

FAREHAM

BOROUGH COUNCIL

Report to Planning Committee

Date 18 July 2018

Report of: Director of Planning and Regulation

Subject: TREE PRESERVATION ORDER 745 – 20 AND 31 HOLLY HILL
LANE, SARISBURY GREEN.

SUMMARY

The report details objections to the making of a provisional order in February 2018 and provides officer comment on the points raised.

RECOMMENDATION

That Tree Preservation Order 745 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 one giant redwood - Wellingtonia situated to the rear of 31 Holly Hill Lane in response to a possible threat to this tree following preapplication advice being sought to develop land at both 31 and 33 Holly Hill Lane. One additional tree, a pedunculate oak in the front garden of 20 Holly Hill Lane was also identified as important during the amenity assessment and subsequently included in the order as a proactive measure to maintain continuity of tree cover in the landscape.

INTRODUCTION

On 22 February 2018, a provisional order was served in respect of one pedunculate oak and one giant redwood – Wellingtonia situated at 20 and 31 Holly Hill Lane respectively.

5. OBJECTIONS

6. Under Regulation 6 of the Town and Country Planning (Trees) Regulations 2012 two objections have been received from the owners of 31 and 33 Holly Hill Lane in relation to T2 on the following grounds:
 - The tree is only partially visible from a small section of Holly Hill Lane, which will be further obscured when the land adjacent to no 33 is developed – P/15/0748/RM.

- The tree has already outgrown its position and is causing a nuisance to adjacent land, which will only get worse as the tree continues to grow.
- There are numerous mature trees in the surrounding landscape and the removal of this one tree will not have a negative impact on the street scene.
- Hillside Mews is not a public space and the limited visibility of T2 from this point is insufficient grounds to justify an order on amenity grounds.
- The tree has already had an adverse effect on adjacent trees, which have been removed and no consideration has been given to the impact on other trees nearby.

No comments have been received in relation to pedunculate oak – T1.

PUBLIC AMENITY

1. The subject Wellingtonia is visible from the adjacent public highway and as the tree is relatively young its contribution to the street scene will increase as the tree matures. The construction of a new dwelling adjacent to no 33, will obscure the view of the tree at that point, but the tree will remain visible from several public vantage points nonetheless (Photos at Appendix A).

TREES AND DEVELOPMENT

2. On 14 March 2018 a visual inspection of the Wellingtonia 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. Should the Wellingtonia remain protected then any development proposals identifying the tree for removal would be viewed on their own merit, though the presumption would be the tree is considered a material constraint. The recent pre-application enquiry on the land to the rear of 31 / 33 Holly Hill Lane did not include a detailed assessment of the existing tree constraints.
4. The position of the Wellingtonia in relation to a proposed dwelling to the rear of no. 33 did not give rise to any concern in spatial terms. However, the proximity of the tree to a proposed dwelling to the rear of no. 31 would be constrained by the tree, particularly given the its significant potential to increase in size and the resulting future pressure to prune or fell the Wellingtonia to ensure the satisfactory use and enjoyment of the property.

IMPACT ON ADJACENT LAND AND PROPERTY

5. Trees are dynamic, living organisms and their physiology and structure (condition) are subject to change throughout their lifetime. Because of this, trees should be inspected periodically and after significant changes to their environment or situation. It is not possible to eliminate all risk associated with trees because even those which outwardly appear free from defects can fail; some risk must be accepted alongside the benefits trees provide.
6. It is to be expected that a large, mature tree will produce copious amounts of tree related debris and the periodic clearing of such material is, albeit an inconvenience, considered to be part of routine household maintenance when living near trees.

7. Damage to lightly loaded structures such as fences, walls and paths in close proximity to large trees is common and there are methods and materials available that can be used to manage any impacts and enable structures and surfaces to coexist with trees.
8. The land to the rear of no 33 has been cleared of trees and vegetation. The remaining Lombardy poplar trees have been heavily lopped in the past and are nearing the end of their safe useful life expectancy for the species. Trees will naturally compete with one another for space and resources. In urban areas, parks and gardens trees are commonly planted or retained as specimen trees where they can develop into well balanced forms.
9. The young developing Wellingtonia is most likely to have simply outcompeted its adjacent neighbours and is now an open grown specimen, with space to grow into maturity as a landscape tree.

TREE WORK APPLICATIONS

10. 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.
11. 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, and applications are normally decided very quickly.

RISK ASSESSMENT

12. The Council will not be exposed to any significant risk associated with the confirmation of TPO 745 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

13. 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.
14. 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 the Wellingtonia (T2) are not sufficient to outweigh its public amenity value.
15. Officers therefore recommend that Tree Preservation Order 745 is confirmed as originally made and served.

Background Papers: TPO 745.

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: WELLINGTONIA T2 – VIEWED FROM HOLLY HILL LANE



WELLINGTONIA T2 – VIEWED FROM HILLSIDE MEWS



WELLINGTONIA T2 – VIEWED FROM EAST



WELLINGTONIA T2 – VIEWED FROM SOUTH

