

Report to: Planning Applications Committee

Date: 11 October 2023

Title: Tree Preservation Order No. 6 2023 - Crouch Gardens, Bramber Road, Seaford

Report of: Head of Planning

Ward (s): Seaford South

Purpose of report: To report to Committee the objections and/or representations made in respect of the provisional Tree Preservation Order (No.6) 2023.

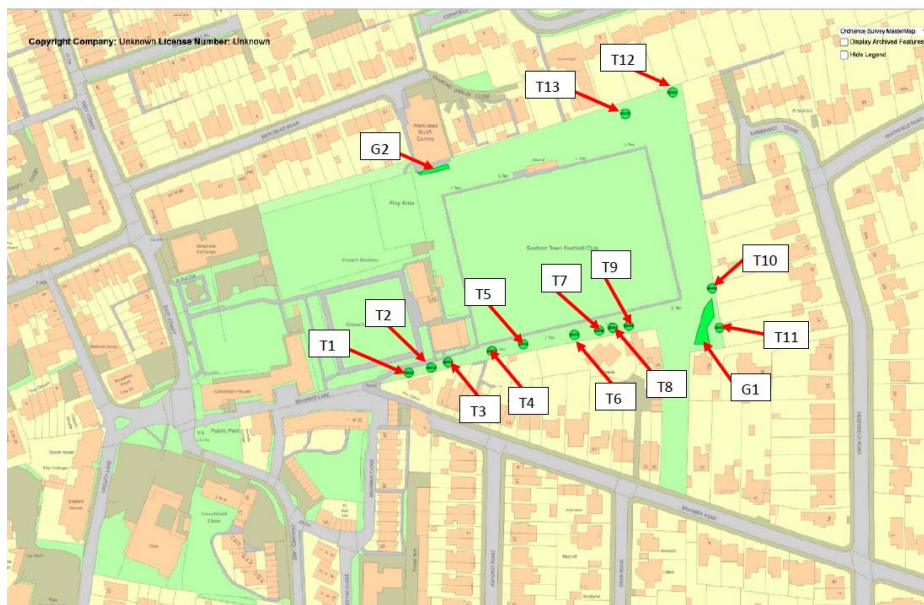
Officer recommendation(s): To confirm without modification Tree Preservation Order (No.6) 2023.

Reasons for recommendations: It is considered that the trees specified in this order are of high public amenity value as specimens and group value.

The Council is under a duty to protect important trees where appropriate under Section 197 of the Town & Country Planning Act 1990.

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Location Plan



1 Introduction

- 1.1 In accordance with The Town and Country Planning Act 1990, if it appears to a local planning authority that it is expedient in the interests of amenity to make

provision for the preservation of trees, they may for that purpose make an order with respect to such trees as may be specified in the order.

- 1.3 The Town and Country Planning (Tree Preservation) (England) Regulations 2012/605 provides for the procedure for making tree preservation orders. A tree preservation order comes into force on the date it is made, which in this case was 13 April 2023 and lapses after six months, unless the Local Planning Authority (LPA) have confirmed it.
- 1.4 The 2012 regulations state that the LPA shall not confirm an order which they have made unless they have considered the objections and representations made, after which they may confirm with or without modification, or not confirm the order.
- 1.5 The Order has been raised given the high amenity value that the trees possess as individual specimens and as a group.

A full assessment of the trees – groups of trees have been assessed in accordance with current best practice and are considered merit worthy for protection.

2 Site Description

- 2.1 Seaford Town Council own the Park.
- 2.2 Crouch Gardens, a public park in Seaford, with access from Bramber Road. The park is surrounded by residential properties in Bramber Road (nos. 1-17, 29, 31-33, 37, The Gables, The Orchards), Mercread Road (nos. 17-22 consec), Diamond Jubilee Close (nos. 1-6 consec), Cornfield Road 1, 5-9, Stoneleigh), Bainbridge Close (1-6 consec.) and Heathfield Road (17-29).
- 2.3 Crouch Gardens includes both passive and active recreational uses included Seaford Football Club, Seaford Bowls Club, a play area, and a community garden.

3 Representations

- 3.1 The Scheme of Delegations provide that The Director of Regeneration and Planning has delegated powers to deal with tree preservation orders except when objections to the making of the Order have been received then confirmation with or without modifications of the Order shall be referred to the Planning Applications Committee for determination.
- 3.2 There has been one short note of concern from Seaford Town Council and 23 letters of support in relation to the provisional order.

The Town Council objection was that the TPO was being sought on the premise of a risk threat by Seaford Football Club and their ambitions for the clubs development through the football pyramid.

The specimen trees and groups of trees have been independently assessed using best practice and they are considered merit worthy in and of themselves and help to provide high value amenity and ecological assets to the open public parkland area.

4 Information

- 4.1 The Committee's principal consideration should relate to the visual 'amenity' value of the tree. Consideration should be given to the desirability of preserving or enhancing the character or appearance of the area.
- 4.2 The size and height of trees, or the fear of it falling is not sufficient reason in itself to allow the lopping, topping or removal of important trees. Research by the centre for decision analysis and risk management (DARM) demonstrates that the overall risk to the public from falling trees is extremely low (about 1:10 million chances of an individual being seriously injured or worse) and broadly well within the Tolerability of Risk Framework (ToR). ToR is recognised internationally and by the UK's Health & Safety Executive (HSE) as way of assessing, quantifying, and managing risk.
- 4.3 The deposition of leaves, seeds and general tree dander is a natural consequence of nature and is not considered to be a material consideration in this case. The clearance of fallen leaves (needles), flowers, pollen etc is considered to be a routine part of ordinary household and garden maintenance.
- 4.4 No evidence has been submitted to corroborate that the trees are causing actual localised differential soil shrinkage or subsidence damage to nearby building structures.
- 4.5 It is reasonable for the tree (s) owner (Seaford Town Council) to expect permission to prune trees where considered necessary for safety reasons branches that are touching damaging boundaries, or about to touch through incremental growth building structures. A tree work application submitted in the normal way will be assessed so as to consider whether or not the proposal is justified, having regard to the reasons put forward in support of it.

5 Material Considerations

- 5.1 It is considered that the trees both merit and qualify for a Tree Preservation Order.
- 5.2 It is considered that the protection of the trees meets the purposes to conserve and enhance the natural beauty, wildlife, and cultural heritage of the area.
- 5.3 The relative risks to people and/or property is regarded to be statistically so small as to be practicably negligible and as a consequence is not considered to be a material consideration in this case.
- 5.4 The shedding of leaves, seeds etc is not considered to be a material consideration and is instead regarded as a consequence of the natural

environment. The clearing of material such as fallen leaves is considered to be a routine part of ordinary household maintenance.

5.5 With regards claims concerning potential harm or damage to property the Council can reconsider its position in the light of any evidence put forward that would support claims of this nature.

5.6 In deciding whether a tree merits a TPO, the LPA's main consideration should be the amenity value of the tree. Even if the tree's amenity value may merit a TPO the authority can still decide that it would not be expedient to make one.

'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm a TPO they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

Summary

The relative visual amenity value of the tree (s) and groups of trees is considered to outweigh the reasons given against the imposition of the Order and for this reason the imposition of the TPO is considered to be justified.

6 Financial appraisal

6.1 There are no financial implications for the SDNPA or LDC at this time.

7 Legal implications

7.1 Once a TPO is confirmed there is no right of appeal to the Secretary of State. However, it is possible to apply to the High Court for a TPO to be quashed (section 284 and section 288, TCPA 1990). An application must be made within six weeks from the date of confirmation of the TPO. The challenge can only be made on a point of law, not on the merits of the decision.

8 Risk management implications

8.1 There are no identifiable risks to the South Downs National Park Authority or Lewes District Council at this time.

9 Equality analysis

9.1 An Equality Analysis is not constructive in this instance.

10 Sustainability and/or carbon reduction implications

10.1 It is considered that there are no relevant sustainability implications in accordance with LDC Sustainability Policy

11 Appendices

11.1 Appendix A - Draft Order

11.2 Appendix B - Amenity Assessment

12 Background Papers

12.1 None.