

1 August 2016

Objections to the Crawley Borough Council 34 Rosamund Road, Furnace Green Tree Preservation Order No. 11/2016

Report of the Head of Economic and Environmental Services – PES/220

1. Purpose

- 1.1 This report presents the two objections and one comment raised to the making of the 'Crawley Borough 34 Rosamund Road, Furnace Green Tree Preservation Order No. 11/2016'. The Committee is requested to consider the objections and determine whether to confirm the Tree Preservation Order with or without modification for continued protection or, not to confirm the Tree Preservation Order.

2. Recommendation

- 2.1 It is recommended that the Committee **CONFIRM** the 'Crawley Borough 34 Rosamund Road, Furnace Green Tree Preservation Order No. 11/2016' without modification.

3. Reasons for the Recommendation

- 3.1 Consideration has been given to the comments received during the public consultation period however, having regard to the considerable amenity value of the tree in its surroundings, it is considered worthy of protection for the reasons outlined in this report.

4. Background

- 4.1 The subject of this order is a single English Oak (*Quercus robur*) located in the rear garden of 34 Rosamund Road near the south western corner of the boundary, adjacent to 36 Rosamund Road and 14 Nymans Court. A copy of the TPO plan showing the location of the tree is attached to this report.
- 4.2 This Order has been made in response to a 'Protected Tree Information Request' submitted by the tree owners at no. 34, the tree was not protected but is considered to be of high amenity value and worthy of protection, it was therefore considered expedient to serve a TPO on the tree as the owners had expressed the desire to fell it.
- 4.3 The tree is in good physiological condition with a full, healthy, roughly symmetrical crown. At the time of the site visit there were no signs of significant structural defects in the crown or fungal infection. The tree was reduced fairly heavily several years ago and has since come back well with good extension growth and a dense inner crown.
- 4.5 The provisional Tree Preservation Order was made on 17th May 2016 and remains provisionally in force for a period of six months (until 17th November 2016). If the Order is confirmed, the protection becomes permanent, if the Order is not confirmed it ceases to have effect.
- 4.6 An application for works to a protected tree was submitted by the owners on 26th June 2016 ref. CR/2016/0569/TPO. A lesser level of works has been agreed with applicant, but at the time of writing this report the application was still under consideration.

5. Notification/ Consultation/Representation

5.1 In order to confirm the Order, the Council notified the owner(s)/occupiers(s) of the land and other interested parties that a provisional Tree Preservation Order has been made. The following addresses were notified:

34 Rosamund Road
32 Rosamund Road
36 Rosamund Road
14 Nymans Court

5.2 The Council is required to consider any objections or representations made within 28 days of the date of the Order. The notification period for objections ended on 21st June 2016. Confirmation of the order is required within six months of the date upon which the Order was provisionally made.

5.3 Representations have been received from two neighbouring properties objecting to the Tree Preservation Order. One representation commenting on the service of the Tree Preservation Order has also been received:

The following objection reasons have been submitted for consideration:

Amenity of the Tree

- It is not of Historic value to the community or anyone else;
- It is not considered of good landscape character in anyway shape or form by the local residents;
- It is not of prominent significance to the area and has no amenity value at all to local residents;

Wildlife

- It is not significant to any wildlife as there is a full vast forest 150 feet away which is much more appealing to them;

Neighbour Amenity and Safety Issues

- There is concern about falling branches (Summer Branch Drop), and the tree is therefore dangerous due to its close position to houses and overhanging gardens.
- Roots are causing damage to drains
- Branches overhang 14 Nymans Court contributing to damp within bungalow.
- The tree blocks out light to adjacent gardens;
- Leaves falling in gardens and gutters etc. need to be cleared up frequently;
- Psychological damage to neighbours from living close to a tree;

Other

- It has never ever been on the preservation list or any other potential preservation list;

6. Amenity Value/Assessment and Consideration of the Representations

Amenity of the Tree

6.1 The tree the subject of this Order is considered, due to its size and maturity, to directly contribute positively to the character and environment of Rosamund Road to the east and the setting of the Forestfields and Shrublands Conservation Area to the west. This tree along with several others formed a historic field boundary prior to the houses being constructed and were integrated into the gardens at the time of construction. The tree, along with the several others that still remain form a line which creates a separation and backdrop between developments of adjacent houses, extending the green, treed feel of Tilgate Forest into the built-up surrounding area. The subject tree therefore has significant individual merit as well forming part of the cohesive strength a part of the larger group along the historic field boundary. The tree, due to its size, is highly visible from Rosamund Road, Marion Road, Nymans and Tilgate Forest to the south and contributes strongly to the visual amenity of the area.

Wildlife

- 6.2 The tree is not being recommended for protection specifically due to its positive impact on wildlife in the area, although it is accepted that large mature trees can harbour protected species.

Neighbour Amenity and Safety Issues

- 6.3 The tree is in good physiological condition with a full, healthy, roughly symmetrical crown. At the time of the site visit there were no signs of significant structural defects in the crown or fungal infection. Notwithstanding the concerns of local residents no evidence has been provided to show that the tree is dangerous or that a lower level of works such removing deadwood would not alleviate any issues with branches within the canopy. Clearly it is not unusual for trees to loose leaves/twigs, but with good on going management risks from falling branches etc can be minimised as they are with street trees and those in public parks. It is not therefore considered on the basis of the information submitted that this tree is likely to be an imminent danger to nearby occupiers.
- 6.4 The tree is growing in close proximity to 14 Nymans Court however there is no evidence that the tree is causing damage to the property and due to a change in level between the garden of 34 Rosamund Road and Nymans Court, it is likely the roots were severed at the time of construction of this neighbouring house. It would therefore be reasonable to conclude that there is little chance of the roots causing direct mechanical damage to the foundations of the building.
- 6.5 It is very rare for tree roots to crack or otherwise cause direct damage to sound water pipes. When tree roots are found within water pipes this is most often a result of tree roots exploiting existing breaks in the pipes. Pruning the roots back and sleeving the pipe with a modern plastic one will repair the pipe while greatly reducing the ability of tree roots to cause further damage.
- 6.6 There is no evidence that overhanging branches will cause damp within the bungalow and the combination of crown reduction, crown thin and crown raise will greatly increase the amount of light into the adjacent gardens and significantly mitigate the perceived risk of the tree failing, completely or in part.
- 6.7 The subject tree has put on a considerable amount of extension growth since it was last pruned several years ago and has, in my opinion, thoroughly recovered and would stand another crown reduction (though not as heavy as the previous) with only a negligible and transient impact on the trees health and minimal loss of amenity. The tree has a fair amount of stem growth, not uncommon for the species, which can be removed up to the crown break in order to raise the height of the canopy. The tree has a fairly dense inner crown and the tree would benefit from a slight crown thin in order to open the crown and increase air flow and circulation and would have a positive effect on the health of the tree. There are plenty of suitable side branches for crown reduction using the drop-crotch pruning method. This would allow the tree to be effectively managed and contained.
- 6.8 The imposition of a Tree Preservation Order does not hinder maintenance of the tree. An application has to be made to the Local Planning Authority for works and as part of the process the tree is inspected by an arboricultural officer before any works are agreed. The reasons given for works are part of the consideration, works such as crown lifting, crown reductions and crown thinning to increase light to gardens for example are normally deemed appropriate and would be in the case of the subject tree.
- 6.9 Leaves, twigs and fruit falling from trees is a normal part of the trees life cycle and are considered only to be a seasonal nuisance and an inevitable part of living in proximity to trees and is not considered to be justification to remove a protected tree.

Other

- 6.10 The tree has not been previously protected as there was no identified threat to its future. The tree was at potential threat of being felled, its amenity is considered to be significant and notwithstanding its previous status, it is now considered expedient to protect the tree.

- 6.11 In respect of notification, all owners of the trees and those nearby occupiers most affected by the tree were notified, as listed in paragraph 5.1 of the report. The notifications were carried out in accordance with the Tree Preservation Order Regulations 2012.

7. Implications

Human Rights Act 1998

- 7.1 The referral of this matter to the Planning Committee is in accordance with Article 6 of the Human Rights Act 1998, the right to a fair hearing, which is an absolute right. Those persons who made representations in objection to the TPO are entitled to attend the Planning Committee meeting and to make any further verbal representations at the meeting. The Planning Committee must give full consideration to any such representations.

- 7.2 Article 8 and Article 1 of the First Protocol – the right to respect for private/family life and the protection of property – also needs to be considered. These are qualified rights and can only be interfered with in accordance with the law and if necessary to use of property in accordance with the general interest. The recommended continued protection of the tree is considered to be in the general interest of the community and is considered to be both proportionate and justified.

Planning legislation

- 7.3 The law relevant to the protection of trees is set out in Part VIII of the Town and Country Planning Act 1990 as amended and the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

8. Background Papers

- 8.1 The Crawley Borough 34 Rosamund Road, Furnace Green Tree Preservation Order No. 11/2016

Photo of T1 – English Oak.

T1 – English Oak viewed from garden of 34 Rosamund Road.



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Tree Preservation Order No 11/2016
34, Rosamund Road, Furnace Green

Clem Smith
Head of Economic and Environmental Services

The scale shown is approximate and should not be used for accurate measurement.

Scale 1:1250

Date 21/07/2016

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