

REPORT FOR CONSIDERATION AT PLANNING SUB-COMMITTEE

1. APPLICATION DETAILS

Reference No: N/A

Ward: St. Ann's

Address: 11 Conway Road, South Tottenham, London, N15 3BB

Proposal: To confirm the Tree Preservation Order (TPO) for a tree in the rear garden of No 11 Conway Road.

Applicant: N/A

Case Officer Contact: Alex Fraser

Date received: 08/04/2016

Drawing number of plans: The London Borough of Haringey (11 Conway Road N15 3BB) Tree Preservation Order.

- 1.1. This matter has been brought to committee because it pertains to the procedure for confirming objected TPOs.
- 1.2 The Council's constitution does not include delegation for any actions relating to tree preservation orders. See paragraph 2.3 for future 'tree preservation orders' applications.

1.3 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- To preserve the existing tree which has significant amenity value

2. RECOMMENDATION

- 2.1 That the Committee resolve to APPROVE the confirmation of the TPO and that the Assistant Director Planning is authorised to take all the necessary steps required in connection with the confirmation of the TPO (and to further sub-delegate this power).
- 2.2 In the event that member choose to make a decision contrary to officers' recommendation members will need to state their reasons.
- 2.3 This report also seeks authorisation from the PSC to delegate all powers regarding tree preservation orders (and the ability to further sub-delegate these powers) to the Director / AD for Planning SAVE for tree preservation orders that

have objections to them this report seeks authorisation from the PSC to delegate all powers relating to these (and the ability to further sub-delegate these powers) to the Director / AD for Planning subject to agreement with the Chair or Vice-Chair.

This is sought because the existing constitutional arrangements require all matters in respect of tree preservation to be approved by PSC. This arrangement is considered impractical and the temporary arrangement described above is, therefore, recommended until the constitution is amended.

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3. PROPOSED DEVELOPMENT AND LOCATION DETAILS

Proposed Development

- 3.1. A tree preservation order was made for the protection of a 'Cypress' tree in the rear garden of No 11 Conway Road on 7 April 2016 (a copy of which is at Appendix 1) An objection to the TPO was received from the owner of 11 Conway Road on 13 April 2016. The TPO will cease to be of effect if it is not confirmed within 6 months of having been made. The Committee is requested to confirm this TPO.

Site and Surroundings

- 3.2. The subject site is the rear garden of a two storey end of terrace property on the north side of Conway Road. The tree in question is located close to the shared boundary with the garden of the adjoining property no.46 Woodlands Park Road (western boundary) approximately 5m from the rear elevation of the property. See Appendix 2 for a photograph.
- 3.3. The site is not within a designated conservation area.

Relevant Planning and Enforcement History

- 3.4. No relevant history

4. CONSULTATION RESPONSE

- 4.1. The following were consulted regarding the TPO:

- LBH Arboriculture & Allotments Officer

- 4.2. The following responses were received:

LBH Arboriculture & Allotments Officer:

- 4.3. The majority of the tree crown is clearly visible from a public place. National Planning Practice Guidance provides that only part of a tree needs to be visible from a publicly accessible road, footpath or park, to meet the criteria. It was reported that a number of trees had been removed recently from rear gardens in the vicinity and it was believed this tree was also under threat. This evergreen tree provides valuable all year round screening between properties that are in fairly close proximity and it also helps to soften the built environment.
- 4.4. The tree appears healthy and its upright shape makes it suitable to a small garden with minimal future maintenance requirements. In my opinion, it has a predicted life expectancy of 20-40 years, and will therefore continue to provide the known range of quantifiable benefits to residents and the local area for many years.

4.5 The tree is a fairly uncommon species of Cypress. As the tree is evergreen, it provides a habitat all year round. In addition to providing nesting and roosting opportunities for birds, it will also give a home to insects which in turn offer a food source for the birds. I believe its loss would have a detrimental impact on the local landscape.

5. LOCAL REPRESENTATIONS

5.1. A letter was received on 13 April 2016 from the owner/occupier of No 11 Conway Road, following receipt of the Council's letter (dated 8th April 2016) notifying that a TPO has been placed on a tree in the rear garden (see Appendix 3). This objection is summarised below, with officer comments in brackets, where necessary.

- A chartered surveyor has recommended that the tree be felled. *(There is a report from Crawford acting as loss adjusters. This report was instigated by the house holder who was claiming for subsidence. The Surveyor recommended that the tree be felled. However, the surveyor failed to forward any convincing argument, other than to abate a potential nuisance of subsidence. This advice appeared to be generic in nature and could apply to many trees. Further, the surveyor reported that there was insufficient evidence to back the subsidence claim, which should therefore be repudiated by the insurer)*
- Potential for damage to people and/or property. *(The report deals with perceived risks of tree causing physical damage in inclement weather, which could apply to any tree. There are no specific hazards mentioned that apply to this tree. There is also a claim that the cost of such damage leads to a potential loss. House holders should ensure that they are adequately covered in this eventuality)*
- Does not believe the tree is of high amenity value. *(In pursuance of "Regulation 5" the owner: 1 (a) Claims the tree is not fully visible. Neither the Town and Country Planning Act 1990 nor the Town and Country Planning (Tree Preservation) (England) Regulations 2012 ("the Legislation") have any provisions on the degree of visibility. The claimant admits that the tree is visible from a public place. 1 (b) Claims that in future, the tree could grow to a size where it could be a nuisance. The Legislation allows for periodic maintenance. 1 (c) Claims that the tree is a habitat for wildlife. This does not constitute any grounds for removing the tree)*
- The tree is currently home to a pair of wood pigeons classified according to the IUCN Red List of Threatened Species as 3.1 Conservation Statue – Least Concern. Any future maintenance would need to take this into consideration *(No Comments)*

- Would like to be able to keep the tree trimmed and safe in future in line with professional advice. The objector states he has no intention to fell the tree and claims that she will continue to maintain it responsibly, given the right to do so (*No Comments*)

6. MATERIAL CONSIDERATIONS

- 6.1. The main planning issues raised by the proposed development are:
1. Amenity value of the tree
 2. Health of the tree

Amenity value of the tree

- 6.2 The Planning Practice Guidance for Tree Preservation Orders states in Para 008 *'The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath'*. As noted above in the Arboriculture & Allotments Officer's comments, the majority of the crown of this tree is clearly visible from a public vantage point.
- 6.3 It has also been reported that a number of other trees had also been removed from neighbouring rear gardens in the vicinity and therefore concerns were raised about further potential loss. The tree is evergreen, and provides valuable all year round screening between properties that are in fairly close proximity, and also helps to soften the built environment.
- 6.4 The Arboriculture & Allotments Officer states that the Cypress provides nesting and roosting opportunities for birds, it will also give a home to insects which in turn offer a food source for the birds. Overall, its loss would represent a detrimental impact on the local landscape.

Health of the tree

- 6.5 The Arboriculture & Allotments Officer considers the tree to appear healthy and its upright shape makes it suitable to a small garden with minimal future maintenance requirements. In their expert opinion, it has a predicted life expectancy of 20-40 years, and will therefore continue to provide the known range of quantifiable benefits to residents and the local area for many years.

Conclusion

- 6.6 Following comments received by the LBH Arboriculture & Allotments Officer it is considered that the concerns raised by the objector are not wholly substantiated and that the objection to The London Borough of Haringey (11 Conway Road N15 3BB) Tree Preservation Order should not be upheld, and the TPO confirmed.

7. RECOMMENDATION

7.1. See Section 2

Appendix 1: The London Borough of Haringey (11 Conway Road N15 3BB) Tree Preservation Order

Town and Country Planning Act 1990

The London Borough of Haringey (11 Conway Road N15 3BB) Tree Preservation Order 2016

The London Borough of Haringey, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 makes the following Order –

Citation

1. This order may be cited as The London Borough of Haringey (11 Conway Road N15 3BB) Tree Preservation Order 2016.

Interpretation

2. (1) In this Order “the authority” means The London Borough of Haringey
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall –
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 7 day of April 2016

The Common Seal of The London Borough of Haringey was affixed to this Order in the presence of –



.....
Authorised Officer

P. d. [unclear]



CONFIRMATION OF ORDER

This Order was confirmed by The London Borough of Haringey without modification on the day of

OR

This Order was confirmed by the London Borough of Haringey, subject to the modifications indicated by

on the day of

Signed on behalf of the London Borough of Haringey

.....

Authorised by the Council to sign in that behalf

5072

Planning Service



Stephen Kelly Assistant Director Planning Service

Date: 10 February 2016 Ref: GN/2016 your ref:

To: Maria Lottari
Corporate Legal Service
Alexandra House
Station Road N22

From: Gerzie Newell
Technical Support DC
Planning Policy & Development
6th Floor River Park House
225 High Road N22 8HQ

REPORT RECOMMENDING THE MAKING OF A TREE PRESERVATION ORDER

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
Part 8 Special Controls Chapter 1 - SECTION 198

Site: 11 Conway Road N15

The council's Arboriculturalist has recommended that a T.P.O. be placed on the following tree

Species: T1.Cypress

Location: Rear Garden -11 Conway Road N15

Condition: Good

Life expectancy: 20-40 years +

Proposal: None Perceived threat to tree

A Tree Preservation Order should be attached on the following grounds:

- 1. The trees is of high amenity value being clearly visible from a public place
2. The trees appears healthy for its age and species and has a predicted life expectancy of excess of 40 years
3. The tree is a semi-mature ornamental species and provides a habitat for wildlife

Please apply a section 201 direction to take immediate effect

The council's Arboriculturalist recommended that a T.P.O. be placed upon the above tree/s as a matter of URGENCY.

I would be grateful if the Borough Solicitor takes all necessary action to place a Tree Preservation Order on the aforementioned tree/s.

Signed

[Handwritten signature]

Emma Williamson
Head of Development Management & Planning Enforcement

Planning Service
6th Floor, River Park House,
225 High Road, Wood Green,
London N22 8HQ

T 020 8489 5504

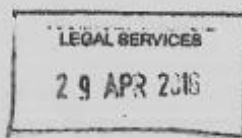
www.haringey.gov.uk



Appendix 2: Image



Appendix 3: Objections



11 Conway Road
London
N15 3BB

Your ref: LEG/PP/50072/HXF

13th April 2016

RECORDED DELIVERY

Mr Henry Fitch
Senior Planning Lawyer
London Borough of Haringey
Haringey Council Legal Services
7th floor, Alexandra House
10 Station Road
Wood Green
London N22 7TR

Dear Mr Fitch

Re: London Borough of Haringey (11 Conway Road N15 3BB) Tree Preservation Order 2016

Thank you for your letter dated 8th April 2016 informing me that a tree preservation order has been placed on a tree located in the rear garden of my property at the above address. I must admit that I was very surprised to receive this as no-one has been to inspect the tree or has sought any information about it. I did try to contact your office by telephone on several occasions but was not able to speak to you.

I would like to register my objections to the Order on the following grounds:-

1. Chartered Surveyor has recommended tree be felled

A Chartered Surveyor, instructed by my buildings insurance company in 2014 to inspect cracks which had appeared on the external wall of my property, made a recommendation that the tree be felled as a 'preventative measure to ensure that roots from this tree do not cause subsidence in the future.' He makes particular reference to the fact that tree roots can be troublesome in cohesive clay soils such as is found in London due to their tendency to induce volumetric change. He also comments that Cypresses are often associated with subsidence as they are very fast growing. A copy of his letter of recommendation and report are attached for your information.

Please note the diagram on page 5 of the report under the section entitled Vegetation which shows the possible root zone of a tree of this height which could possibly extend to underneath my property. As the tree is also equally close to some of my neighbours' properties, this presumably has the potential to affect the foundations of other properties in addition to my own.

2. Potential for damage to people and/or property

The tree in question is higher than the house (approx. 11/12 metres high) and is 5 ms from the back of my property, approx 6 ms from the property adjoining mine, 13a Conway Road, and approximately 6/7 ms from nos 46a and 46b Woodlands Park Road. Several of my neighbours, having seen the amount of movement of the tree in storm conditions, have expressed their concern with regard to the damage that could be caused should the tree be damaged in storm conditions and fall.

A branch did break during a storm last winter but fortunately fell into my own garden and did not cause any damage. It can get very windy in the garden and I am concerned that the tree might fall and cause damage to people and/or property. Apart from the potential damage this could cause, I am also naturally concerned about the financial implications should this occur and I be held responsible. I would like to retain the responsibility to make quick decisions about the safety of the tree.

Particulars pursuant to Regulation 5

In response to the grounds on which the Order was made, I would respond as follows:-

1 a)

Your Order states that 'the tree is of high amenity value being clearly visible from a public place.' I am not aware of the precise definition of 'high amenity value' but would draw your attention to the fact that the tree is located in the rear garden of a property located at the end of a row of terraced houses and is only partially visible to the public from a small section of Conway Road.

Only the top section of the tree is visible and that only from the opposite side of Conway Road due to the high wall that runs between the pavement and the garden of no 50 Woodlands Park Road. Any trees or high planting in the 5 gardens between the street and the tree would further obstruct the public view. I have marked the area from which the tree is visible to the public on a copy of your plan which shows the position of the tree.

The tree is only therefore really visible to my immediate neighbours and then only the section of the tree above the fences which surround my garden.

1 (b)

Whilst the tree does appear to be healthy for its species and age, I would draw your attention to my earlier comments with regard to the size of the tree and the proximity to surrounding properties and the potential effects on structural stability. As the tree continues to grow, the roots will be an ever-increasing risk to neighbouring property stability.

1 (c)

With regard to wildlife, it would appear that the tree is currently home to one pair of wood pigeons which are classified according to the IUCN Red List of Threatened Species as 3.1 conservation status - Least Concern. Any maintenance of the tree, were the Order to be revoked, would obviously take this into careful consideration and great care taken with regard to the birds. There are also several other trees in the garden in which the birds could make their home.

Previous maintenance


At the end of 2011 I had the tree in question crowned by a professional tree surgeon following his expert recommendations regarding the safety of such a tall tree in close proximity to residential property. I have not done anything about the Surveyors' recommendations to date as I am disinclined to fell the tree and, in part, also due to the cost involved. I would however like to be able to keep it trimmed and safe in line with professional advice.

I am very observant of the natural environment in my garden and do my utmost to maintain it to the best of my ability and keep all trees, shrubs, plants and wildlife safe from harm. I have been the custodian of this tree for the past 23 years since I bought the property and believe I have maintained it responsibly. At time of writing I have absolutely no desire to fell the tree but would like to retain the right to maintain it in a safe condition that does not pose a threat to the safety of people and properties nearby without constant recourse to the Borough for permission.

I very much hope that, having considered the above, you will decide to revoke the Order. I would welcome the opportunity to discuss this matter further and would be happy to arrange a site visit should you consider it beneficial to see the tree for yourself.

I look forward to hearing from you.

Yours sincerely



Hilary Easlea