

APPEALS PANEL – 9 NOVEMBER 2021

**OBJECTION TO TREE PRESERVATION ORDER - TPO / 0009/21 - LAND OF 47 SYLVIA CRESCENT, TOTTON**

**1. SUMMARY OF MAIN ISSUES**

The key issues are:

1. The public amenity value of the tree and its value to the wider community.
2. The expediency to protect these trees

**2. TREE PRESERVATION ORDER HISTORY**

The tree is situated in the rear garden towards the rear boundary of 47 Sylvia Crescent. The tree is centrally located within the crescent on encroaches a number of neighbouring gardens.

The order was made as result of request from a member of the public who was concerned that due the property being sold, that the tree would be removed.

A TPO was made in June 2021.

The incoming owner of the site, Mr Curtis, put in writing his objections to the order and a further 6 neighbours also objected to the order.

**3. The Tree**

The Tree Preservation Order covers a single individual mature English oak. The tree is visible from around Sylvia Crescent.

**4. Objections to the Order**

Mr Curtis put his objections in a letter received on 08 July 202. The main points are summarised below:

- Amenity – local people do not consider this tree to have public amenity.
- The tree shades/dominates at least 5 gardens.
- Falling acorns, leaves and small branches are a nuisance.
- Concern that the roots of the tree are/have the potential to damage the garden.
- It is unfair to place the tree under TPO now, the tree has been here a long time and was not previously protected. Mr Curtis only bought the property on the understanding that the tree was not protected.
- The tree is unsuitable for the location it is situated in.

Mr & Mrs Prout – 13 Sylvia Crescent

- Dominates property
- Alleged damage to raised vegetable bed and patio.
- Leaf fall is convenient.
- Shading of gardens and dwellings.
- Potential damage to buildings through the action of the roots of the tree.

Mr Dunn – 41 Sylvia Crescent

- Does not contribute to amenity
- Leaf fall is inconvenient.
- Acorns are dangerous to pets.
- Potential damage to buildings through the action of the roots of the tree.

Mr Whitehorn – 7 Sylvia Crescent

- Tree over dominates
- Shading of gardens and dwellings.
- Leaf fall is inconvenient.
- Concerns of safety of the tree.

D. R. Scorey - 45 Sylvia Crescent

- Shading of gardens and dwellings.
- Leaf and acorn fall are inconvenient.

D Maidment - 9 Sylvia Crescent

- Does not contribute to amenity
- Shading of gardens and dwellings.
- Leaf and acorn fall are inconvenient.

C Cashmore - 53 Sylvia Crescent

- Shading of gardens and dwellings.
- Leaf and acorn fall are inconvenient.

## **5. COMMENTS ON THE GROUNDS GIVEN FOR OBJECTION**

- Amenity – this is not defined within the TPO legislation although it has become accepted that it generally means that that a tree, group of trees or woodland are visible from a publicly accessible place. The individual Oak tree subject to this Tree Preservation is clearly visible from the public highway.
- The tree is a large specimen English oak tree. This tree does overhang several rear gardens within Sylvia Crescent and will cast shade to adjoining gardens. However, all the properties affected by this benefit from generous gardens and no dwelling is within 20m of this tree.
- Natural debris such as falling leaves, acorns and small twigs are a natural consequence of living close to trees.
- 'The imposition of the TPO is unfair, the property was only purchased on the understanding that the tree was not protected and could be removed' - Throughout the district there are significant trees that are not protected, either because it has

not been deemed expedient to protect the tree, (there is no known threat to the tree) or they have just not come to the attention of the tree department and assessed. The concern about the removal of this tree was raised by a member of the public who was aware that the property was being sold and this made the tree team aware that this mature Oak tree was not protected and was possibly under threat of removal.

- 'Damage to buildings from the tree'. No evidence or signs of damage caused by the tree have been submitted. Adopting the strategy of removing a tree for the potential to cause damage without any evidence or analysis of the likelihood in the future would result in the removal of all trees in residential gardens and would significantly reduce the verdant character and wellbeing of urban and suburban residents. If evidence of any damage is submitted in the future then removal of the tree could be consented through a tree work application.

## **6. POLICIES**

### **Relevant Legislation**

Town and Country Planning (Tree Preservation) (England) Regulations 2012

## **7. PLANNING HISTORY**

None

## **8. PARISH / TOWN COUNCIL COMMENTS**

**Totton and Eling Town Council:** No comments submitted

## **9. COUNCILLOR COMMENTS**

None

## **10. CONSULTEE COMMENTS**

None

## **11. OTHER REPRESENTATIONS RECEIVED**

Mr Billenge - 49 Sylvia Crescent

- Tree is in need of attention but would like to see it retained.

Mr Grapes - 3 Sylvia Crescent

- Supports wildlife and is a beautiful tree.

## **12. RECOMMENDATIONS**

A local planning authority may only make a tree preservation order where it appears to the authority that it is expedient to protect a tree or woodland in the interests of amenity.

This Oak tree clearly contributes to the amenity of the area and it is clear that the new owner of the property would remove this tree if it was not protected and therefore in the interest of public amenity it is recommended that this Tree Preservation Order be confirmed.

**For further information contact:**

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