

FAREHAM

BOROUGH COUNCIL

Report to Planning Committee

Date 28 January 2015

Report of: Director of Planning and Development

Subject: TPO 701 - THE OUTBUILDING, NORTH WEST OF THE NOOK,
HOOK LANE, WARSASH.

SUMMARY

The report details an objection to the making of a provisional order in October 2014 and provides officer comment on the points raised.

RECOMMENDATION

That Tree Preservation Order 701 is not confirmed.

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. On the 28 August 2014 the Council registered a notice of intent to fell an oak tree within Hook Conservation Area.

INTRODUCTION

5. On the 7 October a provisional order was served in respect of 1 pedunculate oak situated at the Nook outbuilding in Hook Village.

OBJECTIONS

6. Under Regulation 6 of the Town and Country Planning (Trees) Regulations 2012 one objection has been received from the owner of the Nook outbuilding on the following grounds:

- The oak is growing within several metres of a residential dwelling.
- The oak is a young specimen approximately 50 years old and has the potential to become significantly larger as it matures.
- Overhead electricity cables pass through the canopy and regular pruning will be necessary to prevent damage to these lines.
- The TPO has been made to gain control over the Nook outbuilding rather than preserve the value of the tree itself.

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

COMMENT

7. The subject oak is growing very close, within several metres of the dwelling and being a young specimen has a high potential for future growth. Whether or not the tree's roots are currently undermining the foundations of the building is not known. However, there is a high probability that direct damage may occur in the future due to the close proximity of such a vigorous species.
8. The Nook outbuilding is situated directly beneath the branches of the oak and therefore any application to significantly reduce the tree's size now or in the future would be difficult to refuse. The extent of pruning necessary to improve the tree's relationship with the dwelling would in all probability be significant and likely to be detrimental to the tree's natural form and appearance; and therefore the contribution the tree makes to its surroundings in terms of public amenity.
9. 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 close proximity of the subject oak to the Nook outbuilding makes its retention unviable in the long term due to the significant negative impact on the building.

RISK ASSESSMENT

10. The Council will not be exposed to any risk by not confirming TPO 701. 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

11. Given the close proximity of the oak to a residential dwelling the relationship is considered unsustainable and the confirmation of the order would be difficult to defend. However, members are invited to reach their own conclusion based on the facts.
12. Officers therefore recommend that Tree Preservation Order 701 is not confirmed.

Background Papers: TPO 701.

Reference Papers: National Planning Policy Framework: 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:

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