

# FAREHAM

## BOROUGH COUNCIL

### Report to Planning Committee

**Date**                    **25 January 2017**

**Report of:**            **Director of Planning and Regulation**

**Subject:**                **FAREHAM TREE PRESERVATION ORDER NO 728 – 193 HUNTS  
POND ROAD, TITCHFIELD COMMON.**

#### **SUMMARY**

The report details objections to a provisional order made in July 2016 and provides officer comment on the points raised.

#### **RECOMMENDATION**

That Tree Preservation Order 728 is confirmed with a modification to the situation of T1 in the schedule and its position on the map.

## BACKGROUND

1. Section 197 of The Town and Country Planning Act 1990 places a duty on local planning authorities when granting planning permission to include appropriate provision for the preservation and planting of trees.

*It shall be the duty of the local planning authority -*

- (a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and
  - (b) to make such orders under section 198 as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.
2. Section 198 gives local planning authorities the power to make tree preservation orders [TPOs].

*(1) If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.*

3. Fareham Borough Council Tree Strategy 2012 - 2017.

**Policy TP7** - Protect significant trees not under Council ownership through the making of Tree Preservation Orders.

**Policy TP8** - Where necessary protect private trees of high amenity value with Tree Preservation Orders.

4. TPO 728 was served on the 29<sup>th</sup> July 2016 on public amenity grounds.

## INTRODUCTION

5. On the 29<sup>th</sup> July 2016 a provisional order was served in respect of one pedunculate oak situated on the rear boundary of 193 Hunts Pond Road.

## OBJECTIONS

6. Under Regulation 6 of the Town and Country Planning (Trees) Regulations 2012 one objection has been received from the owner of 16 Tillingbourn on the following grounds:
  - Concern about the time it may take to get permission to carry out any work.
  - Concern that permission can be denied to have work carried out.
  - The tree is only 11 metres from the dwelling, which causes concern about possible damage to foundations and the delay in gaining permission to remove the tree in such circumstances.
  - Having a tree preservation order on the tree may affect the value and saleability of their property.

No other objections have been received to the making of the order.

## **TREE WORK APPLICATIONS**

7. In dealing with applications to carry out works to protected trees the Council will consider whether the reasons given in support of an application outweigh the amenity grounds for protecting them. Permission to prune and maintain protected trees in the context of their surroundings, species, and previous management history will not be unreasonably withheld by the Council.
8. The existence of a TPO does not preclude the carrying out of tree works to, or indeed the felling of, any tree if such a course of action is warranted by the facts. There is currently no charge for making an application to carry out works to protected trees, applications are normally determined within 4 - 5 weeks of registration.

## **DAMAGE TO FOUNDATIONS**

9. When water is removed from clay soils by tree roots the spaces between the soil particles close and the material shrinks. This affects the load bearing capacity of the soil that supports building foundations. Whether a building is affected by a tree in this way is impossible to predict. It depends on the interactions between a number of factors, including the shrinkability of the soil, the construction and depth of foundations, the size, species, vigour and rooting pattern of the tree, effects of other vegetation and any surface treatment, drainage and prevailing weather conditions.
10. Some trees can cause subsidence damage to buildings at considerable distance, while others can grow very close without causing any damage. Current building standards require that the presence of trees is taken into consideration when specifying foundations for new buildings and foundations can be specified that will not subside.
11. The Council has not received any evidence to suggest the subject oak is the cause of damage to property as a result of clay soil shrinkage due to tree root activity. In circumstances where a protected tree has been identified as a material cause of subsidence damage to property, the Council will not unreasonably withhold consent for the offending tree to be removed if such a course of action is justified by the facts of the case.

## **PROPERTY VALUE**

12. There are many ways in which trees can indirectly contribute to the quality and value of our urban areas. The positive impact of trees and woodland on property prices is well documented, with increases in property values ranging from 5 – 18%. The larger the trees are then the greater their proportional value.
13. Trees in urban areas are widely regarded as important natural assets that contribute substantial economic value to our communities.

## **RISK ASSESSMENT**

14. The Council will not be exposed to any significant risk associated with the confirmation of the FTPO 728 as made and served. Only where an application is made for consent to work on trees subject to a TPO and subsequently refused does the question of compensation payable by the Council arise.

## CONCLUSION

15. When making tree preservation orders the Council endeavours to consider the rights of those affected and use its powers responsibly. However, the rights of the individual must be balanced against the rights of the public to expect the planning system to protect a tree when its amenity value justifies such protection.
16. Tree preservation orders seek to protect trees in the interest of public amenity; therefore it follows that the removal of a protected tree should only be sanctioned where its public amenity value is outweighed by other considerations. In this instance Officers consider that the reasons put forward objecting to the confirmation of TPO 728 are not sufficient to outweigh its public amenity value (photo at Appendix 1). However, members are invited to reach their own conclusion.
17. Officers therefore recommend that Tree Preservation Order 728 is confirmed with a minor modification to the description of T1 in the schedule to '*Rear boundary of 193 Hunts Pond Road*' and amend its corresponding position on the TPO map.

**Background Papers:** TPO 728.

**Reference Papers:** Forestry Commission: The Case for Trees – 2010. Planning Practice Guidance - Tree Preservation Orders (2014), Fareham Borough Council Tree Strategy 2012 – 2017 and The Law of Trees, Forests and Hedges (second edition) – *Charles Mynors*.

**Enquiries:**

For further information on this report please contact Paul Johnston. (Ext 4451)

**APPENDIX 1 – OAK T1 VIEWED FROM HUNTS POND ROAD**

