

FAREHAM

BOROUGH COUNCIL

Report to Planning Committee

Date 21 February 2018

Report of: Director of Planning and Regulation

Subject: TREE PRESERVATION ORDER FTPO 741 2017 – LAND
OPPOSITE 90 – 92 HUNTS POND ROAD AND REAR OF 20 -30
WHEATLANDS

SUMMARY

The report details an objection to the making of a provisional order in December 2017 and provides officer comment on the points raised.

RECOMMENDATION

That Tree Preservation Order 741 is 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.

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. An order was made on six mature oak trees situated on land adjacent to 20 – 30 Wheatlands in response to a perceived threat to one particular tree behind 4 / 20 Wheatlands. Five additional trees were also identified as important trees during the amenity assessment and subsequently included in the order as a proactive measure to maintain continuity of tree cover in the landscape.

INTRODUCTION

5. On 18 December 2017, a provisional Order was served in respect of six pedunculate oaks situated on land to the west of 20 – 30 Wheatlands, Titchfield Common – adjacent to 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 20 Wheatlands in relation to T1 on the following grounds:
 - Fears the tree may fall on the house during a storm.
 - The tree significantly overhangs the rear garden and is getting close to the dwelling.
 - Dead branches and debris fall from the tree into the garden, onto the footpath

and road, which pose a safety risk;

- There is no desire to have the tree removed, but it needs to be crowned and this will not undermine the character of the area;
- The tree is owned by Persimmon Homes who are responsible for maintaining the tree so it is not a nuisance to anyone else;
- Damage to fences and gutters due to falling debris and constant maintenance due to leaves clogging gutters and blocking drains;
- Oak T1 is a very large tree, significantly larger than the other five trees and therefore has the potential to cause more damage to property and harm to people.

One other comment has been received from an adjacent householder requesting the trees are surveyed, dead wood removed and reduced in size.

PUBLIC AMENITY

1. The subject oak tree predates the adjacent mid 1980s development by a significant degree. The tree is a large prominent specimen, adjacent to the highway and is clearly visible from several public vantage points. The oak forms part of an old field boundary with Hunts Pond Road and the row of mature oak trees make a significant contribution to the amenity and character of the area (Photos at Appendix A).

TREE HEALTH AND RISK OF FAILURE

2. An informal visual inspection of the oak was undertaken from ground level. At the time of inspection, the tree was observed to be healthy and free from any significant defects or abnormalities that would give rise to concerns about the health and safety of the tree.
3. The tree was observed to be in good physical condition and exhibiting normal growth characteristics for a mature oak in terms of bud and twig density, and annual shoot extension growth for a tree of this age.
4. Trees are living organisms and their condition and vitality can alter quickly depending on environmental and physical factors. It is acknowledged that trees have a natural failure rate as a natural evolutionary process leading to the optimisation of structural strength verses efficient use of resources. Some species have adapted more effectively than others, and some are naturally more prone to failure than others. Therefore, no tree can be considered completely safe.
5. The amount of noise and movement associated with trees during high winds can be unnerving. However, the perceived threat of failure should not be a basis for tree pruning or indeed removal. There are no guarantees of absolute safety in the event of severe adverse weather conditions, since all assessments should be undertaken for normal conditions and not try to speculate about what might happen in the event of severe or abnormal weather events.

6. It is not possible to eliminate all risk associated with trees because even those apparently free from defects can fail when the forces acting upon them exceed their inherent strength; some risk must be accepted to experience the multiple benefits trees provide.
7. Oak T1 is not considered to be in a dangerous condition and officers conclude there is no evidence available to demonstrate that it poses a hazard sufficient to outweigh its public amenity value and thereby justify any significant pruning or removal.
8. If a protected tree presents an immediate risk of harm to people or property, any urgent works necessary to make the tree safe, such as removing dead or broken branches, can be undertaken without consent. If a protected tree is either dead or dangerous five days' written notice shall be given to the local authority of any necessary tree works.

TREE SAFETY INSPECTIONS

9. Managing the risk from trees is the responsibility of the owners and managers of the land on which they grow. This responsibility or duty of care requires a defensible system of reasonable measures to effectively manage the risks from trees. Large organisations and land managers are expected to be sufficiently aware of their responsibility for tree safety and develop policy for tree risk management.
10. In December 2017 Persimmon Homes engaged an arboricultural consultant to undertake a visual tree assessment and tree safety survey of the group of oak trees on their land adjacent to 4 - 30 Wheatlands, which include the six oak trees covered by TPO 741. In total nine trees were inspected and only minor works were recommended, which included removing dead wood from oak T1.

TREE WORK APPLICATIONS

11. 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 reasons for protecting them. The Council is unlikely to support unnecessary or unsympathetic pruning that would harm a protected tree by adversely affecting its condition and appearance. 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.
12. The existence of a TPO does not preclude pruning 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 weeks of registration.
13. On the 19 January 2018 Tree Officers met with the occupants at 20 Wheatlands to discuss what works would be possible subject to the submission of a tree works application. The meeting provided an opportunity for issues raised to be discussed in context and enabled officers to agree a specification of tree works to reduce the encroaching branches in a manner

that would not be harmful to the tree.

14. The following tree works were recommended and will receive support if an application is submitted:

One oak T1 situated on land to the rear of 20 Wheatlands.

- Crown raise to 6 metres above ground level by removing small diameter branches < 75mm.
- Reduce encroaching branches on east side of tree by 4 metres to natural target pruning points - maximum diameter of live pruning wounds < 100 mm diameter.
- Reshape into north and south side of crown; and up over the shoulder of the crown to the apical branches - maximum diameter of live pruning wounds < 75 mm diameter.

RISK ASSESSMENT

15. The Council will not be exposed to any significant risk associated with the confirmation of TPO 741 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

16. When making tree preservation orders the Council endeavours to consider the rights of those affected and use their powers responsibly. However, the rights of the individual must be balanced against public expectation that the planning system will protect trees when their amenity value justifies such protection.
17. Tree preservation orders seek to protect trees in the interest of public amenity; therefore, it follows that the exclusion of a tree from an order 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 inclusion of oak T1 are not sufficient to outweigh its public amenity value.
18. Officers therefore recommend that Tree Preservation Order 741 is confirmed as originally made and served.

Background Papers: TPO 741.

Reference Papers: Forestry Commission: The Case for Trees – 2010. Planning Practice Guidance - Tree Preservation Orders (2014), Fareham Borough Council Tree Strategy 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).

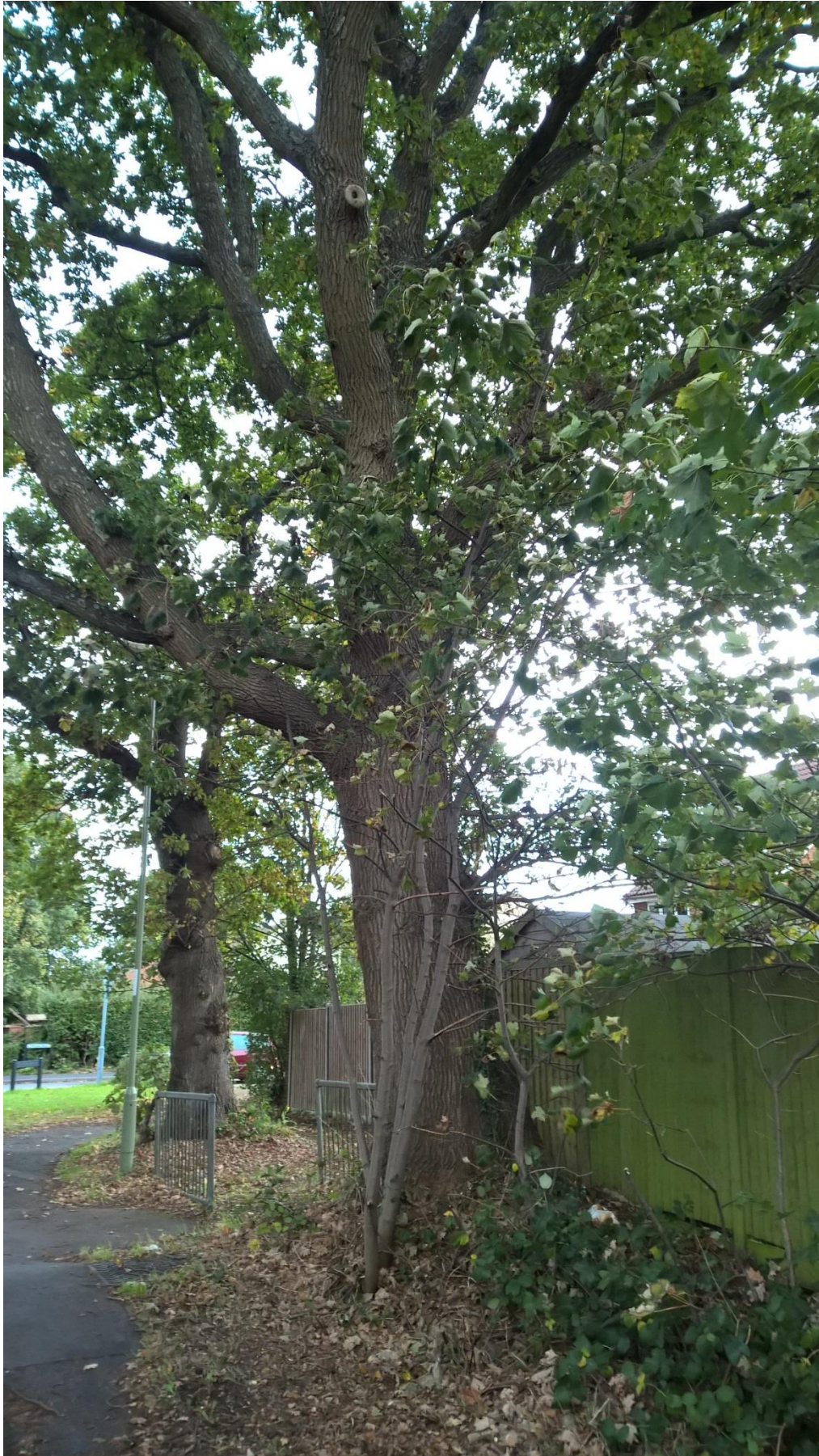
APPENDIX A: OAK T1 - VIEW FROM HUNTS POND ROAD



OAK T1 – VIEWED FROM HUNTS POND ROAD



OAK T1 – VIEWED FROM HUNTS POND ROAD



OAK T1 – STREET SCENE VIEW



OAKS T1 - T6
STREET SCENE VIEW

