

2.4 As part of the review process the trees included in the order have been inspected and an amenity assessment completed.

2.5 At the time of the inspection the trees were in good structural and physiological condition with a significant life expectancy. The trees were found to still have a high amenity value being clearly visible to the public, contributing to the sylvan character of the area and the adjacent conservation area. All warranting the trees continued protection under the new order. **Site map in appendix A.**

2.6 This is the second time the order has been served. It was originally served as TPO 181/2009 in September of 2010 however it was decided to make further amendments to the order following discussions with local residents.

3.0 REASONS FOR OBJECTION

3.1 The council have received one letter of objection to the TPO. The letter of objection is from Mrs A Leonard, 1 Clevedeme, Goring, RG8 9BU. A copy of the letter is attached at **appendix B** the main objections are summarised below:

- the large volume of paper work sent out to notify residents of the order.
- the amenity value of the trees is considered as being more important than human safety
- the accountability of SODC regarding the decision making process
- the need for so many trees in a residential road and why should they be left until they fail as in a woodland situation.

4.0 APPRAISAL

4.1 When giving consideration to the confirmation of this order, you are advised to take account of the following points which address the concerns raised in the objection.

4.2 **• the large volume of paper work sent out to notify residents of the order.**

4.2.1 The tree preservation order has been served in accordance with government guidance and legislation. The owners or occupiers of all properties affected by the changes were sent copies of the new order when it was re-served along with documents informing them of the revocation of the old order.

4.2.2 When serving an Order the council are legally obliged to comply with the requirements set out in the legislation. I agree the legal wording and length of an Order can be onerous to read through however, the legislation has just been revised reducing the need for such extensive paperwork.

4.3 **• the amenity value of the trees is considered as being more important than human safety**
• the accountability of SODC regarding the decision making process

4.3.1 At the time of the original inspection, made by an arboricultural consultant implementing the TPO review on behalf of the council, the trees within the order presented no evidence to indicate they were in a poor structural or physiological condition.

4.3.2 Part of the tree assessment process involves looking at the safe life expectancy and overall condition of the trees. However it is important to note that trees are living species and their structural and physiological condition can change. If this is the case

and tree surgery work or even tree removal are required to prevent the tree causing foreseeable damage to person or property, the council will not seek to prevent such works.

4.3.3 The objector has applied for the removal of protected trees in the past and the council have approved the removal of one such tree, due to its condition. The council have also refused permission to fell another of the objector's trees, a decision that has been upheld by the Planning Inspectorate following an appeal of the council's decision.

4.3.4 The objector has also been given verbal on site and written advice detailing tree works that are advisable to address foreseeable hazards. To date the recommended tree works have not been implemented.

4.3.4 The TPO legislation places a 12 month period of liability on the council following the refusal of an application for tree works. The retention of trees that are in a hazardous state is not in accordance with industry best practise or in the interests of the tree owner or the council. The council employ experienced and qualified arboriculturists to fulfil our statutory obligation to protect trees with amenity value whilst seeking to insure the public's safety at all times.

4.4

- **the need for so many trees in a residential road and why should they be left until they fail as in a woodland situation.**

4.4.1 As part of the TPO review an independent consultant arborist employed by the council for the purposes of the TPO review assessed the trees using the council's standardised amenity assessment. This ensures a consistent and defensible procedure for every tree assessed as recommended by the government publication '*Tree Preservation Orders, A guide to the law and good practise.*' The trees achieved a good score against the assessment criteria, justifying their amenity significance and sustainability.

4.4.2 In addition the tree officer also assessed the trees following the council receiving the objection. The tree officer's assessment also concluded the trees to be worthy of continued protection.

4.4.3 The objector has raised concerns regarding the safety of her trees following the failure of a mature Beech tree in a neighbour's garden some years ago in a storm. I understand the anxiety such an event can cause and is why the forestry team advise tree owners (TPO or not) to have their trees inspected by a qualified competent person. Routine inspections allow any foreseeable hazards to be identified, addressing the tree owner's duty of care.

4.4.4 As previously stated if an application is made to remove a protected tree and there are sound arboricultural reasons to do so, the council will not prevent such works. In the case of the neighbour's tree, no application was submitted to the council requesting its removal.

4.4.5 Attached in appendix c is a copy of the Planning Inspectorate's report relating to an appeal against one of the council's decisions relating to the objector's site. The decision notice gives an independent view of the significance of the trees as an amenity feature within the cul de sac.

5.0 **POLICY & GUIDANCE**

5.1 The South Oxfordshire Local Plan adopted in 2006 recognises the contribution that trees make to the appearance and character of towns and villages within the district and commits the council to preserving and retaining existing trees. These aims are embodied in policies C1, C6 and C9 which seek to underpin the statutory duty of the council to protect trees of amenity value.

5.2 In order to ensure consistent interpretation of the TPO legislation guidance has been sought from the DETR publication “Tree Preservation Orders. A Guide to the Law and Good Practice”.

6.0 **CONCLUSION**

6.1 The trees are considered worthy of the order because:

- the trees have public amenity value when assessed against government guidance, being clearly visible to the public, contributing to the character of the residential area and the adjacent conservation area.
- the trees are in good structural and physiological condition, with no evidence of significant defects visible at the time of the inspection.
- the concerns raised in the letter of objection can all be managed following best arboricultural practice, thereby addressing any present and future compatibility issues whilst maintaining the trees in good health for future generations
- government guidance recommends local planning authorities update their TPO portfolios. Therefore the serving of the order is considered expedient and in accordance with government guidance and the council’s statutory duty to protect trees of amenity value.

7.0 **RECOMMENDATION**

7.1 **That tree preservation order no. 5/2011 be confirmed.**

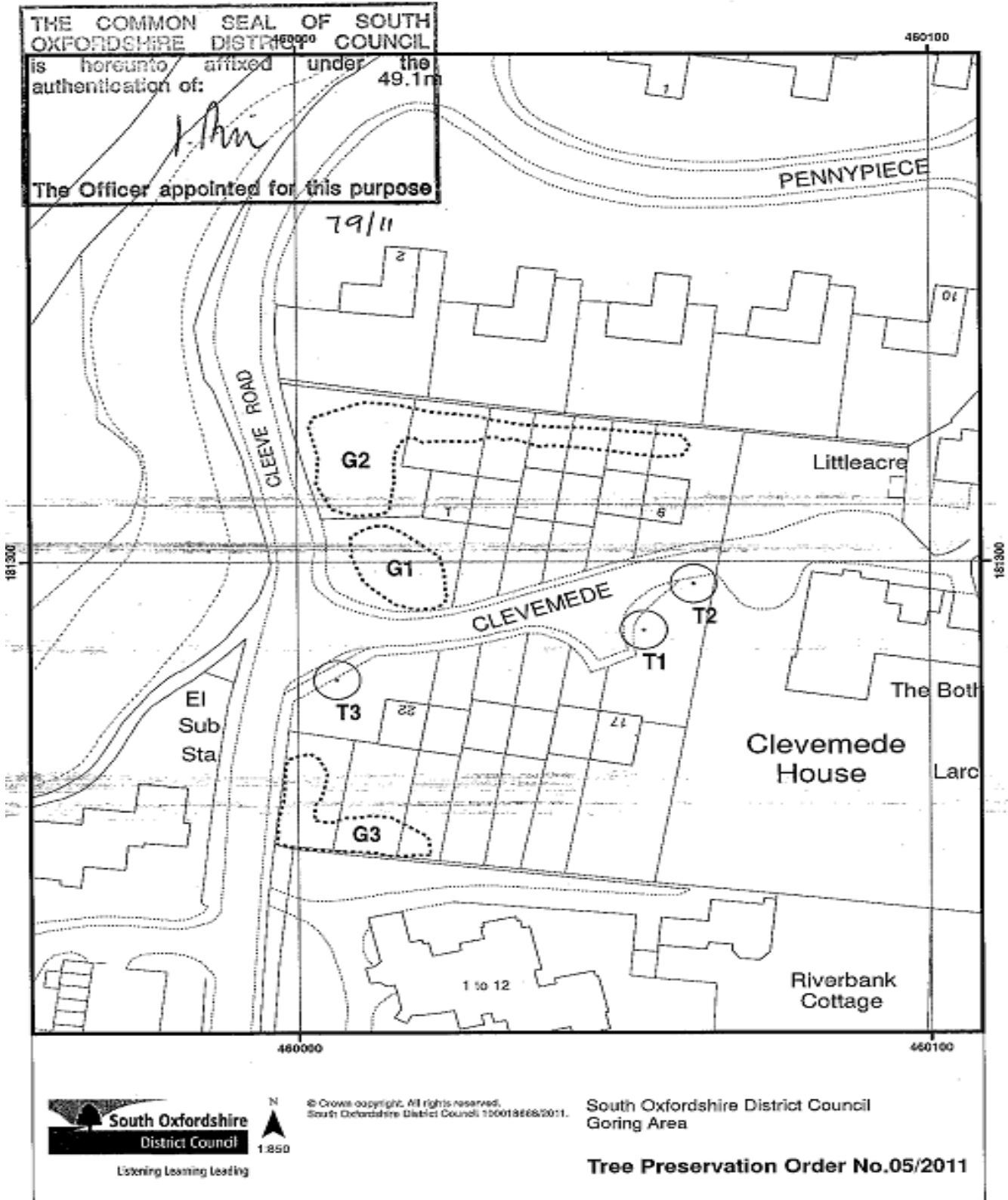
Author Matt Gulliford
Contact No. 01491 823770
Email Add. forestry@southoxon.gov.uk

APPENDIX A: TPO site map

APPENDIX B: Letter of objection

APPENDIX C: Planning Inspectorate decision letter

APPENDIX A: TPO SITE MAP



APPENDIX B: Letter of objection

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LEGAL & DEMOCRATIC SERVICES CONTACT OFFICER
SODC BENSON LANE CROMHURST GIFFORD SARANTHA EBSWORTH
WALLINGFORD, OX10 8QS

FROM MRS. A. T. LEONARD. 1 CLEVELAND GORING
RG8 9BU.
27. 04. 11.

DEAR SARANTHA EBSWORTH

1. THANK YOU FOR YOUR COMMUNICATION -
RE-SERVING OF TREE PRESERVATION NO 18/2009
TO ORDER NO. 5/2011. (POSTED BY SODC 30.04.11
& RECEIVED BY ME 01/04/11). I DID NOT KNOW
UNTIL 01/04/11 THAT ORDER NO 18/2009 HAD
NOT BEEN CONFIRMED.
2. I EMPHASIZE MY OBJECTIONS DATED 15.10.2010
(NO 2 - NO 4) - FOR REASE OF REFERENCE COPIES
ENCLOSED
3. IT SEEMS THAT THESE OBJECTIONS DO NOT
COMPLY WITH SODC'S PREDETERMINE DECISIONS &
DO NOT GO HAND IN HAND WITH PROPER LINES
OF ACCOUNTABILITY SO WHY NOT PRESS REALITY
BUTION AND NOT WASTE TIME ENERGY &
HANDPOWER ON LENGTY PROCEDURES
4. I HAVE CONTACTED LEGAL & DEMOCRATIC SERVICES
& TREE DEPARTMENT IN JULY 2011 BUT
NO RESPONSE FORTHCOMING

A. T Leonard.

COPY ANNE DUCKER MSE MEMBER OF COUNCIL
MARTIN GARRIE FORESTRY MANAGER

Legal & Democratic Services
Head of Service Margaret Reed
Sam Ebsworth Contact Officer

1 CLEYEMEDE
GORING. R68 9BE
15 October 2010
21. 04. 11 - A Leonard

Thank you for communication re:
TPO21/1965(TPO 182/2009) Pennypiece Goring 20 pages recorded delivery
TPO20/1965(TPO181/2009) Clevedeme Goring 20 pages recorded delivery

I object to:

1. SODC's uncontrolled paper circulation . With clarity in mind much less would do. Were you trying to use up spare funds in order to claim more on the next spending round?
2. The amenity value of trees taking preference over the safety of mortals. This is immoral and needs addressing.
3. The unbalanced view that we need so many trees in a residential close and must accept they stay in situ until they fail naturally as in woodland.
4. To SODC not being held accountable for its decision making.

Overview. You repeat "All trees appear to be in good health and are capable of standing for a number of years." What is the definition of your statement? The owners of the property have to act in a responsible manner putting the safety of mortals, damage to properties, and interference with critical functioning of utilities, before the amenity of trees See my previous correspondence.

Enclosed photos 2002 & 2007. These trees were assessed many times by SODC with the usual result

A Leonard A Leonard 21. 04. 11
Mrs. A.T. Leonard

cc. ~~David Buckle CEO SODC~~
~~Anne Ducker MBE Leader of Council~~
~~Martin Gammie Forestry Manager~~
~~David Saxon County Councillor~~

Enc. As stated

NOTE: YOU HAVE ALSO SLAPPED TPO'S ON RE-BEEDEN SADDLING
A L

APPENDIX C: Planning Inspectorate decision letter



Appeal Decision

Hearing held on 16 December 2009
Site visit made on 16 December 2009

by **Chris Gossop** BSc MA PhD MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
-7 JAN 2010

Appeal Ref: APP/TPO/Q3115/751

1 Clevemedede, Cleeve Road, Goring RG8 9BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent to undertake works to a tree protected by a Tree Preservation Order.
- The appeal is made by Mrs A T Leonard against the decision of South Oxfordshire District Council.
- The application Ref.65H20, dated 18 May 2009, was refused by notice dated 1 July 2009.
- The development proposed is felling of beech (T1).
- The relevant Tree Preservation Order (TPO) is the Oxfordshire County Council (Henley No.20) Tree Preservation Order 1965.

Decision

1. I dismiss the appeal.

Main Issues

2. I consider there to be two main issues in this case. The first is the amenity value of the beech tree. The second is the effect of its continued presence upon the safety of the occupants of 1 Clevemedede and of neighbouring occupants.

Reasons

3. The beech (T1) forms part of a group of mature trees growing within the extensive side garden area to 1 Clevemedede, and elsewhere within this cul de sac. The tree is not of a particularly good shape, having a pronounced lean towards the appeal property, and an elongated, asymmetrical crown. On the other hand, T1 is prominently located at the entrance to Clevemedede and it contributes significantly to the group value of the TPO trees in amenity terms. Also, despite the lean, the beech appears to be in a healthy state. In particular, I saw no evidence of significant squirrel damage, such as to affect the vigour, or strength, of this tree. On the first issue, I **conclude** that the tree is of significant amenity value as part of the TPO group and that its felling would detract from the integrity of that group.
4. On the second issue, I acknowledge that the lean of the beech and its unbalanced growth brings the outermost extremity of the tree's crown almost to the eaves line of the house. Given the failure of a beech tree at No.22

Clevemede in the autumn gales of 2002, and the associated damage, I can understand the appellant's concern about the safety of her tree. However, the important difference is that the tree that fell was subject to extensive decay, with the evidence suggesting that it was infected by pathogenic fungi. There is no evidence of any such damage here.

5. From my inspection, I agree with the Council that the lean of the T1 beech is due mainly to the proximity of a large sycamore tree that, until its felling recently, grew very close to the base of the beech. Where trees grow close together, it is natural for them to seek optimum light levels and this can result both in trunks that stray away from the vertical, and in crowns that grow predominantly outwards from the centre of any group, as opposed to inwards where there can be competition for light and space. Such effects are present here and, in my view, they explain the lean of the tree rather than any inherent instability on its part. On the second issue, I **conclude** that there is no evidence that there is any imminent threat from the failure of the T1 beech as a whole.
6. My **conclusion** is that, in the present circumstances, there is no justification for the felling of this tree. I have taken into account all of the other matters raised, including the failure of a second tree in 2007. However, I am not clear about the circumstances, other than that this seems to have happened as a result of severe winds. While I have taken this into account, I give it limited weight; one consideration is that this was an evergreen tree and therefore rather more prone to late autumn/winter season winds than deciduous ones. I note that the T1 beech tree been inspected by the Council on several occasions, and that in the review of the Council's TPOs, TPO No.20 1965, including tree T1, is recommended for revocation and reserving as a group order.
7. I also note that the Council has accepted that (following the approval on a new application) alternative works could be carried out that would help rebalance the crown, and also provide for some crown thinning.

Chris Gossop

Inspector