



**Horsham
District
Council**

**PLANNING
COMMITTEE
REPORT**

TO: Planning Committee North
BY: Head of Development
DATE: 7 January 2020
SITE: Burnalls, Bucks Green, Rudgwick
WARD: Rudgwick
APPLICATION: TPO/1524

REASON FOR INCLUSION ON AGENDA: Objection to a tree preservation order.

RECOMMENDATION: To confirm Tree Preservation Order 1524 as served.

1. THE PURPOSE OF THIS REPORT

To consider whether Tree Preservation Order 1524 should be confirmed, as served.

DESCRIPTION OF THE ORDER

- 1.1 Provisional tree preservation order 1524, Burnalls, Bucks Green Rudgwick, was served on the 31st July 2019 on a yew tree under the provisions of the **Town and Country Planning (Tree Preservation) (England) Regulations (2012)**. Under these Regulations, the tree benefited from immediate protection.
- 1.2 The statutory consultation period for the receipt of representations has now expired, enabling the order to be confirmed.

DESCRIPTION OF THE SITE

- 1.3 The property in question is sited on the northern side of the A281 Guildford Road running through the village, almost opposite the junction with Haven Road, to the south. It is the westerly of the two connected dwellings, the eastern part being known as Burnalls Cottage.
- 1.4 The tree is sited within the garden to the north of the dwelling-house, close to the high boundary wall which curves around from west to north.

- 1.5 The tree is sited approximately 30m to the north of the highway, and approximately 9.5m north of the house.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 Section 198(1) of the **Town & Country Planning Act 1990** places an obligation on local planning authorities to make a TPO if it appears to them to be “*expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area*”.

- 2.2 Both Burnalls and Burnalls Cottage have been Grade II Listed since 1980.

3. OUTCOME OF CONSULTATIONS

PUBLIC CONSULTATIONS

- 3.1 A letter of **objection** to the order has been received from the new owner of the property following its recent disposal. The grounds stated in the objection are:
- i. Visibility – Whilst a proportion of the tree is visible by the public, it is contained within a private garden, therefore not accessible to the public and can only be viewed for a short period from passing traffic on the A281, Guildford Road. Passing foot traffic is very limited and would only be afforded a short view of the upper part of the canopy.
 - ii. Size and form – The tree is neither of a particularly remarkable size or form.
 - iii. Future potential as an amenity – Given that the tree is located in a private garden, there is no potential for the amenity value to increase in the future.
 - iv. Rarity, cultural or historic value – Given its large size we can assume that the tree is of some age, however yew is not a rare species in the UK, nor does it have any significant or historic value.
 - v. Contribution to, and relationship with, the landscape – The surrounding landscape is comprised of multiple trees, open fields and hedgerows, interspersed with residential properties. It is our opinion that the yew contributes only a small part to the landscape and that the same would not suffer unduly without it.
 - vi. Contribution to the character or appearance of a conservation area – The tree is not located in a conservation area.
 - vii. Privacy – The tree does not afford any additional privacy to Burnalls or the surrounding properties, as this is provided by plentiful other trees and hedges.
 - viii. There are also concerns as to the impact of the tree on the fabric of the Grade II listed property, the tree being sited extremely close to the original garden wall and brick outbuilding.
 - ix. A surveyor’s report has been received advising of the possibility of damage to the building and its drainage systems both through root expansion and failure during a storm. It is additionally purported that any damage to the listed building could affect the special architectural and historic interest of

the property and would not follow Historic England guidance to make every effort to preserve it.

4. **HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS**

Article 8 (Right to respect of a Private and Family Life) of the Human Rights Act 1998 is relevant to this application. Human rights issues form part of the assessment below.

5. **ASSESSMENT**

- 5.1 The tree the subject of this report is a common yew (*Taxus baccata*) of around 13m in height and exhibiting a trunk diameter at chest height of 1020mm. Using the industry accepted method of ageing for a yew tree as devised by **Tabbush & White** (1996) this places the age of the tree at around 375 years. Overall, it appears to be in good health and structural condition.
- 5.2 The tree is sited in the small rear garden of the property, the dwelling-house to which was built as an extension to the older property it is adjoined to, now known as Burnalls Cottage, and was allegedly constructed in 1829. Burnalls Cottage itself is known to date from the 16th Century. The tree is in very close proximity to the old wall that follows its western and northern curtilage, this representing a part encirclement of the property. The wall is around 2m in height, and is topped by hemispheric capping bricks. Although its age is unknown, it has the appearance of being of a similar age to the house, and is an attractive feature. Although not directly referred to in the listing, it clearly pre-dates 1948 and as such is considered to be part of the listing, despite detachment from the dwelling-house itself.
- 5.3 Being sited to the rear of the dwelling-house, some 30m from the A281, it is clear that public views of this tree are not unrestricted. To the general public, it can only be viewed in close to its entirety from the south-west, at the junction between Guildford Road and Haven Road. Whilst the objector points out that its visibility from this aspect is brief to passing pedestrian and vehicular traffic, it is nonetheless quite fully visible from this area, its size, compact form, and evergreen nature making a very positive contribution to the locality. It is not considered accurate that the landscape “*would not suffer unduly without it*”.
- 5.4 This assessment is supported by the results of a **TEMPO** test (*Tree Evaluation Method for Preservation Orders*) as devised by **Forbes-Laird**. This provides a structured ‘score’ of 14 points, suggesting that a TPO on the tree is ‘defensible’.
- 5.5 The recent survey carried out on the property, referred to by the objector, contains no professional assessment of the tree specifically, noting primarily generalities in regard to its presence. The only direct references to it are that its proximity to the house “*could*” affect the foundations, underground drains, and other services, and that it may be a danger in stormy weather. However, the report contains no evidence of any existing damage to these features, nor any report calling into question the structural integrity of the tree.
- 5.6 In terms of its overall size, it is clear that it has a measure of dominance over the relatively small rear garden. However, not only is this dominance not

considered to be unreasonable, as a yew tree there is almost no limit to the degree of surgery to which it could be subjected and from which it would recover from. Its existing form, compact and well looked after, indicates that the previous owner has managed the tree with care, and the Council would have a positive view of this management strategy being continued. An application would now be required for such works, but such applications attract no fee, and this is accordingly not considered to represent any unreasonable hindrance to the tree's management.

- 5.7 A greater concern is that whereas the boundary wall was originally erected at possibly a reasonable distance from the yew tree, the inevitable and ongoing thickening of the trunk of the tree over the years has now resulted in this fouling the wall, causing structural defect. The tree is also in very close proximity to the old outhouse in the area. It is clear that this damage cannot be abated by action to the tree.
- 5.8 The objector posits that such damage could affect the special architectural and historic interest of the property and would not follow Historic England guidance "*to make every effort to preserve it*". However, whilst it is accepted that the wall requires repair, it has not been ascertained whether works to abate the nuisance by rebuilding, perhaps by partial removal and replacement by railings, for instance, would necessarily be considered to harm the special interest of the listed building and its ancillary appendages as a whole.
- 5.9 In conclusion it is considered that the tree in question meets the criteria for protection on amenity grounds and that there is insufficient evidence to support the view that the TPO upon it should not be confirmed.

6. **RECOMMENDATIONS**

It is recommended that Tree Preservation Order 1524, Burnalls, Bucks Green, Rudgwick, is confirmed as served.

Background Papers: Tree Preservation Order: 1524.

Contact Officer: **Will Jones**.