

# FAREHAM

## BOROUGH COUNCIL

### **Report to Planning Committee**

**Date**                    **17 February 2021**

**Report of:**           **Director of Planning and Regeneration**

**Subject:**             **TPO 769 - 8 LAMBOURN CLOSE, FAREHAM.**

#### **SUMMARY**

The report details one objection to the making of a provisional order in December 2020 and provides officer comment on the points raised.

#### **RECOMMENDATION**

That Tree Preservation Order 769 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 mature pedunculate oak situated at 8 Lambourn Close in response to a perceived threat the tree was to be removed following the sale of the property.

## INTRODUCTION

5. On 23 December 2020, a provisional order was made in respect of one pedunculate oak situated at 8 Lambourn Close, adjacent to the south / east boundary.

## **OBJECTION**

6. One objection has been received from the owner of the property on the following grounds:
- The oak tree was not protected when the property was purchased in late 2020.
  - Checks were undertaken with the Council's tree team by phone and online.
  - The tree is covering the side garden, casting shade and deposition debris, particularly acorns in the autumn.
  - The retention of the tree has already increased the costs of an extension because of the deeper foundations required.
  - The tree is enormous and encroaching more over the garden.
  - Acorns can be toxic to animals and may be harmful to the pet dog.

No other comments or objections have been received.

## **PUBLIC AMENITY**

7. The mature oak tree is situated on the south side of the triangular plot, is visible from the road between 7A and 8 Lambourn Close; and can also be viewed from Clee Avenue to the south. The tree is a prominent specimen, which is clearly visible to the public and makes a significant contribution to the public amenity of the area (Photos - Appendix A).

## **THREAT TO TREE**

8. On 2nd December 2020, an application was accepted by Fareham Borough Council, from the owner of 8 Lambourn Close for a proposed rear extension - P/20/1478/PH. Prior approval was issued on 6 January 2021. The owner intended to remove the oak tree due to its positioning and future risk it may pose to the house; there was no TPO on the tree at this time.
9. The tree was originally scheduled to be cut down on Monday 21st December and the owner attended the neighbour's property at 29 Clee Avenue, to let him know as the tree overhangs the rear garden. The contractor subsequently postponed the work due to staffing issues and the removal of the oak was rescheduled until 30th December 2020.
10. On 21 December the Council received information by way of a phone call from a neighbour at 27 Clee Avenue saying the oak tree at 8 Lambourn Close was going to be felled. The circumstances at the time provided the Council with sufficient grounds to protect the oak tree based on the perceived threat based on the information provided.
11. TPO 769 was served on 23 December 2020 to protect one oak situated at 8 Lambourn Close as it was considered to be a prominent tree worthy of protection (Aerial plan – Appendix B).
12. On 30 December the owners of the property met with their tree surgeon to begin removing the oak tree. Shortly afterwards the contractor was approached by a neighbour who informed them the oak tree was protected and that they should stop what they are doing and contact the Council. Several branches had already been cut

down by this point.

13. The tree surgeon and owner of 8 Lambourn Close agreed to stop; and the tree surgeon took photos of a copy of TPO 769 provided by the neighbour and the extent of work undertaken so far, which was tidied up to leave the tree in a safe condition.
14. The TPO was served on the owner / occupier following the usual Land Registry and Council Tax checks to establish the details of those residing at the property. However, because the property had recently been sold these checks did not reveal the new owner. The TPO was addressed to the previous owner and was served by hand to the property.
15. The new owners did not open this letter because it was not addressed to them.

### **TREE CONDITION AND SAFETY**

16. The oak tree was subsequently re-inspected by the tree officer in early January who observed that only a few small diameter branches had been removed, which had not harmed the tree. At the time, 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.
17. 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.

### **DOGS AND ACORNS**

18. Acorns are a common sight on the ground during the autumn months. Curious dogs may be interested in these unfamiliar objects while sniffing around in the grass. Acorns are poisonous if eaten by dogs. They contain tannins and other compounds, which can cause stomach upset and in very severe cases, kidney failure and death. Acorn poisoning is also known as Quercus poisoning, which can also occur after a dog eats oak leaves.
19. The symptoms depend on the number of acorns ingested and the frequency with which this happens. For example, eating a small amount just once may cause diarrhoea, vomiting and lethargy, but dogs eating acorns regularly, or eating a large amount in one go, can result in more severe symptoms and may cause kidney or liver problems.
20. Dogs are most at risk if they eat a large number of acorns, however, what constitutes a large amount is relative to the size of the dog. Curious dogs with a tendency to pick up and eat unsuitable items are most likely to ingest acorns and are therefore particularly at risk of acorn poisoning.
21. Limiting a dog's exposure to acorns is vital. Avoiding areas with a lot of oak trees during the autumn and winter would be ideal, but if this isn't possible owner's need to be sure to keep a close eye on their dog. If trees are on or adjacent to dog owner's property, precautions need to be taken to either clear acorns regularly or fence off areas where acorns fall during the autumn.

22. Officers acknowledge that acorns can be harmful to dogs and other pets, but if appropriate precautions are taken the risk can be minimised. Oak trees are common and widespread throughout Fareham, in gardens, parks, open spaces and woodlands where people live and walk their dogs. To remove oak trees or not make them subject to tree preservation orders would have a significant adverse impact on the value and character of Fareham's urban and rural landscapes.

### **TREE WORK APPLICATIONS**

23. 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.
24. 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**

25. The Council will not be exposed to any significant risk associated with the confirmation of TPO 769 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**

26. 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.
27. 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 pedunculate oak are not sufficient to outweigh their public amenity value.
28. Officers therefore recommend that Tree Preservation Order 769 is confirmed as originally made and served.

**Background Papers:** TPO 769.

**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*. Acorn toxicity and pets – various online searches.

**Enquiries:** For further information on this report please contact Paul Johnston. (Ext 4451).

## APPENDIX A

1. Tree viewed from north - 8 Lambourn Close.





2. Tree viewed from northeast - 8 Lambourn Close.



3. Tree viewed from northeast - Lambourn Close.



4. Tree viewed from east - Lambourn Close.



5. Tree viewed from south - Clee Avenue





6. Tree viewed from south - Clee Avenue





7. Tree viewed from south - Clee Avenue (post works)





8. Tree viewed from south - Clee Avenue (post works)



Appendix B - 8 Lambourn Close (Aerial plan).

