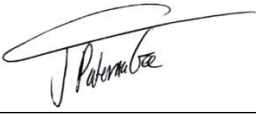


|    |  | Initials   | Date     |
|----|--|--|----------|
| 1. | File completed and recommendation drafted by | CPD  | 17-07-24 |
| 2. | Senior Officer clearance                     |  | 17-07-24 |
| 3. | All corrections completed                    |  |          |
| 4. | DC Admin Support – Uniform updated           |  |          |

## **PROVISIONAL TREE PRESERVATION ORDER - TPO/24/01**

### **Land adjoining 19 Branscombe Close, Frinton on Sea.**

#### **1.0 PURPOSE OF THE REPORT**

To determine whether the provisional Tree Preservation Order (TPO), made in respect of 6 Oaks at the above address should be confirmed, confirmed in a modified form, or allowed to lapse.

#### **2.0 BACKGROUND**

On 4 March 2024 the Council received a request from the owner of 19 Branscombe Close that a new TPO be made in respect of trees on land under their ownership and control.

The land on which the trees are situated currently forms part of the residential curtilage of the host property and consequently there appears to be little real threat to the trees. Nevertheless, owner of 19 Branscombe Close believes that the trees are potentially at risk from the owners the adjacent garages that back onto the land. The owners of the garages believe that the structural integrity of the garages has been compromised and that this is being caused by the root activity of the trees.

#### **3.0 SITE ASSESSMENT AND AMENITY VALUE**

The primary purpose of the site visits made on 4 and 7 March 2024 was to carry out an assessment of the amenity value of the trees situated on land within the curtilage of 19 Branscombe Close.

The site is well populated with trees of a mixed age range with the larger trees (oaks) featuring prominently in the street scene. The smaller trees on the land (Hawthorn and Elder) are not prominent features in their setting

There are 6 large oak trees on the land that are positive features in their setting and that are good example of their species. When inspected from ground level the trees have reasonably well-formed branch structures with no obvious defects. The trees appear healthy, with dense canopies that are free from any significant pest or disease attack or infestation. The trees make a significant positive contribution to the wider appearance of the locality.

A TEMPO (Tree Evaluation Methodology for Preservation Orders) assessment of the Oak trees was made at the time of the site visit and is annexed to this report as appendix (CPD1). The trees scored sufficiently highly to suggest that a TPO is justified.

It is important to retain trees that make a positive contribution to the character or the appearance of the conservation area.

On 3 April 2024 Tendring District Council made a new TPO that became effective on that day and afforded protection to 6 Oak trees.

#### **4.0 REPRESENTATIONS/OBJECTIONS**

Following notification of the making of the TPO the Council has received representations from three of the owners of the block of garages objecting to the TPO. An objection has also been received from a person allowed use of one of the above three garages.

The representations are attached as appendices CPD2, CPD3, CPD4 and CPD5: A summary of which is set out below:

##### **Objection 1 – Owner of Garage No. 3. (CPD2)**

- All the trees affect the integrity of the garages and may in future affect the houses at 23, 21 and 19 as, because of the age of the dwellings, the foundations would be unlikely to have been constructed to take account of the trees.
- The garden of 19 would retain a small area of standing water following rain however following long periods of drought in recent years uptake of ground water by the Oaks has caused the ground to shrink. The shrinkage of the heavy clay has created a pond following heavy rain.
- The rear of the garage block has dropped by approximately 150mm causing severe cracking and movement within the block. Following a recent storm standing water was up to 150mm deep and flooded the garages causing damage to goods being stored in the garages.
- In addition to the garages, nearby gardens of 19 and 23 now flood significantly. The level of water and movement of garage floors is a major concern.
- The trees are causing an obstruction to light to the relatively new house in Ken Gatwood Close.
- In our opinion the removal of the trees will allow ground water levels to return and cause the rear walls and foundations of the garages to return to their original level. In partnership with our insurance company, we intend to carry out an appraisal of each tree and the effect that it will have on surrounding buildings and to serve a notice on the owner of the trees to permit removal of those identified to cause risk.
- The trees are not clearly visible to the public and could be replaced with tree species that would not cause the harm we are currently experiencing.
- The National House Building Council (NHBC) sets out the distances for the 'Zone of Influence' for tree roots with Oaks having a mature height of 20m with a high-water demand on shrinkable clay soil the Zone of influence is 1.25 times the mature height of the trees. All the trees are within 25m of the garages.
- We respectfully ask that the TPO's are removed so that repairs can be carried out to garages

#### Objection 2 – Owner of Garage No 6 (CPD3).

- Having recently purchased the garage after heavy rainfall in February I experienced flooding in my garage that was approximately 6 inches deep, causing damage to my belongings and to the garage itself (photographs provided (CPD3))
- The matter was referred to Network Rail who sent a team of engineers to survey their land. They could not find a problem with their land but said that the land to the rear of the garages is 'a contributing factor to the flooding'. (The letter from Network Rail forms part of (CPD3))
- I have consulted a surveyor who believes that the protected trees are causing a large part of the flooding problem that affect the garages and neighbouring houses. He thought that the trees could undermine the structure of those houses in time.
- The land on which the trees are situated contains a small wooden shack and was roughly 1ft under water during the recent flooding. It still resembles a pond even though water levels have dropped.
- The floor to my garage has sunk at the rear, which according to the surveyor, is likely to be caused by tree roots.
- Can the TPO's be removed so that repairs can be carried out to my and other garages in the block.

#### Objection 3 – Owner of Garage No 7 (CPD4).

- As the owner of garage No 7 I should draw your attention to serious structural movement of the garage block 1 – 8 which is possibly being caused by the trees in the planning application.
- In my view it would be inappropriate to place TPO's. Protection is already in place assuming the trees fall within Frinton Conservation Area.
- T1 is very close to the garages and has the potential to cause damage/further damage to the adjacent building as it continues to mature
- T3,4,5 and 6 are too close together to be sustainable in the long term.
- T2 stands alone but leans.

#### Objection 4 – User of Garage No 7 (CPD5).

- The owner of Garage No 7 kindly allows Frinton and Walton Heritage Trust to store items in the garage and I can see that there could be a future problem in maintaining the structure of the garages if these self-seeded trees are not pruned back at some stage.
- When the garages were built in the 1960's there were no trees.

**The issues raised in the representation must be addressed before a decision is taken to confirm the TPO, confirm it or allow it to lapse:**

## Response to objection 1 – Owner of Garage No 3.

- The owner of garage No 3 believes that the trees are affecting the structural integrity of the garages and may affect houses in the future. No evidence has been submitted to support this claim. The concerns raised concerning the specification of the foundations of dwellings numbered 23, 21 and 19 have not been quantified by supporting evidence and could be addressed as part of any future professional analysis and assessment of the situation initiated by the owners of the dwellings.
- The claim that tree roots have caused soil shrinkage in recent periods of drought which has subsequently led to the garden of 19 Branscombe Close holding an area of standing water following heavy rain is not supported by technical evidence relating to soil moisture levels or details of the way that this may be affecting the garages.
- There is some damage to the rear of the garage block and that this has led to the ingress of water that is likely to have caused damage to goods stored within the garage. However, no evidence has been provided to demonstrate that trees are the cause of the ingress of water or structural damage.
- It is claimed that in addition to the flooding of the garages the gardens serving both 19 and 23 Branscombe Close now flood significantly and there is concern about the level of water and the movement of the garage floor. No evidence has been provided to show a link between the trees and the damage or the flooding.
- The issue of light reaching the house or garden of a new property in Ken Gatwood Close has not been raised by the owner of that property and therefore is not considered to be a significant issue in the process of deciding whether to confirm the TPO.
- The objector has the view that the removal of the trees will allow ground water levels to recover and the garages to return to their original level and that they propose to work with their insurance company to identify those trees that are causing damage and that need to be removed.

Any such professional appraisal of the situation could form the basis of an application to carry out works to the trees which would be considered on its merits taking fully into account any supporting evidence submitted with the application. At the present time no evidence has been provided linking root activity of trees to the damage to the garages.

- In terms of the amenity value of the trees the TEMPO assessment (CPD1) indicates that the trees have sufficiently high value to merit protection by a TPO. It is accepted that other trees could, to a degree, replicate the amenity value of the Oaks but their removal and replacement is not considered appropriate as the trees are established features in their setting.
- It is accepted that the garage block is within the sphere of influence of the roots of the Oaks that are covered by this TPO however proximity is only one of the issues to be considered when assessing the impact of tree roots on soils and subsequently built structures. In the absence of technical evidence relating to soil moisture levels, soil type and desiccation, foundations and level monitoring - that may indicate

seasonal movement normally associated with tree related subsidence – the information currently available is not considered sufficient to prevent the confirmation of the TPO.

- The request to allow the TPO to lapse (not be confirmed) will be addressed at the end of this report.

#### Response to objection 2 – Owner of Garage No 6.

- No evidence has been provided linking the flooding of the garage to the root activity of the trees within the curtilage of 19 Branscombe Close.
- The letter from Network Rail states that the land to the rear of the garages is ‘a contributing factor to the flooding’ but does not claim that the trees are implicated in either the flooding or the damage to the garages.
- No evidence has been provided to support the claim that a surveyor believes that the protected trees are causing a large part of the flooding problem that affects the garages and neighbouring houses or that the trees could undermine the structure of those houses in time.
- The fact that the land on which the trees are situated contains a small wooden shack that was 1ft under water during the recent flooding does not demonstrate that the trees are causing the flooding or the damage to the garages.
- Although it is claimed that a surveyor believes that the reason the floor to the garage has sunk at the rear is likely to be caused by tree roots no technical evidence has been submitted to support this claim.
- The request to allow the TPO to lapse (not be confirmed) will be addressed at the end of this report.

#### Response to objection 3 – Owner of Garage No 7

- The possibility that the serious structural movement of the garage block 1 – 8 is being caused by the trees is not substantiated by supporting evidence.
- The site on which the trees are situated does not fall within the boundaries of the Frinton Conservation Area therefore the making of the TPO is reasonable and proportionate considering the potential threat to their retention.
- It is accepted that T1 is very close to the garages and has the potential to cause damage however, at the present time no evidence has been provided to demonstrate that this is the case.
- Although trees numbered T3,4,5 and 6 are growing close to one another they are viable in the long term.
- The statement that ‘T2 stands alone but leans’ is factually correct but does not otherwise indicate that it is a factor in the cause of the damage to the garages or that any works are required to the tree.

## Response to objection 4 – User of Garage No 7

- The belief that there could be a future problem in maintaining the structure of the garages if these self-seeded trees are not pruned back at some stage can be addressed by an application, made under the terms and conditions of the TPO, to reduce the size of the trees. Consent for crown reduction works would not be unreasonably withheld.
- The claim that there were no trees present when the garages were built in the 1960's may be factually correct but not prove that they are a factor in the damage to the structure.

### 5.0 CONCLUSIONS

There is a statutory duty on local planning authorities, set out in Part 8 of The Town and Country Planning Act 1990, in the interests of public amenity to make provision for the protection of trees.

The representations submitted object to the confirmation of the TPO on the grounds that the trees are causing damage to the structural integrity of the Branscombe Close garage block no's 1 to 8.

At the present time the Council has not been provided with any technical evidence to support the claims that the trees are implicated in the damage to the garages.

Following consideration of the representations made by the owners of the properties adjacent to the land on which the trees are situated; it is felt there is no substantive reason why the TPO should not be confirmed.

If the TPO is confirmed any of the garage owners may apply to prune or remove any or all the trees to which this TPO relates. Any application would be considered on its merits and take into account any supporting documents submitted with the application. Any technical evidence provided would be given due weight in the decision-making process.

### 6.0 RECOMMENDATIONS

That Tree Preservation Order 24/01 is confirmed unmodified.

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|---|-----|----|
| <b>Has the decision been published?</b> | YES | NO |
|---|-----|----|