



Objections to the Crawley Borough Council Tree Preservation Order Land Adjacent To Moka, Station Way, Northgate - 23/2016

Report of the Head of Economic and Environmental Services – PES 233

1. Purpose

- 1.1 This report presents the single objection raised to the making of the 'Crawley Borough Land Adjacent to Moka, Station Way, Northgate Tree Preservation Order No. 23/2016'. The Committee is requested to consider the objection and determine whether to confirm the Tree Preservation Order with or without modification for continued protection or, not to confirm the Tree Preservation Order.

2. Recommendation

- 2.1 It is recommended that the Committee **CONFIRM** the 'Crawley Borough Land Adjacent to Moka, Station Way, Northgate Tree Preservation Order No. 23/2016' without modification.

3. Reasons for the Recommendation

- 3.1 Consideration has been given to the comments 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 which are the subject of this order are a group of 9 no. Oaks and 3 no. Field Maples (G1) and 2 no. Silver Birch (G2). G1 is located in an area of land between Moka and the adjacent Belmont House building and G2 between the car park and Station Way. A copy of the TPO plan showing the location of the trees is attached to this report.
- 4.2 This Order has been made in response to a 'Protected Tree Information Request' submitted by a developer. The trees were not protected but are considered to be of high amenity value and worthy of protection, it was therefore considered expedient to serve a TPO on the trees as the land was clearly being considered for development.
- 4.3 The trees are in good physiological condition with full, healthy crowns. At the time of the site visit there were no signs of significant structural defects in the crown, the decayed remains of a clump of mushrooms were noted on the ground near the base of one of the Oaks but it was not possible to identify the species in its decayed state. The trees showed little to no signs of previous works.
- 4.5 The provisional Tree Preservation Order was made on 17th November 2016 and remains provisionally in force for a period of six months (until 17th May 2017). If the Order is confirmed, the protection becomes permanent, if the Order is not confirmed it ceases to have effect.

5. Notification/Consultation/Representation

- 5.1 In order to confirm the Order, the Council notified the owner(s)/occupiers(s) of the land and other interested parties that a provisional Tree Preservation Order has been made. The following addresses were notified:

The Deltic Group Ltd
Homes and Communities Agency
Crawley Borough Council
Dassia Services Ltd
West Sussex County Council

- 5.2 The Council is required to consider any objections or representations made within 28 days of the date of the Order. The notification period for objections ended on 22nd December 2016. Confirmation of the order is required within six months of the date upon which the Order was provisionally made.
- 5.3 A representation has been received from Bidwells LLP objecting to the Tree Preservation Order on behalf of The Deltic Group Ltd.

The following objection reasons have been submitted for consideration:

Amenity of the Tree

- *“Our client is unconvinced that it is reasonably expedient to confirm this Tree Preservation Order in the interests of amenity;*
- *The two identified groups of trees essentially comprise non-structural landscape works as part of ‘Moka’;*
- *As individual specimen trees they are unremarkable and their only true amenity value is to provide some landscape softening of the ‘Moka’ complex;*
- *This landscaping amenity cannot reasonably be concluded to have any significant public amenity value to justify the Draconian controls of a formal Tree Preservation Order;*
- *The trees are not significantly visible beyond the immediate Station Way Environment;*
- *G1 is not a distinguished copse and does not have the quality and appearance of particular importance to warrant specific designation. A number of the Oak trees are not good specimens and have an unkempt appearance;*
- *G2 comprises immature Silver Birch which again do not appear to be of any particular significance and clearly do not form part of a structured landscaping scheme for landscape design purposes”.*

Other

- *“They are already adequately managed and are not under any direct threat of loss or removal;*
- *The confirmation of the Tree Preservation Order will apply additional controls on our client’s management of these trees;*
- *There has been no assessment [of G1] to date of the potential root rot, acute and/or chronic Oak decline, or need for lopping in the short term, the Field Maples have not been assessed for Maple Wilt or root rot;*
- *The trees [in G2] should be assessed for Slime Flux and Anthracnose.*
- *...request that the Council exercises its discretionary powers to allow extra time for our client to seek independent arboricultural advice, with respect to the true public amenity value and health of these identified trees; and the genuine expediency for their protection by a TPO”.*

6. Amenity Value/Assessment and Consideration of the Representations

Amenity of the Tree

- 6.1 The trees G1 are large and are clearly visible from Station Way as well as from the hotel on the opposite side of the railway line. Due to the size of the trees in G1, they are still visible from several hundred metres along Station Way despite being to the side of the Moka building. The trees that make up G2 are directly adjacent to the road and are therefore extremely visible from Station Way.
- 6.2 The trees of G1 are large and individually of good form, this is added to by their cohesive strength making them very visually appealing as a group. The trees of G2 are also of good individual form

with each easily being worthy of an individual designation had they been in isolation from each other. The fact that they act to soften the hard edges of the adjacent buildings is precisely why these trees are so important and worthy of safeguarding.

- 6.3 A Tree Preservation Order does not prevent the responsible and reasonable maintenance of trees, though the serving of a TPO may seem somewhat 'heavy handed', it simply protects trees that make an important contribution to the green amenity of the area by preventing unjustified and excessive works that would otherwise harm the tree's visual appeal. The process of applying for works to a protected tree is simple and is a free service.
- 6.4 G1 consists of large trees and is most certainly of significant value in the street scene, the trees as a group are impressive and make strong statement. G2 are semi-mature and large enough to make a good contribution, any tree of significant amenity value are worthy of protection and being part of some kind of formal structural landscaping is not a requirement or consideration while assessing a tree for protection.

Other

- 6.5 An enquiry was received from a developer as to the protected status (or any other constraints) of the trees on site. Following a site visit it was decided that the trees were worthy of protection and that a threat to the trees was foreseeable given that the land is clearly attracting the interest of developers.
- 6.6 As mentioned above, the TPO does not prevent reasonable works to be carried on protected trees and the application process is a simple and straight forward one. Should the Oaks of G1 require reduction or similar works a TPO should not pose a constraint to such a request provided the necessary consent is obtained.
- 6.7 In respect of the tree conditions listed in the representation:
- The Oaks are showing no signs of Acute or Chronic Oak Decline.
 - Verticillium Wilt is a disease effecting several hundred species of Eudicot plants and is not of particular significance in Field Maple or the specimens on the site.
 - Slime Flux or Bacterial Wetwood is the result of one of several species of bacteria entering through a wound etc. and feeding on the sugars in the sap, this fermentation of the sugars results in a liquid which oozes from the wound, this generally has no impact on tree health and often goes away as the tree heals the wound. This occurs in many species of plant and is certainly not specific to Birch, it's existence does not prevent protection of a tree by a TPO.
 - Anthracnose of Birch is the result of a fungal infection caused by one of two species causing brown blotches on the leaves, it is common in America, particularly on River Birch but is not significant in this country. In any case it generally does not impact the tree's health as it is not often severe enough to significantly reduce photosynthesis. It can lead to newly flushed leaves being dropped but the infected tree will usually re-flush and the tree is effectively cured. However, the birch trees in G2 show no signs of this disease anyway.
- 6.8 The representation letter was acknowledged and sufficient time given to make additional or further representation, to date no further information has been submitted.

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 Committee 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 trees are considered to be in the general interest of the community / environment 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 Land Adjacent to Moka, Station Way, Northgate Tree Preservation Order No. 23/2016'

Photo showing G1 from Station Way



Photo showing G2 from Station Way



Photo showing G1 & G2 from several hundred yards away on Station Road



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SCHEDULE
SPECIFICATION OF TREES

Trees Specified Individually
(encircled in black on the map)

Reference on Map	Description	Situation
NONE		

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

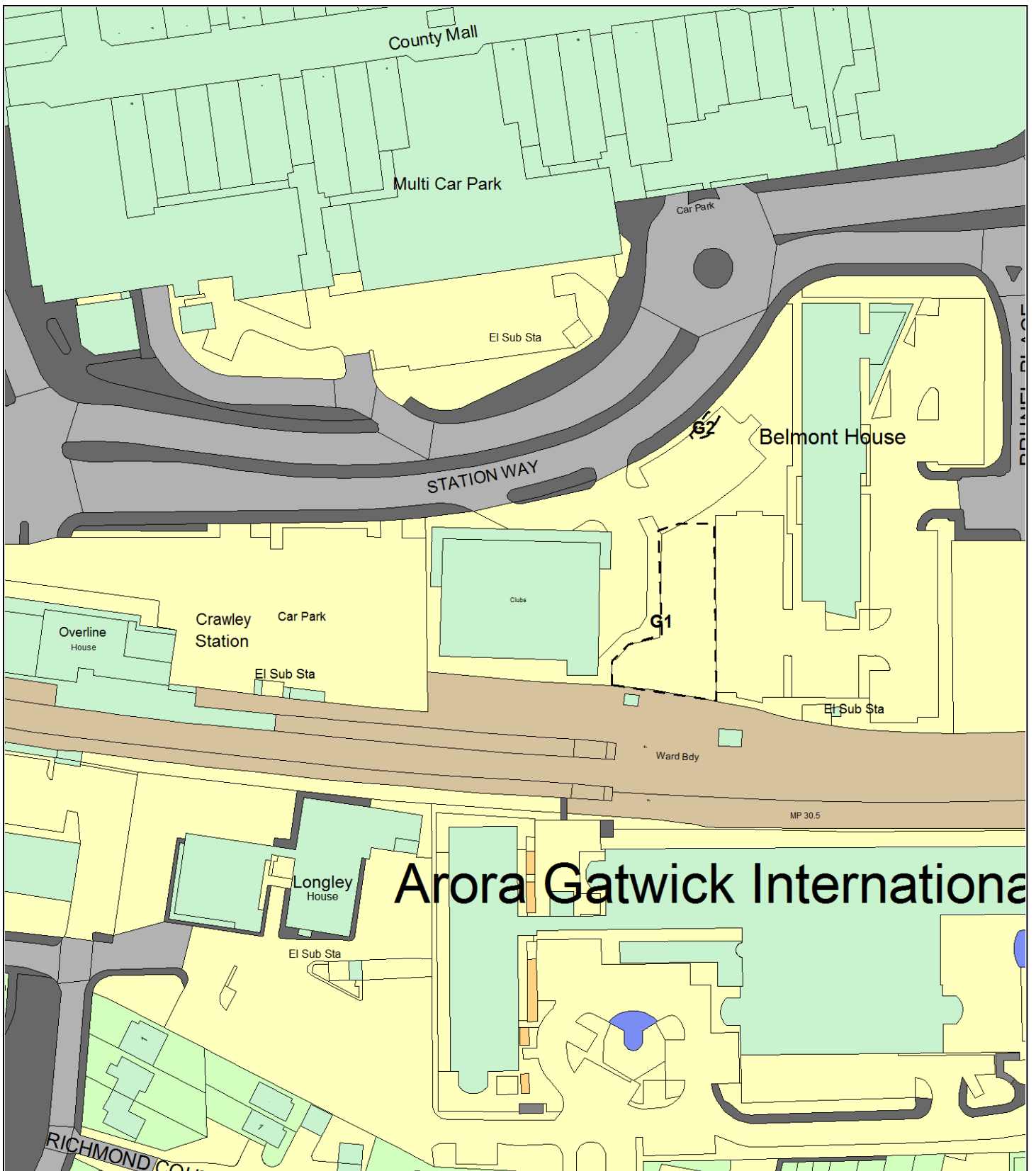
Reference on Map	Description	Situation
G1	Field Maple (3), English Oak (9)	Grid Ref: TQ-27176-36335
G2	Silver Birch (2)	Grid Ref: TQ-27186-36380

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 23/2016
Land Adjacent To Moka, Station Way, Northgate**

**Clem Smith
Head of Economic and Environmental Services**



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

Scale 1:1250

Date 03/03/2017

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