Title:

OBJECTIONS TO TREE PRESERVATION ORDERS (NUMBERS 43/2007 AND 44/2007) – TREES ON LAND AT GRAYSWOOD ROAD AND BEECH ROAD HASLEMERE

[Portfolio Holder for Planning: Councillor B A Ellis]

[Wards Affected: Haslemere East and Grayswood]

Summary and purpose:

To consider objections to the making of two Tree Preservation Orders (TPOs) and to determine whether the Orders should be confirmed, with or without modification. The report has no direct resource implications. There are environmental benefits in retaining the trees which merit special protection.

Environmental implications

There are positive implications in Valuing and protecting the diversity of nature.

Social / community implications

There are positive implications in Safeguarding the visual amenity of the area.

E-Government implications:

The report has no direct E-Government implications.

Resource and legal implications:

Legal implications are covered by sections on Human Rights implications.

Background

The Council has commenced a programme of pro-active surveying of trees with a view to making new TPOs in areas of the Borough that are considered to be under greatest threat from development pressure where the loss of trees may lead to a denudation of landscape character. A briefing note (Appendix
2) was prepared when the project was initially proposed to gain Member support. The project was ratified in 2006 and monies allocated to the scheme from the Planning Delivery Grant for the employment of an external surveying resource. The pilot survey was undertaken during the autumn of 2007 encompassing the northern sector of the developed area of Haslemere.

The trees included within the new TPOs do not lie within a Conservation Area nor are they subject to other designations that provide statutory protection.

Introduction

TPOs 42, 43 and 44 of 2007 were served on 21\textsuperscript{st} November 2007. The Orders have been made in recognition of the trees’ contribution to the appearance of the area and visual amenity within the landscape. The purpose of the Orders is to deter damage to/indiscriminate removal of significant trees into the future.

The new orders are made in respect of 87 individual trees, 28 groups of trees and 3 areas of trees. The plans appended forming Appendix 1 of the report demarcate the area surveyed and illustrates those trees now protected by TPOs (some of which remain subject of pre-existing orders). Those trees subject of this report are highlighted.

No objections were received against the making of TPO 42/07. One objection has been received against the making of TPO 43/07 and three objections have been received against the making of TPO 44/07.

The objection to TPO 43/07 is from Mr Martin Odell of Westbury, Grayswood Road. He objects to the protection of Beech T8 with a TPO because he considers it has no amenity value and that the application process for tree pruning works to trees subject of a TPO would be unnecessarily inconvenient.
The first objection received to TPO 44/07 is from Mrs Samantha Dudley of Beech Cottage, Beech Road who objects to the protection of Western Red Cedar T19 with a TPO. She is concerned about the tree’s size and its proximity to an adjacent garage and drain run, and queries the tree’s visual amenity value to the area. In an additional submission in support of the objection she raises concern over potential financial implications the TPO imposes in relation to the tree’s future retention and management.
Western Red Cedar T19 of TPO 44/07 viewed from Beech Road looking south

Western Red Cedar T19 of TPO 44/07 viewed from Beech Road looking north

The second objection received to TPO 44/07 is from Mrs Valerie Hepplewhite of Russet House, Beech Road. She objects to the protection of the two
Western Red Cedars (Group G10) with a TPO because she is concerned about the trees’ size and movement in strong winds.

Western Red Cedars Group G10 of TPO 44/07 viewed from Beech Road looking south – The trees are 16m from rear elevation of Russet House in foreground

Western Red Cedars Group G10 of TPO 44/07 viewed from Grayswood Road looking west down the drive of Minstead where the trees are located
The third objection received to TPO 44/07 is from Mr Derek Patch of The Arboricultural Advisory and Information Service on behalf of Mr and Mrs Marcell, the owners of ‘Weavers End’, Church Lane. Mr Patch objects to the protection of Copper Beech T32 with a TPO because the tree is not considered to be under threat, the Order is flawed in not protecting ‘highly significant and vulnerable’ trees in the hospital grounds opposite and that the form of the Order is not detailed enough to enable the Council to maintain control of the protected trees in the longer term.
Copper Beech T32 of TPO 44/07 viewed from Beech Road looking south west to Church Lane

The correspondence from the objectors and officer replies form appendix 3 of this report.

**Officers’ response**

The Town and Country Planning Act 1990 places a duty on the local planning authority that *‘if it appears expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area’*. The Act does not define ‘amenity’ however, it is generally accepted that this appears to mean *‘the quality of being pleasant or agreeable’*. Local Planning Authorities should be able to show that a reasonable degree of public benefit would accrue before a TPO is made or confirmed.

The TPOs have been made in accordance with Government guidance for the assessment of amenity. The trees are visible to the general public and of appropriate size and form to contribute to the appearance of the area in the future.

Therefore it is considered expedient in the interests of public amenity to safeguard the trees with TPOs in accordance with guidelines on the law and good practice in this respect.

The imposition of a TPO ensures the trees, as important features within the local and wider landscape, are retained without detriment to their long-term health and amenity.
The Local Planning Authority would not unreasonably withhold consent for future tree works applications that accord with good arboricultural management. In the longer term a TPO ensures replacement tree planting of similar potential size and stature.

The Beech tree T8 of TPO 43/07 is clearly visible to the general public from the highway in Grayswood Road. It is an early mature tree of good form and condition situated in a prominent position atop a bank adjacent to the access to the property. The protection of the tree is considered to be of significant future public benefit, the mature beech trees along the Grayswood Road currently make a valuable contribution to the sylvan appearance of the local landscape. It is therefore considered to be particularly suitable to the setting and of good potential significance to the character of the area.

The Western Red Cedar T19 of TPO 44/07 is a prominent tree of good stature that contributes to the Beech Road streetscene. It is of reasonable form and free from any obvious signs of instability or decay. The relationship to the existing garage and adjacent drain run are not unusual in the urban environment and are not considered to be substantive justification for the tree’s exclusion. The imposition of the TPO does not alter the owner’s duty of care for their property.

The group of two Western Red Cedars G10 of TPO 44/07 are mature trees of significant landscape stature. They are of good form and free from any obvious signs of instability or decay. The trees are external to Mrs Hepplewhite’s property and have a longstanding relationship of relatively close proximity to the owner’s dwelling. The TPO does not detract from or alter the responsibility of the landowner for the maintenance of the trees. The proximity to the objector’s dwelling is not considered to be unreasonable.

The Copper Beech tree T32 of TPO 44/07 (incorrectly shown as an oak on the First Schedule) is prominent to the Beech Road frontage of the property. Situated at a raised elevation it is also visible to the public from Church Lane to the southwest. It is particularly suitable to the setting and of significance to the character of the area.

The tree has been included in the Council’s holistic survey and assessment of trees in the local area. Whilst development proposals on the Weavers End site have not previously proposed the removal of the tree, the unsuccessful applications for re-development of the site to date are indicative of the pressures for infill development in the locality, that make this form of proactive making of Orders in the interests of public amenity.

The trees on the hospital grounds are in public ownership. They are currently considered to be under good arboricultural management and not at risk from pre-emptive removal that would have a detrimental impact on the amenity of the area. Should there be any change in the nature of the site’s provision of services in the interests of the local community, this position would be reviewed.
The form of the Order contains sufficient information to accurately identify the trees on the plan. Where protected trees are in close proximity to other excluded trees of the same or similar species, the adjacent excluded trees are clearly shown on the plan as such. If properties are re-developed, a more specific description of tree location in relation to existing dwellings may become misleading over time. In accordance with Government guidance the Council has a programme of ongoing review of all TPOs, to ensure they reflect changes in the tree population and surrounding development.

**Human Rights Implications**

In deciding to confirm the Order, the Council must have regard to the protection of human rights of the objectors and others affected by the decision.

The rights of the European Convention affected by the decision arise from:

**Article 1** of the First Protocol - right to peaceful enjoyment of possessions.

**Article 8** - protection of the right to respect one’s private and family life, home and correspondence.

Both are relevant to the objections regarding trees on land within the objectors’ ownership.

The decision recommended by officers to confirm the Order will interfere with the rights of the objectors otherwise protected by those Articles. However, the interference is in accordance with the law and justified in the public interest to protect trees, which have an impact on the amenity of the area.

The objectors may at any time seek permission to develop. Any opportunity for the development is restricted in the public interest through the planning control system. Any interference with the landowner’s opportunity to develop is in accordance with the law and justified in the public interest to protect trees, which have an impact on the amenity of the area.

The objectives of the Town and Country Planning Act 1990 are met by including measures that allow for the protection of trees. The preservation of trees is necessary to preserve the visual amenity of the area. The Order is necessary in furthering the legitimate aims of the Development Plan. To confirm the Order does not place a disproportionate burden on the owner, who retains the right to make applications for works to trees. In these circumstances the confirmation of the Order is not considered to be an unjustified or disproportionate interference with the convention rights, and is the only action by which the Council may secure protection of the trees referred to.

**Conclusion**
It is your officers’ view that the objections raised against the making of Tree Preservation Orders 43/2007 and 44/2007 are not substantiated and do not override the public amenity value presented by the trees.

Recommendations

1. It is recommended that Tree Preservation Order 43/2007 be confirmed retaining Beech tree T8.

2. It is recommended that Tree Preservation Order 44/2007 be confirmed retaining Western Red Cedar T19, two Western Red Cedars forming Group G10 and Copper Beech tree T32.

Background Papers
Appendix 1 - Plan of survey area and protected trees (trees subject of objections are highlighted)
Appendix 2 – Pro-active tree protection - Councillor briefing note
Appendix 3 - Correspondence with objectors and their representatives

CONTACT OFFICER:
Name: Andy Clout  Telephone: 01483 523309

E-mail:
 aclout@waverley.gov.uk
TREE PRESERVATION ORDERS 42, 43, 44 /07

PLAN OF TREE SURVEY AREA
AND PROTECTED TREES
(TREES SUBJECT OF OBJECTIONS
ARE HIGHLIGHTED)
EXTRACT OF SURVEY AREA WITH TREES
SUBJECT OF OBJECTIONS HIGHLIGHTED
Councillor Briefing Note

Surveying of the Borough's tree stock within areas of significant urban development pressure - to enable the pro-active implementation of Tree Preservation Orders

Strategy Background
The Waverley Borough Local Plan 2002 recognises the need for sustainable development that makes the best use of previously developed land within urban areas and contributes to the special and distinctive character of the towns and villages.

In order to protect, maintain and enhance the Borough’s environmental quality the Local Planning Authority needs to be able to exert a certain level of development control.

Key Note Policy Aim 2 recognises that the strongest environmental protection should be given to assets which would be impossible or very difficult to replace. The distinctive character of individual areas should be maintained or enhanced by development that makes a positive contribution to an area retaining the important features on a site. Development that has an adverse impact on the local environment will not be permitted.

Trees are a major feature of Waverley’s urban and semi-rural landscape. The Council wishes to conserve existing trees and woodland and encourage sustainable management practices:

Policy D4 – Design and Layout sets out the aim of ensuring development integrates well with the site and complements its surroundings, in particular paying regard to existing features, such as trees, protecting or enhancing the appearance of the street scene and being suitable to the character of the area.

Policy D6 – Tree Controls, is the principal tenet upon which the Council ensure that important trees are safeguarded. It clearly states the Council will protect significant trees and groups of trees by using Tree Preservation Orders.

Policy D7 – Trees, Hedgerows and Development, sets out the requirement for development proposals to provide for the long term retention of important trees and groups of trees.

The thrust of these policies has been carried forward into the Council’s submission Draft Core Strategy that encourages the protection of the natural environment. Policy CP8 states that the biodiversity of the Borough will be protected and enhanced. For the foreseeable future policies D6 and D7 are being saved for development control purposes.

Principal Issue
In September 2005 the British Standard 5837 for Trees in Relation to Construction – Recommendations was re-issued. The Standard takes account of advances in arboricultural knowledge and understanding gleaned over the past 15 years. In particular it recognises the need for planning appropriately to retain significant trees
within sustainable development. The standard gives clear recommendations as to minimum acceptable distances for construction activity in relation to trees.

The Council are already facing a significant problem in ensuring that trees form a material consideration during the planning process. The holistic management of the urban forest to enlarge and improve the urban tree canopy and thus obtain the economic, ecological and social benefits of trees is being seriously challenged.

Current levels of tree protection primarily relate to trees that have previously been subject of potential threat in the past. Many trees within the urban environment, external to conservation areas, therefore have no level of protection afforded to them prior to them being subject to development applications that may impact upon them.

In order to ensure maximum potential financial gain from a proposed development plot, unethical developers are undertaking the felling of prominent trees of significant public amenity prior to submitting planning applications. Without these site constraints areas that would not be suitable for development, or would only be so on a smaller scale, can have their financial development potential maximised.

The revised British Standard places clearer recommendations and greater onus on developers to ensure sustainable building layouts in relation to on-site trees. In the light of this industry recognised recommendations it is anticipated that the loss of trees not currently subject to protection will escalate.

Way Forward
The Development Control Team’s Tree and Landscape Section has identified a number of areas where this type of development pressure is most focused and is having/will have the greatest landscape impact. It primarily consists of single dwellings on relatively large plots of land that developers see as having potential for an increased number of dwellings.

It is considered expedient in the interests of public amenity, in accordance with the Local Planning Authority’s duty under the Town and Country Planning Act 1990, to begin an objective survey of areas under threat from tree removal from development pressure. The survey will be undertaken with the aim of safeguarding the retention of significant trees and groups of trees through the making of tree preservation orders.

Current workloads do not enable ‘in house’ resources to allocate sufficient time to undertake the required surveying. It is therefore proposed to employ an external consultant arboriculturalist to undertake this work. It is proposed to use monies available from the Planning Department’s capital budget to enable the exercise. Existing resources will be utilised to cater with resulting administrative workloads, dealing with the making and confirming of new orders and correspondence and objections.

Recommendation
Officers recommend that an external arboriculturalist is employed to undertake tree surveys in areas considered to be under threat from future development, with a view to making those trees of significant public amenity the subject of Tree Preservation Orders. It is proposed to commence surveys in the spring when trees have come into leaf and conditions are conducive to tree surveying.
Stephen J Thwaites
Director of Planning and Development
Waverley Borough Council
Council Offices
The Burys
Godalming
Surrey
GU7 1HR

Dear Mr Thwaites

Tree Preservation Order 43/07 (provisional)

I refer to your letter of 21 November 2007, from which I note that without any consultation with myself or my wife, the owners of certain trees at the above address, you have imposed a tree preservation order on one of them. You claim it has amenity value, which would suggest that someone looking at it will get some benefit or satisfaction by doing so.

Had you taken the little trouble to talk to us, you would have learnt that the trees is a self seeded beech in our laurel hedge. It is not more than 25 high, has grown into the tree next to it (and is thus not symmetrical) and arches over the drive that is shared with our neighbours. Moreover our telephone line goes through its the branches hence the need for regular trimming.

I understand that you have imposed hundreds of other tree preservation orders in our area. Possibly those other trees are more beautiful and imposing than ours. In this connection I wonder whether your team has made a mistake with this preservation order.

I object to this provisional tree order in principle because of the inconvenience to me in seeking permission to trim it probably when I do the hedge each year, but more importantly because it does not have any amenity value, it is just a small self seeded tree, of which there are plenty of fine specimens in the area.

It would be much appreciated if you would consider this matter carefully and remove this provisional tree preservation order.

Yours sincerely

Martin Odell

[Signature]
Dear Mr Odell,

Tree Preservation Order No. 43 of 2007
Land at Westbury, Grayswood Road, Haslemere, Surrey, GU27 2BS

I refer to your letter of objection concerning the making of the above Tree Preservation Order (TPO) and address below the main points of contention in relation to the inclusion of Beech Tree T8:

I apologise for the seeming lack of consultation in the making of the Order and any offence it has caused. The Council are undertaking a strategic approach to the protection of trees in your area. We have made new TPO’s to afford protection to previously unprotected trees in the northeastern sector of Haslemere, where pressure for higher density development is leading to significant tree loss and a denudation of the verdant urban landscape character. By making the TPO effective on a provisional basis, it affords immediate protection whilst allowing a 6 month period for consideration of representations and discussion of any points of contention.

Beech tree T8 is an early mature specimen of good form situated on a bank above the roadside, visible to the general public from the highway. It is considered to be a good ‘next generation tree’ in an acceptable location with good future development potential. The tree contributes to the sylvan character of the Grayswood Road and it is therefore considered to be in the interests of public amenity to assure the tree’s long-term retention and appropriate management.

Whilst the tree is afforded statutory protection under the Order, it is not intended to deter works but encourage good arboricultural management. Crown lifting of the tree to enable vehicle access along the drive and clearance from telephone wires could be appropriately undertaken, negating the requirement to prune in this respect on a regular basis. The Council offer a free pre-application advice service for works to TPO trees. A member of the Tree and Landscape team would be happy to arrange an amenable time to discuss potential works to the tree and assist with any subsequent tree works application.
I hope the above addresses the points made in your correspondence.

If you wish to maintain your objection to the making of the TPO please confirm this in writing by the 25th January 2008. A report will then be prepared together with your representation and placed before the Western Development Management Committee, who will decide whether or not the TPO should be confirmed retaining Beech tree T8.

Yours sincerely

Andy Clout
Landscape and Tree Officer
Andy Clout
Landscape and Tree Officer
Waverley Borough Council
Council Offices
The Burys
Godalming
Surrey
GU7 1HR

Dear Mr Clout

Tree Preservation Order 43/07 (provisional)

Thank you for your letter of 8 January 2008.

I shall reply to some of the points you make in the order of your letter. You mention the Council has a strategic approach to the protection of trees in our area. Such an approach, unless I am mistaken, seems to mean that the Council is perfectly at liberty to cut down dozens of trees on the Grayswood Road as you leave Haslemere, and I wonder if this is really the significant tree loss you refer to? Note that you can take this action whilst preventing me the freedom to do the same to my own trees, should I so wish.

In reply to my argument that the small 25 foot high self seeded beech tree has no amenity value in my opinion you seem to have introduced a new concept that it will be as a 'next generation tree' although there is no certainty in this. In effect you are stating that it has future amenity value and I wonder whether the Council is duly covered by the law in this opinion or decision, albeit temporary to allow consultation?

Thank you for your offer of a free pre-application advice service for works to TPO trees, and indeed I may take up take offer in connection with a large Wellingtonia that is also covered by a TPO in the garden. The point is, that I object in principle to applying to trim my own tree or trees firstly because as I have stated it has no amenity value and, secondly because any form of permission takes up my time. And of course time is not the only issue; the aforementioned Wellingtonia which I consider to be unsafe, remains leaning towards our house but our safety is of less consequence than the Council’s opinion about amenity values. I further mention about amenity values, that all our neighbours supported our wishes to do something about the Wellingtonia, so they too were ignored. Obviously my experiences on that tree have educated me somewhat to the Council’s intentions.

In conclusion to your letter points I confirm that I wish maintain the objection to making of the TPO.

Finally would you please provide me with a list of all trees that you consider to have a TPO order on them on my property, for the sake of good order.

Yours sincerely,

Martin Odell
Dear Mr Odell,

Tree Preservation Order No. 43 of 2007
Land at Westbury, Grayswood Road, Haslemere, Surrey, GU27 2BS

I refer to your letter of objection concerning the making of the above Tree Preservation Order (TPO) and address below the main points of contention in relation to the inclusion of Beech Tree T8:

I apologise for the seeming lack of consultation in the making of the Order and any offence it has caused. The Council are undertaking a strategic approach to the protection of trees in your area. We have made new TPO’s to afford protection to previously unprotected trees in the northeastern sector of Haslemere, where pressure for higher density development is leading to significant tree loss and a denudation of the verdant urban landscape character. By making the TPO effective on a provisional basis, it affords immediate protection whilst allowing a 6 month period for consideration of representations and discussion of any points of contention.

Beech tree T8 is an early mature specimen of good form situated on a bank above the roadside, visible to the general public from the highway. It is considered to be a good ‘next generation tree’ in an acceptable location with good future development potential. The tree contributes to the sylvan character of the Grayswood Road and it is therefore considered to be in the interests of public amenity to assure the tree’s long-term retention and appropriate management.

Whilst the tree is afforded statutory protection under the Order, it is not intended to deter works but encourage good arboricultural management. Crown lifting of the tree to enable vehicle access along the drive and clearance from telephone wires could be appropriately undertaken, negating the requirement to prune in this respect on a regular basis. The Council offer a free pre-application advice service for works to TPO trees. A member of the Tree and Landscape team would be happy to arrange an amenable time to discuss potential works to the tree and assist with any subsequent tree works application.
I hope the above addresses the points made in your correspondence.

If you wish to maintain your objection to the making of the TPO please confirm this in writing by the 25th January 2008. A report will then be prepared together with your representation and placed before the Western Development Management Committee, who will decide whether or not the TPO should be confirmed retaining Beech tree T8.

Yours sincerely

Andy Clout
Landscape and Tree Officer
Russet House  
Beech Road  
Haslemere  
Surrey GU27 2BX  
Tel. 01428 658650

Borough Planning & Development Officer,  
Waverley Borough Council,  
Council Offices,  
The Burys,  
Godalming,  
Surrey GU7 1HR.  

8 December 2007.

Dear Sir,

TREE PRESERVATION ORDER - 44/07

I am writing in reply to your communication of 21 November and wish to register an objection to the proposed preservation order no. G10 in respect of 2 Western Redcedars.

These extremely large trees stand on our neighbours' land but are immediately on the southern boundary of our garden and only approx 12 metres from the rear wall of our house. In high winds they sway alarmingly and would certainly cause structural damage to the house if they fell in this direction.

As you know, the Western Redcedar is a particularly large specie of tree and the 2 in question are already estimated to be 60-70 ft in height and in need of controlled topping, if only for safety's sake. I had already discussed this matter with Mrs. Holmes of 'Minstead' several weeks ago (well before 21 November) and she had agreed to discuss the question of possible height reduction work with her tree surgeons.

In view of my concern and objection to the proposed preservation order, I would be glad if one of your team would arrange to visit in order to view the trees from this garden and to discuss the situation.

Yours faithfully,

Valerie Hepplewhite (Mrs)

cc. Cllr. R. Knowles
Beech Cottage
Beech Road
Haslemere
Surrey
GU27 2BX

5th December 2007

Waverley Borough Council
The Burys
Godalming
Surrey

Dear Sirs

Ref Tree Preservation Order 44/07

We have recently been advised that a TPO has been placed on a conifer tree in our garden and would like to object on several grounds

1. We are concerned that such a large tree, that could, potentially, grow another 10 feet or so, will pose a potential danger to our and neighbours properties were it to become unstable and/or blow over.

2. The tree trunk is some 2-3 ft from our garage which is of single skin brick construction. We feel that the nature of such a large tree so close to our property has already and will continue to cause structural damage

3. The tree touches the fence which marks the boundary of our property. However, on the other side of the fence, within the grounds of the house known as Chelkara, there is a drain which runs parallel to our fence and collects drainage, as we understand, from several houses, including some on Grayswood Road. Such a large tree so close to such a drain could cause damage.

4. The tree is not a species native to the British Isles and is not, in itself, particularly attractive. Just because it is a tall tree does not mean it is of benefit to the visual amenity of the area.

It is not really possible to attractively prune trees of this nature. In order to stop them becoming dangerously tall they can either be cut down completely or cut in half to curb excessive height. Given this and the points above, we would request that the council reconsiders whether such a coniferous tree should really be the subject of a TPO.

Yours sincerely

Samantha Dudley (Mrs.)
Dear Mrs Dudley,

**Tree Preservation Order No. 44 of 2007 – T19 Western Red Cedar**
Land at Grayswood Road, Beech Road and Church Lane Haslemere, Surrey

I refer to your letter of objection concerning the making of the above Tree Preservation Order (TPO). Making trees the subject of a TPO does not detract from or alter the responsibility of a landowner for the maintenance of their trees. The purpose of the Order is to deter indiscriminate removal of principal trees that contribute to the appearance of the area and to conserve the verdant character in the longer term, both by protection and promoting future replacement tree planting.

I address below your points of contention in the order that you make them:

1. **Size**

   The size of the tree does not predispose it to future failure. The tree is not currently exhibiting any obvious signs of instability or decay that may require further investigation at this time. As you infer, reduction of the tree by removing its top would not be considered an appropriate form of future management. The tree would lose its natural form and be subject of major wounding that would potentially form a latter structural or decay issue.

2. **Proximity to Garage**

   If significant structural damage is apparent and directly attributable to the tree’s growth, it may not be appropriate to retain it. However, at the existing separation distance to the garage, on a non-shrinkable soil type, the likelihood of direct damage to the outbuilding would not normally be a cause for concern. The existing tree/building relationship would benefit from periodical trimming of lower trailing foliage to maintain a reasonable separation.

3. **Proximity to Adjacent Drain**

   The close proximity of utility runs to trees is a very common occurrence. However, arboricultural studies show that the incidence of tree roots breaking
drains is rare. It is far more likely that dampness around drains caused by leaks or condensation will provide a moist environment such that roots harmlessly thrive in that area.

Failed pipe joints and significant cracks can be a means for roots to enter pipes and eventually this may lead to pipe failure or blockage. However, this should not be a cause for concern if drains are correctly fitted and sound.

4. Visual Amenity of Western Red Cedar

The Western Red Cedar is a prominent tree of good stature that stands alone within the local landscape, clearly visible to the general public from Beech Road. The tree has reached maturity and maintained a natural form. It is considered to have a life expectancy in excess of 20 years. The fact that it is a conifer that is not a native species to the British Isles is not considered to significantly detract from its value within the urban residential setting. It is one of a number in the wider area that punctuate the built form and are visible above the rooftops.

The making of the new proactive TPO will help ensure that public amenity is maintained in the longer term in Beech Road and the surrounding area.

I hope the above addresses the points made in your correspondence. If you wish to discuss the matter further please contact me on the telephone number above.

If you wish to maintain an objection to the making of the TPO please confirm this in writing by the 18th January 2008. A report will then be prepared together with your representation and placed before the Development Management Committee, who will decide whether or not to exclude tree T19 from the TPO on confirmation.

Yours sincerely

Andy Clout
Landscape and Tree Officer
Beech Cottage
Beech Road
Haslemere
Surrey
GU27 2BX

1st April 2008

Waverley Borough Council
Planning Department
The Burys
Godalming
Surrey

FAO Mr A Clout

Dear Sirs
Ref Tree Preservation Order Nr 44/07 – T19 Western Red Cedar

Further to my letter of 5/12/07 and our subsequent telephone conversation, I would like to add the following comments in support of my objection to the imposition of a TPO on the above tree:-

1- Size of the tree
Your letter of 3/1/08 cites that this tree has reached maturity. This tree is still growing. The Western Red Cedar (Thuja plicata) is a large tree which can grow to some 50-60m tall with a diameter ranging from 3-6m. At present, the Western Red Cedar on our property is some 15m tall. There is potential for this tree to grow to 4 times its current size.

Should the tree grow to its maximum size then it will completely eliminate all light from our front garden (the tree lies in a southerly direction and at right angles to the property) and will severely reduce the light in the front rooms of the property. Such an impact must surely go against the provisions of the 1988 Human Rights Act which allows for peaceful enjoyment of ones land and property.

Global warming has had the effect of increased instability in our weather patterns. Higher levels of rainfall, inevitably make the ground more unstable. In such situations where unpredictable high winds could cause the blowing over of such a large tree, damage to neighbouring properties would inevitably result. Such blowing over is not due to the death of the tree or its poor maintenance, but acts of God that by their nature, cannot be predicted. When exactly such an event may exactly occur cannot be pinpointed. You correctly note in your letter that size does not predispose a tree to future failure. This is true, but it does, however, increase the extent of damage that would occur were the tree to blow over.

As a responsible neighbour, we do not wish to have a tree on our property that could potentially cause serious damage to our or our neighbours properties were it to blow over.
On grounds of health and safety, therefore, to have such a large tree is dangerous. Should the council persevere in its insistence on the imposition of a TPO on this potentially dangerous tree, I therefore hold the council responsible for any damage that may occur to neighbouring properties were this tree to ever blow down.

2- Proximity to garage
Were the tree to grow to a diameter of 6m then there would be no separation from the existing garage and boundary fence and structural damage would be exacerbated. Underpinning of the garage could be needed to avoid the garage being pushed over.

Could you please advise on the structural or civil engineering qualifications (C.Eng., M Struct. Eng., MICE?) that allow Mr Clout to comment on the damage or otherwise caused by the tree to the structural integrity of our garage. Could you confirm whether or not any inspection of the garage has actually been carried out by a qualified person to ascertain the extent of damage to the garage.

Could you also advise as to when an actual on site examination of the actual condition of the garage and the tree base were carried out.

3- Proximity to drain
Could you please advise on the structural or civil engineering qualifications that allow Mr Clout to comment on the damage or otherwise caused by the tree to the adjacent drain and to confirm whether or not any inspection of the drain has actually been carried out by a suitably qualified person in order to ascertain the extent of the impact of the tree at the moment on the drain.

4- Procedural issues
What analysis of the wider site circumstances were carried out before the decision to serve the order were made.

5- Financial Implications
The imposition of a TPO has financial implications for us as homeowners. Are the Council going to take out additional public liability insurance against the possibility that the tree could blow over and damage at least 3 of the expensive properties that surround the tree.

Are we now required to pay for annual tree inspections by qualified persons to prove to our insurance company that we have acted in a responsible manner in having regard to the condition of the tree.

Do we, as responsible owners now have to have the tree inspected after every period of heavy rainfall to guard against the tree becoming unstable.

The imposition of a TPO has all these financial implications for us as owners. What contribution will the council be making towards these future costs?

Alternatively, given that a TPO takes away our ability to act as we see fit, will the council take on the responsibility of inspecting the tree annually for stability and the site after every period of prolonged rainfall.

While the council may wish us to have a 60m tree on our property, I do not. It is potentially dangerous, blocks out light to the front of my property and imposes financial obligations that I do not wish to have.
On the grounds of human rights violations, health and safety issues and financial cost, I object to the imposition of a TPO on my property.

If the TPO is not rescinded then The council will assume all responsibility for any future damage to my or any neighbouring properties.

Yours sincerely

Samantha Dudley
Mr S J Thwaites  
The Director of Planning and Development  
Waverley Borough Council  
The Dury  
GODALMING  
Surrey  
GU7 1HR

Dear Sir,

Re: Tree Preservation Order 44/07  
Trees on Land at Grayswood Road, Beech Road, and  
Church Lane, Haslemere, Surrey.

We act on behalf of Mr and Mrs Marcell of Weavers End, Church Lane, Haslemere.

We write to make formal comment and objection to the above Tree Preservation Order particularly in respect of tree T32.

Firstly this tree is misidentified as an Oak when it is a Copper beech. Secondly, this tree is not under threat. Although several planning applications have been made and refused for this part of the garden at Weavers End this tree has always been shown as being retained. The refusals have not raised the issue of this tree as a specific concern of the Council’s officers.

Considerable expenditure has been made on having this tree sympathetically pruned over the years to keep the road and footpath safe. So why has this tree become a focus of attention when it was ignored at the time the Beech tree in the garden of the neighboring Bay Tree Cottage was made subject of TPO 05/007?

The circumstances around this tree have not changed and so the need for the Order is questionable.

The Order has been prepared in respect of a large area of residential properties. However, the highly significant, and vulnerable trees in the hospital grounds on the corner of Church Lane and Beech Road remain unprotected. These trees have greater prominence as a skyline behind T32 than the tree itself. We consider, therefore that the Order has been prepared without adequate thought to which are the significant trees, and as such it is a flawed document.
We have concern that the very shorthand form adopted in the First Schedule is a prescription to give the Council considerable management headaches when the larger plots are redeveloped at a higher density and trees have been removed and replanted or not as the case may be. We would, therefore, request that further consideration be given to the appropriateness of the form of the Order.

We request that this objection to inclusion of the incorrectly identified T32 be considered by the Planning Committee, preferably after having made a site visit to determine the significance of this tree in the wider landscape of the unprotected trees on the hospital.

If you need further information or assistance in reviewing the above points please do not hesitate to contact us.

Yours faithfully,

[Signature]

D. Patch, MSc., NDArb(RFS).

Copy to: Mr and Mrs Marcell, Weavers End, Church Lane, Haslemere
Mr Farley, Potter Owtram & Peck, Solicitors, 42 West Street, Haslemere
Mr Stubbs, Planning Consultant, 10 Newhall Close, West Sussex
Dear Mr Patch,

Tree Preservation Order No. 44 of 2007
Land at Weavers End, Church Lane, Haslemere, Surrey, GU27 2BX

I refer to your letter of objection concerning the making of the above Tree Preservation Order (TPO) and address below the main points of contention in relation to the inclusion of Copper Beech Tree T32:

I apologise for the drafting error that has misidentified the tree on the TPO First Schedule. The tree was correctly identified during the autumn survey and will be modified on the first schedule accordingly if retained on confirmation of the Order, after consideration of your objection.

The TPO has not resulted from a specific threat to an individual tree, as was the case with TPO 05/06, where the tree owner prompted action being taken. As outlined in previous correspondence and commended by you on behalf of your clients, the Council has a strategic approach to the preservation of trees within the Borough. Proactive protection of trees not currently at imminent risk is focused on areas within the Borough that are perceived to be under greatest pressure from development. The recent development proposals at Weavers End are indicative of the pattern of infill development in the locality. The Council have made new TPO’s to afford protection to previously unprotected trees of significant amenity value in the northern sector of the ward of Haslemere East and Grayswood, where development pressure is leading to significant tree loss and a denudation of the verdant urban landscape character.

The trees on the hospital grounds are in public ownership. They are currently considered to be under good arboricultural management and not at risk from pre-emptive removal that would have a detrimental impact on the amenity of the area. Should there be any change in the nature of the site’s provision of services in the interests of the local community, this position would be reviewed.
The First Schedule contains sufficient information to accurately identify the trees on the plan. Where protected trees are in close proximity to other excluded trees of the same or similar species, the adjacent excluded trees are clearly shown on the plan as such. If properties are re-developed, a more specific description of tree location in relation to existing dwellings may become misleading over time. In accordance with Government guidance the Council have a programme of ongoing review of all TPO’s to ensure they reflect changes in the tree population and surrounding development.

The Copper Beech is a prominent tree situated towards the Beech Road frontage of the property visible to the general public from the highway in Beech Road and Church Lane. The tree is one of the few remaining beech trees visible along the road and is therefore considered to be particularly suitable to the setting and of significance to the character of the area. The making of the TPO will ensure that public amenity is maintained in the longer term in Beech Road and the surrounding area.

I hope the above addresses the points made in your correspondence. If you wish to discuss the matter further please contact me on the telephone number above.

If you wish to withdraw your objection to the making of the TPO please confirm this in writing. Otherwise a report will be prepared together with your representation and placed before the Western Development Management Committee, who will decide whether or not the TPO should be confirmed retaining Copper Beech T32.

Yours sincerely

Andy Clout
Landscape and Tree Officer
Dear Mr Clout,

Re: Tree Preservation Order 44/07
Trees on Land at Grayswood Road, Beech Road, and Church Lane, Haslemere, Surrey.

Thank you for your letter dated 8th January, 2008 in which you explain the background to the making of the above Tree Preservation Order.

I have now spoken with the owners of Weavers End, Mr and Mrs Marcell, and discussed your letter. They confirm that they wish that the letter of objection dated 19th December, 2007, should remain and be considered by the appropriate committee of the Borough Council.

Yours sincerely,

D. Patch, MSc., NDArb(RFS).

Copy to: Mr and Mrs Marcell, Weavers End, Church Lane, Haslemere
Mr Farley, Potter Owtram & Peck, Solicitors, 42 West Street, Haslemere