

# FAREHAM

## BOROUGH COUNCIL

### Report to Planning Committee

**Date** 20 November 2013

**Report of:** Director of Planning and Environment

**Subject:** FAREHAM TREE PRESERVATION ORDER 645

**Land at Sarisbury Court: Sarisbury Court Gardens & woodland to the east, The Birches, The Dell, Alban House, Timbers and Fynone 91 Holly Hill Lane.**

#### **SUMMARY**

The report details an objection to a provisional order made in July 2013 and provides officer comment on the points raised.

#### **RECOMMENDATION**

That Fareham Tree Preservation Order 645 is confirmed subject to minor modification as set out in this report.

## 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 2012 - 2017.

**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. In 1991 Fareham Borough Council made Tree Preservation Order no 227 'Land at Sarisbury Court, Holly Hill Lane, Sarisbury'. Since the making of FTPO 227 there have been changes to the built environment; some of the originally protected trees have been removed and others have grown and become worthy of protection. The Council has reviewed this old TPO and has identified the most significant and prominent trees within the locality worthy of protection.
5. The Council has decided to make TPO 645, which is one of four up to date orders covering Sarisbury Court.

## INTRODUCTION

6. On the 12 July 2013 a provisional order was served in respect of 46 individual trees - 3 ash, 1 beech, 1 cherry, 14 oak, 1 Scots pine, 1 silver birch, 1 Corsican pine, 2 horse chestnut, 2 wellingtonia, 2 copper beech, 1 field maple, 2 hornbeam, 1 Leyland cypress, 1 spruce, 3 sweet chestnut, 2 sycamore, 6 yew and 2 western red cedar, 3 groups: G1 – 3 sycamore, 1 oak & 1 silver maple; G2 – 3 oak & 1 sycamore and G3 – 1 sweet chestnut, 5 oak & 1 copper beech and 1 woodland (W1).

## **OBJECTIONS**

7. Under Regulation 6 of the Town and Country Planning (Trees) Regulations 2012 one objection has been received from the owner of 91 Holly Hill Lane in relation to T38 & T39 western red cedars and T43 to T46 Yews on the following grounds:
  - Western Red Cedars – T38 & T39: This non-native species has no value and are out of place amongst the largely ash, chestnut and sycamore in the vicinity.
  - Yews T43 to T46: These trees are heavily overshadowed by adjacent trees within Holly Hill Woodland Park and visually make no significant contribution against the dominant trees in the park.

No other objections to the making of the order have been received.

## **COMMENT**

8. Sarisbury Court has a sylvan character and the surrounding landscape is dominated by woodland, which is punctuated by mature specimen trees of both native and exotic origin, particularly within the grounds of residential properties. Officers do not consider western red cedar to be an inappropriate species for inclusion within a TPO or indeed out of context for this particular setting.
9. 91 Holly Hill Lane is the old lodge to Sarisbury Court and is surrounded by woodland, which includes several large mature trees adjacent to the property. There are four yew trees situated in the northeast corner of the plot, which effectively form part of the woodland edge. As a result of group pressures these yews are suppressed to a degree by more dominant trees adjacent. In officers opinion the four yews are a constituent part of the woodland edge and contribute to the sylvan character of the landscape. The trees are visible from Holly Hill Lane and therefore offer sufficient amenity value to be worthy of inclusion within the TPO.
10. Tree preservation orders seek to protect trees in the interest of public amenity; therefore it follows that the removal of a protected tree should only be sanctioned where its public amenity value is outweighed by other considerations. In this instance Officers consider that the reasons for excluding the two western red cedars and two yews from the TPO are not sufficient to outweigh their public amenity value.

## **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. 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 the carrying out of arboricultural 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, applications are normally determined within 8 weeks of registration.

## **RISK ASSESSMENT**

13. The Council will not be exposed to any significant risk associated with the confirmation of the FTPO 645 as set out in this report. 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 the rights of the public to expect the planning system to protect a tree when its amenity value justifies such protection.
15. The following minor modifications are necessary: T14 and T42 are to be removed from the order due to their condition, which has necessitated their removal since the review took place, but prior to the serving of TPO 645. The description of the woodland (W1) should read 'all species'.
16. It is therefore recommended that Fareham Tree Preservation Order No.645 be confirmed accordingly. However, members are invited to reach their own conclusions.

**Background Papers:** TPO 645.

**Photographs:** Appendix A.

**Reference Papers:** Tree Preservation Orders – A Guide to the Law and Good Practice, Fareham Borough Council Tree Strategy 2012 – 2017 and The Law of Trees, Forests and Hedges (second edition) – *Charles Mynors*.

### **Enquiries:**

For further information on this report please contact Paul Johnston, Principal Tree Officer (Ext 4451)

Appendix A – yews T43, T44, T45 and T63





Western red cedars T38 & T39

