

APPEALS PANEL – 1 MARCH 2012.

## **OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 33/11, VERGE OUTSIDE 59-63 CHURCH STREET FORDINGBRIDGE**

### **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** Copies of the applications received to fell the Alder tree.

**Appendix 4** The written representations from the objectors to the making of the Order

**Appendix 5** 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 33/11 relating to the verge outside 59-63 Church Street, Fordingbridge with, or without, amendment.

### For Further Information Please Contact:

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Committee Administrator  
Tel: (023) 8028 5389  
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Head of Legal and Democratic Services.  
Tel: (023) 8028 5285  
E-mail: [grainne.orourke@nfdc.gov.uk](mailto:grainne.orourke@nfdc.gov.uk)

### Background Papers:

Attached Documents:  
TPO 33/11  
Published documents

# **APPENDIX 1**

## SCHEDULE 1

### SPECIFICATION OF TREES

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

Reference on map	Description	Situation
T1	Birch	Situated in the verge to the front of 59 Church Street, Fordingbridge, as shown on plan.
T2	Alder	Situated in the verge to the front of 63 Church Street, Fordingbridge, as shown on plan.
T3	Birch	Situated in the verge to the front of 63 Church Street, Fordingbridge, as shown on plan.

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

Reference on map	Description	Situation
None		

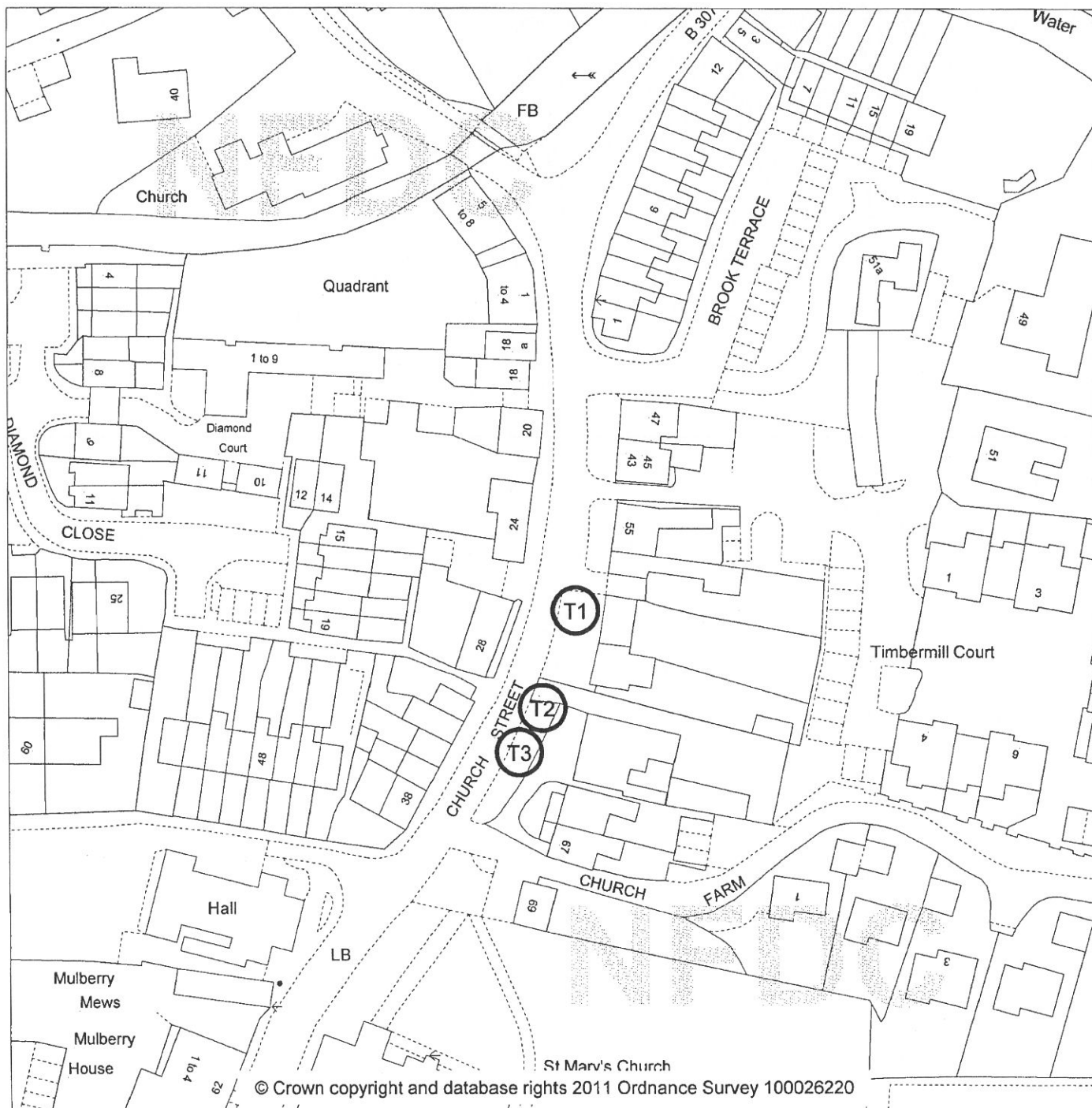
#### Groups of trees (within a broken black line on the map)

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

**TPO Number: 33/11**

**Approximate Scale: 1:1000**

**Date Printed: 16/11**

## Tree Preservation Order Plan

Town and Country Planning Act 1990

### 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

AN AUTHORISED SIGNATORY

# APPENDIX 2

**OBJECTION TO TREE PRESERVATION ORDER NO. 33/11  
LAND OF CHURCH STREET, FORDINGBRIDGE.**

**REPORT OF COUNCIL TREE OFFICER**

**1 TREE PRESERVATION ORDER HISTORY**

- 1.1 Tree Preservation Order (TPO) No.33/11 was made on 16 November 2011. The TPO plan and first schedule are attached as Appendix 1 to Report A. The Order protects three individual trees, two Birch and an Alder situated in the verge to the front of 63 Church Street, Fordingbridge.
- 1.2 The TPO was made in objection to the Council receiving a tree work notification, 11/0463, to fell the Alder, as included in Appendix 3 to Report A. A similar tree work notification, 0310/11 had been withdrawn following a site meeting with the applicant, Mr Toulson, also included in Appendix 3.
- 1.3 The Council's Tree Officer inspected the tree and its companions and determined that the trees offer a good level of amenity. The Alder's premature removal would have an adverse effect on the character of the area and the tree could not be quickly or inexpensively replaced.

**2 THE TREE**

- 2.1 The TPO was served on three individuals, two Birch and an Alder.
- 2.2 From a ground level inspection the trees appeared to be in good physiological and structural condition, exhibiting no defects that would necessitate secondary investigation or give rise to concerns regarding their safety.
- 2.3 The trees offer a good level of visual amenity to the immediate area.

**3 THE OBJECTION**

Copies of the objection letters are included in Appendix 4.

The grounds for objection include:

- The trees are protected by virtue of their location within a conservation area, therefore a TPO is unnecessary.
- The Alder's retention is detrimental to the area's appearance.
- One of the Birch trees is in poor condition.
- The Alder's roots have damaged the asphalt surface.
- The Alder's size is incongruous to its location and is contrary to the Fordingbridge Conservation Area Appraisal.

- The inclusion of the Birch trees, as these were not subject to a tree work notification.
- The TPO documents are misleading and do not state that a replacement tree was proposed within the tree work notification.

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

- 4.1 When a planning authority objects to the work proposed within a conservation area tree work notification it is manifested by the making of a TPO. Evidently, there is intent to remove at least one of the trees and to prevent this the TPO was made.
- 4.2 The applicant submitted photographs looking towards the church whilst the tree was in full leaf and the view is unrestricted by the Alder's presence. They also illustrate the tree's importance in terms of softening and screening, especially adjacent to what would otherwise be unsightly on-street parking bays.
- 4.3 From ground level inspection all of the trees' longevity should exceed 10 years.
- 4.4 There is some damage to the surface adjacent to the tree. There are methods by which this damage can be repaired and prevented in the future. Indeed such a suggestion was made to a preceding applicant by a former NFDC Tree Officer in 2001.
- 4.5 The Alder is no larger than its companion trees in terms of height. However, it does have a broader crown spread than adjacent trees. The Fordingbridge Conservation Area Appraisal mentions that trees should not exceed their planned size. Species selection, together with site conditions, determine a tree's size; and this is planned for at the design stage. As discussed with Mr Toulson following his tree work notification, concerns regarding the tree's size could be addressed by crown-lifting to 3 metres above ground level to allow clearance over the parking bays and the reduction of selected lateral branches.
- 4.6 The Birch trees were protected as it was felt that the group as a whole is important to the street scene.
- 4.7 The TPO was made to prevent excessive and unsympathetic pruning or premature removal of the trees. The proposed replacement planting with a Rowan is not cited within the TPO document. However, this fact is not concealed from neighbours or interested parties as all applications are available in full on the NFDC website. Although the applicant acted in good faith by proposing a replacement tree, this is not enforceable and therefore cannot be guaranteed. Furthermore, the Alder is growing in a small lozenge of land in between a side access road and a parking bay. This planting site is covered in cobbles. To successfully establish a tree in this position would require the removal of the cobbled surface, the Alder's entire stump to be excavated and the importation of a suitable planting medium. This evidently has a cost implication that could deter the applicant from undertaking the tree's replacement. It seems perverse to remove a perfectly healthy tree when alternative work can be

undertaken to address the stated concerns. This is exacerbated by the fact that a replacement tree in this location is unlikely to establish well and thrive.

**5 SUPPORT**

One letter stating that the trees enhance the area is attached at Appendix 5 to Report A

**6 CONCLUSION**

The Alder and Birch trees offer a good level of visual 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 value.

**7 RECOMMENDATION**

It is recommended that TPO 33/11 is confirmed without modification.

**Further Information:**

Liz Beckett  
Arboricultural Officer

Telephone: 02380 285345

**Background Papers:**

Tree Preservation Order No. 33/11

# **APPENDIX 3**



# New Forest

DISTRICT COUNCIL

Appletree Court  
Lyndhurst  
Hampshire  
SO43 7PA  
Tel: 023 8028 5333  
Email: dev.control@nfdc.gov.uk  
www.newforest.gov.uk/planning

Application for tree works: works to trees subject to a tree preservation order (TPO) and/or notification of proposed works to trees in a conservation area.

## Town and Country Planning Act 1990

You can complete and submit this form electronically via the Planning Portal by visiting [www.planningportal.gov.uk/apply](http://www.planningportal.gov.uk/apply)

### Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Please complete using block capitals and black ink.

You must use this form if you are applying for work to trees protected by a tree preservation order (TPO). (You may also use it to give notice of works to trees in a conservation area).

It is important that you read the accompanying guidance notes before filling in the form. Without the correct information, your application / notice cannot proceed.

**1. Applicant Name and Address**

Title:  First name:

Last name:

Company (optional):

Unit:  House number:  House suffix:

House name:

Address 1:

Address 2:

Address 3:

Town:

County:

Country:

Postcode:

**2. Agent Name and Address**

Title:  First name:

Last name:

Company (optional):

Unit:  House number:  House suffix:

House name:

Address 1:

Address 2:

Address 3:

Town:

County:

Country:

Postcode:

App: 11/0463

Reg: 10-11-11

Report:

F' Bridge

C/A

### 3. Trees Location

If all trees stand at the address shown in Question 1, go to Question 4. Otherwise, please provide the full address/location of the site where the tree(s) stand (including full postcode where available)

Unit:  House number:  House suffix:

House name:

Address 1:

Address 2:

Address 3:

Town:

County:

Postcode (if known):

If the location is unclear or there is not a full postal address, either describe as clearly as possible where it is (for example, 'Land to the rear of 12 to 18 High Street' or 'Woodland adjoining Elm Road') or provide an Ordnance Survey grid reference:

Description:

OFF CHURCH STREET.

### 4. Trees Ownership

Is the applicant the owner of the tree(s)?  Yes  No  
If 'No' please provide the address of the owner (if known and if different from the trees location)

Title:  First name:

Last name:

Company (optional):

Unit:  House number:  House suffix:

House name:

Address 1:

Address 2:

Address 3:

Town:

County:

Country:

Postcode:

Telephone numbers

Country code:	National number:	Extension number:
<input type="text"/>	<input type="text"/>	<input type="text"/>
Country code:	Mobile number (optional):	
<input type="text"/>	<input type="text"/>	
Country code:	Fax number (optional):	
<input type="text"/>	<input type="text"/>	

Email address (optional):

### 5. What Are You Applying For?

Are you seeking consent for works to tree(s) subject to a TPO?  Yes  No

Are you wishing to carry out works to tree(s) in a conservation area?  Yes  No

### 6. Tree Preservation Order Details

If you know which TPO protects the tree(s), enter its title or number below.

### 7. Identification Of Tree(s) And Description Of Works

Please identify the tree(s) and provide a full and clear specification of the works you want to carry out. Continue on a separate sheet if necessary. You might find it useful to contact an arborist (tree surgeon) for help with defining appropriate work. Where trees are protected by a TPO, please number them as shown in the First Schedule to the TPO where this is available. Use the same numbers on your sketch plan (see guidance notes).

Please provide the following information below: tree species (and the number used on the sketch plan) and description of works. Where trees are protected by a TPO you must also provide reasons for the work and, where trees are being felled, please give your proposals for planting replacement trees (including quantity, species, position and size) or reasons for not wanting to replant.  
E.g. Oak (T3) - fell because of excessive shading and low amenity value. Replant with 1 standard ash in the same place.

ALDER: FELL AND REPLACE WITH MOUNTAINASH FOR REASONS SEE ATTACHED LETTER, AND PLAN OF IDENTIFICATION. PLUS PHOTOGRAPHS (6)



## 7. Identification Of Tree(s) And Description Of Works continued ...

## 8. Trees - Additional Information

Additional information may be attached to electronic communications or provided separately in paper format.

### For all trees

A sketch plan clearly showing the position of trees listed in Question 7 must be provided when applying for works to trees covered by a TPO. A sketch plan is also advised when notifying the LPA of works to trees in a conservation area (see guidance notes). It would also be helpful if you provided details of any advice given on site by an LPA officer.

### For works to trees covered by a TPO

Please indicate whether the reasons for carrying out the proposed works include any of the following. If so, your application must be accompanied by the necessary evidence to support your proposals. (See guidance notes for further details)

1. **Condition of the tree(s)** - e.g. it is diseased or you have fears that it might break or fall:  Yes  No  
If YES, you are required to provide written arboricultural advice or other diagnostic information from an appropriate expert.

2. **Alleged damage to property** - e.g. subsidence or damage to drains or drives.  Yes  No  
If YES, you are required to provide for:

#### *Subsidence*

A report by an engineer or surveyor, to include a description of damage, vegetation, monitoring data, soil, roots and repair proposals. Also a report from an arboriculturist to support the tree work proposals.

#### *Other structural damage* (e.g. drains, walls and hard surfaces)

Written technical evidence from an appropriate expert, including description of damage and possible solutions.

### Documents and plans (for any tree)

Are you providing separate information (e.g. an additional schedule of work for Question 7)?  Yes  No

If YES, please provide the reference numbers of plans, documents, professional reports, photographs etc in support of your application. If they are being provided separately from this form, please detail how they are being submitted.

EXHIBIT I REASONED LETTER 31.10.11 SIGNED

EXHIBIT II SITE LOCATION PLAN

EXHIBIT III PHOTOGRAPHS (6)

### 9. Authority Employee / Member

With respect to the Authority, I am:

- (a) a member of staff                      (c) related to a member of staff  
(b) an elected member                      (d) related to an elected member

Do any of these statements apply to you?

- Yes     No

If Yes, please provide details of the name, relationship and role

### 10. Application For Tree Works - Checklist

Only one copy of the application form and additional information (Question 8) is required. Please use the guidance and this checklist to make sure that this form has been completed correctly and that all relevant information is submitted. Please note that failure to supply precise and detailed information may result in your application being rejected or delayed. You do not need to fill out this section, but it may help you to submit a valid form.

#### Sketch Plan

- A sketch plan showing the location of all trees (see Question 8)

#### For all trees

(see Question 7)

- Clear identification of the trees concerned
- A full and clear specification of the works to be carried out

#### For works to trees protected by a TPO

(see Question 7)

Have you:

- stated reasons for the proposed works?
- provided evidence in support of the stated reasons? in particular:
  - if your reasons relate to the condition of the tree(s) - written evidence from an appropriate expert
  - if you are alleging subsidence damage - a report by an appropriate engineer or surveyor and one from an arboriculturist.
  - in respect of other structural damage - written technical evidence
- included all other information listed in Question 8?

### 11. Declaration - Trees

I/we hereby apply for consent/ give notice for tree work as described in this form and the accompanying plans and additional information.

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

02.11.2011

(This date must not be before the date of sending or hand-delivery of the form)

### 12. Applicant Contact Details

Telephone numbers

Country code:	National number:	Extension number:
<input type="text"/>	<input type="text"/>	<input type="text"/>
Country code:	Mobile number (optional):	
<input type="text"/>	<input type="text"/>	
Country code:	Fax number (optional):	
<input type="text"/>	AS ABOVE	

Email address (optional):

### 13. Agent Contact Details

Telephone numbers

Country code:	National number:	Extension number:
<input type="text"/>	<input type="text"/>	<input type="text"/>
Country code:	Mobile number (optional):	
<input type="text"/>	<input type="text"/>	
Country code:	Fax number (optional):	
<input type="text"/>	<input type="text"/>	

Email address (optional):

Electronic communication - If you submit this form by fax or e-mail the LPA may communicate with you in the same manner.  
(Please see guidance notes)

# EXHIBIT I

31st October, 2011

RICHARD SHERING  
49 Church Street  
Fordingbridge  
Hampshire  
SP6 1BB

Head of Development Control  
NFDC  
Appletree Court,  
Lyndhurst  
Hants SO43 7PA

Dear Sir,

Re: Town & Country Planning Act 1990 – Section 211 notification of intention to fell tree within Conservation area at ‘the Square’ Church Street, Fordingbridge

I attach the completed forms under section 211 of the above Act, for notification of the proposed felling of an Alder tree within the Square, Church Street, Fordingbridge. The tree is not subject to a TPO, but lies within the Fordingbridge Conservation Area.

It is proposed to replace the tree with a mountain ash. The alder was planted as part of an environmental improvement scheme sponsored and designed by Hampshire Country Council in 1990. I gave approval to it, as landowner, although at the time did raise a query with the potential size and foliage denseness of the proposed Alder. The improvement scheme was implemented in 1991.

Over the last 20 years the Alder has grown to the extent that it has now become unsympathetic to the character and appearance of the conservation area. This is due to a combination of its size relative to its surroundings, and the denseness of its foliage. There are also practical problems arising from this. The tree roots have reached nearby houses and are, for the second time in five years, causing surface damage to walkways. In visual terms, the denseness of the foliage has effectively ‘severed’ The Square at its narrowest point, spoiling what was hitherto an open aspect and one which characterised the Square historically. The outlook from adjoining houses has also been seriously affected, however a more concerning impact is the effect on views of St. Mary’s Church (on approach through the Square), which dates from the twelfth century and clearly deserves a less obstructed setting.

With hindsight, perhaps I should not have agreed to any trees being planted in the Square, but I am able to accept that the remainder, being smaller, more controllable and ‘lightly-leaved’ species, can continue to be accommodated. That is why a smaller replacement tree, such as a mountain ash would be more appropriate in this location.

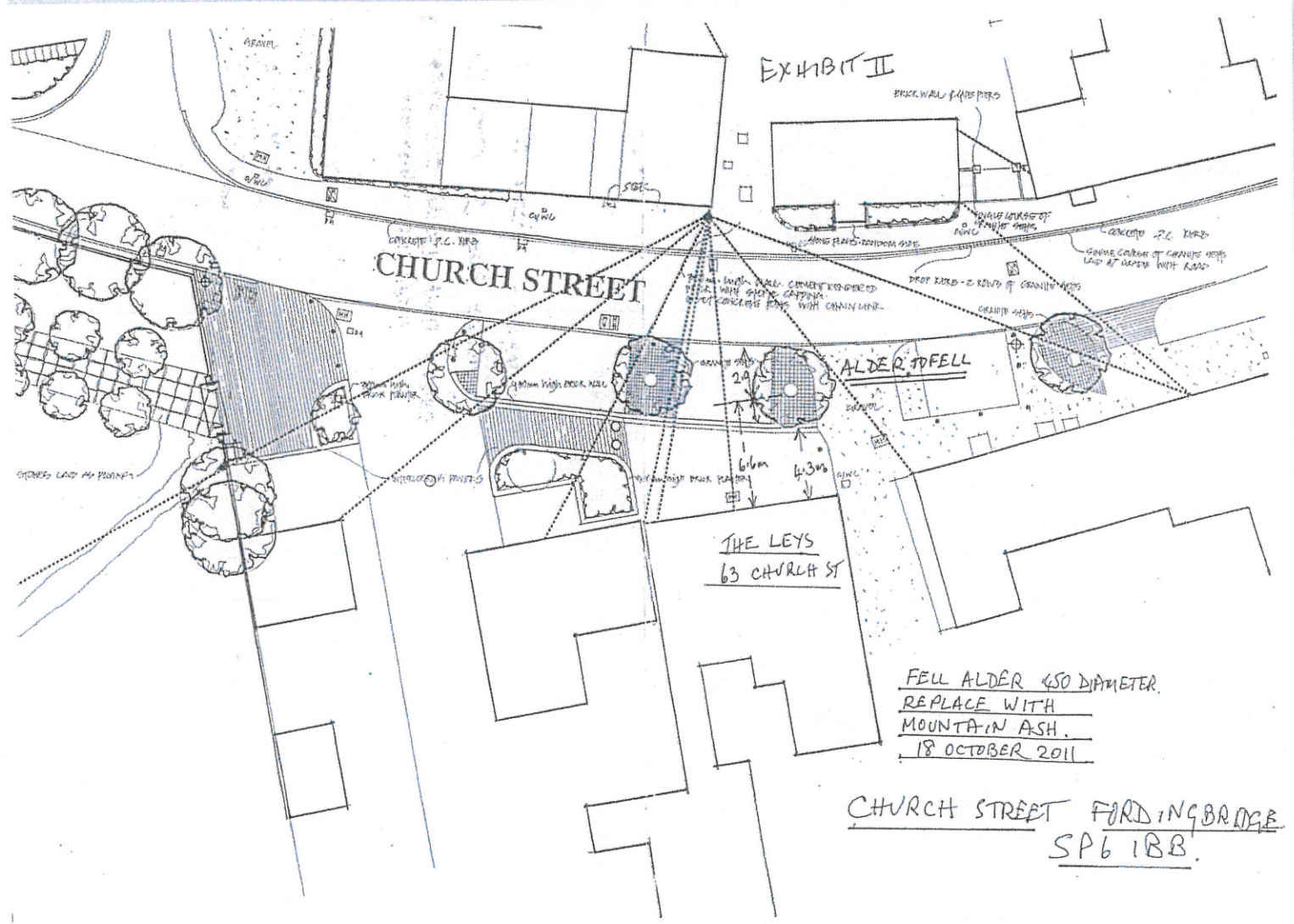
It seems clear now that the decision in 1990 to plant the Alder, whilst obviously done with the best of intentions, was the wrong one. The tree has grown to a stage where it has had a significant effect on the character and appearance of the Square, which itself was historically ‘open’ in character. Moreover the problem will only get worse in years to come – even with root barriers and regular pruning the tree would continue to grow and

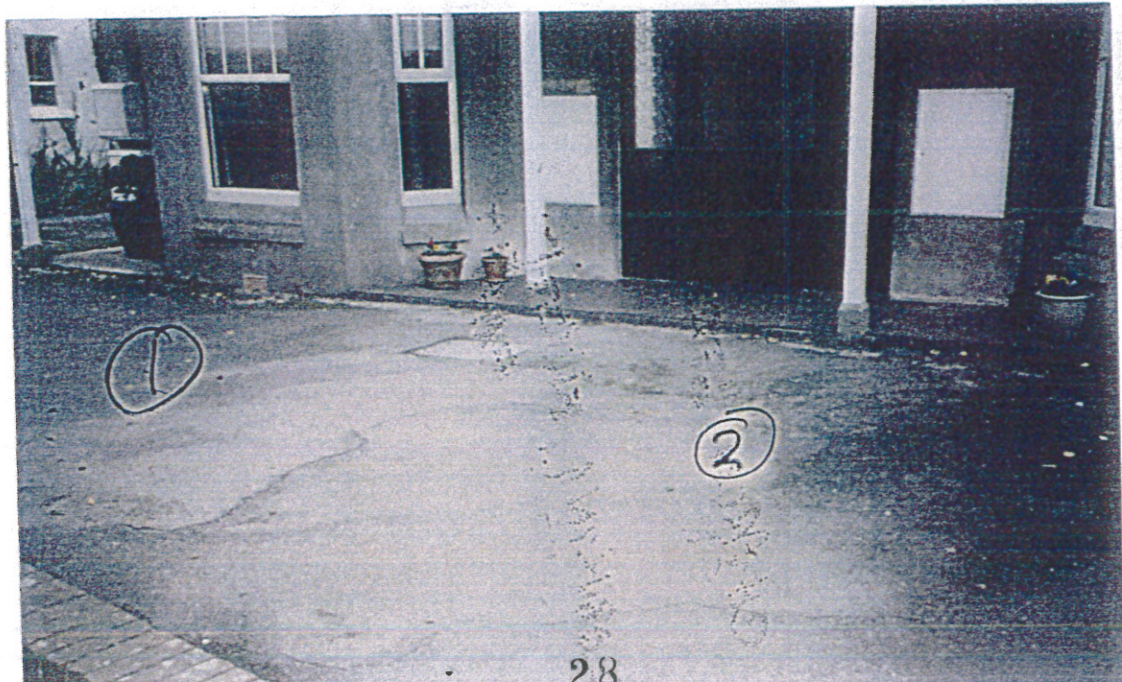
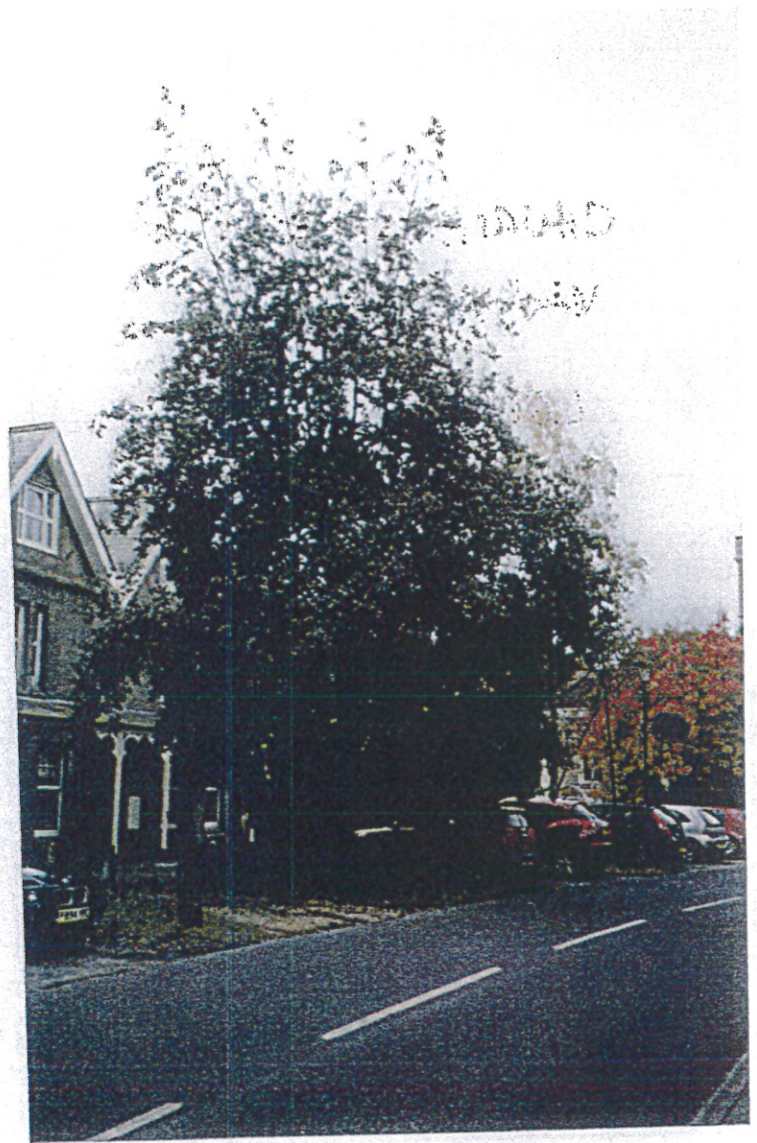
its foliage will continue to serve to enclose the Square in an unfortunate and counter productive manner. Its replacement with a more appropriately scaled species and specimen will be a positive step for the conservation area.

Yours sincerely

R. A. SHEKING



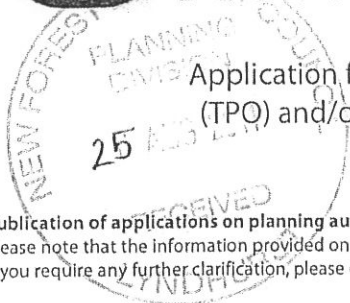






# New Forest DISTRICT COUNCIL

Appletree Court  
Lyndhurst  
Hampshire  
SO43 7PA  
Tel: 023 8028 5333  
Email: dev.control@nfdc.gov.uk  
www.newforest.gov.uk/planning



Application for tree works: works to trees subject to a tree preservation order (TPO) and/or notification of proposed works to trees in a conservation area.  
Town and Country Planning Act 1990

Publication of applications on planning authority websites.

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

### 1. Applicant Name, Address and Contact Details

Title:  First name:  Surname:

Company name:

Street address:

Town/City:   
County:   
Country:

Postcode:

Telephone number:   
Mobile number:

Fax number:

Email address:

Country Code:  National Number:  Extension Number:

Are you an agent acting on behalf of the applicant?  Yes  No

### 2. Agent Name, Address and Contact Details

No Agent details were submitted for this application

### 3. Trees Location

Please provide the address of the site where the tree(s) stands (full address if possible):

House:  Suffix:

House name:

Street address:

Town/City:   
County:   
Postcode:

Description:

If the location is unclear or there is not a full postal address, either describe as clearly as possible where it is (for example, 'Land to rear of 12 to 18 High Street' or 'Woodland adjoining Elm Road') or provide an Ordnance Survey grid reference:

11/0310

Reg: 31-8-10

Rep: 28-9-11

F' Bridge C/A



#### 4. Trees Ownership

Is the applicant the owner of the tree(s)?

Yes  No

If No, please provide the address of the owner (if known and if different from the tree location):

Title:	Mr	First name:	Richard	Surname:	Shering					
Company name:	Crownshade									
House Name:										
Street Address:	Church Street		Telephone number:	<table border="1"><tr><td>Country Code</td><td>National Number</td><td>Extension Number</td></tr><tr><td></td><td></td><td></td></tr></table>	Country Code	National Number	Extension Number			
Country Code	National Number	Extension Number								
Town/City:	Fordingbridge		Mobile number:	<table border="1"><tr><td></td><td></td><td></td></tr></table>						
County:	Hants		Fax number:	<table border="1"><tr><td></td><td></td><td></td></tr></table>						
Country:										
Postcode:	SP6 1BB		Email address:							

#### 5. What Are You Applying For?

Are you seeking consent for works to a tree(s) subject to a TPO?

Yes  No

Are you wishing to carry out works to tree(s) in a conservation area?

Yes  No

#### 6. Tree Preservation Order Details

If you know which TPO protects the tree(s) enter its title or number below

--

#### 7. Identification Of Tree(s) And Description Of Works

Please identify the tree(s) and provide a full and clear specification of the works you want to carry out. Continue on a separate sheet if necessary. You might find it useful to contact an arborist (tree surgeon) for help with defining appropriate work. Where trees are protected by a TPO, please number them as shown in the First Schedule to the TPO where this is available. Use the same numbers on your sketch plan (see guidance notes).

Please provide the following information below: tree species (and the number used on the sketch plan) and description of works. Where trees are protected by a TPO you must also provide reasons for the work and, where trees are being felled, please give your proposals for planting replacement trees (including quantity, species, position and size) or reasons for not wanting to replant.

*E.g. Oak (T3) - fell because of excessive shading and low amenity value. Replant with 1 standard ash in the same place.*

With reference to attached sketch, the tree in question is the large Alder. The residents of 63 Church St. are concerned about the encroachment of the root system; the blocking of light and the size of the canopy. We note that in the NFDC Conservation Area Appraisal of 2001 (p.42), reference was made to "control the growth of trees so that they do not exceed their planned sizes". As you will see from the photos attached, the tree is far too large for the location and completely blocks the view of St. Marys Church when approaching from Church Street. I have been in touch with the landowner, Mr. Richard Shering who would be more than happy for the tree to be removed and replaced with something much smaller.

#### 8. Trees - Additional Information

##### For all trees

A sketch plan clearly showing the position of trees listed in Question 7 must be provided when applying for works to trees covered by a TPO. A sketch plan is also advised when notifying the LPA of works to trees in a conservation area (see guidance notes). It would also be helpful if you provided details of any advice given on site by an LPA officer.

##### For works to trees covered by a TPO

Please indicate whether the reasons for carrying out the proposed works include any of the following. If so, your application must be accompanied by the necessary evidence to support your proposals. (See guidance notes for further details)

1. **Condition of the tree(s)** - e.g. it is diseased or you have fears that it might break or fall:

If YES, you are required to provide written arboricultural advice or other diagnostic information from an appropriate expert.

Yes  No

2. **Alleged damage to property** - e.g. subsidence or damage to drains or drives.

If YES, you are required to provide for:

Yes  No

*Subsidence*

A report by an engineer or surveyor, to include a description of damage, vegetation, monitoring data, soil, roots and repair proposals. Also a report from an arboriculturist to support the tree work proposals.

*Other structural damage* (e.g. drains, walls and hard surfaces)

Written technical evidence from an appropriate expert, including description of damage and possible solutions.

##### Documents and plans (for any tree)

Are you providing additional information in support of your application?

Yes  No

If Yes, please provide the reference numbers of plans, documents, professional reports, photographs etc in support of your application:

Photographs and sketch plan attached showing various views of the Alder tree and also evidence of damage to the public footpath in front of 63 Church Street.

### 9. Authority Employee/Member

With respect to the Authority, I am:

- (a) a member of staff
- (b) an elected member
- (c) related to a member of staff
- (d) related to an elected member

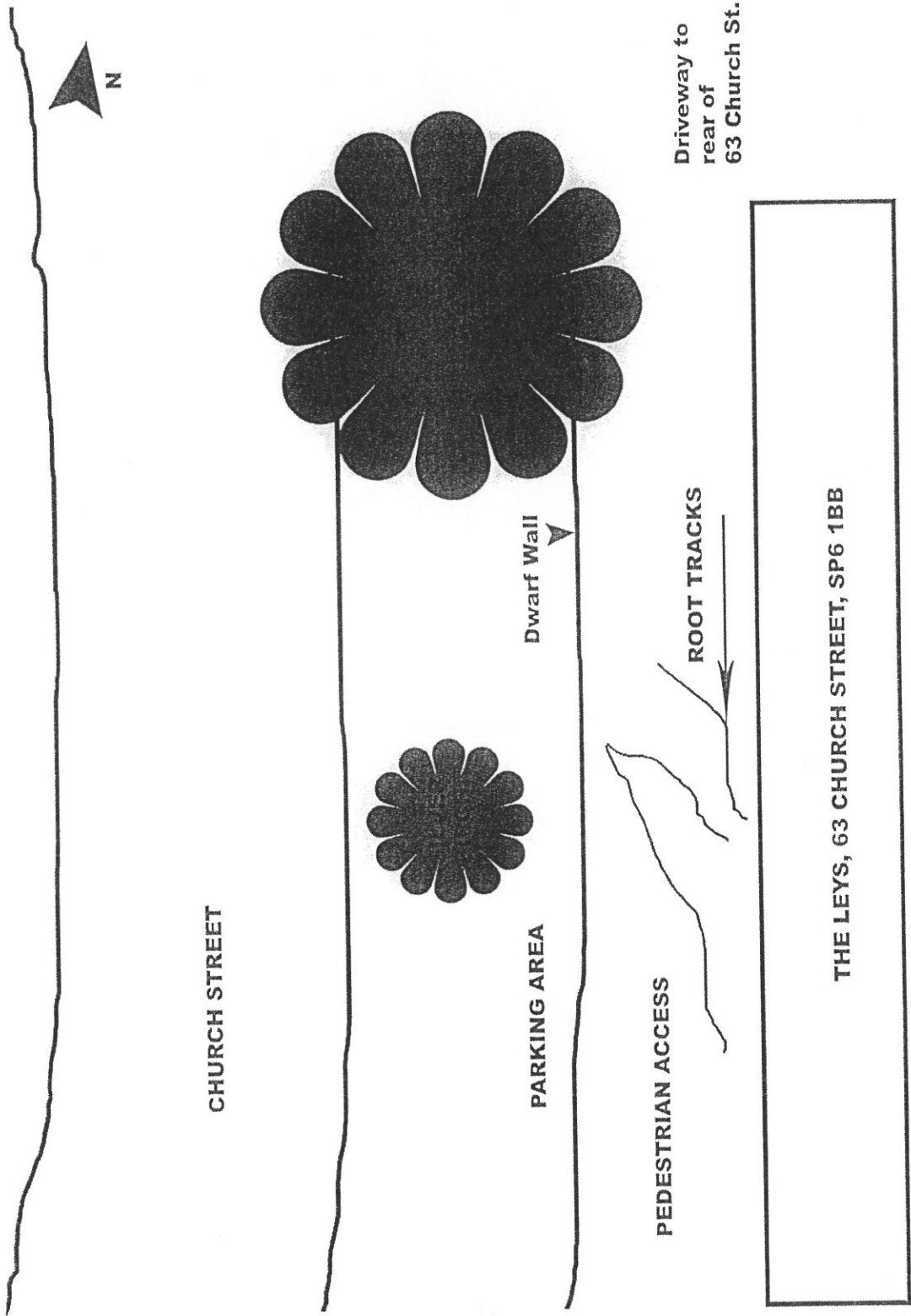
Do any of these statements apply to you?

Yes  No

### 10. Trees - Declaration

I/we hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information.

Date:



CHURCH STREET

PARKING AREA

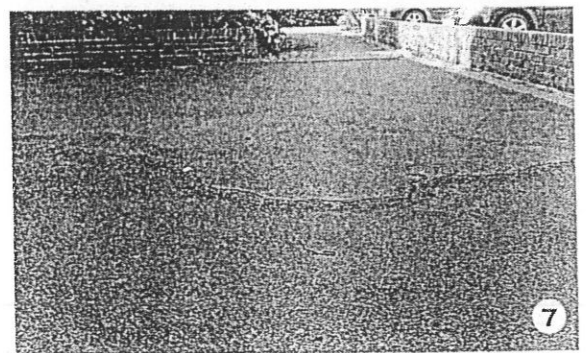
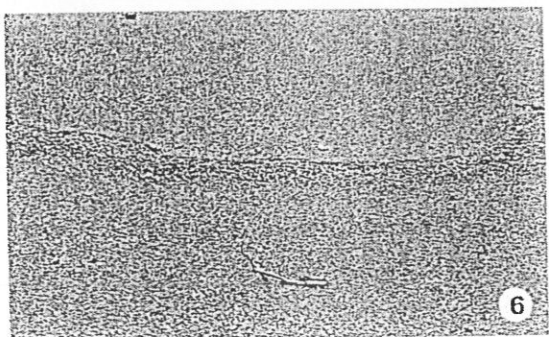
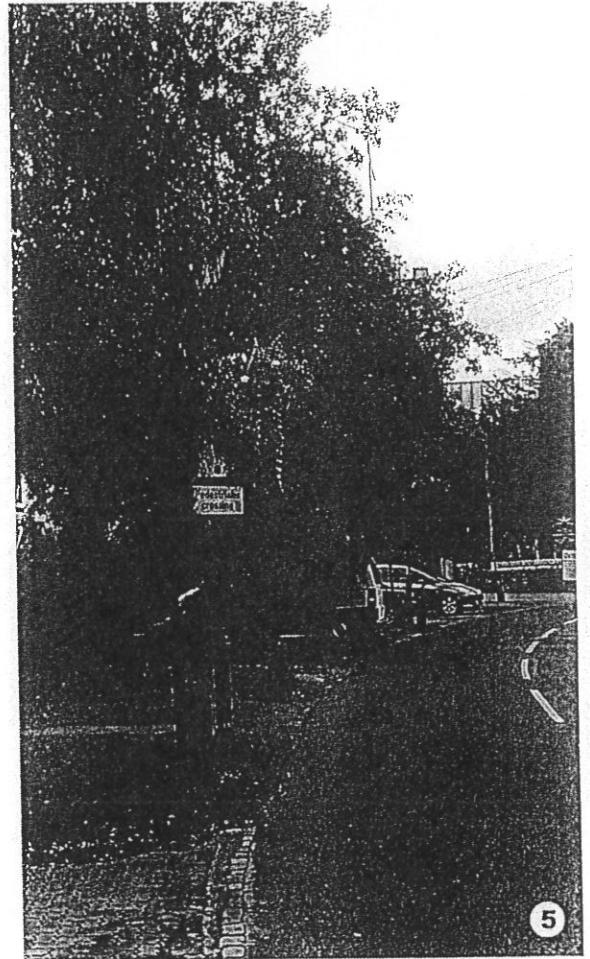
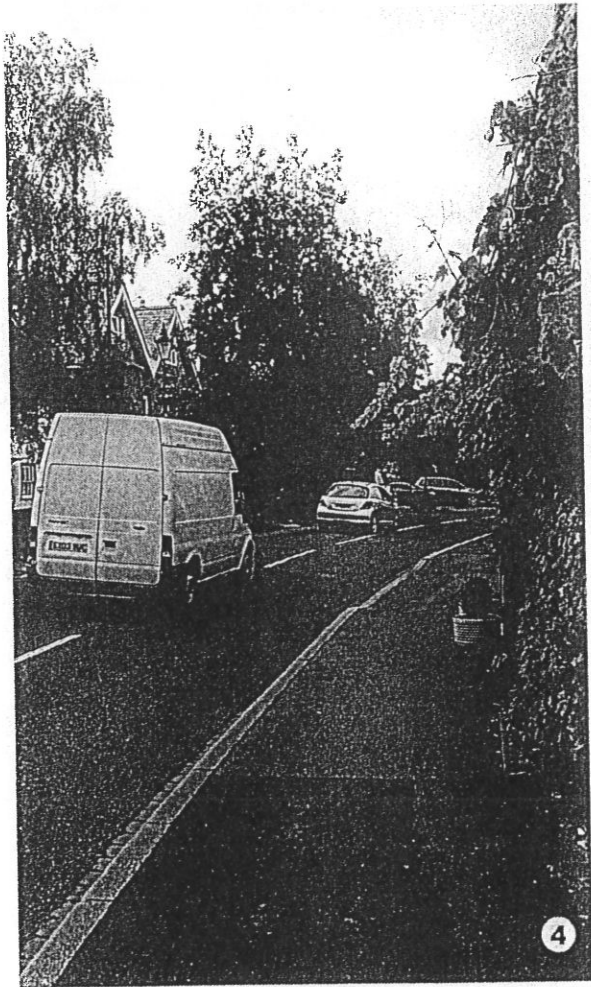
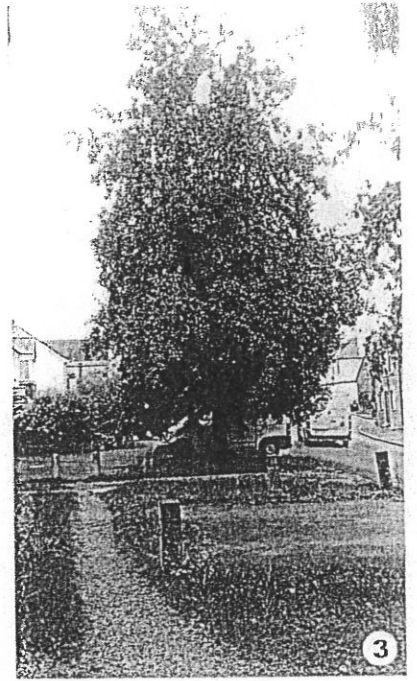
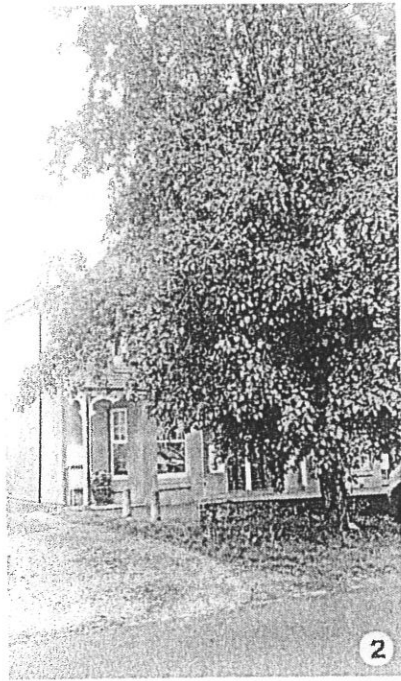
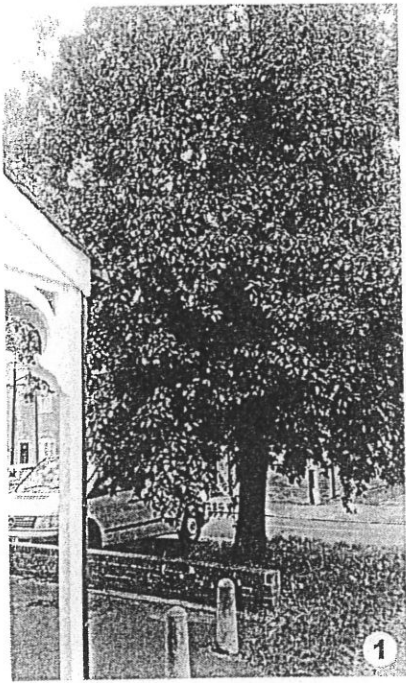
Dwarf Wall

PEDESTRIAN ACCESS

ROOT TRACKS

Driveway to rear of 63 Church St.

THE LEYS, 63 CHURCH STREET, SP6 1BB



# **APPENDIX 4**

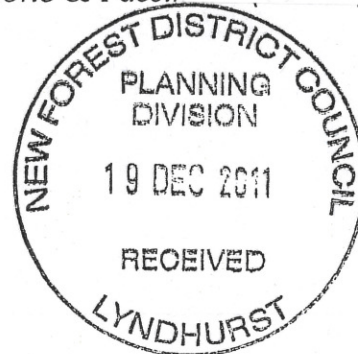
# CROWNSHADE Limited

49 Church Street  
Fordingbridge  
Hampshire  
SP6 1BB

COPY

Telephone & Facsimile

12<sup>th</sup> December, 2011  
NFDC  
Planning & Transportation  
Appletree Court, Beaulieu Road  
Lyndhurst SO43 7PA



Your ref: LBEC/MAC/33/11

Dear Sirs,

Re: Town & Country Planning Act 1990, Town & Country Planning (Trees) Regulations 1999, Tree Preservation Order No: 33/11, Land of Church Street, Fordingbridge, Hants.

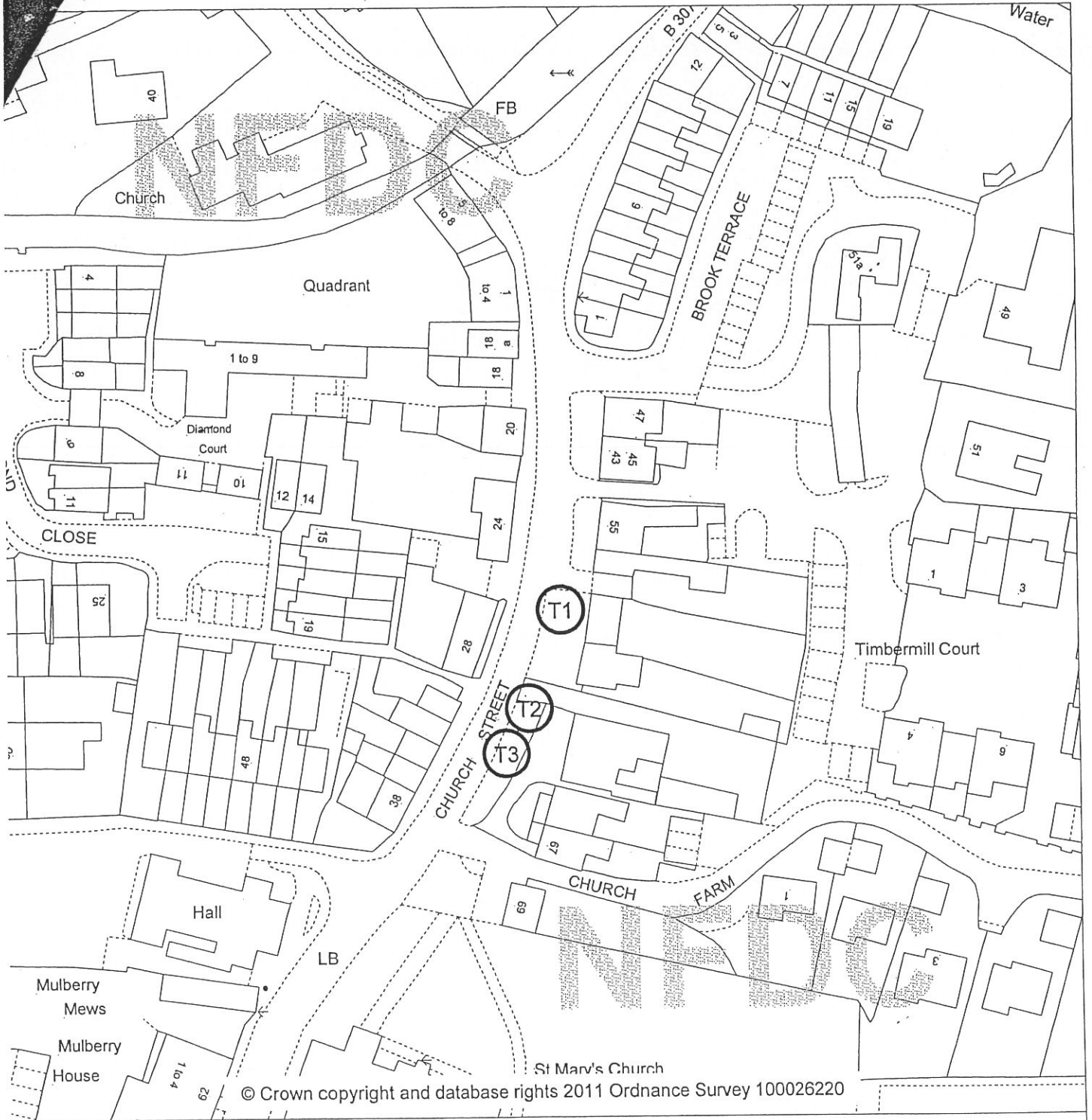
I **object** to the proposal to impose a Tree Preservation Order on the three trees described. T1 Birch, T2 Alder, T3 Birch.

1. My objections are based on the fact that the 3 trees are already within a conservation area and therefore already protected.
2. T2 Alder has outgrown its position and rather than its removal being detrimental to the appearance of the local environment, its retention is detrimental to the appearance of the area. (Attached copy of application to fell which describes full reasons to fell).
3. T3 Birch has been viewed by New Forest District Council officers one of whom stated he would be willing to accept an application to fell as in his opinion it was beyond saving.
4. It is therefore perverse to propose a TPO on these trees, knowing that two of the three could be felled. (The attachment of a TPO in this instance will unnecessarily increase future costs and fees when the owner is obliged to make further applications.
5. T2 Alder, the roots of this tree have damaged the macadam paving and there is an immediate danger to the public.
6. T2 Alder, the application to fell, number 11/0463 refers to a replacement tree of a more controlled and suitable type (Mountain Ash). This is not made clear in the application for a TPO.

Please register my objection as Landowner.

Yours faithfully /s/

RICHARD SHERING  
Encs\_ copy letter 31.10.11 and p 1



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**New Forest**  
DISTRICT COUNCIL






Chris Elliott  
Head of Planning and Transportation

**TPO Number:** 33/11  
**Approximate Scale:** 1:1000  
**Date Printed:** 16/11

## Tree Preservation Order Plan

Town and Country Planning Act 1990

### 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

AN AUTHORISED SIGNATORY

31st October, 2011

RICHARD SHERING  
49 Church Street  
Fordingbridge  
Hampshire  
SP6 1BB

Head of Development Control  
NFDC  
Appletree Court,  
Lyndhurst  
Hants SO43 7PA

Dear Sir,

Re: Town & Country Planning Act 1990 – Section 211 notification of intention to fell tree within Conservation area at ‘the Square’ Church Street, Fordingbridge

I attach the completed forms under section 211 of the above Act, for notification of the proposed felling of an Alder tree within the Square, Church Street, Fordingbridge. The tree is not subject to a TPO, but lies within the Fordingbridge Conservation Area.

It is proposed to replace the tree with a mountain ash. The alder was planted as part of an environmental improvement scheme sponsored and designed by Hampshire Country Council in 1990. I gave approval to it, as landowner, although at the time did raise a query with the potential size and foliage denseness of the proposed Alder. The improvement scheme was implemented in 1991.

Over the last 20 years the Alder has grown to the extent that it has now become unsympathetic to the character and appearance of the conservation area. This is due to a combination of its size relative to its surroundings, and the denseness of its foliage. There are also practical problems arising from this. The tree roots have reached nearby houses and are, for the second time in five years, causing surface damage to walkways. In visual terms, the denseness of the foliage has effectively ‘severed’ The Square at its narrowest point, spoiling what was hitherto an open aspect and one which characterised the Square historically. The outlook from adjoining houses has also been seriously affected, however a more concerning impact is the effect on views of St. Mary’s Church (on approach through the Square), which dates from the twelfth century and clearly deserves a less obstructed setting.

With hindsight, perhaps I should not have agreed to any trees being planted in the Square, but I am able to accept that the remainder, being smaller, more controllable and ‘lightly-leaved’ species, can continue to be accommodated. That is why a smaller replacement tree, such as a mountain ash would be more appropriate in this location.

It seems clear now that the decision in 1990 to plant the Alder, whilst obviously done with the best of intentions, was the wrong one. The tree has grown to a stage where it has had a significant effect on the character and appearance of the Square, which itself was historically ‘open’ in character. Moreover the problem will only get worse in years to come – even with root barriers and regular pruning the tree would continue to grow and



its foliage will continue to serve to enclose the Square in an unfortunate and counter productive manner. Its replacement with a more appropriately scaled species and specimen will be a positive step for the conservation area.

Yours sincerely

R.A. SHERING

①

Mrs Deborah Toulson



4 The Leys  
63 Church Street  
Fordingbridge  
Hampshire  
SP6 1BB

COPY

Re: Tree Preservation Order No: 33/11

9th Dec. 2011

Dear Mr. Caldwell/Ms. Beckett,

I am writing in response to your letter dated 17. Nov. 2011 regarding trees in the vicinity of my property.

Firstly, I would like to say that I am disgusted that the NFDC has taken this drastic action upon 3 trees in Church Street, when I am only aware that the tree numbered

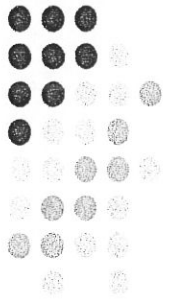
(T2) has been previously mentioned in discussions about the maintenance of the trees by my husband, David Toulson, and Richard Shering (the landowner on which (T2) is planted) and the NFDC representative (Mr. A. Douglas).

Why have you included 2 more trees? Do you feel your preservation order has more weight if more trees are named? Why not

(2)

Mrs Deborah Toulson

4 The Leys  
63 Church Street  
Fordingbridge  
Hampshire  
SP6 1BB



go the whole hog and include  
all 5 trees in Church Street?

Secondly, you have out and out  
scare-mongered the local people in this  
vicinity by saying that we would like to  
fell these trees! We (as <sup>Flat 1-4 63 Church Street</sup> property owners)  
are very worried about the size of tree  
(T2) only, the root system is affecting our  
property and the pavement in front has  
visible roots pushing up the pavement and  
presenting a trip hazard to the many  
members of the public that use this  
route daily! We approached Mr. Shering  
about the tree (T2) being 'trimmed' to reduce  
it's size and to do some work to the  
roots to prevent them getting any worse.  
(It is evident that previous work has been  
done on the trees roots in front of Flat 1  
of our building.)

He then expressed his wish that the

(3)

Mrs Deborah Toulson

4 The Leys  
63 Church Street  
Fordingbridge  
Hampshire  
SP6 1BB

tree (T2), which was planted on his land by NFDC and Fordingbridge Town Council as part of a street enhancement scheme, <sup>in 1980s</sup> was actually totally inappropriate for the area. We agree in the flats 1-4 that this tree (T2) is too big, its canopy has been allowed to get out of control and it is not in keeping with the other 4 trees that were planted at the same time. We agree that tree (T2) should be felled, AND replaced with a more appropriate sized tree for the surroundings. This fact should have been added in the documents you sent out to represent the true request that has been made. Trees (T1) & (T3) should be removed from your TPO, as they are not causing anyone any concern.

To add, I would like to ask this question: if the TPO is acted upon and comes into force, does this mean NFDC accept responsibility for the trees and their

Mrs Deborah Toulson

future maintenance?

4 The Leys  
63 Church Street  
Fordingbridge  
Hampshire  
SP6 1BB

At present it seems to us (the owners at Flat 1-4) that NFDC & Fordingbridge Town Council planted the trees on Mr. Shering's land, but neither of you have taken any responsibility for their maintenance, WHILST we as 'neighbours' of the trees have the worry of their size and roots affecting our property!

To summarize:

- 1) we want the tree removed and replaced with a more appropriate sized tree!
- 2) we don't want these trees, but especially tree (T2) put under a TPO. This action is totally inappropriate.
- 3) we feel the trees need maintenance as a matter of urgency and hope that responsibility for these trees can be ascertained as part of these discussions.
- 4) We are disappointed in the NFDC false representation of the situation to the home owners in the vicinity.

Yours faithfully

Mrs.

01425

Lychgate Cottage  
67 Church Street  
Fordingbridge SP6 1BB

44 ref. JMD/NA/TP033/11



Dear Sir,

Thank you for your letter of  
17 January.

As I am not mobile I am  
unable to attend this meeting  
but I should like to have your  
opinion on the future of the tree  
by the road immediately in front  
of my front door. It is getting  
very large & if it came down in  
these winds could damage my glass  
bay window.

Please acknowledge this letter  
and confirm you will send a  
representative to look at the site.

Yours faithfully

(As)

Mrs B. Bowdoin.

Flat 4  
63 Church Street  
Fordingbridge  
SP6 1BB

Your ref. LBEC/MAC/33/11

22 November 2011

Dear Ms. Beckett,

I am writing to express my objections to the imposition of a Tree Preservation Order on the Alder tree situated on the verge to the front of 63 Church Street Fordingbridge.

There are several reasons why I feel this is not the correct course of action.

Firstly, I am concerned that the information sent out to all interested parties regarding the order was misleading and did not represent the whole picture. I know that the landowner concerned wishes to remove the Alder tree but he has suggested a replacement by a tree much more in keeping in terms of scale and type. This is not simply a case of removing a tree and leaving the area void and this fact should have been made clear in the letter to all concerned parties.

I also notice that a TPO has been proposed on the Silver Birch adjacent to the Alder. I am confused by this as, during an earlier visit to the site, I was told by Mr. Douglas and a colleague that the birch should be felled as it was in such a poor state.

Another concern particular to the seven residents of 63 Church Street is the damage being done to the pedestrian area immediately in front of the property and this was photographed and highlighted in my original application. The roots of the Alder tree are getting ever closer to the foundations of the house and are certainly a potential trip hazard to the large numbers of people who walk along it daily. During Mr. Douglas's visit I was informed that such a hazard was not a concern of the Council as the land was not owned by them. Whilst I can understand this attitude from a legal perspective, it is a confusing stance to take when you consider that the TPO has been issued on trees and land which are also not owned by the Council. It seems to me that the legal responsibilities should be more fairly applied across the board.

I would further like to draw your attention to a document I found online which provided the spur to my original application. (I attach page 42 from this document): "Fordingbridge – A Conservation Area Appraisal" (part of the New Forest District Local Plan issued in June 2001). In it, the specific area and trees are pictured with the adjoining caption: "The trees and landscaping in Church Square now need management the better to define the footway and open up the views a little more." Additionally: "... there is now a need to... control the growth of the trees so that they do not exceed their planned sizes." This undertaking has clearly not been put in place as the Alder tree in particular has

grown unrestricted and is now unkempt, unbalanced and unsightly, particularly when compared to the other trees in the street.

My concerns are quite simple and include the points made above and also the general feeling that we, the inhabitants most closely affected by the tree, are at the very bottom of the pile when it comes to having any say in the matter. We did not plant it, do not own the land on which it sits and yet we are subject to all the negative effects that the tree has upon us every day. I have talked to the other residents of 63 Church Street and we are agreed that the trees do much to enhance the environment of The Square and would certainly want the Alder to be replaced with something much more in keeping with the original concept of improvement envisaged in the 1980's. The Alder was a mistake – it is the wrong tree in the wrong place and far from enhancing the look of this conservation area, actually detracts from it and spoils the views, particularly of St. Marys Church, when walking along the street.

I understand that this whole process could take a considerable amount of time but would hope that, in the interim, the Council would undertake its intention to “control the growth of the trees so that they do not exceed their planned sizes.” This at least would enhance the lives of the residents of Church Square which, presumably, was part of the original improvement scheme.

Yours sincerely,

Mr. D.P Toulson



MR & MRS A. J. Davis.  
Plot 2, The Keys  
6 Church Street  
Fordingbridge.  
Hampshire. SP6 1BB

NEW FOREST COUNCIL  
DIVISION FORDINGBRIDGE  
01 DEC 2011  
RECEIVED  
LYNDHURST

25.11.2011

TREE PRESERVATION ORDER No. 33/11.  
ON PLAN. RE TREE T2. 63 CHURCH STREET.

ATT. of MR/MRS. M.A. CALDWELL.

Dear Sir or Madame.

I believe that the person involved wants to replace this tree, with a more suitable one. My interest is the damage to the pathway and eventual damage

to my property.  
As the pathway is already in quite a bad way and the roots extend to the front of the house.

My further interest is, who will be responsible for the damage?

I am 83 yrs old, and would like a straight answer.

Yours sincerely.

MRS. H.M. DAVIS.

MR. A. J. DAVIS.

# **APPENDIX 5**

57 Church Street  
Fordingbridge  
Hampshire  
SP6 1BB.



24<sup>th</sup> January 2012

Ref: JMD/JA/TPO33/11 re 33/11 TPO. (Also ref: Tree Advice leaflet No 2 T W Appleton )

Dear M's Debnam

I write to you on two issues concerning trees. Firstly I have no objection re the trees in the church square, they enhance the area. As mentioned on the telephone I don't know what the objection is, but suspect it might have something to do with a shallow root which has cracked & raised the tarmac surface of that area ! ?

There would seem to be just the one crack, a surface root, which could easily be cut off, removed, tarmac resurfaced, & without harming the tree. Much better than the hideous barriers which were placed there some weeks ago, which incidentally spend more time down (than up) during this windy weather.

-----  
My secondary issue comes with reading your 'TPO' leaflets, & in particular No 2 'TWA'. Having read through the pamphlet, I need advice on pruning - not! my trees - my neighbour's. To explain. Our next door neighbour (No 59) has a Bay tree close to our boundary fence ( south/west corner), I was able to trim this easily when it encroached over our side. Some nine years later this is no longer possible, the tree has obviously been cut, or pollarded, many years ago as a consequence sprouted, & now has 10 -12 sizable divided (spreading) sectioned trunks, & has grown large & out of control.

It spreads over my garden by 3. 5 meters, & lengthwise 7. 5 meters, The tree & density of its evergreen canopy has quadrupled in recent years preventing sunlight & having an adverse on lawn & garden I did mention the expanding nature of the tree to my neighbours three - four years back (they have no interest in gardening themselves 'quote'),they claim it is listed, I do not accept this as the bay is a species from India.

In law, I have a right to control the growth on my side provided I advise my neighbour, your TWA pamphlet would seem to contradicted the latter since all boughs are well over the minimum you recommend. There was a letter in last weeks Saturday telegraph (21<sup>st</sup> Jan 2012 -property supplement ) on just such an issue, hence my remarks re the invasive Bay, I am seeking your advice on this matter prior to raising the matter with my neighbours, perhaps a visit to me from your NFDC 'tree team' when you are dealing with the former church street matter -?, your advice would be appreciated.

Yours Sincerely

B.J.Jerrard

Mr

PS Of interest perhaps. We lived in 'Cambell terrrace ' Provost st, F/Bridge from 1961-1968 I understand the large beech trees adjacent to the Fordingbridge council offices in provost street are protected, if so I'm pleased about that. I planted these as eight year old saplings in the extreme winter of 1962 - 3, now you know how old they are.