

FAREHAM

BOROUGH COUNCIL

Report to Planning Committee

Date 22 February 2017

Report of: Director of Planning and Development

Subject: FAREHAM TREE PRESERVATION ORDER NO 733 – MEADOWBANK, CEDAR COTTAGE, AJAYS, AUBERON, THE LAIR, WELLSIDE COTTAGE and LOWATER NURSERY, HOOK VILLAGE.

SUMMARY

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

RECOMMENDATION

- (i) That Tree Preservation Order 733 is confirmed as made and served; and
- (ii) Tree Preservation Order 730 is revoked.

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 733 was served on the 17 November 2016 on public amenity grounds.

INTRODUCTION

5. On the 19 September 2016 TPO 730 was served following a Conservation Area notification to fell a mature oak tree situated at Meadowbank, Hook Lane. The order protects 23 trees situated on land at Meadowbank, Cedar Cottage, Ajays, Auberon, The Lair, Wellside Cottage and Lowater Nursery. TPO 730 was replaced by TPO 733 on 17 November 2016 following the inclusion of nine additional trees at Auberon.
6. Three objections were received to the making of TPO 730 and because those same trees remain included in TPO 733 those objections are dealt with under the confirmation of TPO 733 in this report. No objections were received to the making of TPO 733.

OBJECTIONS

7. Under Regulation 6 of the Town and Country Planning (Trees) Regulations 2012, three objections have been received from the following properties – Meadowbank, The Lair and Wellside Cottages in relation to TPO 730, which are summarised below:
 - Many of the trees are not visible from the public highway.

- The making of a blanket TPO is not necessary as the trees are already within a Conservation Area.
- No other applications have been made to remove trees from the Conservation Area.
- Many of the trees are growing close together; contain dead wood and restricting light to property.
- Concern that permission can be denied to have work carried out.

HOOK CONSERVATION AREA

8. In August 2016 the Council received six weeks' notice of intent (Conservation Area notification – P/16/0920/TC) from Meadowbank to remove a mature oak tree on the east boundary of the property.
9. When the Council receives a notification of tree works within a Conservation Area it has two options: it can either raise no objection to the proposed tree works within six weeks or in circumstances where the Council considers the proposals to be harmful to the character of the Conservation Area it can make a Tree Preservation Order.
10. Following a site assessment, Officers considered the impact of removing the oak tree at Meadowbank would have a negative impact on the character of the Conservation Area. The decision was made to serve a TPO to protect the tree.
11. During the site visit it became evident there are a significant number of trees that contribute to the verdant character of the surrounding properties. Therefore it was deemed expedient to capture other important and prominent trees situated locally because of their significant contribution to the character of the Conservation Area.
12. Whilst the Conservation Area designation provides some protection, the Regulations simply require that six weeks' notice of tree works is given, which enables the Council to consider whether greater protection is required if the pruning or removal of trees is considered harmful to the character of the Conservation Area.

TREE WORK APPLICATIONS

13. 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. Dead and dangerous branches can be removed subject to five days written notice.
14. 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.

TPO 733

15. The Tree Preservation Order covers 31 individual trees that are listed in the TPO schedule and plotted on the accompanying TPO plan. Therefore the trees protected by TPO 733 are clearly identifiable, whereas the Conservation Area coverage does not discern that level of information.

16. The majority of the trees are visible from local public vantage points or contribute to the verdant character of Hook village. The Hook Conservation Area Character Appraisal states: *The hamlet retains a distinct rural character and all the roads into it retain a rural feel. This is strengthened by the absence of pavements and kerb edging, and the presence of hedgerows, banks and planting abutting the carriageway throughout the hamlet. These are essential characteristics of the Conservation area and their loss would be harmful to character and appearance.*
17. In relation to Hook Lane it goes on to say: *The trees and hedges on this part of the lane are essential to its informal rural feel and are an important element in the character of the Conservation Area; and in terms of the wider setting: The 'greening' of the hamlet provides a pleasing contrast to the red brick of the historic buildings. A number of individual trees also make an important contribution to the settlement.*
18. TPO 733 was served to include nine additional trees on the Auberon frontage to protect the visual separation between the lane and the dwelling, which has planning permission to increase the roof height to provide first floor accommodation (P/16/.0857/FP). The TPO captures both existing prominent mature trees as well as younger developing trees that will be important for continuity of tree cover.

RISK ASSESSMENT

19. The Council will not be exposed to any significant risk associated with the confirmation of the FTPO 733 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

20. 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.
21. 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 the reasons put forward objecting to the confirmation of TPO 730 and therefore those same trees now protected by TPO 733, are not sufficient to outweigh the public amenity value of those trees and their contribution to the local character of the village.
22. Officers therefore recommend that Tree Preservation Order 733 is confirmed as made and served; and TPO 730 is revoked as all the trees protected by it are covered by TPO 733.

Background Papers: TPO 730 and TPO 733.

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*.

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