

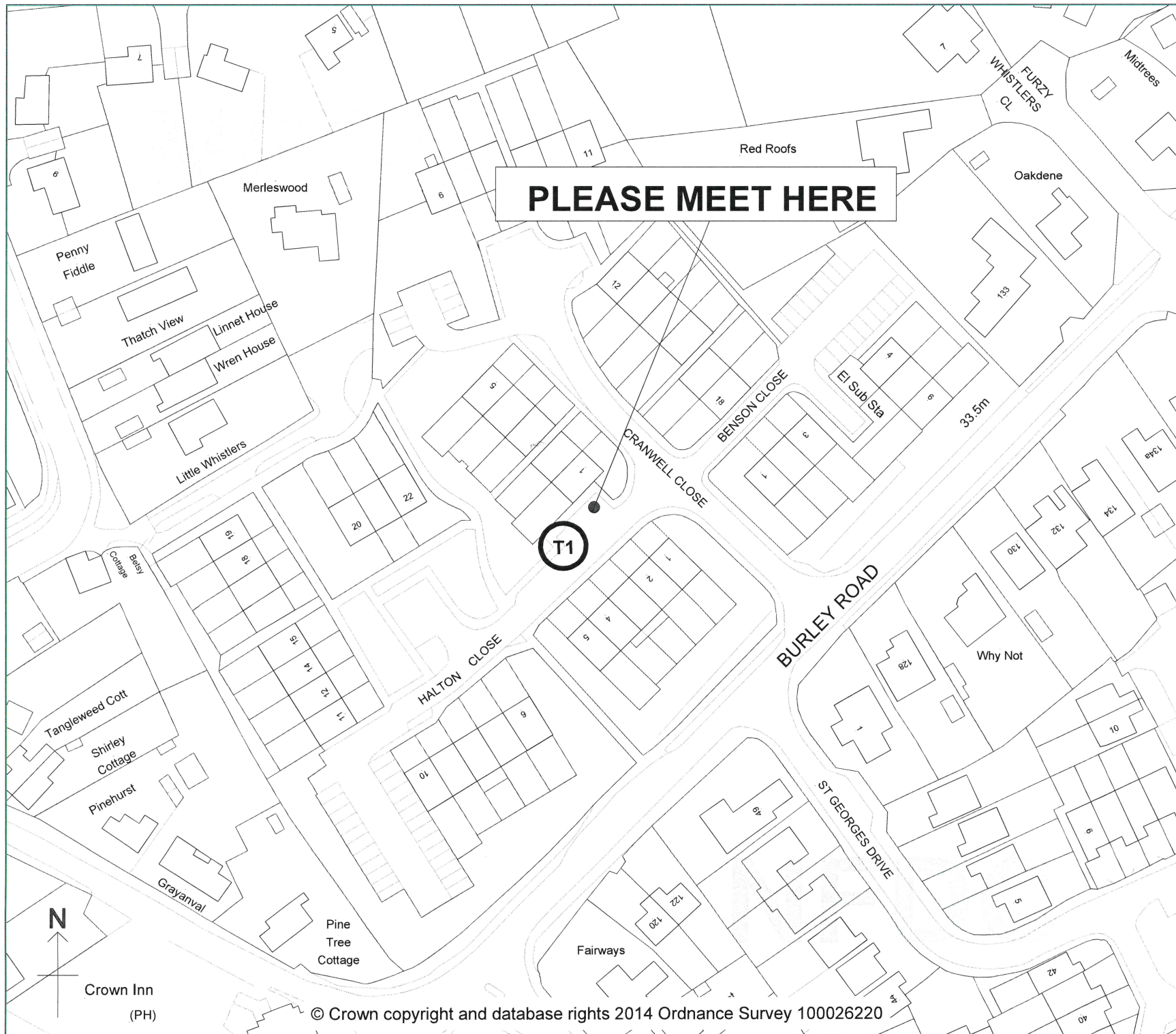


New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

TPO 0012/14
APPEALS PANEL

SITE VISIT
MEETING POINT



SZ1898
Scale 1250

**NEW FOREST DISTRICT COUNCIL
DETERMINING TREE PRESERVATION ORDERS WHERE OBJECTIONS TO THE
ORDER HAVE BEEN MADE**

Procedure at the Appeals Panel for Tree Preservation Orders

1. INTRODUCTION

- 1.1 Regulations oblige local authorities to take into consideration any duly made objections before deciding whether to confirm a Tree Preservation Order. A duly made objection must be sent to the Council in writing. Whether this objection is made by letter or by e-mail it will be considered to be a public document that is open to inspection on the file and may, in the event of an Appeal, be published in full.
- 1.2 At New Forest District Council, objections are considered by a Panel drawn from the Appeals Committee.
- 1.3 Meetings of the Appeals Panel are formal meetings of the Council. The Panel is supported by a legal advisor and a Committee Administrator. The Panel will consider all the evidence that has been submitted in respect of the Order. All of the evidence and representations received are published and in the public domain.
- 1.4 The Appeals Panel will hear the cases put forward objecting to the making of the Order and also in support of confirming the Order. The Members of the Panel will balance the evidence before them, in the light of the statutory constraints and guidance that apply.
- 1.5 The process is designed to be as open as possible and to make it as easy as possible for objectors and supporters of the Order to represent their point of view. They may therefore choose to have someone with them for support; or have their case presented by a friend, relative or professional advisor; and they may call such professional advisors as they feel necessary.

2. GUIDELINES FOR MEMBER ATTENDANCE

- 2.1 If a member of the Panel represents the area in which the contested Tree Preservation Order has been made as the local Ward Councillor, in accordance with the District Council's Code of Conduct, that Panel member must determine for themselves whether or not they have an interest within the terms of that Code and consequently whether they should take part in the decision making process.

3. SITE VISITS

- 3.1 Members meet on site before the meeting to view the tree(s) covered by the Order. The objector(s), arboriculturist, Local Ward Councillor(s) and a representative of the Parish or Town Council are also invited to the site visit. No discussion on the merits of the Order may take place at the site visit. The purpose of the visit is for Members to familiarise themselves with the site and the tree(s) and for the arboriculturist and the objector(s) to point out any features of the tree(s).

4. OBJECTION MEETING

- 4.1 The Chairman will explain that this is a procedure adopted by the Council for determining objections to Tree Preservation Orders.
- 4.2 The procedure for the meeting will be as follows:-
1. The objector(s) will explain the reasons for objection. They may expand on their written objection and may call any expert witnesses. They may also choose to have their case presented on their behalf by a friend or a professional advisor. They may also have a friend or other supporter with them for the hearing.
 2. The Council's arboriculturist may ask questions of the objector(s) or their representatives.
 3. Members of the Panel may ask questions of the objector(s).
 4. Supporters of the objector(s) may be heard, following the same procedure as in 1, 2 and 3.
 5. The Council's arboriculturist will put the case for preservation.
 6. The objector(s) may ask questions of the arboriculturist.
 7. Members of the Panel may ask questions of the arboriculturist.
 8. The supporter(s) of the Order may be heard. They may ask questions of the objector(s) and the arboriculturist. The supporters of the order may also choose to have their case presented on their behalf by a friend or a professional advisor. They may also have a friend or other supporter with them for the hearing.
 9. The local member may be heard.
 10. The Town or Parish Council may be heard.
 11. Members of the Panel may ask questions of the supporter(s).
 12. The arboriculturist may sum up.
 13. The objector(s) may sum up.
- 4.3 At the conclusion of the objection meeting the Chairman will declare the hearing closed.
- 4.4 The Panel will then discuss the matter on the basis of the evidence that has been presented to it. No additional information will be sought once the hearing has been closed. The press and public may remain while the decision is made.

- 4.5 The decision of the Panel will be conveyed in writing to the objector(s) and all other persons originally served with a copy of the Order as soon as possible following the meeting.

PLEASE NOTE: ALL REPRESENTATIONS THAT ARE TO BE TAKEN INTO ACCOUNT IN HEARING AN APPEAL WILL BE PUBLISHED IN FULL IN ACCORDANCE WITH THE COUNCIL'S NORMAL PROCEDURES FOR PUBLISHING DOCUMENTS FOR MEETINGS.

(Auth-ad/Cttee/JMD/Appeals Panel/TPO Procedure Revised 1107.doc)
(11/07)



APPEALS PANEL – 28 OCTOBER 2014.

OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 12/14, LAND OF HALTON CLOSE, BRANSGORE

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 are made under Section 198 of the Town and Country Planning Act 1990 (the Act). The Act is supported by guidance issued by the Department for Communities and Local Government on 6 March 2014 entitled “Tree Preservation Orders and trees in conservation areas” (“the DCLG Guidance”).
- 2.2 Tree matters throughout the New Forest District are dealt with by the New Forest National Park Authority, with the Park Authority acting on this Council’s behalf outside the Park area.
- 2.3 Where a Tree Preservation Order is made by a Park Authority officer, it has immediate provisional effect to protect the tree. This provisional effect will last for six months, or until the Order is confirmed by the planning authority, whichever is earlier.
- 2.4 The Order contains a schedule (which includes a map) specifying which tree or trees are protected by the Order.
- 2.5 Once the Order has been made, it is served, together with a Notice, on all persons with an interest in the land affected by the Order. It will also be made available for public inspection. Other parties told about the Order include the Town or Parish Council and District Council ward members. The Authority may also choose to publicise the Order more widely. The Notice will state the reasons that the Order has been made, and will contain information about how objections or representations may be made in relation to the Order.
- 2.6 The procedure allows for written objections and representations to be made to the Authority.
- 2.7 Where an objection is made to the Order, in the first instance, the Tree Officers will contact the objector to see if their concerns can be resolved. If they cannot, then, in respect of trees outside the National Park area, the objection is referred to a meeting of this Council’s Appeals Panel for determination.

- 2.8 The Appeals Panel must consider any duly made objections and representations, and must decide whether to confirm the Tree Preservation Order, with or without modifications.

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 protect one or more individual trees, groups of trees or woodlands or, more rarely, refer to an area of land.
- 4.2 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 overall impact and quality of the group should merit protection.
- 4.4 A woodland order would protect woodland as a whole. 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. A woodland order would protect trees and saplings which are planted or grow naturally after the order is made.
- 4.5 An area designation can be used to protect trees dispersed over a specified area. It may protect all trees in that area, or only trees of a particular species. 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 individual or groups of trees.

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 Amenity value

This term is not defined in the Act, but the DCLG Guidance advises:

- Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public.
- There should be a reasonable degree of public benefit in the present or future.

- When assessing amenity value, the authority might take the following into consideration: -
 - i. **Visibility:** The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.
 - ii. **Individual, collective and wider impact:** Public visibility alone will not be sufficient to warrant an Order. The authority should also assess the particular importance of an individual tree, or groups of trees or woodlands by reference to its or their characteristics including: -
 - a. Size and form;
 - b. Future potential as an amenity;
 - c. Rarity, cultural or historic value;
 - d. Contribution to, and relationship with, the landscape; and
 - e. Contribution to the character or appearance of a conservation area.
 - iii. **Other factors:** Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an order.

5.3 Expediency

Again, this is not defined in the Act, but the DCLG Guidance is as follows:

Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management.

It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect the trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.

6. THE EFFECT OF THE ORDER

- 6.1 Once the Order has been made, it is an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy the protected tree or trees without first gaining consent from the Council through a tree works application, unless such works are covered by an exemption within the Act.
- 6.2 There is no fee for a tree works application. If consent is refused for tree works, the applicant has the right of appeal to the Secretary of State.

7. CONSIDERATION

- 7.1 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. Members should reach a decision, based on their own observations, any evidence presented, and any objections and representations made, whether it appears to them to be expedient in the interests of amenity to confirm the Order.
- 7.2 The written evidence that is attached to this report is as follows:

- Appendix 1** The Tree Preservation Order.
- Appendix 2** The report of the Council's Tree Officer, setting out all the issues (s)he considers should be taken into account, and making the case for confirming the Order.
- Appendix 3** The e-mail from Hampshire County Council regarding the long term retention of the tree
- Appendix 4** The Tree Evaluation Method for Preservation Orders (TEMPO) survey of the tree.
- Appendix 5** The written representations from the objectors to the making of the Order
- Appendix 6** The outcome of the consultation by the Burley Road Management Company about the tree.

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

8. FINANCIAL IMPLICATIONS

- 8.1 There are some modest administrative costs associated with the actual process of serving and confirming the Order. There are more significant costs associated with the need to respond to any Tree Work Applications to lop, top or fell the trees as the officers will normally visit the site and give advice on the potential work.

- 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' owner.
- 8.3 The Town and Country Planning (Tree Preservation) (England) Regulations 2012 provide that a person will be entitled to receive compensation from the Local Planning Authority for loss or damage caused or incurred in consequence of: -
- (a) The refusal of any consent required under the Regulations;
 - (b) The grant of any such consent subject to conditions;
 - (c) The refusal of any consent, agreement or approval required under such a condition.
- 8.4 A claim to compensation cannot be made where: -
- (a) More than 12 months have elapsed since the Local Planning Authority's decision (or, if the decision has been appealed to the Secretary of State, from the date of determination of the appeal);
 - (b) The amount of the claim would be less than £500.
- 8.5 Compensation is NOT payable: -
- (a) For loss of development value or other diminution in the value of the land. 'Development value' means an increase in value attributable to the prospect of developing land, including the clearing of land;
 - (b) For loss or damage which, having regard to the application made, and the documents and particulars accompanying the application, was not reasonably foreseeable when consent was refused, or was granted subject to conditions;
 - (c) For loss or damage which was (i) reasonably foreseeable by the person seeking compensation, and (ii) attributable to that person's failure to take reasonable steps to avert the loss or damage, or to mitigate its extent;
 - (d) For costs incurred in appealing to the Secretary of State against the refusal of any consent required under the Regulations, or the grant of such consent subject to conditions.

9. ENVIRONMENTAL IMPLICATIONS

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

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 (under the First Protocol of the European Convention on Human Rights) peacefully to enjoy his possessions. Such interference is capable of justification if it is 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 (under Article 8 of the European Convention on Human Rights) to respect for his private and family life and his home. Such interference is capable of justification if it is in accordance with the law and necessary in a democratic society for the protection of the rights and freedoms of others.

12. RECOMMENDED:

- 12.1 That the Panel consider all the evidence before them and determine whether to confirm Tree Preservation Order 12/14 relating to land of Halton Close, Bransgore with, or without, amendment.

For Further Information Please Contact:

Jan Debnam
Committee Administrator
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E-mail: jan.debnam@nfdc.gov.uk

Grainne O'Rourke
Head of Legal and Democratic Services.
Tel: (023) 8028 5588
E-mail: grainne.orourke@nfdc.gov.uk

Background Papers:

Attached Documents:
TPO 12/14
Published documents

APPENDIX 1

TOWN AND COUNTRY PLANNING ACT 1990

TREE PRESERVATION ORDER TPO/0012/14

LAND OF HALTON CLOSE, BRANSGORE

The New Forest National Park Authority, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Anyone wishing to undertake works to trees protected by TPO should apply in writing to the Authority clearly identifying the tree(s) and the work intended. A decision will usually be issued within six weeks. Application forms are obtainable from the Authority's website.

Citation

1. This Order may be cited as the TPO/0012/14 - LAND OF HALTON CLOSE, BRANSGORE.

Interpretation

2. (1) In this Order "the authority" means the New Forest National Park Authority.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall -

(a) Cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this Fifth day of June 2014

Signed on behalf of the New Forest National Park Authority

.....
Authorised by the Authority ~~to sign~~ in that behalf

SCHEDULE

SPECIFICATION OF TREES

Trees specified individually
(encircled in green on the map)

No. on Map	Description	Situation
T1	Cedar.	Situated on Halton Close adjacent to 1 Cranwell Close, Bransgore, as shown on plan.

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

No. on Map	Description	Situation
None		

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

No. on Map	Description	Situation
None		

Woodlands
(within a continuous green line on the map)

No. on Map	Description	Situation
None		



Tree Preservation Order Plan





Town and Country Planning Act 1990

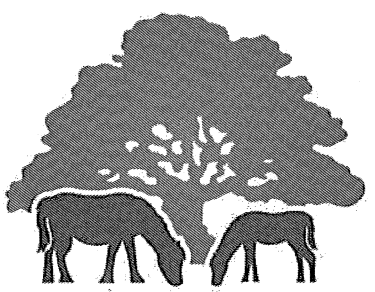
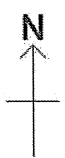
TPO Number: TPO:0012/14

Scale: 1:1000

Date Printed: 30/05/14

Key

-  Individual trees covered by TPO
-  Area of trees covered by TPO
-  Groups covered by TPO
-  Woodland of trees covered by TPO



**NEW FOREST
NATIONAL PARK**

AN AUTHORISED SIGNATORY

New Forest National Park Authority, Lymington Town Hall, Avenue Road, Lymington, SO41 9ZG
Tel: 01590 646600 Fax: 01590 646666

APPENDIX 2

**OBJECTION TO TREE PRESERVATION ORDER NO. 12/14
LAND OF: HALTON CLOSE, BRANSGORE**

REPORT OF COUNCIL TREE OFFICER

1 TREE PRESERVATION ORDER HISTORY

- 1.1 Tree Preservation Order (TPO) No.12/14 was made on 5th June 2014. The Order is attached as Appendix 1 to Report A.

An email dated 30 May 2014 from Hampshire County Council Highways Department raised concerns for the safe, long term retention of the Cedar tree and potential threat from inappropriate removal of branches that overhang private property. (Appendix 3)

The tree is a prominent feature in Halton Close and considered to offer a good level of visual amenity and its protection by a TPO was required to ensure that the tree was not subject to unsympathetic tree work.

2 THE TREE

- 2.1 This TPO protects a Cedar tree situated in the footpath adjacent to and overhanging car parking and 1 Cranwell Close.
- 2.2 From a ground level inspection the tree appears to be in good health and condition. No defects were noted that would necessitate secondary investigation or give rise to concerns regarding the tree's safety. There will naturally be some minor deadwood within the crown from time to time and small branches have fallen in the past. With sound regular maintenance this could be addressed through pruning and would not be prevented or hindered by the TPO. The roots have displaced the surrounding tarmac footpath and the boundary wall to the rear of 1 Cranwell Close. These surfaces and structures could easily be repaired and the tree retained.
- 2.3 The tree offers a good level of visual amenity to the area.
- 2.4 Tree Evaluation Method for Preservation Orders (TEMPO) survey assessment has been included as Appendix 4 for information.

3 THE OBJECTION

- 3.1 Three letters of objection have been received and copies of the objection letters are included in Appendix 5. The grounds for objection include:

- The tree is too close to 1 Cranwell and is not an amenity.
- The tree is neither useful nor enjoyable and is considered ugly and an eyesore.
- The tree has shed many large branches which have caused damage, needles, sap and flowers.
- The tree is too large for its location.
- The tree is lifting the pavement and is a trip hazard.
- The roots are also lifting the boundary wall and are very invasive making the ground virtually impossible to dig.
- Sunlight is being blocked from the garden.
- Concerns with the safety of the tree and the threat of it falling.
- The TPO will be justification for the lack of maintenance.

4 **OBSERVATIONS ON THE GROUNDS OF OBJECTION**

- 4.1 With no major visible defects identified the Cedar tree is not considered such a threat to its surroundings or the residents as to warrant its removal. The making and confirmation of a Tree Preservation Order does in no way hinder consent for any reasonable and routine maintenance.
- 4.2 The seasonal loss of flowers and needles is not considered reasonable grounds to justify the premature removal of the tree that positively contributes to the area's amenity. The gathering and removal of debris is considered as routine maintenance.
- 4.3 The repair to the tarmac footpath and boundary wall is considered an acceptable expense in relation to the size and visual amenity value the tree provides to the area. The visual amenity value of trees and their intrinsic beauty can be subjective but have been quantified in the Appendix 4.
- 4.4 The tree is estimated to be some 60 – 70 years old and barring any significant pest, diseases or storm damage should make a positive contribution in excess of 40 years.

5 **SUPPORT**

- 5.1 Following discussion and agreement with the Authority's Tree Officer a survey dated 18th July 2014 was prepared by Burley Road Management Company in order to assess support or objection to the TPO by the residents. The survey and letter dated 26th August are attached as Appendix 6.
- 5.2 44 residents were consulted and 37 did not see the tree as an amenity.

6 CONCLUSION

- 6.1 The Cedar offers a good level of visual amenity and the TPO does not preclude sound arboricultural management. It does ensure that no unnecessary or inappropriate work is undertaken which could compromise the tree's health and visual amenity value.

7 RECOMMENDATION

- 7.1 It is recommended that Tree Preservation Order 12/14 is confirmed without modification.

Further Information:

Nik Gruber
Senior Arboricultural Officer
Telephone: 01590 646668

Background Papers:

Tree Preservation Order No. 12/14

APPENDIX 3

Liz Beckett

From: Kiss, Sarah [Sarah.Kiss@hants.gov.uk]
Sent: 30 May 2014 11:36
To: Liz Beckett
Cc: Weal, Mark
Subject: Cedar in Halton Crescent.

Hi Liz,

Further to our call, would you please consider the cedar in Halton Crescent, shown as T1 in the extract below, for a TPO. I believe it to be under threat from additional pruning by the residents' association who own the verge behind the lamp column Google streetview link:

[https://maps.google.co.uk/maps?q=Halton+Close,+Bransgore&hl=en&ll=50.781312,-1.733687&spn=0.000002,0.001206&sll=51.044829,-1.343311&sspn=1.407342,2.469177&oq=halton+close&t=h&hnear=Halton+Close,+Bransgore,+C](https://maps.google.co.uk/maps?q=Halton+Close,+Bransgore&hl=en&ll=50.781312,-1.733687&spn=0.000002,0.001206&sll=51.044829,-1.343311&sspn=1.407342,2.469177&oq=halton+close&t=h&hnear=Halton+Close,+Bransgore,+Christchurch+BH23+8HZ,+United+Kingdom&z=20&layer=c&cbll=50.781381,-1.733557&panoid=dYvQCq07xE74nj3aft3Vjw&cbp=12,324.21,,0,-14.42)

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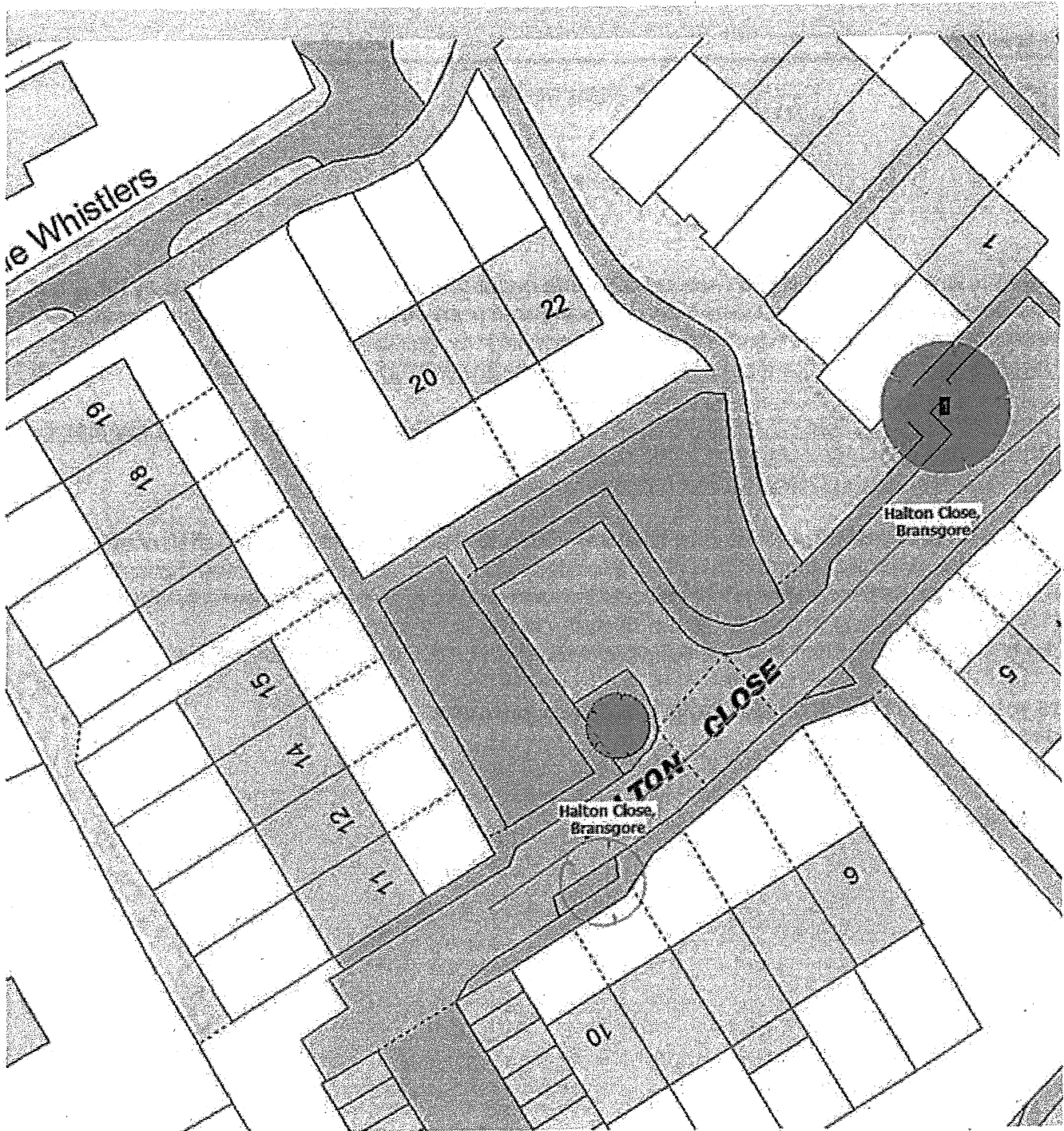
[1.733557&panoid=dYvQCq07xE74nj3aft3Vjw&cbp=12,324.21,,0,-14.42](https://maps.google.co.uk/maps?q=Halton+Close,+Bransgore&hl=en&ll=50.781312,-1.733687&spn=0.000002,0.001206&sll=51.044829,-1.343311&sspn=1.407342,2.469177&oq=halton+close&t=h&hnear=Halton+Close,+Bransgore,+C)

During a recent meeting with the new chair he indicated that they were aware of their common law right to prune back to the boundary. As the resident at no. 1 has already exercised this right, the additional canopy loss would, I believe, reduce the longevity of this public asset and weight it more to the NE in line with prevailing winds, though the site is fairly sheltered.

Happy to discuss pros & cons, and happy to discuss if you'd like further information.

Sarah

Cc Mark for info



Sarah Kiss, *Dip Arb (RFS), M. Arbor A*
Arboricultural assistant
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Tel: 01962 846674

0845 603 5633 (Contact centre)

Web: www.hants.gov.uk/highways

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APPENDIX 4

TREE EVALUATION METHOD FOR PRESERVATION ORDERS -TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 17.09.14	Surveyor: NG
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Tree details	TPO Ref (if applicable): 12/14	Tree/ Group No: T1	Species: Cedar
Owner (if known): HCC	Location: Halton Close, Bransgore		

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

5) Good	Highly suitable	Score & Notes 5
3) Fair	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead/ dying / dangerous*	Unsuitable	
* Relates to existing context and is intended to apply to severe irremediable defects only		

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

5) 100+	Highly suitable	Score & Notes 2
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	
*Includes trees which are an existing or near future nuisance, including those <u>clearly</u> outgrowing their context, or which are significantly negating the potential of other trees of better quality		

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

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

d) Other factors:

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

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

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

5) Immediate threat to tree	Score & Notes 2
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 14	Decision: TPO defensible
1-6	TPO indefensible		
7-11	Does not merit TPO		
12-15	TPO defensible		
16+	Definitely merits TPO		

APPENDIX 5

2 Halton Close
Bransgore
Christchurch
Dorset
BH23 8HZ



Mr Paul Hocking
Enforcement and Trees Manager
New Forest National Park Authority
Lymington Town Hall
Avenue Road
Lymington
SO41 9ZG

11th June 2014

Dear Mr Hocking,

**TREE PRESERVATION ORDER No TPO/0012/14 – LAND OF HALTON CLOSE
BRANSGORE**

Thank you for your letter date 5th June in which you informed the Burley Rd Management Company of the provisional TPO which has been placed on the Cedar tree adjacent to 1 Cranwell Close, as shown on your plan and marked as T1.

I have to say that I am somewhat surprised that in this case, the application of a permanent TPO is being considered. You already know that on the Whistlers Estate, many trees – 81 with TPOs - are managed by the aforementioned company. We take great care of our “garden” and spend many thousands of pounds of our residents’ money on tree management. Unfortunately, the Cedar tree in question is not owned by us but by Hampshire County Council, and there is our problem.

The tree in question is a magnificent example of its type and would certainly qualify for the name amenity were it to be located in a forest or copse, away from domestic properties but

this tree is too close to 1 Cranwell. Over the last 7 years since I moved into the property on the opposite side of the road from the tree location, I have kept up a continuous written dialogue with Mark Weal, the Arboriculture Office at Hampshire County Council. The tree has shed many large branches onto cars (notably my wife's) and the adjacent property at 1 Cranwell. Thus far, the damaged caused has not resulted in any insurance claims against the CC. That said, each winter, those who live with this tree, give it a wide berth by not parking under or near to it and during inclement weather of heavy rain/snow or blustery winds we just wait for the inevitable and are usually not disappointed.

Tree T1 has grown too large for its location. We have a lovely development of houses where the grounds are the envy of all who visit. This tree is out of place and certainly does not qualify as an amenity. Erupting from the pavement, it has damaged the tarmac, moved the kerbstones and made the pavement unusable. It is only 5 feet from the adjacent garden wall at No 1 Cranwell. The wall has been forced out of the vertical and given time, will probably collapse - a hazard that the elderly lady in No 1 has to live with and that the CC are aware of. Furthermore, T1 is only 9 feet from her garden conservatory, where, over the years, many large branches have landed.

The record shows that the Burley Road Management Company is sympathetic to the preservation of trees on our estate. Unfortunately, each winter when the weather deteriorates, the hazards in living with this Cedar tree hang over us like the sword of Damocles.

On the 26th September 2011, in a letter to me, Mark Weal wrote - "*The relationship between trees and properties can, and often does, cause concern*". We in the Company are also concerned about the **risk to people**.

The Burley Road Management Company does not support this TPO being made permanent.

Yours sincerely,

W P CASEY

Chairman

Burley Road Management Company Ltd

**3 Halton Close
BRANSGORE
Nr Christchurch
Dorset
BH23 8HZ**

28th June 2014

The New Forest National Park Authority
Lymington Town Hall
Avenue Road
Lymington
SO41 9ZG

For the attention of the Enforcement and Trees Manager

Sent by e-mail and Recorded Delivery

Dear Sirs

Tree Preservation Order (TPO) TPO/0112/14 Cedar in Halton Close BH23 8HZ adj no. 1 Cranwell Close

I refer to your letter dated 5th inst. addressed to my neighbour and co-director of Burley Road Management Company Ltd, William Casey, advising us of the above TPO.

On behalf of both the Company, as newly re-appointed Trees Director, and my family, I wish to go on the record as formally objecting in the strongest possible terms to this Order.

It is suggested the tree is an 'amenity'. Whilst it may to some degree be a good example of its species, from some directions, please be aware this is not how it is viewed by its immediate neighbours and other residents on the Whistlers Estate who have to live with it.

Hampshire County Council as the Highway Authority will have a history of requests for work to be carried out and whilst it is acknowledged that this particular species sheds branches as a matter of course, damage has been caused to cars and on one occasion had my wife gone to her car a matter of seconds earlier she would have been struck by a substantial branch that rendered the road temporarily impassable until cleared by her and a neighbour.

There is a parking area under the tree where the spaces immediately under the canopy are not used by residents because of needles blocking drainage holes, weeping sap causing damage to paintwork and

the canopy shedding larger debris on cars. This then sees an increase of parking on the roadway around the Cranwell Close, Benson Close and Halton Close junction.

New Forest District Council as the former Local Planning Authority and subsequently the New Forest National Park Authority will be well aware of the pro-active nature of the way the Management Company manages the grounds on the Estate to maintain the park-like setting and we spend considerable time and money managing the tree stock many of which were planted as part of a private garden, prior to the existing Whistlers development, and some subsequently by the Company.

You will probably by now be aware the elderly resident of number 1 Cranwell Close has a problem with the garden wall adjoining the tree and the foot path below the tree is now impassable to anyone in a wheelchair or unsteady on their feet.

A large part of the canopy overhanging 1 Cranwell Close has been removed and the tree is now leaning in the opposite direction as can be clearly seen in the photographs below. This lean is towards the terrace comprising numbers 1-5 Halton Close and the height of the tree is well above the short distance between its base and those properties.



Majority of north section (left) of canopy missing.



Remaining canopy overhanging Halton Close.



Base of trunk showing damage to pavement.



Garden wall pier leaning left, trunk leaning right (south).

Notwithstanding recent works we remain very concerned about the long-term stability of the tree and, having now gone 'on the record' and previously voiced concerns on more than one occasion, will have no hesitation in holding the Highways Authority responsible for future damage to cars, property or persons.

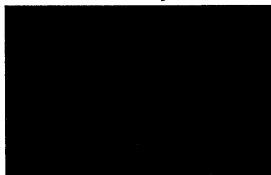
At a site meeting some six years ago the Highways Authority requested the Local Planning Authority Tree Officer make the cedar subject of a TPO. However, the Tree Officer at the time, Andrew Douglas, did not feel the tree warranted statutory protection. It begs the question, why has this changed?

I recently spoke, by chance, with another Tree Officer, Sarah Kiss, during her recent visit to site and repeated my concerns and those of others on the Estate. Notwithstanding her polite demeanour and willingness to talk she was dismissive of our concerns and did not appear to want to consider the immediate residents, environmental impact or sympathetically managed nature of the other mature stands we look after.

We are not looking to see the Estate clear felled and value the amenity afforded by our mature trees but the cedar is outside our control and as a potential hazard we remain concerned that any protection afforded will be an 'excuse' for reactive management, not carrying out any mitigation works or possible removal, notwithstanding the 'dead, dying or dangerous' provisions within the Order, until something drastic happens.

I look forward to receiving details of the Authority's management plan for the tree with particular regard to mitigation of damage to neighbouring property, vehicles and potential injury to persons (residents, visitors and those members of the public) exercising their rights to pass and re-pass on the road and pavement running beneath the canopy.

Yours faithfully



Mark Sorge

CC:

Parish Council Tree Warden: - Mr. N.V. Linford, 4 Rosehill Close, Bransgore BH23 8NS

District Councillor: - Mr. J. Penwarden, Treetops, School Road, Thorney Hill, Bransgore BH23 8DS

Hampshire County Councillor - Mr. K. Mans, keith.mans@hants.gov.uk

1 Cranwell Close
Bransgore
CHRISTCHURCH
BH23 8HY



Ms. Liz Beckett,
Tree Officer,
Tree Team,
New Forest National Park Authority,
Lymington Town Hall,
Avenue Road,
LYMINGTON.
SO41 9ZG

28th June 2014

Dear Sir,

**RE: TREE PRESERVATION ORDER NO. TPO/0012/14
SITE: LAND OF HALTON CLOSE, BRANSGORE**

I am writing to you on behalf of my mother, Mrs. E.M. Davies of the above address, for whom I hold Power of Attorney, in response to your letter to her of 5 June.

I am writing to object to a T.P.O. being placed on the above cedar tree situated right beside my mother's house. The tree is not an amenity as you state – an amenity is something people can use and enjoy. This tree is neither useful nor enjoyable. The consensus is that it is ugly and an eyesore. These cedars are known to “shed” their branches without warning and this tree is no exception. We have had numerous branches come down, both in my mother's garden and on her conservatory roof, and on cars parked in the car parking bay underneath the tree.

The tree creates constant mess as it continuously drops needles and “tassles” which clog the roof and gutters and cover the garden, necessitating many hours of scraping and clearing up. Requests to the Authority to do something about this in the past have fallen, it would appear, on deaf ears.

The tree is also lifting the pavement badly creating a tripping hazard and also lifting my mother's wall. The roots are very invasive and make the ground virtually impossible to dig.

We are also concerned about the effect the tree is having on the foundations of my Mother's house and conservatory. The tree has been sculpted in such a way that its weight is predominantly on the side away from the house. However, the counter-balancing tendency of the tree will mean that it will have put out more roots towards and under the house and conservatory.

The tree is now far too big to be left as it is in such close proximity to residential housing and now blocks sunlight from the garden for the majority of the day. The Planning Authority should never have agreed to houses being built so close to this cedar tree if they weren't prepared to do something about it when it became a problem in later years. It is now a problem! The Authority would have been aware of the tree's propensity to grow to enormous proportions and "shed" at will. It is only luck that has prevented anyone from being injured (or worse) by falling branches from this particular tree so far.

We are further concerned that the ground has become saturated, increasing the risk of the tree falling.

My mother has now taken to sleeping downstairs in the lounge every night, such is her concern that the tree will come down on her roof in a high wind. The tree's possible fall also concerns the houses directly opposite it as they are also well within its "landing zone".

It is difficult enough already to get the Authority to listen to the residents when they have grievances about this cedar tree. If a permanent T.P.O. is placed on it, the message being given by the Authority is that they are unwilling to accept that their tree is causing problems, wishing to preserve the tree at all cost over the safety and concerns of the local residents.

If the tree does fall then the Authority would be liable for the consequences of that, particularly given the notification to you over the years by local residents of their concerns about it. Far from seeking to preserve this particular tree, the Authority should now be taking steps to make it safe for local residents and visitors, preferably by its removal.

Yours faithfully,

MRS. H. DANCEY
(on behalf of MRS. E.M. DAVIES)

c.c. Paul Hocking, Enforcement and Trees Manager

APPENDIX 6

**3 Halton Close
BRANSGORE**

18th July 2014

On the 7th July, the Burley Road Management Committee met with the National Park Authority (NPA) to discuss the management of the Hampshire County Council cedar tree opposite nos. 1-5 Halton Close and adjacent to No.1 Cranwell Close. During the discussions, the NPA argued that the tree is an 'amenity' and as such worthy of the Tree Preservation Order (TPO/0112/14) recently placed on it and subject to confirmation.

It is the only tree on our Estate that is outside the Company's control and subject only to reactive management by the Council. Burley Road Management Company is concerned that the Order will be further justification for lack of maintenance and is objecting to the Order being confirmed.

The tree is growing on the pavement which has become unusable and the roots have caused the garden wall at No 1 Cranwell to lean into the garden. Moreover, the parking area below the tree canopy often becomes unusable during heavy rain or high winds when large branches regular detach, landing on cars or the conservatory at No 1. Consequently, we have questioned the 'amenity value' of the tree and have been asked to confirm our assertion that the Whistlers Estate residents who live with it do not view it as such.

It would therefore be appreciated if you could return the attached slip, to the above address by the 8th August, expressing your view, as a Whistlers resident, on whether or not the tree is an amenity and deserving of the proposed Tree Preservation Order.

With thanks in anticipation of your cooperation.

Yours sincerely

Mark Sorge
Director – Trees
Burley Road Management Company Ltd

.....
I / We view the cedar in Halton Close as an amenity and **support the imposition of Tree Preservation Order TPO/0112/14***

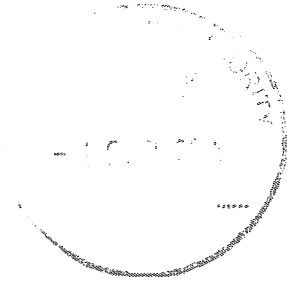
I / We do not view the cedar in Halton Close as an amenity and hereby **object to the imposition of Tree Preservation Order TPO/0112/14***

.....
*Please delete as appropriate.

Signed..... Name.....

Address:..... Date.....

**3 Halton Close
BRANSGORE
Nr Christchurch
Dorset
BH23 8HZ**



26th August 2014

The New Forest National Park Authority
Lymington Town Hall
Avenue Road
LYMINGTON
Hampshire
SO41 9ZG

For the attention of Mr N Gruber

Sent by e-mail and Recorded Delivery

Dear Sirs

Tree Preservation Order (TPO) TPO/0112/14 Cedar in Halton Close BH23 8HZ adj no. 1 Cranwell Close and Burley Road Management Company Ltd (BRMC).

Further to the site meeting of the 7th July I write, as promised, to provide the results of the BRMC's survey of residents, challenging the Authority's assertion that the above cedar tree is an 'amenity'.

Out of the 44 residents / shareholders, 37 do not see the tree as an amenity, 1 declined to comment, having recently agreed to sell the property and 6 have not yet responded, one of which is an absentee owner, seldom in residence and probably not yet seen the note we put through his door.

This would attest conclusively that at least 85% of people who live with the tree and its associated risks and detritus are prepared to object to the imposition of any protection and do not view the tree as an amenity, notwithstanding Authority assertions.

A copy of the note sent to residents is enclosed and individual replies can be provided should this be required to evidence the above findings.

At risk of repetition, we value highly the amenity afforded by our mature trees and the record will show that where as part of any necessary removal of mature stands the Company has willingly planted replacements.

Cont.

TPO/0112/14

26th August 2014

However, the subject tree is outside our control and, as a potential hazard, residents remain concerned that any protection afforded will be an 'excuse' for continuing reactive management on the part of the County Council as Highway Authority and owner of the tree, not carrying out any mitigation works or possible removal, notwithstanding the 'dead, dying or dangerous' provisions within the Order, until something drastic happens.

We look forward to receiving details of any management plan the Authority may have agreed with the County's Highways department for the tree, with particular regard to mitigation of damage to neighbouring property, vehicles and potential injury to persons (residents, visitors and those members of the public) exercising their rights to pass and re-pass on the road and pavement running beneath the canopy.

Yours faithfully

Mark Sorge

CC:

Parish Council Tree Warden: - Mr. N.V. Linford, 4 Rosehill Close, Bransgore BH23 8NS