

Crawley Borough Council



Report to Planning Committee 5th December 2016

The Crawley Borough Tinsley Lane South Tree Preservation Order No. 16/2016 and Tinsley Lane North Tree Preservation Order No. 17/2016

Report of the Head of Economic and Environmental Services – PES / 227

1. Purpose

- 1.1 This report presents the one objection raised to the making of each of the 'Crawley Borough Tinsley Lane South Tree Preservation Order No. 16/2016' and 'Crawley Borough Tinsley Lane North Tree Preservation Order No. 17/2016'. The Committee is requested to consider the objection and determine whether to confirm the Tree Preservation Orders with or without modification for continued protection or, not to confirm the Tree Preservation Order.

2. Recommendations

- 2.1 It is recommended that the Committee **CONFIRM** the 'Crawley Borough Tinsley Lane South Tree Preservation Order No. 16/2016' without modification.
- 2.2 It is recommended that the Committee **CONFIRM** the 'Crawley Borough Tinsley Lane North Tree Preservation Order No. 17/2016' without modification.

3. Reasons for the Recommendation

- 3.1 Consideration has been given to the objection received during the public consultation period however, having regard to the considerable amenity value of the trees in their surroundings, they are considered worthy of protection for the reasons outlined in this report.

4. Background

- 4.1 The trees in respect of which both of these Orders were made are various single, groups and areas of trees located in the upper and lower playing fields of Oakwood Football Club off Tinsley Lane. A copy of both TPO plans showing the locations of the trees is attached to this report.
- 4.2 Both Orders were made in response to the intended development of the site by the Homes and Communities Agency (HCA). The site is allocated for housing and open-space under policy H2 of the Crawley Borough Local Plan 2015-2030. A development brief for the site has been prepared and was consulted upon in July / August 2016. The final brief is still to be issued following on from the consultation comments with final publication expected in the next few months.
- 4.3 The trees are a mix of species, age, class and quality and are all in generally good condition.
- 4.5 The provisional Tree Preservation Orders were made on 6th July 2016 (Tinsley Lane South) and 7th July (Tinsley Lane North) and each remains provisionally in force for a period of six months (until 6th January 2017 and 7th January 2017 respectively). If the Orders are confirmed, the protection becomes permanent, if the Orders are not confirmed they cease to have effect and the trees on the site cease to have any protection from removal or works.

5. Notification/ Consultation/Representation

- 5.1 Following the making of the Order, the Council is required to notify persons interested in the land affected by it and send a copy of the Order and notice with prescribed information. The Council therefore notified the owner(s)/occupiers(s) of the land and other interested parties that the provisional Tree Preservation Orders had been made as they related to each Order. The following addresses/bodies were notified:

For Order number 16/2016

5 Summersvere Close
6 Summersvere Close
7 Summersvere Close
8 Summersvere Close
9 Summersvere Close
Oakwood Sports And Social
Thomson Sports Club
10 Summersvere Close
Homes and Communities Agency

For Order number 17/2016

Oakwood Sports and Social
Homes and Communities Agency

- 5.2 The Council is required to consider any objections or representations made within 28 days of the date of the notice of the Order. The notification period for representations/objections ended on 10th August 2016 (Tinsley Lane South) and 11th August (Tinsley Lane North).
- 5.3 An objection in respect of both Orders was received from the agent acting on behalf of the HCA who are the landowners. This was received on the 26th October following a meeting between the agent and planning officers (including the arboricultural officer) to discuss the emerging site layout on the 27th September 2016.

The objection is for the following reasons:

Amenity of the Trees

The letter states

- *“Areas 2, 3 and 4 [of Tinsley Lane South] are most restrictive in terms of the development and yet the Tree Officer noted that Area 2 and Area 3 did not have amenity value and would not be adverse to their removal, particularly when landscaping proposals show compensatory planting;*
- *Areas 2 and 3 [of Tinsley Lane South] do not have significant arboricultural value, and an assessment against the Hedgerow Regulations, by in-house suitably qualified ecologists, does not merit them as being ‘important’;*
- *Where access is required through area 4 [of Tinsley Lane South], from Birch Lea, the trees affected have been badly pruned by a utility company. This should be considered when reclassifying trees in this area and their exclusion from the TPO recommended;*
- *The Tree Officer confirmed in the meeting that the two trees within G1 [of Tinsley Lane North] do not have amenity value. Therefore, placing a TPO on these trees is not justified;*
- *Considerable new planting is proposed on the southern boundary and indeed throughout the site [North and South sites] which would more than offset the tree losses and increase the amenity value of the site significantly. Summersvere Woodland will also be retained, protected and enhanced as a result of the proposals, ensuring a significant landscape and recreational feature on-site.”*

The letter also objects on the following other matters:

- The use of 'Area' categories within an Order [Tinsley Lane South] as practice guidance states this is intended for short term protection in an emergency and as a temporary measure so the LPA can fully assess and reclassify the trees in an area. There is no evidence to suggest the TPOs were made in an emergency. The use of Area TPO's is not expedient or necessary.
- The HCA state that it has engaged with the Planning Authority at all stages through the Development Brief production stage and has sought to be open and honest about development intentions. An arboricultural survey was prepared at an early stage and draft masterplan options have been sought to retain as many A-class and B-class trees as feasibly possible alongside plans to protect and improve Summersvere Wood.

6. Amenity Value/Assessment and Consideration of the Representations

Amenity of the Tree

- 6.1 The site is allocated for housing and open space. In making the TPO's the aim was to identify the important trees on site which are of value to the wider amenity of the area to inform the Development Brief and to give the Planning Authority a little more control over what is removed and a means by which replacement planting can be ensured where necessary. The TPOs are not intended to impede or inhibit future development in any way, but to identify those trees which have amenity individually and collectively in order to assist in the evolution of a suitable site layout which can accommodate the trees on site and maintain some of its natural features of benefit to the wider environment and ecology. Where protected trees require removal, these will need to be justified as part of any planning application, the Orders do not preclude future removals if a suitable layout is granted via a subsequent planning permission..
- 6.2 Some of the trees or groups of trees are of lower arboricultural or amenity merit when viewed in isolation, however it is the cohesive strength of the groups and of the wider tree cover of the site as a whole that should also be taken into account while considering trees for protection as well as the power that a TPO bestows to require replacements which can be of higher quality than the original trees and which will therefore enrich and enhance the site.

Other

- 6.3 Many of the groups of trees within the Tinsley Lane South site were large and included standard trees as well as understorey species which were considered equally important to the group's cohesive strength, it was not practical and in some cases impossible to count the number of each species accurately in order to give a group designation, however a woodland designation would not have been justified either, in these cases the designation of 'Area' was the most appropriate option at the time, especially given the fact that the HCA are keen to progress things swiftly.
- 6.4 It is anticipated that the site will be resurveyed at the earliest opportunity in order to re-classify the area designations as individual trees or groups of trees. The arboricultural officer was only made aware of the existence of a more detailed tree survey after the order had been served at the meeting in September. The purpose of the Order was to inform the design process as to the arboricultural constraints at the earliest stage, and to provide a level of protection for those specimens from site clearance or removal, this has been achieved and the form that that Order takes is appropriate given the reasons set out above.

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 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 use of property in accordance with the general interest. The recommended continued protection of the tree is considered to be in the general interest of the community and is considered to be both proportionate and justified.

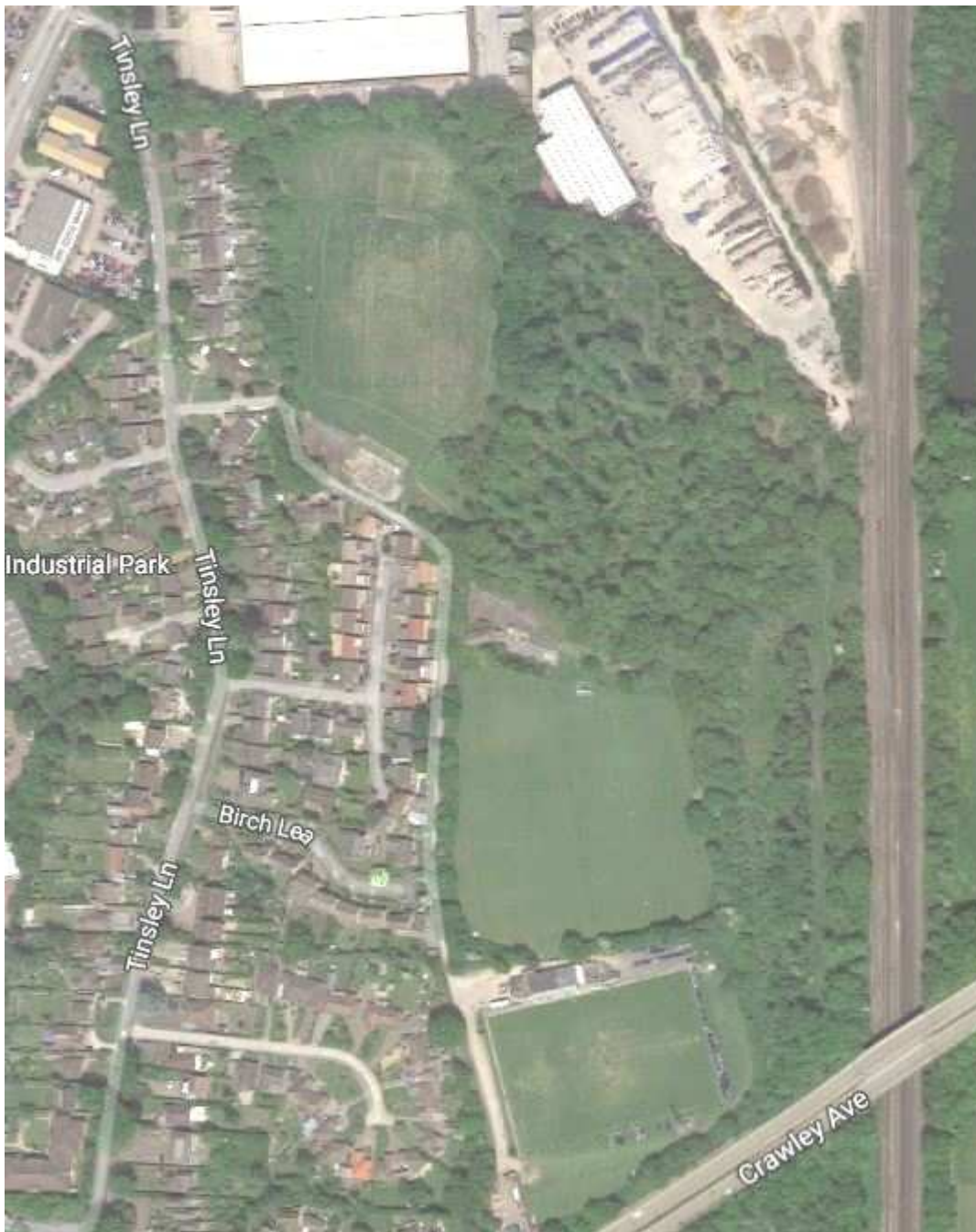
Planning legislation

- 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 Tinsley Lane South Tree Preservation Order No. 16/2016 and Crawley Borough Tinsley Lane North Tree Preservation Order No. 17/2016.

Aerial photo of site.



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**SCHEDULE
SPECIFICATION OF TREES**

**Tinsley Lane North
Tree Preservation Order No 17/2016**

**Trees Specified Individually
(encircled in black on the map)**

Reference on Map	Description	Situation
T1	English Oak	Grid Ref: TQ-28459-38737
T2	Silver Birch	Grid Ref: TQ-28455-38723
T3	English Oak	Grid Ref: TQ-28458-38714

**Groups of Trees
(within a broken black line on the map)**

Reference on Map	Description	Situation
G1	Silver Birch, Common Laburnum, English Oak	Grid Ref: TQ-28464-38611

**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 17/2016
Tinsley Lane North

Clem Smith
Head of Economic and Environmental Services

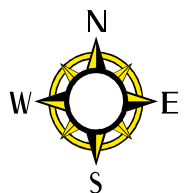
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Date 22/11/2016



SCHEDULE
SPECIFICATION OF TREES

Tinsley Lane South
Tree Preservation Order No 16/2016

Trees Specified Individually
(encircled in black on the map)

Reference on Map	Description	Situation
T1	English Oak	Grid Ref: TQ-28655-38221
T2	Silver Birch	Grid Ref: TQ-28640-38209
T3	English Oak	Grid Ref: TQ-28632-38203
T4	English Oak	Grid Ref: TQ-28609-38191
T5	English Oak	Grid Ref: TQ-28571-38241
T6	English Oak	Grid Ref: TQ-28555-38289
T7	English Oak	Grid Ref: TQ-28584-38324
T8	Silver Birch	Grid Ref: TQ-28598-38326
T9	English Oak	Grid Ref: TQ-28618-38329
T10	English Oak	Grid Ref: TQ-28689-38397
T11	English Oak	Grid Ref: TQ-28590-38516
T12	English Oak	Grid Ref: TQ-28577-38523
T13	English Oak	Grid Ref: TQ-28571-38529
T14	Common Ash	Grid Ref: TQ-28564-38534

Groups of Trees
(within a broken black line on the map)

Reference on Map	Description	Situation
G1	Field Maple (8), Silver Birch (3), Hazel (2), Hawthorn (3)	Grid Ref: TQ-28575-38221
G2	Lawson Cypress (21)	Grid Ref: TQ-28564-38267
G3	English Oak (4), Goat Willow	Grid Ref: TQ-28649-38469

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
A1	The numerous trees of whatever species standing within the area bounded by the dotted black line.	Grid Ref: TQ-28670-38235
A2	The numerous trees of whatever species standing within the area bounded by the dotted black line.	Grid Ref: TQ-28572-38325

**Reference to an Area
(within a dotted black line on the map)**

Reference on Map	Description	Situation
A3	The numerous trees of whatever species standing within the area bounded by the dotted black line.	Grid Ref: TQ-28668-38338
A4	The numerous trees of whatever species standing within the area bounded by the dotted black line.	Grid Ref: TQ-28553-38419



Tree Preservation Order No 16/2016
Tinsley Lane South

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The scale shown is approximate and should not be used for accurate measurement.

Scale 1:2500

Date 22/11/2016

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