sent to adjacent properties.
- 4.9 Tree owners do have a duty of care to ensure that their trees are kept in a safe and reasonable condition. Should the tree have had its condition assessed the report wouldn't necessarily have been disseminated to neighbours. As the tree is in the early stages of maturity, extensive and frequent tree work would not typically be necessary.
- 4.10 The objectors state that the tree is causing a nuisance and is trespassing and that they wish to take steps to address this. The tree's owner sought to have the tree protected by TPO as they considered that the proposed work would compromise its health and amenity. The TPO does not preclude tree work and has been made to ensure that work undertaken does not jeopardise its safe retention. The objectors also state that they will seek an injunction in order to remove the 'offending roots and branches'
- 4.11 The petition requests that the Grimwoods are allowed to cut back overhanging branches. As previously stated the TPO has been made to ensure that any proposed work does not compromise the tree's health or amenity.
- 4.12 It is not for this department to comment on the petitions remarks regarding the tree's owner.

5 SUPPORT

The tree's owners have subsequently submitted a letter of support for the TPO to be confirmed without modification. This is attached in Appendix 4.

6 CONCLUSION

The Walnut is a specimen tree offering a good level of visual amenity and has high potential for increased future amenity. The TPO does not preclude the cutting back of branches but ensures that any work that is undertaken does not compromise the tree's health and amenity.

7 RECOMMENDATION

It is recommended that TPO 28/11 is confirmed without modification.

Further Information:

Liz Beckett
Arboricultural Officer

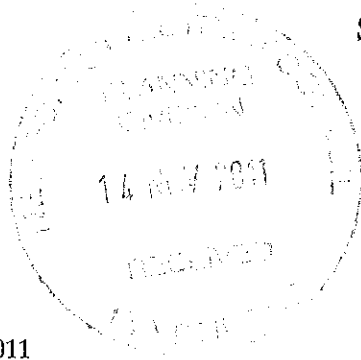
Telephone: 02380 285345

Background Papers:

Tree Preservation Order No. 28/11

More, D and White, J (2003) – Cassel's Trees
of Britain and Northern Ireland

APPENDIX 3



Stephen and Tania Grimwood

Fountain Court
Heather Close
Hordle, Hampshire SO41 0FZ

9th November 2011

Ms L Beckett
Appletree Court
Beaulieu Road
Lyndhurst
SO43 7PA

Dear Ms Beckett,

Objection - Tree Preservation Order 28/11 - Land of 98 Everton Road, Hordle, Hampshire

We wish to severely object to the above tree preservation order on the most strongest terms.

We live in a neighbouring property, with our rear garden adjoining 98 Everton Road at the position of the TPO.

Our primary concerns are:

- **Allergies caused by the walnuts**
My wife is a childminder. She cares for one child who has an egg allergy and therefore may be pre-disposed to other allergies yet undetected. There is also the possibility of caring for children in the future with nut allergies as well as other child minding friends who regularly visit with children who already have severe nut allergies.
Our primary concern is only to be able to prune the tree's branches which considerably overhang into our garden as the fallen walnuts represent a serious health risk. We actually spoke to the resident of No 98 Everton Road and explained this about 6 weeks ago and he even agreed to prune the branches back himself to save us the expense of a Tree Surgeon doing it.
- **Damage to our property from falling fruit**
As the tree has grown our greenhouse is now subsequently located under the canopy of the tree and the falling walnuts are causing damage to the greenhouse. The walnuts also fall into our veg patch and therefore can easily get into our food chain from the vegetables we grow and eat. There are also a number of dead branches hanging precariously over our garden and trampoline as the resident at no 98 Everton Road has not once tended or maintained the tree in the 6 1/2 years we have lived here.
- **Injury to persons in location of tree**
The falling walnuts are a considerable hazard to any persons in the vicinity of the tree. Specifically as children's play equipment is located in the area, which

again was placed there prior to the tree growing over into our garden but is now directly under the canopy. For the record the walnuts when they fall are extremely hard and numerous in number. It requires a general clear out of the area every time the children play on the trampoline or garden area.

- **Location of tree**
The tree is located extremely close to our boundary and as the owner of 98 Everton Road does not wish to prune the tree it will be a considerable ongoing expense on our behalf for continual applications to the Council to keep the tree to a manageable size.
- **Human Rights Act**
The Human Rights Act requires the Government to protect human life. This means that nobody - including the government - can try to end your life. We consider the resident at no 98 Everton Road and the New Forest Council are now trying to do this to one of the children in my care and at least 3 others who regularly visit us, plus other potential yet unknown children who may visit our garden or become one of my charges. It also means that you have a right to be protected if your life is put at risk - the walnut tree is a risk to the children in my care and others who visit. Also, public authorities should consider your right to life when making decisions that might put you in danger or which affect life expectancy. There is also Article 1 of 1st Protocol in the Human Rights Act which states you have a right to enjoy your property peacefully and this applies to companies as well as individuals. So the new Forest District Council must have in place a check to ensure that a fair balance has been struck between public interest v's enforcing the TPO on the walnut tree.
- **Duty of Care**
A tree owner by law has a responsibility, known in law as 'the duty of care', to take reasonable care to avoid acts or omissions which he or she could reasonably foresee may result in harm or injury to people or property of neighbouring land. The resident at No 98 Everton Road has been advised of the potential life-threatening harm the walnuts on his tree could do and has not once maintained the tree in the past 6 1/2 years since we have been in our residence. A Court expect occupiers to make regular inspections of their trees and to take reasonable steps to reduce risk where appropriate and the resident of No 98 Everton Road has not done this.
- **Law of Nuisance**
When a tree growing on land A is indirectly interfering with the 'use or enjoyment of land owned by B, this is know in law as nuisance. When a nuisance occurs, B has a right to remove the roots or branches (including fruit) and this is known as abating a nuisance. This is what we tried to do but in a pleasant neighbourly manner by speaking to our neighbour The resident at no 98 Everton Road has tried to prevent this in such an underhand way by going to the Council.
- **Trespass**
When a tree on plot A is directly interfering with the 'use or enjoyment' of the owner of plot B, this is known in law as trespass. It may be possible for the affected landowner - ourselves in this case - to seek compensation from the

tree owner. Alternatively, we may seek an injunction to have the offending roots or branches removed.

On a personal note we feel extremely aggrieved by the actions of 98 Everton Road. In good faith we approached him with our concerns and advised him that we wished to prune back the over hanging tree branches, whereby he actually said that he would carry out the necessary works himself. By law, we did not need to advise him of our intentions to prune back the branches but we did so out of neighbourly courtesy and feel he has been exceedingly devious and underhand to apply for the TPO on the tree over a child's life whilst we sat back and waited for him to trim the tree as he had offered to do. We are not the only people to think this as we have conducted a local petition with over 100 signatures , as well as an online petition with over 30 signatures, of concerned local residents and parents who cannot believe that a tree should be more important than a child's life potentially.

Sincerely yours,

Stephen and Tania Grimwood

Enc: Petition

**Petition against a TPO for a Walnut Tree in the back garden of
no 98 Everton Road**

We, the undersigned, petition against the ludicrous TPO on a walnut tree as it poses a potential major health risk to children who play in the adjacent garden and potentially a life-threatening risk if a child has a nut allergy. We urge the Council to re-think the TPO so that the tree may be annually trimmed by the adjoining neighbours when it over-hangs into their gardens.

We think the underhand way the resident of no 98 Everton Road has applied for this TPO is deplorable. He even offered to cut back the branches himself and then went behind his neighbour's backs to get a TPO in place to prevent them now doing the pruning themselves.

	Name	Address	Contact No.	Signature
1.	G. PADLEY	26, PINWOOD RD HORDLE		
2.	<i>[Handwritten Signature]</i>	10, St George Dr.		
3.	Julie Reed	4A STURFACE GARDENS, HORDLE		
4.	Katie Tizard	19 Sycamore Rd Hordle		
5.	Julie Peters	37 Lavender Rd Hordle		
6.	Mandy Pedder	a tiffany Close Hordle		
7.	Zoe Stace	6 Acacia Rd Hordle		
8.	Lee Stace	6 Acacia Rd Hordle		
9.	Claire Pomeroy	27 Miller Close		
10.	Sue MOXAM	24 Fawcett rd		
11.	Hazel Clements	7 Vernalis Court, BH25 5GU		
12.	Michele Bryson	48 Acacia Rd Hordle SO40 0Y9		

13.	U. Perkins	Swiss cottage Barrow Lane
14.	P. PERKINS	28 Wentwood Gdns N. Milton
15.	S. Nolley	3, WHITEBARN CRES SO41 0PY.
16.	J. BRADLEY	" "
17.	J. Binns	12 Whitebarn. SO41 0PY
18.	S. Wood	25 Sheldrake Gdns SO41 0FJ
19.	B. Foy	31, Sheldrake Gdns SO41 0FJ
20.	A. Leell	141 Terebinth Rd Hurdle SO41 0TA
21.	J. Churn	1 Cedar Cott. Waggs Lane Hurdle
22.	M. BOEYMAN M. BOEYMAN	29 FLORISTON Gdns ASHLEY.
23.	S. Seale	1a Arnold's Close Barton. U. 20.
24.	D. Brown Lianeza	29 Sheldrake Gardens, Hurdle
25.	M. Brington	5 Eastlands, New Milton Hampshire SO41 0PJ
26.	W M. FAHRAN	4 MARSTON CLOSE NEW MILTON
27.	Paula Handscumbe	70 Manor Road New Milton.
28.	Fiona Robinson	46 Gore rd New Milton

29.	Jerry Woodhead	49 Donesbury meadows BH25 5GX
30.	Lucy Ham	Gloribee, vicarage lane, Hordle
31.	Nici Daley	17 Myslaw Gordon SA11054
32.	Kaura Steel	60 Oakwood Ave New Milton
33.	Ueli Bensen	Lwsbeeh Way Hordle
34.	Amanda Hook	6 York Ave New Milton
35.	TARA SQUIRE	12, BADGERS COUSE, NEW MILTON
36.	JUDITH RICE	15 PINESWOOD RD HORDLE
37.	Anne Goodall	3 Cannon Hill Gdn Winborne
38.	CEIRE BROWN	10 TIDES WAY MARCHWOOD
39.	TOM BRONN	10 TIDES WAY MARCHWOOD
40.	BOB HARTSTONE	HEATHERCOURT HEATHER CLOSE HORDLE
41.	EUNICE HARTSTONE	HEATHERCOURT HORDLE.
42.	M. MITCHELL- JONES	BEZINDA COTTAGE HORDLE
43.	Karen Shaffer	2 Crookford Close new Milton
44.	A. Coleman	Hordle

45.	TRISH TOY	43 Ashlay Lane Hordle
46.	CLARE BEALE	MISTLETOE COTTAGE HORDLE
47.	PAUL TAYLOR	THE TICRAGE STODPES LANE HORDLE SOUTH OLY
48.	Kym Goodall	14 PEGGAS AVE Hordle Lymington SOUTH OLY
49.	JOLIE MAJONENT	Redwing Gdns TSTon
50.	Lucy Simpkin	The Mead Hythe
51.	Sencha Barnes	Luna walk Dibben Park
52.	CHRS STEEDES	58 Ashley Lane Hordle
53.	LES COLEMAN	Hordle
54.	Joyce Challen.	54 FORE OAK DR. N.M.
55.	PAT. HARRISON	8A WAVERLEY ROAD NEW MILTON
56.	G HARRISON	3A WAVERLEY RD N.M.
57.	Jess Martin	41 West way Lymington
58.	Julie Martin	1 West Way Lymington
59.	Gail Richardson	19, Stoneleigh Ave Hordle.
60.	LYN ROSTANT	54 FORE RD N. MILTON
61.		

69	Teresa Clampin	50 Fawcett Rd New Milton BH25 6SU
62	Sarah Minifie	7 Dinham Court, New Milton, BH25 5XR
63	ANGELA BARKER.	1. Cowley Rd Lymington
64	ALISON GILLIARD.	17A, EVERTON RD LYMINGTON
65	SUSAN WHITOUSE	212 EVERTON RD, HORDLE
66	GILL MORRIS	17. Rookcliff Way MILFORD OUSEN
67	VIV BINNS	111-85 ASHLEY LANE NEWMILTON
68	JIM GOODALL	4 PERASUS AVENUE, HORDLE
69	LUCY MORGAN	53 Highridge CREC New Milton
70	CATHERINE GRASSBY	WILLOW COTTAGE SOUTH DRIVE DESEMSELEY NEWMILTON, HANTS
71	Abbie Barny	33 Sycamore Rd Hordle
72	Nicole Waddington	8 Yerville Gardens
73	Alva Taylor	The Vicarage, Stopples Lane, Hordle
74	JEANETTE DADIES	1 SIDNEY ST HORDLE
75	Sarah Quilbeah	Flat 3 Highcliffe Hs. Highcliffe
76	Sarah Jordan	Flats, Highcliffe Hs. Highcliffe
77	Mary TRANT	16 WONGFIELD R HORDLE SOUTH
78	Rebecca Alan	Hordle
79	Sue Newberry	62 Everton Hordle Rd
80	Vicky Skidmore	41, BH25 5GX
81	K. SAVILL.	2A V5, BH25 5QD
82	W. PARRISH	25 SOUTH OBF
83	J. POLPH	57 Pineswood Rd Hordle
84	M. BURMAN	2 TING OSELONS HORDLE

83	Bussarin O'Sullivan	54 Pinewood Road Hordle
86	Daphne Bramble	46 DEBINA RD NEW MILTON.
87	NICKY HUNMAN	LINDEN COTTAGE EAST LANE EVERTON
88	Ruth Bullock	15 HURST RD M.O.S.
89	Gillian Ford	17 Whitman Close Milton
90	Kerry Willis	9 Lawn Road Milford on Sea
91	Faye Granger	46 Carrington Lane Milford-on-Sea
92	TAMM White	8 Lark Close Hordle
93	Louise, Daines	Greenways, Centre Lane, Everton
94	R. Chasland	Knock Lodge, Everton Centre Lane, Everton
95	GEMMA BALLAM	17 BERTRAM RD NEW MILTON
96	Kelle Kemp	Highways North Hordle M.O.S.
97	Kirsty Gallon	19 Pinewood Road Hordle
98	Sylvia Gibbings	Flat 9, Solent Lodge 67 Lymington Rd
99	NAOMI DAVIE	41 Falkland Farmhouse Taddehurst Lane, Lymington
100	Elaine Baker	23 Stappes Lane Hordle
101	KIRSTIE CANTEGREIL	116 EVERTON RD HORDLE
102	Hazel Cotton	22 Fir-tree Crescent Hordle SO41 0QT
103	L. Bullock	70 Stappes Lane

104 LINDSEY 9 ELVIN CLOSE, HORDLE

105 JOLIMIN 16 Meadowsands,
Lymington

106 N WEST KNOWLE LODGE
BRIGHTON ROAD

107 D WEST SWAY
SO41 6EA

108 D. STEPHENS 2 PARK COTTAGES
PARK RD. BOS
N. MILTON
BU25 6RF

**Petition against a TPO for a Walnut Tree in the back garden of
no 98 Everton Road**

We, the undersigned, petition against the proposed TPO as it poses a potential major risk, even a life threatening anaphylactic shock risk to children who play in the adjacent garden. We urge the Council to re-think the TPO so that the tree may be annually trimmed by the adjoining neighbours when it over-hangs into their garden.

We think the underhand way the resident of no 98 Everton Road has tried to stop Mrs Grimwood from pruning back the branches is inexcusable

	Name	Address	Contact No.	Signature
109 [#]	B. SANDERSON	97, EVERTON RD. HORDLE		
110 [#]	W. SANDERSON	— . . —		
3.				
4.				
5.				
6.				
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18.				

Insolvency Defeat Debt & Get Your Life Back! Call To Learn About Your Options. www.insolvency.com

Meet Online with WebEx WebEx is an Easy Way to Share Information with Anyone, Anywhere. www.WebEx.co.uk

HowTo Petition Bankruptcy Become Bankrupt in 3 Easy Steps. Be totally Debt Free in 12 months www.BankruptcyClinic.co.uk

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PETITION AGAINST A TPO FOR A WALNUT TREE

I am a registered childminder and approx 4 weeks ago approached my neighbour about the overhanging branches from his walnut tree as I believed they posed a potential risk to the children who play in my garden. I did not have to ask his permission to cut back the branches as I was within my rights to cut back any overhanging trees which invade my garden space but I wanted to maintain neighbourly relations. I explained I wanted to cut them back due to the anaphylactic shock risk to the children. By the end of this conversation the neighbour then actually agreed to cut back some of the offending ... [continue »](#)

ALL THE SIGNATURES

33. Tom King	9/11/11
<i>I support this petition</i>	
32. Tom Chapman (unverified)	8/11/11
<i>I support this petition</i>	
31. Samantha Chapman (unverified)	8/11/11
<i>I support this petition</i>	
30. Richard Curthoys	8/11/11
<i>I support this petition</i>	
29. Hugh Grimwood (unverified)	4/11/11
<i>I support this petition</i>	
28. Melanie Morris	2/11/11
<i>I support this petition</i>	
27. Marc Borrett (unverified)	2/11/11
<i>I support this petition</i>	
26. Laura Pike (unverified)	2/11/11
<i>I support this petition</i>	
25. Katie King	1/11/11
<i>I support this petition</i>	
24. Tania Walbanke (unverified)	1/11/11
<i>I support this petition</i>	
23. Kay Eccleton	31/10/11
<i>I support this petition</i>	
22. Mrs Freddie Golding (unverified)	31/10/11
<i>I support this petition</i>	
21. Morag Cahery	31/10/11
<i>Some neighbour!</i>	
20. georgina grimwood (unverified)	31/10/11
<i>I support this petition</i>	
19. Carmen Martin (unverified)	31/10/11
<i>I support this petition</i>	
18. Abi Hume (unverified)	31/10/11
<i>I support this petition</i>	
17. Claire Barker (unverified)	30/10/11
<i>I support this petition</i>	
16. Sam Blay	30/10/11
<i>I support this petition</i>	
15. jane dinnell	30/10/11
<i>I support this petition</i>	
14. Karen Bender (unverified)	30/10/11
<i>I support this petition</i>	
13. Niki Davey	29/10/11
<i>I support this petition</i>	
12. Sue Bourke	29/10/11
<i>I support this petition</i>	
11. Liz Burton	29/10/11
<i>I support this petition</i>	
10. gerald holley (unverified)	29/10/11
<i>I support this petition</i>	
9. Natalie Brand	29/10/11

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<i>I support this petition</i>	
8. Beverly Watson	29/10/11
<i>I support this petition</i>	
7. Christina White (unverified)	29/10/11
<i>I support this petition</i>	
6. Becky De Vries	29/10/11
<i>I support this petition</i>	
5. Julian Bradley (unverified)	29/10/11
<i>I support this petition</i>	
4. Samantha Holley (unverified)	29/10/11
<i>I support this petition</i>	
3. Lorraine and Stuart English	29/10/11
<i>I support this petition</i>	
2. Donna Woodsford	28/10/11
<i>I support this petition</i>	
1. Annette Fisher	28/10/11
<i>I support this petition</i>	

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TPO – No 28/11 – land of 98 Everton Road, Hordle, SO41 0FD



We wish to make these other objections to the above TPO:

1. In speaking with the Tree Preservation Officer before Christmas, he told me that the tree can be viewed by the public from the Everton Road and so the TPO was in place as a safeguard to the wider community's enjoyment. We wish to dispute this most vehemently as the tree in question is in fact over 100yds from the road, behind the houses, and you would only look for/at it if you knew it was there. It can only be viewed from the roadside in one specific place between nos 98-100 Everton Road. If you take one/two steps either forward/reverse of this point you are in fact unable to see the tree as it is blocked by, yet another, overgrown tree in the garden of 98 Everton Road and the in-situ house rooflines. You cannot see the tree from in front of nos 102/104 Everton Road.

If you view the tree from in front of no 96 Everton Road – who have also raised objections – you are only able to see the top 1/4 or less of the tree and only then if you were specifically looking for it as the distance from the road again is also over 100yds.

To the rear of properties along this part of the Everton Road is a dis-used Nursery so there are no community members who will benefit from seeing the tree from this direction.

2. The owner of the tree planted it in such a place that it in fact not only overhangs our property considerably but also our adjacent neighbour. In the 6 ½ years we have lived at our property the owner of the tree has made no attempt to keep the tree branches trimmed back over his property and this is why it is so overgrown and posing a health risk to the children who play in my garden

Yours faithfully,

^v
Tania & Stephen Grimwood

Fountain Court
Heather Close
Hordle
SO41 0FZ

2nd February 2012

TPO Appeal Panel – To Whom It May Concern

Further to a very recent enquiry (Jan 2012) from a prospective parent concerning their child coming to my setting, I wanted to advise the panel that I have had to turn this child away due to his anaphylactic reactions to all nuts – including walnuts – even though I physically had the space available to take this child.

This means my business is being affected by the TPO being in place on the walnut tree in no 98 Everton Road. The child in question would equate to approx £100 per month in loss of earnings, and in this work climate, I find that exceedingly hard to bear, especially considering I have space for the child.

I cannot determine how many other children I potentially would have to turn away but consider turning any child away, should I have space, to be highly detrimental to my business.

Yours faithfully,

Tania Grimwood

APPENDIX 4

Liz Beckett

From: M MORING
Sent: 09 October 2011 20:43
To: Liz Beckett
Subject: TPO for 98 Everton Road, SO41 0FD

Liz

Further to your recent telephone call I am emailing to make a request for consideration of a Tree Protection Order to be made on a large walnut tree situated in the rear garden of my home at 98 Everton Road, Hordle, SO41 0FD.

We have lived at this address for the last 15 years and during this time have prided ourselves in our garden and making it a feature of the property. At the end of our rear garden we have a number of trees, one of which is a large walnut tree approx 30ft in height. Over the years we have had it trimmed to form a uniform and symmetrical shape making the tree aesthetically pleasing from all angles. The tree is situated on the boundary of our property and overhangs the rear garden of a neighbour in a nearby Close. The tree is there as a natural part of the garden and we do not use or gain from the walnuts in any way.

Approximately 10 days ago the neighbour approached me and requested I cut the walnut tree. They were requesting that I cut and remove all branches overhanging their property in order to prevent walnuts falling into their garden. The neighbours have lived at this address for approx. 6 years and we have spoken to them frequently throughout this time and there has never been any concern raised prior to this. We have always had a good neighbourly relationship and there have never been any issues between us. I asked why they were now requesting the tree being cut and was told that the wife at the house runs a "creche" / nursery business from home and was looking to take on a pre-school child with a serious nut allergy and that my tree was overhanging her trampoline that the nursery children used. I suggested that it may be more appropriate to move the trampoline (their garden is suitably large enough to accommodate this), however, they refused stating they had the right to cut the parts of the overhanging tree if they wished to and were only consulting me out of neighbourliness.

I believe that their request is unreasonable as it will require the removal of almost 50% of a walnut tree that is 40+ years old. The request is based on their desire for financial gain from their nursery placement of one child with special requirements that would only be there for a matter of 18 months to 2 years. They have confirmed they are under no obligation to accept or take this child into the nursery, they merely wish to as it is an extra child and thus extra money. To remove the bows and branches they are requesting would most likely cause irreparable damage to the tree, very possibly killing it completely. Such sever cutting would both ruin the visual appearance of the tree and make it heavily weighed to one side and thus a liability in high winds. IF the tree survived it would take in excess of 20 years for branches to regrow and in the meantime one side of the tree would remain established and mature whilst the other side (the side they are asking to cut) would become a mass of side shoots as it struggled to recover and regain its natural form.

Whilst I am sympathetic over the concerns over a walnut tree in a garden with a child with nut allergies I would re-iterate that this is a child they are only seeking to provide nursery care for for financial gain, it

is not a member of the household or family.

Yours

Michael Moring

Your Ref : LBEC/MAC/28/11

TPO Ref : 28/11

Tree Team
Appletree Court
Beaulieu Road
Lyndhurst
SO43 7PA

98 Everton Road
Hordle
Lymington
Hampshire
SO41 0FD

Dear Ms Beckett,

We are writing in respect of Tree Protection order number 28/11. The walnut tree in question is situated on our property and we wish to **support** the Temporary Tree Protection Order currently in place and, as the owners, would wish for the TTPO to be made permanent to protect the future wellbeing of the walnut tree.

We have lived at 98 Everton Road, Hordle, SO41 0FD for the past 16 years. When we purchased the property the walnut tree in question was already well established in the garden. We would estimate this tree to be at least 50 years old. The walnut tree has always overhung the gardens of 96 Everton Road and a newer property in nearby Heather Close (formerly known as Cherry Tree Court). Since moving in we have spent considerable time, effort and money on our garden overall making it esthetically pleasing. Over time we have spent effort and money on the walnut tree ensuring that it achieved and maintained a uniform and symmetrical shape, which it has. We have never received any complaints or concerns over its presence in this time. We have previously given permission for neighbours to prune parts of the tree as the pruning was minimal and not to the detriment of the tree.

Approx. 8 years ago Mrs. Grimwood moved into Heather Close and shortly after this began to run a childcare business from home. Our walnut tree has always overhung a small portion of the large rear garden of Mrs Grimwood's property and I was aware Mrs Grimwood had chosen to sight a trampoline beneath the overhanging branches of the tree. This trampoline has been in situ for several years, throughout which time it has been very well used by the children utilizing her childcare business and there have never been any complaints over the branches of our tree above it or the presence of any nuts falling into her garden as the tree is not a great "producer" and the nuts that grow are, for the greater majority, habitually removed by the local wildlife before they fall.

In early October 2011 I was approached by Mrs Grimwood who asked if the walnut tree could be cut. In discussion Mrs Grimwood stated she wanted all overhanging branches of the tree cut back to her boundary stating the reason to be that she wished to take on a child with a nut allergy into her childcare services. To agree to the request would mean removing one entire side of the tree, in excess of 40% of its volume of branches. I suggested it may be more appropriate to move the trampoline or consider other less

drastic action as the result would cause irreparable damage to the tree and quite possibly kill it. Mrs Grimwood refused this stating she was not prepared to move the trampoline and had the right to remove overhanging branches if she wished. It was clear that there was no compromise that Mrs Grimwood would entertain as her focus was solely on expanding her business. It was on the basis of this substantial risk posed to the walnut tree that we sought an initial Tree Protection Order from yourselves.

In respect of our application our specific concerns are :

1. The walnut tree is currently very healthy and free from disease, damage or other problems.
2. As the main trunk is situated very close to the property boundary, the removal of overhanging branches constitutes one entire side of the tree (over 40% of its branches and foliage) and would make the tree unsightly from all angles.
3. The tree has always grown naturally, with only minor pruning to encourage an even shape. Accordingly the tree has naturally "balanced" itself in its current form and to remove major boughs and branches from one entire side would potentially make the tree unstable and thus a danger in the future.
4. The wind direction is predominantly South East, across our garden from right to left, (as can be seen by the "lean" of trees nearby). Constant wind in this direction would thus further unbalance the tree as outlined in (2) above and making it more of a danger.
5. Such severe lopping of the tree could well result in the tree dying completely.
6. If the tree were so lopped AND survived it would never regain its natural shape or health.
7. To our knowledge there have been NO past incidents regarding "nut allergies" and the request was for FUTURE intentions / financial gain.
8. There is no-one who lives or permanently resides at any of the properties our tree overhangs that has a nut allergy.
9. The tree only bears nuts for a short time ie June and July and in our time at the property we have rarely had the opportunity to gather them as the local wildlife (squirrels and birds in the main) take the walnuts before they fall.
10. The reason for Mrs Grimwood making her request to cause such damage to the tree is a short term issue, based on a desire for financial gain, that could be avoided by the taking of some reasonable steps on her part.

Submitted for your consideration under Regulation 4, Town and Country Planning (Trees) Regulations 1999.

Yours sincerely

Michael Moring

Marilyn Moring