

# FAREHAM

## BOROUGH COUNCIL

### Report to Planning Committee

**Date** 22 March 2017

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

**Subject:** FAREHAM TREE PRESERVATION ORDER No 737 - Land north of Warsash Road and East of Brook Lane.

FAREHAM TREE PRESERVATION ORDER No 738 - Land north of Warsash Road and East of Brook Lane.

FAREHAM TREE PRESERVATION ORDER No 739 - Land north of 65 – 93 Warsash Road and East of Chapelfield Nurseries.

#### SUMMARY

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

#### RECOMMENDATION

- (i) Tree Preservation Order 738 is confirmed as made and served;
- (ii) Tree Preservation Order 739 is confirmed with a minor modification to the description of 'W1' in the Schedule as: Land east of Chapelfield Nurseries, northwest corner boundary.
- (iii) Tree Preservation Order 737 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 737 was served on the 8 December 2016 following an immediate threat to trees on the land.

## **INTRODUCTION**

5. On the 8 December 2016 the Council received an email from a concerned local resident that trees were being clear felled on land east of Brook Lane / north of Warsash Road. TPO 737 was served on the afternoon of the same day as an emergency Area order covering all trees of whatever species.

## **OBJECTIONS**

6. Three objections were received to the making of TPO 737 from the two land owners and their consultant to the use of an Area order because by default it protects a significant number low quality trees.
7. The Council responded to the objectors explaining that due to the temporary nature of the emergency Area order, officers would review the TPO following an assessment of the trees on the land with a view to making more targeted TPOs covering those trees worthy of protection.

8. In January 2017 the Council's Tree Team was contacted by the arboricultural consultant working for the land owners' requesting a site meeting to discuss the Area order. The Tree Officer has worked with the arboricultural consultant in determining the most important trees worthy of on-going protection.

### **TPO 738 AND TPO 739**

9. On 17 February 2017 two new orders were served covering 49 individual trees, 8 tree groups and 2 areas of woodland. The trees included were either visible from local public vantage points, in sufficient numbers to provide wider landscape value and good quality developing trees with the potential for increased public visibility should the land be developed in future.
10. No objections have been received to the making of TPO 738 and 739.

### **RISK ASSESSMENT**

11. The Council will not be exposed to any significant risk associated with the confirmation of the FTPO 738 and 739 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**

12. The emergency Area TPO 737 has now been reviewed and replaced with two new orders to which there have been no objections.

Officers recommend that:

- i) TPO 737 is revoked;
- ii) TPO 738 is confirmed as made and served; and
- iii) TPO 739 is confirmed with one modification whereby the area identified as 'W1' on the plan is described in the Schedule as:

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Oaks	Land east of Chapelfield Nurseries, northwest corner boundary

**Background Papers:** TPO 737, TPO 738 and TPO 739.

**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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