

FAREHAM

BOROUGH COUNCIL

Report to Planning Committee

Date 20 November 2013

Report of: Director of Planning and Environment

Subject: FAREHAM TREE PRESERVATION ORDER No 685
Priestfields, Ascot Close & Locks Heath Free Church, Titchfield
Common

SUMMARY

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

RECOMMENDATION

That Fareham Tree Preservation Order 685 is confirmed as made and served.

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. The Council has an on-going programme of reviewing its existing TPOs, which sets out broad priorities based on the age of orders and their content in terms of the schedule of trees, particularly old 'area' type orders. Many trees retained on developments during the 1980s and 90s were protected by planning conditions, a practice no longer undertaken and deemed inappropriate by Government guidance. Trees originally protected by outdated planning conditions are also subject to review and where appropriate protected by new TPOs.
5. The review of TPOs is also influenced by development proposals, open space adoption, tree officer's local knowledge and potential threats brought to the Council's attention.

INTRODUCTION

6. On the 26 July 2013 a provisional order was served in respect of 6no oak trees situated along the frontage of properties in Ascot Close and Priestfields; four groups of trees containing 12no oak, 4no cherry, 2no ornamental pear and 2no field maple situated throughout Priestfields; and one group of 8no oak situated to the rear of Locks Heath Free Church.
7. TPO 685 reviews TPO 154 made in October 1988, TPO 315 made in June 1995 and several trees, which pre date the Ascot Close development and were originally protected by planning conditions.

OBJECTIONS

8. Under Regulation 6 of the Town and Country Planning (Trees) Regulations 2012 one objection has been received from the owners of 2 Ascot Close in relation to T4 oak on the following grounds:
 - It is too much of a coincidence that a TPO was being prepared at the exact same time of our enquiry when the tree has been essentially unprotected for around 25 years.
 - It is difficult to accept the TPO as it was issued after our initial enquiry.
 - The tree is causing damage to the driveway and there are fears this may encroach towards and affect the house.
 - The drive cannot be used to park cars because of falling debris and sap. A new hard standing has been built at some considerable cost away from the oak and car covers are necessary to protect vehicles.
 - The oak is too big and inappropriate for its location. Another more suitable species, which is easier to live with day to day would be planted in place of the oak.

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

COMMENT

9. An enquiry was received from the owners of 2 Ascot Close on the 10 July 2013 requesting confirmation as to whether an oak tree in the front garden of the property was protected. Following an initial holding reply, a full response was sent on the 22 July, which confirmed the oak was not covered by a TPO, but was subject to an original planning condition and that the trees in the locality were currently under review and further details would follow.
10. T4, T5 and T6 are mature pedunculate oaks, which predate the Ascot Close development completed in 1987 and are now situated in the larger front gardens of no's 2 and 4 Ascot Close to accommodate the trees and on land adjacent to 8 Ascot Close (see Appendix A). These trees influenced the design and layout of the development in which they were successfully retained 27 years ago and form part of a wider landscape context that now provides a distinct character to Priestfields, Prelate Way and Ascot Close. In officers' opinion the three oaks make a significant contribution to the public amenity of the locality due to their size and prominence in the landscape.

11. In general terms the higher the amenity value of a protected tree and the greater the impact of pruning or removing it on the amenity of the area, the stronger the reasons needed in support of such proposals.
12. 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.
13. In this instance officers consider that the reasons for excluding the subject oak from the TPO are not sufficient to outweigh its public amenity value and thereby justify modification of the order. It is to be expected that a large, mature tree will produce copious amounts of tree related debris. The periodic clearing of such debris, albeit an inconvenience, is considered to be part of routine household maintenance when living in close proximity to trees and provides no justification for removing this good quality tree.

TREE WORK APPLICATIONS

14. 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.
15. 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

16. The Council will not be exposed to any significant risk associated with the confirmation of the FTPO 685 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

17. 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.
18. In this instance, it is officers' opinion that the protection of the subject tree should prevail. However, members are invited to reach their own conclusions.
19. Officers therefore recommend that Tree Preservation Order 685 is confirmed as originally made and served.

20. Upon confirmation of TPO 685 the existing FTPO 154 and 315 shall be revoked as where appropriate those trees currently worthy of protection have been included in the new TPO.

Background Papers: TPO 685.

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 - T4, T5 and T6 viewed from Prelate Way.



Appendix B – T4 front garden of 2 Ascot Close.

