

Crawley Borough Council

Report to Planning Committee

29th January 2018

Objections to the Crawley Borough Council Tree Preservation Order 6, Parham Road - 12/2017

Report of the Head of Economic and Environmental Services – PES278

1. Purpose

- 1.1 This report presents the Crawley Borough Tree Preservation Order 6 Parham Road - 12/2017. The Planning 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 Tree Preservation Order 6, Parham Road - 12/2017 without modification.

3. Reasons for the Recommendation

- 3.1 Consideration has been given to the representation made 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 the report.

4. Background

- 4.1 The tree the subject of this Order is an English Oak tree located within the rear garden of number 6 Parham Road. The tree is located in the western corner of the rear garden adjacent to the boundary with 51 Lavington Close and Parham Road, the crown of the tree overhangs both properties and the highway. The base of the stem could not be assessed as access to the garden was not possible but the tree 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 owner of no. 6 Parham Road where she stated her intention to remove the tree. When the tree was found not to be protected, a desktop assessment was made followed by a site visit, which determined that the tree was a good example of the species with high amenity. Parham Road is characterised by large mature trees both on CBC and Highways land as well as in private ownership, the tree is a large and mature specimen and makes an important contribution to the green amenity. The LPA therefore decided to protect the tree in order to ensure its continued contribution to the green amenity of the area.
- 4.3 The provisional Tree Preservation Order was made on 18th August 2017 and remains provisionally in force for a period of six months until 18th February 2017. 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:

6 Parham Road, Crawley, RH11 0ER

Owners and occupiers of adjoining land affected by the TPO:

4 Parham Road, Crawley, RH11 0ER

50 Lavington Close, Crawley, RH11 0HX

51 Lavington Close, Crawley, RH11 0HX

West Sussex County Council

- 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 22nd September 2017. 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 owner objecting to the Tree Preservation Order. The following reasons have been submitted for consideration.

Amenity and Safety Issues

- Acorns constantly fall into garden and have hit the objectors children several times
- Bird mess constantly falls into garden and onto washing hanging on the line as well as children's bikes etc.

Other

- The roots caused damage to the garage which has had to be demolished, the erection of a new garage is not possible as the same thing will happen again.
- Leaves constantly fall into garden causing the garden to look messy.

6. Amenity Value/Assessment and Consideration of the Representations

Amenity and Safety Issues

- 6.1 The dropping of seeds/fruit and leaves are a normal part of a trees life cycle and are considered a seasonal nuisance and not a legal/actionable nuisance. It is not therefore considered justifiable to remove a tree with such significant amenity value due to acorns falling in the garden and should be accepted as a normal part of living in a natural, green environment.
- 6.2 The removal of a tree with significant amenity value cannot be justified due to bird droppings and is not considered a legal/actionable nuisance as it can be easily cleaned up with soapy water. The nuisance can most affectively be abated by eliminating food sources as this is main attracting factor of birds to a particular area. The presence of abundant food will also encourage birds to breed more often (Feral Pigeons can raise up to 6 clutches a year when food is plentiful). Other deterrent methods can be effective such as models of birds of prey or kites. All wild birds and nests that are being built or in use are protected by the Wildlife and Countryside Act 1981 and their disturbance could result in an unlimited fine and/or a prison sentence.

Other

- 6.3 There is no justification for removing a visually significant and important tree in order to build a garage, regardless of the fact that there was previously a garage in that location. There are special techniques for constructing minimally invasive foundations within RPAs (root protection areas) of trees that will have a minimal impact on the tree's root system such as piled foundations which could allow the

garage to be constructed an adequate height above ground level (for example 200mm) in order to allow deformation of the ground without affecting the building.

- 6.4 As in 6.1 above, leaf fall is a normal part of a tree's life cycle and is not justification for felling a visually important tree.

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.

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 Tree Preservation Order 6 Parham Road No 12/2017

Contact Officer: Russell Spurrell
Direct Line: 01293 438033
Email: russell.spurrell@crawley.gov.uk

SCHEDULE
SPECIFICATION OF TREES

Trees Specified Individually
(encircled in black on the map)

Reference on Map	Description	Situation
T1	English Oak	Grid Ref: TQ-24995-37402

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

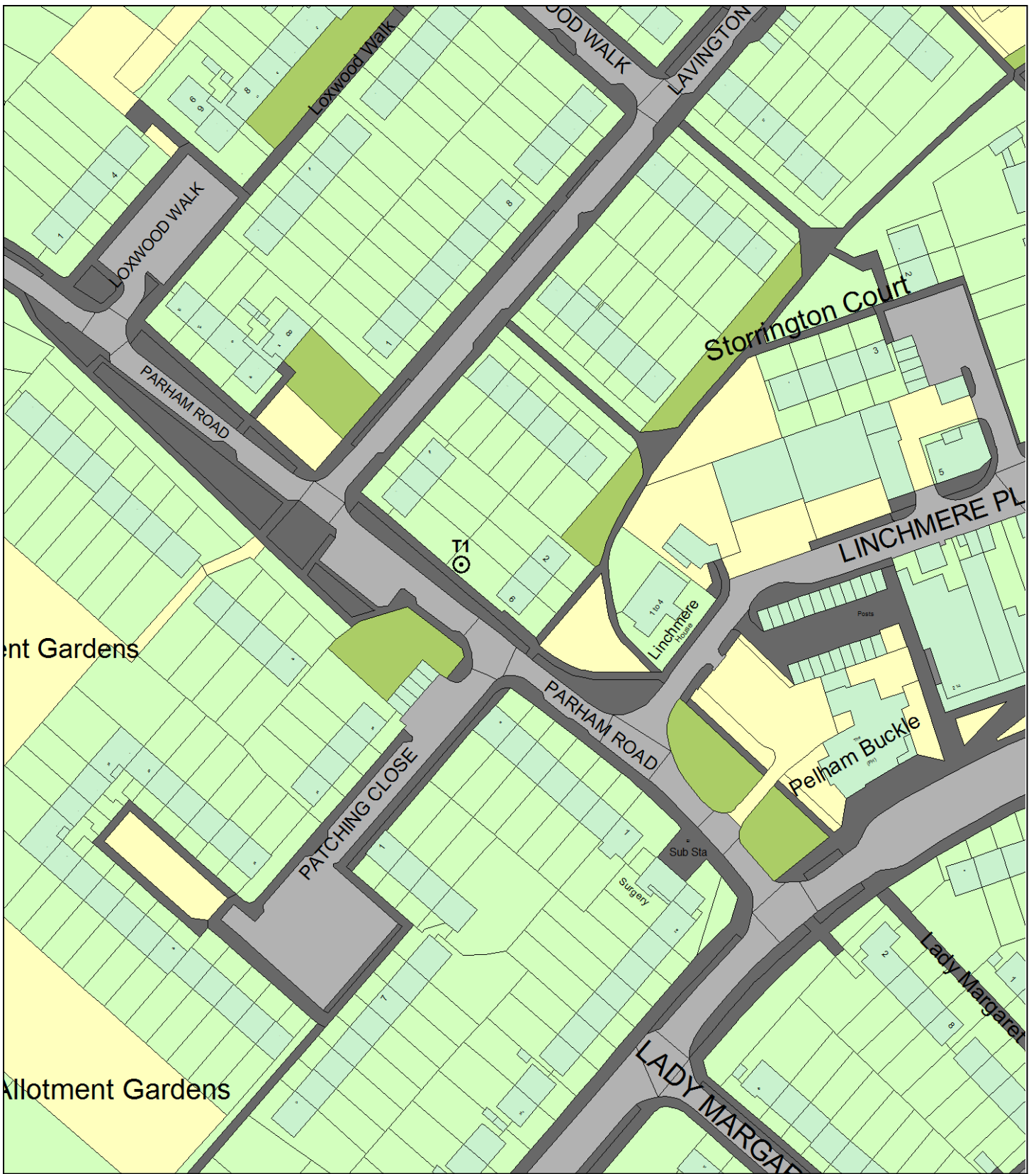
Reference on Map	Description	Situation
NONE		

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 12/2017
6, Parham Road**

**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 05/01/2018

© Crown copyright and database rights 2014 Ordnance Survey 0100023717

