

Crawley Borough Council

Report to Planning Committee 10th February 2020

Objections to the Crawley Borough Council Tree Preservation Order - Squires Garden Centre, Horsham Road - 09/2019

Report of the Head of Economy and Planning – **PES 346**

1. Purpose

- 1.1 This report presents the Squires Garden Centre, Horsham Road - 09/2019 Tree Preservation Order ("the Order"), an objection made to the Order and asks the Committee to delegate the decision regarding confirmation of the Order.

2. Recommendation

- 2.1 It is recommended the Planning Committee:
- 2.1.1 Consider the objection made to the Squires Garden Centre, Horsham Road - 09/2019 Tree Preservation Order ("the Order"); and
- 2.1.2 Delegate to the Head of Economy and Planning the power to consider any response received from the neighbour at 187 Buckswood Drive at the conclusion of the consultation period (to expire on 24/02/2020) and to thereafter but by no later than 28/02/2020 make a decision whether to confirm the Order with or without modification.

3. Reasons for the Recommendation

- 3.1 The trees are considered to have good landscape amenity value in the surrounding area.
The trees are prominent in the locality and have significant amenity value.
The trees are clearly visible from the public highway.
The trees are visually important in the local area.
The trees have significant wildlife value.

4. Background

- 4.1 The subject of this Order is a group of trees on the area of land in the southern corner of the site (A1 on the attached plan) and a small group of trees between the car park exit and the adjacent residential property to the west (G1 on the attached plan). A1 consists of several large, mature trees of various species such as Oak, Ash and Silver Birch with an understorey of smaller species such as Yew. G1 consists of 3 trees (1 Alder, 1 Silver Birch and 1 False Acacia). Photographs of the trees are attached at the end of this report as Appendix 1.
- 4.2 Following receipt of a TPO status enquiry submitted by the agent acting on behalf of Squires Garden Centre, a check confirmed that the trees were not protected and so a desktop assessment was made followed by a site visit, which determined that the trees are of high amenity value. The LPA therefore decided to protect the trees in order to ensure their continued contribution to the green amenity of the area.

- 4.3 The provisional Tree Preservation Order was made on 28th August 2019 and remains provisionally in force for a period of six months until 28th February 2020. If the Order is confirmed, the protection becomes permanent, if the Order is not confirmed it ceases to have effect.
- 4.4 The trees within G1 overhang the neighbouring property 187 Buckswood Drive while the larger trees within A1 overhang the highway (Horsham Road and Buckswood Drive. An application for tree surgery was submitted in August 2019 (reference CR/2019/0630/TPO) following service of the Tree Preservation Order to prune back the trees to improve clearance to the adjoining property and highway. Consent for these works was granted on 3rd December 2019. All trees appeared to be in good general health and condition at the time of inspection.

5. Notification/ Consultation/Representation

- 5.1 A LPA must, as soon as practicable after making an Order and before it is confirmed, serve persons interested in the land affected by the Order a copy of the Order and a prescribed notice. The Council therefore served on the owner(s)/occupiers(s) of the land and other interested parties a copy of the provisional Tree Preservation Order and notice. The following persons were served.

Owners and occupiers of the land:

- J. Cheal and Sons Limited, Cheals Garden Centre, Horsham Road, Crawley, RH11 8PL
- D. J. Squire and Co. Limited, Sixth Cross Road, Twickenham, Middlesex, TW2 5PA

Owners and occupiers of adjoining land affected by the TPO:

- West Sussex County Council, County Hall, West Street, Chichester, PO19 1RG
 - The Occupier, 187 Buckswood Drive, Gossops Green – however, please note that the consultation period for this address is still running and will expire on 24th February as it was discovered that this adjoining owner was omitted from the original notifications.
- 5.2 The Council is required to consider any objections or representations made within 28 days of the date of the Order (or as a result of any later notification letters issued with the time period specified on that letter). The notification period for objections (except number 187 Buckswood Drive) ended on 2nd October 2019. Confirmation of the order is required within six months of the date upon which the Order was provisionally made.
- 5.3 One representation has been received from the company D.J Squire and Co Ltd who trade as Squires Garden Centre objecting to the Tree Preservation Order. The full objection letter is appended to this report as Appendix 2. The following reasons have been submitted for consideration.
- The trees have no more prominent landscape value to the area than any other trees on the opposite side of the road, in adjoining gardens or on the roundabout. In the case of most of the trees in A1 they are insignificant and all of the trees in G1 are insignificant.
 - The trees [within A1] have no amenity value as they are on our private property, which is not open to the public outside our trading hours.
 - The trees in area G1 are not particularly visible from the public highway at all and only some of the trees in area A1 are visible from the public highway.
 - For the reasons cited above the trees are not visually important to the local area.
 - All trees are of value to wildlife. These are no more significant in that respect than any other local trees. There is nothing that marks them out as particularly valuable.

6. Amenity Value/Assessment

- 6.1 The trees on the other side of the road as well as those on the roundabout are owned by West Sussex County Council and it is not usual to protect Council owned trees as these are considered to be under good arboricultural management and their presence has no bearing on the decision to protect the trees within A1 whose suitability for protection was assessed on their own merits. The trees within

A1 are the only significant trees within private ownership in the immediate locality and for this reason their amenity should be safeguarded.

- 6.2 The main criteria for protecting trees the subject of this Tree Preservation Order is that they have considerable amenity value and are considered visually important in the surrounding area. The trees within A1 are visually prominent and can be viewed from various parts of Horsham Road, Buckswood Drive, Kingscote Hill and various places along Crawley Avenue. There is no requirement for the trees to be publicly accessible in order for them to be considered visually important. The trees form part of the landscaped character of Horsham Road, soften the visual appearance of the car park and contribute to the green infrastructure of the town (which on the eastern side of Horsham Road is identified as Structural Landscaping).
- 6.3 The trees in G1 are clearly visible from Buckswood Drive and Horsham Road and form a screen between the Squires Garden Centre, providing some screening and privacy to the adjoining property 187 Buckswood Drive.
- 6.4 As stated the main criteria for tree protection is that the trees have visual amenity and are visually important to the area, however other factors can be taken into consideration and all the trees provide habitat and value to wildlife.

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.

Planning legislation

- 7.2 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 Squires Garden Centre, Horsham Road - 09/2019

Contact Officer: Russell Spurrell
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SCHEDULE
SPECIFICATION OF TREES

Trees Specified Individually
(encircled in black on the map)

Reference on Map	Description	Situation
NONE		

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

Reference on Map	Description	Situation
G1	Common Alder, Silver Birch, False Acacia	Grid Ref: TQ-25687-35626

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
A1	The numerous trees of whatever species standing within the area bounded by the dotted black line.	Grid Ref: TQ-25691-35603



Tree Preservation Order No 09/2019
Squires Garden Centre, Horsham Road

Clem Smith
Head of Economy and Planning Services



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

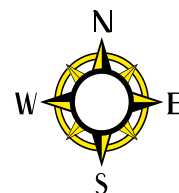
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Scale

1:1250

Date

22/01/2020



OFFICER SITE PHOTOS – APPENDIX 1

Photo of A1 viewed from Buckswood Drive following consented works



Photo of G1 viewed from Buckswood Drive



Photo of A1 viewed from Horsham Road



Photo of G1 viewed from Horsham Road



COPY OF OBJECTION LETTER RECEIVED – Appendix 2

Please find a copy of a letter which we have sent by post.

Dear Mr Spurrell

RE Notice of Provisional Tree Preservation Order No 09/2019 Squire Garden Centre Horsham Road

Our company D.J. Squire & Co Limited, trading as Squires Garden Centres, wishes to object to the above tree preservation order. As a company which has been involved in the horticultural industry for over 85 years, we have been a very strong supporter of the use of tree preservation orders to sustain our woodland and natural environment and it would never be our company's intention to damage or destroy any tree of merit without extremely good cause. However, in our opinion the two areas that you have identified in this provisional order do not fulfil the criteria necessary for a tree preservation order and we would like to make the following comments:

It is our understanding that orders should be used to protect selected trees and woodland if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, or groups of trees or of woodlands by reference to its or their characteristics including:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

In this case the provisional tree preservation order 09/2019 area A1 is referred to as "numerous trees" and G1 as "groups of trees" without reference to any particular trees. Area G1 comprises very few trees at all. Area A1 comprises a group of a few trees and some scrubby undergrowth. While we accept that some of the trees in area A1 are mature and of some size, we do not believe that any of the other characteristics described in the bullet points above are met in the case of either area, nor is the test of public benefit.

In response to the particular points numbered 1 to 5 in your letter our view is as follows:-

1. The trees have no more prominent landscape value to the area than any other trees on the opposite side of the road, in adjoining gardens or on the roundabout. In the case of most of the trees in A1 they are insignificant and all of the trees in G1 are insignificant
2. The trees are no more prominent than the other trees on the opposite side of the road, in private gardens or on the roundabout. Furthermore, the trees have no amenity value as they are on our private property, which is not open to the public outside our trading hours.
3. The trees in area G1 are not particularly visible from the public highway at all and only some of the trees in area A1 are visible from the public highway
4. For the reasons cited above the trees are not visually important to the local area
5. All trees are of value to wildlife. These are no more significant in that respect than any other local trees. There is nothing that marks them out as particularly valuable

An application was made to the planning office for work to be undertaken on trees in area G1 on our behalf by Dave Ford Tree Care as we had received a complaint from our nearest neighbour who has specifically asked us to do this work. We also want to maintain good visibility and access from our exit road onto the highway.

We do not believe that the order should be made in respect of either area. We would warmly welcome the opportunity to meet with you on site to discuss the particular merits of the individual trees.

We strenuously contest the blanket coverage that has been identified in the provisional order. We consider the reasons given to be unspecific and vague with no consideration given to the precise trees and circumstances. This serves to undermine and devalue the concept of the Tree Preservation Orders. It also adds an administrative (and therefore costly in time and resource) burden on both the council and the occupier which is not in the public interest, particularly when the trees in question are not any significant risk and only maintenance is envisaged.

We should like to make the final point that the letter which was brought to our attention was addressed to J Cheal and Sons Limited, our landlord, and not to this company. This company has a long lease on the site and is the business rates payer. Our interest is also registered at the Land Registry. We have operated the garden centre on site for 20 years next January. It was by chance that we even heard about the provisional order. Has a letter also been sent to us? If not has the provisional order been properly served?

We look forward to hearing from you at your earliest convenience.

Colin Squire OBE

D. J. Squire & Co., Ltd, trading as Squire's Garden Centres
Company number 00316151

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