

## Report to Planning Committee

**Date**                    **17 March 2021**

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

**Subject:**              **TPO 767 – 74, 80, 84 & 86 HOLLY HILL LANE, SARISBURY GREEN**

### **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 767 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. A tree preservation order was made to protect seven mature trees situated on the frontage of several properties on the west side of Holly Hill Lane, Sarisbury Green in response to a perceived threat to trees at one property on the market for sale.

## INTRODUCTION

5. On 4 December 2020, a provisional order was made in respect of seven trees: Two pedunculate oaks at 80 Holly Hill Lane, one sweet chestnut at 84 Holly Hill Lane, one pedunculate oak at 86 Holly Hill Lane and a group of three pedunculate oaks at 74 Holly Hill Lane.
6. The latter property was on the market in November 2020 and officers were contacted by prospective buyers regarding the status of the existing trees on the property. Therefore, there was a perceived threat to the trees, and it was considered expedient to assess the importance of these and similar trees on adjacent properties in terms of them being worthy of protection.

## **OBJECTION**

7. One objection has been received from the owner of 84 Holly Hill Lane in respect of sweet chestnut T3 on the following grounds:
  - The tree is 4 metres from the garage and 2 metres from the road.
  - The tree is directly opposite the entrance to the Woodland Park and many people pass by and under the tree.
  - The tree sheds leaves, catkins, spiky seeds, small branches and other debris onto the road and footpath making it dangerous for the public.
  - Concerns the roots may cause damage to the property or falling branches during highway winds.
  - There is no intention to remove the tree, but the owners wish to retain the ability to lop, top and remove dangerous branches unincumbered by a TPO.
  - Holly Hill Lane is fortunate in having many mature trees and Holly Hill woodland is opposite, so if this tree had to be removed, it would not have a significant impact on the area.

No other comments or objections have been received.

## **PUBLIC AMENITY**

8. The mature sweet chestnut is situated on the property frontage and is clearly visible from Holly Hill Lane. The tree is a prominent specimen, which makes a significant contribution to the verdant character of Holly Lane and the wider public amenity of the area (Photos - Appendix A).

## **TREE HEALTH AND RISK OF FAILURE**

9. An informal visual inspection of the sweet chestnut was undertaken from ground level. At the time of inspection, the tree was observed to be healthy and with the exception of one hung up branch, free from any significant defects or abnormalities that would give rise to concerns about the health and safety of the tree.
10. The tree was observed to be in good physical condition and exhibiting normal growth characteristics for a mature sweet chestnut in terms of bud and twig density, and annual shoot extension growth for a tree of this age.
11. 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.
12. 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.

13. 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.
14. Sweet chestnut T3 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.
15. 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.
16. 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.
17. The responsibility for street cleaning falls to the Council's cleansing teams, which includes clearing fallen leaves and other tree related debris that may pose a slip hazard to users of the public highway.

### **TREE WORK APPLICATIONS**

18. 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.
19. 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**

20. The Council will not be exposed to any significant risk associated with the confirmation of TPO 767 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**

21. 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.

22. 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.

23. Officers therefore recommend that Tree Preservation Order 767 is confirmed as originally made and served.

**Background Papers:** TPO 767.

**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

### SWEET CHESTNUT T3 – 84 HOLLY HILL LANE (view from south)

(OAK T2 – 80 HOLLY HILL LANE BEHIND)



**OAK T1 – 80 HOLLY HILL LANE (view from north)**



**OAK T1 – 80 HOLLY HILL LANE (view from south)**



**OAK T4 – 86 HOLLY HILL LANE**



**3 OAKS G1 – 74 HOLLY HILL LANE**

