

FAREHAM

BOROUGH COUNCIL

Report to Planning Committee

Date **31 October 2018**

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

Subject: **TREE PRESERVATION ORDER 747 – 256 WARSASH ROAD,
WARSASH.**

SUMMARY

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

RECOMMENDATION

That Tree Preservation Order 747 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.

INTRODUCTION

4. On 11 May 2018, a provisional order was made on one pedunculate oak and one sycamore situated in the rear garden of 256 Warsash Road in response to a possible threat to the trees following pre-application advice being sought to develop land to the rear of the existing dwelling.

OBJECTION

5. One objection has been received from the owner of 256 Warsash Road in relation to both trees on the following grounds:
 - The current owners have resided at the property for 40 years and have looked after the two trees during that time.
 - The trees need to be pruned to clear telephone lines and in the interest of safety because branches overhang the school playground and are low over the garden.
 - The trees have been well maintained and there has never been any intention to remove the oak.
 - The sycamore grows like a weed and needs some heavy lopping to ensure the safety of children in the school playground and grandchildren in the rear garden.

- There is no need for a TPO as the trees will continue to be maintained in a responsible manner.

No other comments or objections have been received.

PUBLIC AMENITY

6. The oak and sycamore are large prominent specimens, which are clearly visible from Warsash Road and make a significant contribution to the character of the area, which has mature trees and hedges distributed within and in between residential development (Photos at Appendix A).

TREES AND DEVELOPMENT

7. In April 2018, the property was on the market and the Council received a planning enquiry regarding potential development of the land to the rear of the existing dwelling.
8. The two trees are good quality, mature specimens, which have significant amenity value. The circumstances at the time provided the Council with sufficient grounds to protect the trees based on the perceived threat to the trees in terms of the property being on the market and enquiries relating to the development potential of the land on which they are situated.

TREE SAFETY AND RISK

9. 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.
10. At the time the trees were assessed for their suitability for protection, both trees were 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 trees.
11. The characteristics associated with different tree species can vary greatly with some more burdensome than others. A judgement often needs to be made in terms of balancing the many positive benefits trees provide with any negative characteristics associated with them.
12. Officers acknowledge that for some residents trees can be a source of frustration. However, these very same trees contribute to the pleasant appearance of Fareham and provide multiple benefits to our communities.

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 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.

14. 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

15. The Council will not be exposed to any significant risk associated with the confirmation of TPO 747 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 protection of the subject oak and sycamore are not sufficient to outweigh their public amenity value.
18. Officers therefore recommend that Tree Preservation Order 747 is confirmed as originally made and served.

Background Papers: TPO 747.

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 – Trees viewed from Warsash Road



Trees viewed from Locks Heath Junior School

