

# FAREHAM

## BOROUGH COUNCIL

### **Report to Planning Committee**

**Date** 12 December 2018

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

**Subject:** TREE PRESERVATION ORDER NO. 748 2018 – WOODBOURNE  
CLOSE, TITCHFIELD.

#### **SUMMARY**

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

#### **RECOMMENDATION**

That Tree Preservation Order 748 is confirmed.

## **INTRODUCTION**

1. On 23 July 2018, a provisional order was made in respect of 1no Manna ash, 1no Swedish whitebeam, 1no horse chestnut, 1no field maple, 3no silver maples and 1no Turkish hazel; and Group 1 - 3no false acacia & 1no horse chestnut and Group 2 – 2no sycamore & 1no false acacia situated on the grass verges and spaces within Woodbourne Close.

## **OBJECTION**

2. Two objections have been received from the owners of 43 and 53 Woodbourne Close in relation to T8 – Silver maple and T3 – Horse chestnut respectively on the following grounds:

### **T8 – Silver maple**

- The tree is too large for its location and needs some drastic pruning.
- The tree is covering the side garden, casting shade and supressing the growth of garden plants.
- The tree has grown rapidly and needs pruning away from property and the parking area because of sap deposits on vehicles.

### **T3 – Horse chestnut**

- The tree is enormous and encroaching more over the garden than the green.
- The tree is diseased.
- The County Council have been contacted on numerous occasions, but have not pruned the tree.
- The tree does not affect anybody else's property.

No other comments or objections have been received.

## **PUBLIC AMENITY**

3. The trees are situated on the verges and amenity grass areas, thereby making them prominent specimens, which are clearly visible to the public and make a significant contribution to the character of Woodbourne Close (Photos at Appendix A).

## **THREAT TO TREES**

4. During early July, the Council was made aware that the owners of the land, which comprises grass verges and spaces, proposed to dispose of the land at auction. All the land in question is adopted public highway, that is to say the highway authority, Hampshire County Council, have highway rights over the land and are responsible for, amongst other things, any trees situated on the public highway.
5. Notwithstanding the status of the land as public highway, there was a perceived threat in terms of any new owner being able to remove trees. This threat was amplified by a planning pre-application enquiry being received to develop the space at the northern end of the close for two residential units. 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 land being on the market and enquiries relating to the development potential

of the land.

6. The highway authority was consulted and supported the making of a tree preservation order.

### **TREE CONDITION AND SAFETY**

7. Trees are dynamic, living organisms and their physiology and structure (condition) are subject to change throughout their lifetime. All observations and recommendations are relative to the trees at the time of inspection. 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 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.
8. The trees are situated on the public highway, which means the highway authority are responsible for tree safety inspections and maintenance. Hampshire County Council inspect and manage highway trees and as a 'statutory undertaker' have powers to enable them to undertake tree works in the interest of the safe use of the highway, without needing consent under the TPO.
9. At the time, the trees were assessed for their suitability for protection, the 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.
10. 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**

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, and applications are normally decided very quickly.

### **RISK ASSESSMENT**

13. The Council will not be exposed to any significant risk associated with the confirmation of TPO 748 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**

14. 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.
15. 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 for objecting to the protection of the silver maple and horse chestnut are not sufficient to outweigh their public amenity value.
16. Furthermore, the trees are managed by Hampshire County Council as the Highway Authority and the imposition of a TPO will not prevent ongoing inspection and maintenance of the trees. The TPO is therefore, for all intents and purposes, a safety net in the event the owners of the land seek to lop or remove trees.
17. Officers therefore recommend that Tree Preservation Order 748 is confirmed as originally made and served.

**Background Papers:** TPO 748.

**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**

**T1 - Manna ash, G2 – 2no sycamore & 1no false acacia and T3 - Horse chestnut.**





**T3 - Horse chestnut**





**T8 - Silver maple**





**T8 – Silver maple**





**T6 & T7 – Silver maple**



