

REFERENCE NO: CR/2020/0210/TPO

LOCATION: [ST NICHOLAS CHURCH, CHURCH ROAD, POUND HILL, CRAWLEY](#)
WARD: Pound Hill South and Worth
PROPOSAL: T6 - TURKEY OAK - FELL
T7 - COMMON LIME - FELL

TARGET DECISION DATE: 1 June 2020

CASE OFFICER: Mr R. Spurrell

APPLICANTS NAME: Fr Michael Boag
AGENTS NAME: ACS (Trees) Consulting

PLANS & DRAWINGS CONSIDERED:

Drawing Number	Revision	Drawing Title
TS2_WC		Tree Survey Plan (Church Path)

REASON FOR REPORTING TO COMMITTEE:-

Member call in (Councillor Jaggard).

INFORMATION CONSIDERED:

- Application form dated 6th April 2020
- Description of proposed tree works and tree plan dated 4th April 2020
- Email from Agent dated 27th May 2020

CONSULTEE COMMENTS

None

PUBLIC CONSULTATIONS

Site notices attached to trees

REPLIES RECEIVED

One representation has been received objecting to the proposed works for the following reasons:

- In the previous application to justify removal of the whole avenue the argument was put that felling of selected individual 'offending' trees was not good arboricultural practice (due to the degree of interdependence of each tree upon its neighbour - structurally, physiologically and aerodynamically).
- Removal of the end two trees particularly would expose the avenue group as a whole to a 'domino effect'.
- Disputes both trees being 'overmature' and 'reaching the end of their life' given recent survey suggested useful life expectancy of 20-40 years.
- Disagrees with applicants that there is no option but to remove the trees as the feasibility of an earlier design for a Building Regulations Part M compliant (wheelchair friendly) alternative route has not been disproved.
- The 800mm shown as the width remaining between the above-ground root flares of trees T6 and T7 is not impassable to a standard wheelchair width of 700mm.

- Whilst not suggesting that the removal of only one tree at this stage would be any more acceptable, this would be less damaging to the group than removing the two proposed.

THE APPLICATION SITE

- 1.1 The application relates to the two trees (T6 and T7) at the far southern end of the narrow avenue of trees along the sides of the path that runs from the lychgate to the western entrance door of the church. The path is the primary access route for worshipers to the church and extends from Church Road to the north-west under the lychgate to the main door of St Nicholas Church, which is a Grade I listed building located within the Worth Conservation Area.
- 1.2 The trees are protected by the 'Crawley Borough Council (12 Apostles, St Nicholas Church) Tree Preservation Order served provisionally on 8 October 2019 and confirmed on 7th April 2020 (Reference 12/2019 Tree Numbers T1-T12)

THE PROPOSAL

- 2.1 The proposal is to fell T6 – Turkey Oak and T7 – Common Lime, these trees are located either side of the path at the southern end of the avenue nearest to the Church.
- 2.2 The agent is ACS (Trees) Consulting acting on behalf of St Nicholas Church (the applicant). The reasons for the tree felling are summarised as follows:
 - The trees are causing a significant trip hazard.
 - The trees are causing unreasonable access restrictions and continued damage to the path.
 - The trees are over-mature.
 - The gap between the trees is becoming increasingly narrow (distance between the tree roots is now 800mm).
 - The encroachment of the roots prevents wheelchair users and pallbearers who have to carefully negotiate the obstacles.
 - The roots along the length of the path are causing surface damage resurfacing is a costly remedial measure and temporary.
 - Pruning out roots nearest to the path, which are roots important to tree anchorage, will destabilise the trees and permit the ingress of decay and disease.
 - The trees are over-mature and their removal is on the grounds of sensible arboricultural management.
 - The removal of the two identified trees will have no material adverse impact upon visual amenities, the quality of the treed landscape or the character of the conservation area.
 - The Church has statutory duty under Disability Discrimination Act 1995 to take reasonable steps to remove or alter physical features to improve access for disabled people or make alternative access available.
- 2.3 The applicants state that they have considered the following options prior to the submission of the application:
 - 1 Cutting the roots away from pathway - This has been discounted due to concerns about the future stability of the trees post works and would pre-dispose the trees to serious decay, physiological stress and possible death.
 - 2 Re-surface pathway – This does not resolve the problem of restricted width (now 800mm) and biannual resurfacing would be required which is financially unsustainable.
 - 3 Re-route pathway – Not feasible owing to the constraints of church's established consecrated land and the positions of existing graves etc.
 - 4 Remove / replace all trees and refurbish path: This option was refused by the Council's Planning Committee on 10th March 2020 (application ref: CR/2019/0739/TPO).
- 2.4 The current proposal has been put forward in light of the concerns raised by the Planning Committee in March in respect of 'option 4' above. The applicants consider this is a significantly different and 'lighter touch' application than the recently refused proposal.

PLANNING HISTORY:-

- 3.1 CR/2019/0739/TPO - Lime T2 - Fell, Lime T3 - Fell, Lime T4 - Fell, Lime T5 - Fell, Turkey Oak T6 - Fell, Lime T7 -Fell, Wych Elm T8 - Fell, Turkey Oak T9 - Fell, Lime T10 - Fell, Lime T12 – Fell and replace with 12 no. Glastonbury Thorns as per drawing no. P2179 - 014 (amended description) – REFUSED for the following reason:

“The trees have amenity value and make a positive contribution to the approach to and setting of the church, the conservation area and Crawley’s environment. It has not been demonstrated to the satisfaction of the Local Planning Authority that the scheme for the proposed removal of all the trees is justified or that all alternatives have been fully explored.”

- 3.2 CR/2019/0633/TCA - Fell 12 trees which flank the entrance pathway between the lychgate & the church (Objection and TPO served). TPO 12/2019 ‘the Crawley Borough Council Twelve Apostles, St Nicholas Church Tree Preservation Order was made on the 8th October 2019 and protects 12 trees along the church footpath comprising 8 limes, 2 turkey oaks, 1 wych elm and a horse chestnut.
- 3.3 CR/2017/0952/TCA - group of 13 x trees made up of 10 lime trees, 3 x turkey oaks and 1 x horse chestnut tree from entrance down to church - section fell to ground level, grind out stumps and replace footpath. – Request withdrawn

PLANNING POLICY:-

- 4.1 This application must be considered in the context of Part VIII of the Town and Country Planning Act 1990 and The Town and Country Planning (Tree Preservation) (England) Regulation 2012.

National Planning Practice Guidance – “Tree Preservation Orders and trees in conservation areas”.

- 4.2 This states that *“In considering an application, the Local Planning Authority should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it” (Para 089)*

- 4.3 *“When considering an application the authority is advised to:*
- assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area;*
 - consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;*
 - consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;*
 - consider whether any requirements apply in regard to protected species;*
 - consider other material considerations, including development plan policies where relevant; and*
 - ensure that appropriate expertise informs its decision.*

Authorities should bear in mind that they may be liable to pay compensation for loss or damage as a result of refusing consent or granting consent subject to conditions. However, if the authority believes that some loss or damage is foreseeable, it should not grant consent automatically. It should take this factor into account alongside other key considerations, such as the amenity value of the tree and the justification for the proposed works, before reaching its final decision.” (Para 090)

Green Infrastructure Supplementary Planning Document (2016)

- 4.4 This non-statutory document (adopted October 2016) sets out further guidance on the importance of green infrastructure within the Borough. Pages 24 and 25 deal specifically with trees protected by a TPO.

Worth Conservation Area Statement (February 2018)

- 4.5 The document states that St Nicholas Church is at the heart of Worth Conservation Area and the desire to preserve and enhance its character and setting was a key reason for its designation in 1987. The key feature of the area is the rural landscape character of the former low density rural hamlet.

- 4.6 The Church is a Grade I listed Saxon building and the churchyard is integral to its context, that of the Conservation Area and the wider countryside setting that offers “a feeling of tranquil contemplation that reinforces the area’s rural character”. The document highlights that the churchyard is largely enclosed by mature trees and contains a number of mature yew trees. The document also references the ‘narrow avenue of lime trees’ visible on the 1875 map known as the ‘Twelve Apostles’ which lead to the lychgate.
- 4.7 Part 5 in the document entitled ‘Conservation Area Management Plan’ makes specific reference to the avenue of trees stating:
“The Council is aware that the row of trees known as the ‘Twelve Apostles’ in the churchyard of St Nicholas’ are, as a result of root and trunk growth, obscuring access to the path for church users, particularly for people with mobility issues and also pallbearers during funerals. The Crawley Borough Council Arboricultural Officer has advised that the trees are near the end of their natural life, and it is possible that the trees may need to be felled in the near future. Given the important heritage contribution made by the tree-lined avenue, particularly in shaping the secluded rural character of the churchyard, should the trees need to be felled, the tree-lined avenue should be reinstated through replacement tree planting of a suitable species”.

PLANNING CONSIDERATIONS:-

- 5.1 The determining issues in this application are the effect of the proposal on the health, character and appearance of the trees and the level of amenity that they provide within the surrounding area and whether in the light of this assessment the proposal is justified in accordance with the criteria set out in Para 090 of the Planning Practice Guidance.

Amenity value

- 5.2 The two trees are large and mature with an estimated useful life expectancy of 20-40 years. The trees form part of the attractive avenue leading up to the west door of the Church which as a group has the effect of largely screening the Church from view when entering the church yard. T6 and T7, while substantial in form are over mature and the dominant girth of the trunks are a significant feature along the pathway. These two trees are growing closer together and their trunks are causing a significant obstruction to users the pathway.
- 5.3 Whilst the two trees are individually large specimens, they are viewed in the relatively limited landscape context of the churchyard and are not especially visible in wider views from within the conservation area, as they are located closest to the church at the end of the pathway avenue. T6 and T7 are only visible from within the churchyard and considered to contribute very little to the wider green amenity of the conservation area due to their limited visibility from outside of the churchyard.

Justification for the felling the trees

- 5.4 The applicant’s justification for felling the trees is set out in paragraph 2.2, 2.3 and 2.4 of this report.
- 5.5 The trees were planted as part of an avenue over 100 years ago to form a landscaped entrance leading up to the Church. Unfortunately they were planted very close to the edge of the path and over the years they have increased in girth to the point where the path has become badly damaged and uneven. The trees have also narrowed the path to the point that it is becoming increasingly impassable for pallbearers and wheelchair users, with the gap between T6 and T7 being the most narrow with only 800mm separation between them, that will only get narrower as the trees age.
- 5.6 It is considered there is little that can be done to manage the encroachment of the trunks and roots into the path without damage to the amenity or health of the trees. The issue of restricted access as well as the health and safety issues to users of the path (the main route to the church) being caused particularly by T6 and T7 needs to be resolved, but it is considered that this is not possible as long as these two trees remain.
- 5.7 The two trees, but especially the lime, are now over-mature and are posing an increasing risk to those visiting the church. It is considered that their useful life expectancy is now relatively limited

(20-40 years) and their condition will only deteriorate and pose an increased trip hazard risk and increased level of obstruction over time.

- 5.8 It is considered that the applicants have provided a reasonable justification in this case for the removal of these two trees which happen to be causing the most encroachment and damage to the footpath, and are the least visible of the larger group in the wider conservation area.

Protected Species

- 5.9 The trees have not been surveyed for protected species and given their species and maturity protected species may be present. It is therefore recommended that the applicants are reminded of their duties under the Wildlife and Countryside Act and that appropriate checks should be made to ensure that no protected species are present and where found the appropriate licences are obtained for their safe removal prior to the felling of the trees.

Development Plan and Other Material Considerations

- 5.10 The Development Plan and Green Infrastructure SPD acknowledges the significant amenity value that trees (and landscaping) can contribute to the setting of development. It encourages space for trees to be included in designs and landscaping, and that trees with amenity value should be retained. It acknowledges the importance of Tree Preservation Orders in protecting the trees with a high level of public amenity.
- 5.11 The Worth Conservation Area Statement estimates the trees to be over 100 years old, however the Church is of the Saxon period and therefore very much older (over 1000 years old). The trees were planted in Victorian times when avenues of large trees were popular at the time, this reflected the tastes of this period. The Conservation Area Statement while referencing the trees affords them only limited historic significance in the wider context of the Church, churchyard and conservation area. The enclosed wooded boundaries of the churchyard reinforce the wooded character and setting of the Church and rural nature of the conservation area to a much greater degree the trees that are the subject of this application, albeit reference is also made to the importance of the large yew trees within the churchyard.
- 5.12 The Conservation Area Statement does acknowledge the importance of retaining a tree lined avenue leading up to the Church but it is considered that the subject trees, which are now reaching the end of their lives, should be removed and replaced with trees which can be positioned so as not to cause ongoing damage to the path or obstruct its use.

Other Matters

- 5.13 While the representation is noted, the option of rerouting the path has been rejected by the Diocese due to the potential for disturbance to unmarked graves and underlying archaeology. Worth Church has over 1000 years of history and the recording of grave locations only began to be kept relatively recently and it is therefore highly likely that unmarked graves would be disturbed during excavations for any new path route.
- 5.14 It is considered that the removal of T6 and T7 from the end of the avenue would not result in a significant destabilising impact upon the other trees or leave them susceptible to wind forces that they will not easily be able to adapt to. The avenue of trees occupies a relatively sheltered location protected by existing trees around the boundaries of the church yard and the church itself, the site does not therefore have conditions or characteristics which would result in the remaining trees becoming destabilised.
- 5.15 The trees are causing a health and safety hazard and the Church has a duty of care to maintain the site in a safe condition that does not put visitors at risk. It is considered that therefore only practical solution is to remove these two trees to alleviate these risks.

CONCLUSION:-

- 6.1 The two trees are clearly causing damage and access issues for visitors and worshipers at the Church. Furthermore, the trees are deteriorating in condition and have a relatively limited useful life expectancy and could soon begin to pose a risk to the public due to the likelihood of the increased shedding of deadwood etc. (this applies to all the trees within the group that makes up the 'Twelve Apostles').
- 6.2 There would only be very limited loss of visual amenity within the churchyard from the felling of the two trees, with the retained trees within the avenue remaining as a key feature in the churchyard. The impact upon amenity is therefore considered acceptable when weighed against the safety risks and access issues being caused by these two specimens in particular, and the need to balance the direct conflict there with the requirements for safe and adequate public access to the Church to be provided.
- 6.3 It is therefore recommended that the two trees should be removed in order to allow the path to be repaired and that two replacement trees of a similar species be planted further away from the path in order to maintain the ongoing long term amenity of the avenue.

RECOMMENDATION RE: CR/2020/0210/TPO

CONSENT – Subject to the following condition(s):-

1. This consent is valid for a period of two years from the date of this notice and shall only be carried out once.
REASON: To enable the Local Planning Authority to control the works in the interests of good tree management in accordance with Regulation 17 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.
2. All works should be carried out in accordance with BS3998: 2010 'Tree Work Recommendations'.
REASON: In the interests of visual amenity and to ensure the continuing health of the tree(s) in accordance with The Town & Country Planning (Tree Preservation) (England) Regulations 2012.
3. Within 12 months of the felling of trees T6 & T7, the owner of the land shall plant 1 no. Common Lime and 1 no. English Oak, in a location to be agreed with the Local Planning Authority either side of the footpath within the grounds of St Nicholas Church, Worth. The trees shall be not less than nursery standard size and conform to British Standard 3936: Nursery Stock Specification. In the event that the trees die within five years following such planting, they shall be replaced with similar trees in a similar position during the next planting season.
REASON: In the interests of the amenity of environment of the locality in accordance with The Town & Country Planning (Tree Preservation) (England) Regulations 2012.

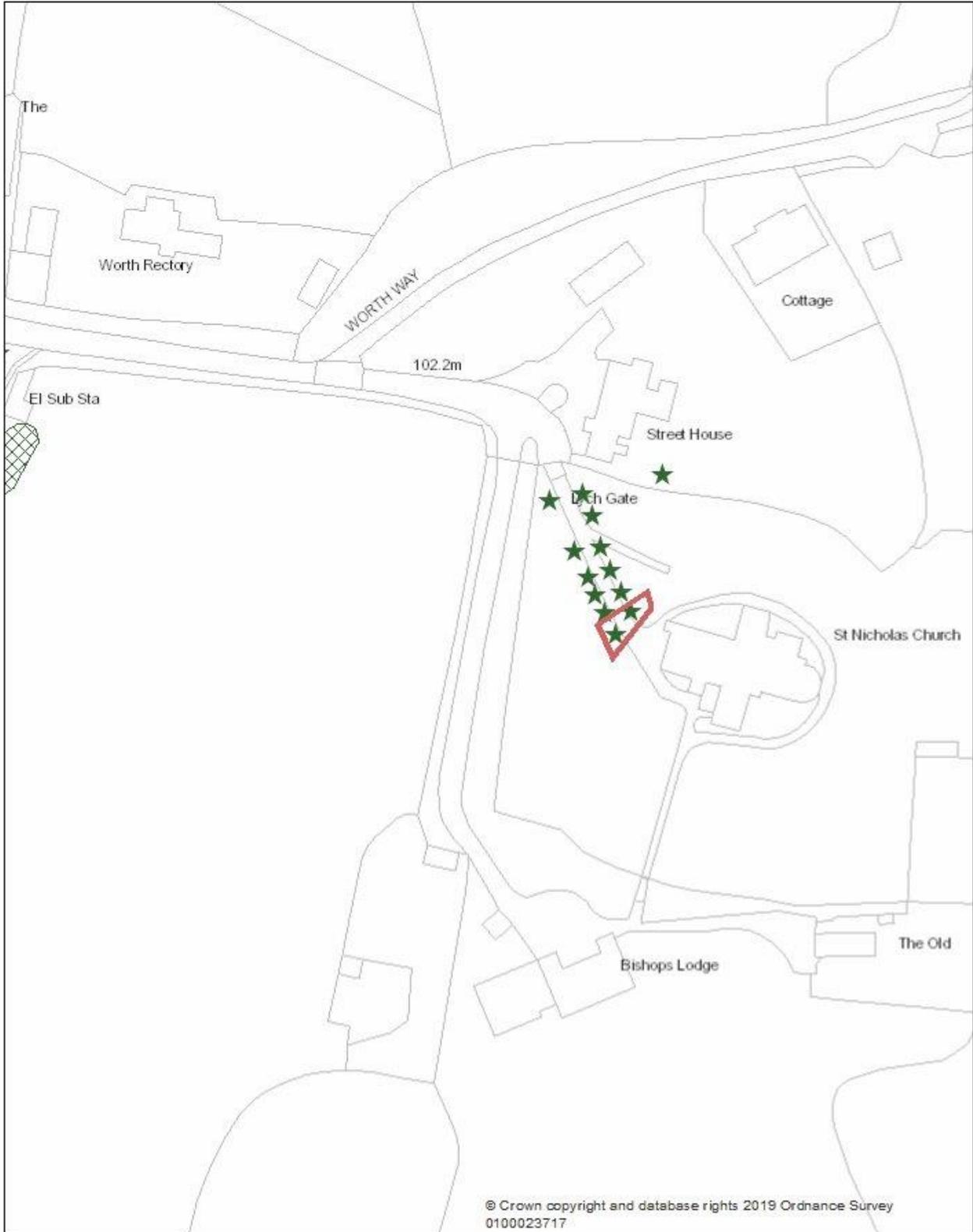


ArcGIS Web Map

Crawley Borough Council
Town Hall, The Boulevard,
Crawley, West Sussex,
RH10 1UZ
Tel: 01293 438000



1:1,000



© Crown copyright and database rights 2019 Ordnance Survey
0100023717