

Crawley Borough Council

Report to Planning Committee 11th February 2019

Objections to the Crawley Borough Council Tree Preservation Order 44 To 46, Green Lane, Northgate - 15/2018

Report of the Head of Economy and Planning – *PES 312*

1. Purpose

- 1.1 This report relates to the Crawley Borough Council, 44 to 46, Green Lane, Northgate - 15/2018 Tree Preservation Order. 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 Tree Preservation Order, 44 To 46, Green Lane, Northgate - 15/2018 without modification.

3. Reasons for the Recommendation

- 3.1 *The tree(s) have good shape and form.*
The tree(s) are considered to have good landscape amenity value in the surrounding area.
The tree(s) have been identified as having significant long term potential.
The tree(s) are prominent in the locality and have significant amenity value.
The tree(s) are clearly visible from the public highway.
The tree(s) are visually important in the local area.
The tree(s) have well balanced crowns.
The tree(s) have full healthy crowns.
The tree(s) have significant wildlife value.

4. Background

- 4.1 The trees the subject of this Order are 2 no. English Oak trees located within the rear gardens of numbers 44 and 46 Green Lane in Northgate. The trees are located towards the eastern ends of the rear gardens, with T1 within no. 46 and T2 within no.44. The crown of T1 overhangs the rear gardens of no. 48 and no. 50 Green Lane to the north while T2 overhangs the rear gardens of no. 42 Green Lane to the south and no. 10 and no. 8 Bracken Close to the east. The base of the stems could not be assessed as access to the gardens was not possible but the trees appeared to be in good general health and condition at the time of inspection. A photograph of the tree is attached at the end of this report.
- 4.2 The Order was served following receipt of a TPO status enquiry submitted by the owners of no. 46 Green Lane stating their intention to undertake pruning works to the tree in their rear garden. When the tree was found not to be protected, a desktop assessment was made followed by a site visit, which determined that the tree, along with the tree in the rear garden of 44 Green Lane were both good examples of the species with high amenity. Green Lane and surrounding area is considered suburban, the trees are large and mature specimens and make an important contribution to the green

amenity. The LPA therefore decided to protect the trees in order to ensure their continued contribution to green amenity of the area.

- 4.3 The provisional Tree Preservation Order was made on 21st August 2018 and remains provisionally in force for a period of six months until 21st February 2019. If the Order is confirmed, the protection becomes permanent, if the Order is not confirmed it ceases to have effect.

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:

Owners and occupiers of the land:

- 46 Green Lane, Northgate, Crawley, RH10 8JP
- 44 Green Lane, Northgate, Crawley, RH10 8JP

Owners and occupiers of adjoining land affected by the TPO:

- 42 Green Lane, Northgate, Crawley RH10 8JP
- 48 Green Lane, Northgate, Crawley RH10 8JP
- 50 Green Lane, Northgate, Crawley RH10 8JP
- 10 Bracken Close, Northgate, Crawley RH10 8JR
- 8 Bracken Close, Northgate, Crawley RH10 8JR
- 6 Bracken Close, Northgate, Crawley RH10 8JR

- 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 25th September 2018. Confirmation of the order is required within six months of the date upon which the Order was provisionally made.
- 5.3 Two representations have been received from the owners of 48 Green Lane and 50 Green Lane objecting to the Tree Preservation Order as it relates to T1. The following reasons have been submitted for consideration.

Neighbour Amenity and Safety Issues

- The tree is too large for the size of the property it is in
- It's never been maintained despite asking the owners several times to have it trimmed, which is why we suspect they've asked for the order, to save the cost of maintaining it
- The tree overhangs our property
- It severely cuts out the light from our [no. 50's] garden
- Leaves, twigs, branches and germinating acorns cause a mess in the gardens [of no. 50 & no.48]
- One of the overhanging branches may come down and injure the grandchildren
- A tree of this size is extremely dangerous in such a built up area

Other

- The tree is causing damage to the 4 shed roofs in the garden of 48 Green Lane

6. Amenity Value/Assessment and Consideration of the Representations

Amenity Value/Assessment

- 6.1 The trees are large, mature specimens with good form. The trees were assessed from the highway of Green Lane and Bracken Close and while access to the trees for a more thorough inspection was not possible, from the road, both trees appeared to be in good general health with full, roughly symmetrical crowns. The trees are positioned at the bottom of the rear gardens and as such can be

seen clearly between the houses of Green Lane to the west, the portion of Green Lane to the north and between and above the rooftops of Bracken Close to the east. They form an important break between, and backdrop to development in the area. The rear gardens of Green Lane are large which has allowed the trees to develop full, balanced crowns with little need for containment pruning. Due to the size of the trees and the contribution they make to the character of the area, they are considered to be of high amenity value and therefore worthy of protection.

Consideration of the Representations

- 6.2 The rear gardens of nos. 46, 48 and 50 Green Lane are all in excess of 40m long, the distance from the edge of the crown to no. 46 is 25m, no. 48 is 31m and no. 50 is 33m, this is considered adequate separation from the dwellings and allows more than enough space for the T1 to reach its full potential.
- 6.3 This order was not served in response to a request from the owners (see para. 4.2). Regardless of whether there is a TPO on the trees or not, the tree owners would not be absolved of their obligation to maintain their trees in a safe condition and to prevent them from causing a legal nuisance, with maintenance works to protected trees still being able to be carried out having acquired the necessary consent from the Local Planning Authority.
- 6.4 Neighbours have the right to cut back overhanging branches from trees on adjacent land without the tree owners consent, in the case of a protected tree, the neighbour must first obtain consent from the Local Planning Authority however, if the works are reasonable and proportionate it is unlikely such an application would be refused.
- 6.5 Tree owners are under no obligation to prune or remove trees which are overshadowing the gardens of adjacent properties. Many trees by their very nature cause shade and this is not considered a reason to disqualify a tree from TPO protection. In this particular case the trees are situated 31-33m from the rear elevations/windows etc. of the dwellings that are situated to the west of the tree and the impact in terms of overshadowing the houses/gardens as a whole will experience is therefore limited.
- 6.6 Leaves, twigs and acorns falling into gardens etc. are considered a seasonal nuisance only and does not place responsibility on the owner of the tree as this is a normal part of a tree's life cycle, it is not considered to be an adequate reason to disqualify a tree from TPO protection.
- 6.7 Whether a tree is protected or not, tree owners have a responsibility to maintain their trees in a safe condition and avoid causing harm to others as far as is reasonably practical. The imposition of a TPO does not prescribe works to be carried out to trees and works submitted by way of an application that are considered reasonable and justified by the Planning Authority will be likely to be granted consent. Furthermore, any works that are considered urgent for safety reasons can be carried out once the Planning Authority have been informed of the need for the works via a 5 day notice.
- 6.8 It is considered that the trees are not especially large and are in proportion with their surroundings.
- 6.9 No evidence has been submitted to support the claim that the tree is causing damage to the garden sheds within 48 Green Lane. If the tree is indeed causing damage, the evidence should be submitted as part of any subsequent application for remedial works. This will be duly considered and a decision as to whether the works are justified or not will be made.

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 control the use of property in accordance with the law and if necessary to control the use of property in accordance with the general interest. The recommended continued protection of these trees by confirming the TPO 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 Council Tree Preservation Order 44 To 46, Green Lane, Northgate - 15/2018

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SCHEDULE
SPECIFICATION OF TREES

Trees Specified Individually
(encircled in black on the map)

| Reference on Map | Description | Situation |
|-------------------------|--------------------|--------------------------|
| T1 | English Oak | Grid Ref: TQ-27456-37764 |
| T2 | English Oak | Grid Ref: TQ-27457-37754 |

Groups of Trees
(within a broken black line on the map)

| Reference on Map | Description | Situation |
|-------------------------|--------------------|------------------|
| NONE | | |

Woodlands
(within a continuous black line on the map)

| Reference on Map | Description | Situation |
|-------------------------|--------------------|------------------|
| NONE | | |

Reference to an Area
(within a dotted black line on the map)

| Reference on Map | Description | Situation |
|-------------------------|--------------------|------------------|
| NONE | | |



Tree Preservation Order No 15/2018
44 To 46, Green Lane, Northgate

Clem Smith
Head of Economy and Planning Services



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

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| | |
|-------|------------|
| Scale | 1:1250 |
| Date | 21/01/2019 |

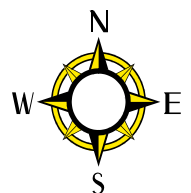


Photo showing T1 & T2 viewed from Green Lane

