

Crawley Borough Council

Report to Planning Committee 20th November 2018

Objections to the Crawley Borough Council Tree Preservation Order - Yew Tree to Rear of 28 Church Street - 12/2018

Report of the Head of Economy and Planning PES 308

1. Purpose

- 1.1 This report relates to a yew tree to the rear of 28 Church Street, West Green currently protected under TPO Reference No: 12/2018. The Committee is requested to consider the objection(s) 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 Yew Tree to Rear of 28 Church Street - 12/2018 without modification.

3. Reasons for the Recommendation

- 3.1 The tree is considered under threat due to a request for its felling received by the Local Planning Authority. The tree is considered worthy of protection as it has good shape and form and good amenity value and is visible in the surrounding area. The tree has a well-balanced and healthy crown and has significant long term potential.

4. Background

- 4.1 The tree the subject of this order is located between 28 Church Street and 60-62 Ifield Road, on a strip of land between 60-62 Ifield Road and the outbuilding to the rear of 28 Church Street. The crown of the tree overhangs the outbuilding and service yard of 28 Church Street as well as the neighbouring properties of 60-62 and 64 Ifield Road.
- 4.2 The tree is within St Peters Conservation Area and was protected following receipt of a Section 211 notice to fell the tree. Upon visiting site and assessing the tree it could be seen that the tree was a particularly fine example with good visibility from Ifield Road/Church Street, Alpha Road and Prospect Place and was considered to contribute significantly to the green amenity of the area.
- 4.4 The provisional Tree Preservation Order was made on 15th June 2018 and remains provisionally in force for a period of six months until 15th December 2018. 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:

- 28 Church Street, Crawley, RH11 7BG
Rosemount, The Pitts, Ventnor, PO38 1NT

Owners and occupiers of adjoining land affected by the TPO:

- 60-62, Ifield Road, Crawley, RH11 7BQ
- 64, Ifield Road, Crawley, RH11 7BQ
- 26, Church Road, Crawley, RH11 7BG

- 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 20th July 2018. Confirmation of the order is required within six months of the date upon which the Order was provisionally made.
- 5.3 A representation has been received from the occupier of the land objecting to the Tree Preservation Order.
- 5.4 The reasons for objection are as follows:
- The tree has outgrown its position and is causing damage to the outbuilding, the roots have also extended beneath 60-62 Ifield Road. A structural report was provided as evidence.
 - The size of the tree makes maintenance and improvement of the outbuilding impossible.
 - Concerns have been raised regarding the toxicity of the tree and adverse health effects.
 - The tree blocks light from the surrounding area.

6. Amenity Value/Assessment

- 6.1 The imposition of a TPO does not prohibit remedial works to be undertaken, provided that the works are justified and consent has been granted, containment pruning is a normal part of managing a tree in an urban setting and applications for a reasonable level of pruning are likely to be approved provided that these works will not result in an erosion of the tree's health or amenity.
- 6.2 The engineer's report states that the outbuilding has been damaged, chiefly the roof, by the movement of the crown in high winds. Clearance pruning of selected branches is often required when trees are in close proximity to buildings and again this is something that can be applied for. The report also mentions that the west wall and floor slab is cracked though the author admits that this is not as severe as would normally be expected given the proximity of the tree. It would be entirely possible to rebuild the outbuilding with foundations which would mitigate the impact of root action and to regularly prune the crown in order to maintain adequate clearances.
- 6.3 Finally the report states that the roots of the tree are affecting the drainage from the neighbour's external WC and is more than likely affecting the main drains to the house although this is supposition and no evidence of this has been submitted. There has been no written representation received from the neighbouring property in relation to the TPO.
- 6.4 The objector states he suffers from itchy skin, aching joints and lethargy which he considered could be caused by the yew tree pollen. There is considered inadequate evidence to implicate the tree on health grounds. There is no proof that the yew is a male tree (which is the source of cytotoxic pollen sometimes attributed to these symptoms). No medical evidence has been provided by the objector to confirm these symptoms or implicate the tree. Many trees flower and release pollen for a limited period and can trigger hay fever for a temporary period. The flowering season of Yew is only approx. 6 weeks from mid March to the end of April. This is not considered justification for removal of the tree.
- 6.5 The objector states that the tree blocks light from the yard to the rear of the property, where the tree is located and that he uses the yard to sit in the evenings as this is his only 'garden'. The land to the rear is primarily a service yard for the shops and should not therefore be considered as a garden. If

the tree is causing shading to the area this would not be considered an issue or justification for removing the tree since this does not adversely affect the intended use of the area.

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 this tree 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 Yew Tree To Rear Of 28, Church Street - 12/2018

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SCHEDULE
SPECIFICATION OF TREES

Trees Specified Individually
(encircled in black on the map)

Reference on Map	Description	Situation
T1	Common Yew	Grid Ref: TQ-26299-36649

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 12/2018
Yew Tree To Rear Of 28, Church Street

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 29/10/2018



