

Crawley Borough Council



Report to Planning Committee 5th December 2016

The Crawley Borough 114-118 Three Bridges Road Tree Preservation Order No. 21/2016

Report of the Head of Economic and Environmental Services – PES / 228

1. Purpose

- 1.1 This report presents the single objection raised to the making of the 'Crawley Borough 114-118 Three Bridges Road Tree Preservation Order No. 21/2016' and in particular the inclusion of the oak tree within the order. The Committee is requested to consider the objection 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 114-118 Three Bridges Road Tree Preservation Order No. 21/2016' 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 trees in respect of which this order was made are a single English Oak (*Quercus robur*) (T1) located in the front garden/driveway of 114 Three Bridges Road (adjacent to Three Bridges Road and the footpath that runs alongside Rowan Close), a Lime tree (T2) and Birch tree (T3) on the boundary between 116 and 118 and a group of trees (G1) in the north east corner of 118. The objection that has been raised relates to the Oak tree (T1) only. A copy of the TPO plan showing the location of the trees is attached to this report.
- 4.2 This Order was made in response to an alert from a member of public that an adjacent Lime tree in the front garden of 116 had been felled. This tree, along with the Oak and others had previously been identified for a preservation order which was started but not progressed. The group of trees clearly was then, and still is considered to be of high amenity value and worthy of protection, it was therefore considered expedient to serve a TPO so as to ensure that the remaining trees in the group are preserved.
- 4.3 The Oak tree in the front garden of 114, the subject of the objection, is in good physiological condition with a full, healthy, roughly symmetrical crown. At the time of the site visit on 29th September 2016 there were no signs of significant structural defects in the crown or fungal infection. The tree has had some relatively minor pruning work in the past, mainly those branches overhanging the road and those extending towards the house.
- 4.5 The provisional Tree Preservation Order was made on 4th October 2016 and remains provisionally in force for a period of six months (until 4th April 2017). 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 (the oak tree) was submitted by the owners of 114 on 13th October 2016 ref. CR/2016/0882/TPO, as an interim measure while the objection is considered. The

level of works were considered acceptable and justified and consent was therefore granted on 31st October 2016. These works have now been carried out as can be seen in the attached photograph.

5. Notification/ Consultation/Representation

5.1 Following the making of the Order, the Council is required to notify persons interested in the land affected by it a copy of the Order and notice with prescribed information. The Council therefore notified the owner(s)/occupiers(s) of the land and other interested parties that a provisional Tree Preservation Order had been made. The following addresses/bodies were notified:

114 Three Bridges Road
116 Three Bridges Road
118 Three Bridges Road
West Sussex County Council
Crawley Borough Council

5.2 The Council is required to consider any objections or representations made within 28 days of the date of the notice of the Order. The notification period for objections ended on 8th November 2016.

5.3 An objection has been received from 114 Three Bridges Road objecting to the Tree Preservation Order as it relates to the Oak tree.

The following objection reasons have been submitted for consideration:

Amenity of the Tree

- Several houses along Three Bridges Road, including the one next door, have removed trees that are larger and more aesthetically pleasing and this has not affected the look of the road;
- As the tree located at 116 Three Bridges Road has been removed the most appropriate aesthetic action would be to remove tree T1 as per the plan in order to keep a clean and balanced look from both sides of the road and from Mitchells Road.

Neighbour Amenity and Safety Issues

- The tree is dangerous to both telephone cables and the road as it frequently drops significantly sized deadwood;
- The house and cars parked on the drive are constantly at risk of damage due to falling deadwood and damage due to sap;
- The tree in question blocks significant light to the property of 114 Three Bridges Road from 3pm in the afternoon.

Other

- this [TPO is] punitive and vindictive to others in the road following the actions of others, including specifically 116 Three Bridges Road, removing trees and is an act of unfair vendetta to those households remaining;
- [The objector says they] phoned the council twice to confirm whether tree T1 had a TPO on it already and was informed that it did.

6. Amenity Value/Assessment and Consideration of the Representations

Amenity of the Tree

6.1 The removal of the large adjacent Lime tree has left a considerable hole in the tree cover, it is therefore imperative that the remaining trees in this group are retained so that the green amenity be preserved as much as possible. It was the removal of the Lime tree that prompted the serving of the TPO as it was unknown whether any other trees within the group were to be removed also, this was a precaution that was considered wholly justified given the high amenity of this group especially when viewed from Mitchells Road.

6.2 The removal of T1 (oak) would not result in a more balanced look to the street scene, it is considered that this would only result would be a further erosion of the green amenity that is such an intrinsic part of the character of Three Bridges Road. Three Bridges Road is known for its large and mature trees lining the road and this feature must be preserved.

Neighbour Amenity and Safety Issues

6.3 All trees generate deadwood, this is a normal part of a healthy trees physiological processes and will never be considered justification for removing a tree with such strong amenity. Routine pruning and maintenance is an inevitable part of owning a tree and should not be considered unreasonable. T1 contained some deadwood (though not significant) and required a little containment pruning as some of the branches are encroaching onto the house and overhanging the highway these works have already been applied for and carried out under application reference: CR/2016/0882/TPO which was consented on 31st October 2016.

6.4 As stated above, deadwood is normal and to be expected in mature trees and its removal should be accepted as part of routine tree maintenance. The risks posed by deadwood within the crown is justification for removing the deadwood, not for removing the entire tree, deadwood removal is a relatively quick operation for a suitably qualified arborist and in the case of protected trees does not require consent.

6.5 'Sap' dripping from the leaves in summer also known as 'honey dew', caused by the excretion of aphids, is considered a seasonal nuisance only and another normal and natural part of a tree being a tree. This honey dew causes no damage to cars or any other surfaces and can easily be washed off with soap and water even when dry and will never be considered as justification for felling a tree of significant amenity importance.

6.6 Shading is another inevitable part of living in proximity to trees which can be mitigated through pruning and thinning operations and unless excessive, which is not the case here, will very rarely be considered justification for removing significant trees with strong visual amenity.

Other

6.6 The serving of this TPO was in no way punitive, vindictive or personal. Following the removal of the Lime tree, the remaining trees were protected due to their cohesive strength and collective contribution to the green amenity of the area. For this reason protecting all the trees in the group was considered expedient and justified as there has since been a request from the site owner to fell the oak tree.

6.7 The previous TPO, as stated in section 4.2 was made but was never served and is therefore invalid, however the details of the order were still recorded giving the impression that the order was in force, appearing the Councils mapping system, it would have appeared that the tree was indeed protected. There was not a deliberate act to mislead on the status of the trees as the discrepancy only came to light once the request and tree records were investigated in detail and it became clear that the TPO was not in fact in force. This does not change the fact that the tree was protected for its amenity value and due to the potential threat of its removal.

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 114-118 Three Bridges Road Tree Preservation Order No. 21/2016

Photo of T1 – English Oak.

T1 – English Oak viewed from Three Bridges Road following works consented under CR/2016/0882/TPO.



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Tree Preservation Order No 21/2016
114-118, Three Bridges Road, Three Bridges

Clem Smith
Head of Economic and Environmental Services



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

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Scale 1:1250

Date 22/11/2016

