

Crawley Borough Council

Planning Committee

Agenda for the **Planning Committee** which will be held in **Committee Rooms A and B - Town Hall**, on **Tuesday, 14 January 2025** at **7.30 pm**

Nightline Telephone No. 07881 500 227



Chief Executive

Membership: Councillors S Pritchard (Chair), M Mwagale (Vice-Chair), K Abu Mosa, O Adeniyi, T Bidwell, B J Burgess, J Charatan, J Hart, K L Jaggard, Y Khan, A Nawaz and D Patel

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Town Hall
The Boulevard
Crawley
West Sussex
RH10 1UZ

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Please note that the comment function will be unavailable.

The order of business may change at the Chair's discretion

Part A Business (Open to the Public)

	Ward	Pages
1. Apologies for Absence		
2. Disclosures of Interest		
In accordance with the Council's Code of Conduct, councillors are reminded that it is a requirement to declare interests where appropriate.		
3. Lobbying Declarations		
The Planning Code of Conduct requires any councillors who have been lobbied, received correspondence, or been approached by an interested party regarding any planning matter to declare this at the meeting at which the matter is being considered. Councillors should declare if they have been lobbied at this point in the meeting.		
4. Minutes		5 - 10
To approve as a correct record the minutes of the Planning Committee held on 2 December 2024.		
5. Crawley Borough Council Tree Preservation Order - Oak Tree at the Moat House, Balcombe Road, Pound Hill, Crawley, RH10 7SY - 07/2024	Pound Hill South & Worth	11 - 22
To consider report PES/477 of the Head of Economy and Planning.		
RECOMMENDATION to CONFIRM.		

6. Supplemental Agenda

Any urgent item(s) complying with Section 100(B)
of the Local Government Act 1972.

Site visits (for Committee members only) will take place at 1pm on the Thursday prior to the Committee meeting.

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Crawley Borough Council

Minutes of Planning Committee

Monday, 2 December 2024 at 7.30 pm

Councillors Present:

S Pritchard (Chair)

M Mwagale (Vice-Chair)

O Adeniyi, T Bidwell, B J Burgess, J Charatan, J Hart, K L Jaggard, Y Khan, S Mullins, A Nawaz and D Patel

Officers Present:

Valerie Cheesman

Principal Planning Officer

Siraj Choudhury

Head of Governance, People & Performance

Chris Pedlow

Democracy & Data Manager

Clem Smith

Head of Economy and Planning

Hamish Walke

Acting Group Manager (Development Management)

1. Disclosures of Interest

The following disclosures of interests were made:

Councillor	Item and Minute	Type and Nature of Interest
Councillor Hart	Agenda item 6 – Planning Application CR/2020/0274/FUL – Ambulance Station, Ifield Avenue, West Green, Crawley (minute 5)	Personal interest – Secretary of Ewhurst Wood Sports and Social Club (a consultee on the application that did not provide a response)
Councillor Pritchard	Agenda item 6 – Planning Application CR/2020/0274/FUL – Ambulance Station, Ifield Avenue, West Green, Crawley (minute 5)	Personal interest – a member of Ewhurst Wood Sports and Social Club (a consultee on the application that did not provide a response)

2. Lobbying Declarations

No lobbying declarations were made.

3. Minutes

The minutes of the meeting of the Planning Committee held on 1 October 2024 were approved as a correct record and signed by the Chair.

4. Planning Application CR/2020/0024/FUL - Longley House, East Park, Southgate, Crawley

The Committee considered report [PES/474a](#) of the Head of Economy and Planning which proposed as follows:

Demolition of Longley House (offices) & erection of building ranging between 4 to 9 storeys to provide 121 x residential units (class C3) with associated sub-station, car/cycle parking, tree works, public realm improvements and landscaping.

Councillors Jaggard, Mwangale, and Nawaz declared they had visited the site.

The Principal Planning Officer provided a verbal summation of the application, which sought permission for the construction of a block of residential units in Southgate neighbourhood. The application had been previously considered by the Committee in November 2020 and August 2022, but due to changes to the National Planning Policy Framework in December 2023 and the Council's Local Plan in October 2024, re-consideration of the application against these new policies was now required. The application was otherwise unchanged from the version most recently permitted by the Committee. Although the authority had previously resolved to grant planning permission, the S106 agreement had not been completed due to water neutrality restrictions and a change in applicant. The permission had therefore not been issued as the legal agreement had not been finalised and signed. The Officer then gave details of the various relevant planning considerations as set out in the report.

The Committee then considered the application. A Committee member asked whether any objections to the application had been made. The officer clarified that a number of letters of objection were received when the application for development was first submitted, and these were considered by the case officer and the Committee at that time. The following matters were also raised as part of the discussion:

- In response to a query about the provision of disabled access to the proposed development, the officer confirmed that the highways authority had provided advice on the provision of access measures such as dropped kerbs.
- A concern was raised about the parking provision proposed by the application. The officer explained that the number of parking spaces reflected the development's proximity to the town centre and to Crawley railway and bus station; meaning residents were not predicted to be particularly reliant on travelling by car. Access to a car club was to be secured by the S106 agreement.
- Queries were raised about the proposed access to the site requiring use of the driveway of the neighbouring Arora Hotel. The officer confirmed that the driveway was owned by the hotel, but the application site now included this land and discussions had taken place between the hotel and the previous applicant regarding the use of this access, and to undertake works. This would now be a matter for the new applicant, and as it was a private property issue, was not for consideration by the Committee.

The Committee then moved to a vote on the recommendation set out in the report. The recommendation was moved by Councillor Pritchard as the Chair and seconded by Councillor Mwangale as the Vice-Chair.

RESOLVED

Permit, subject to a Section 106 agreement to secure:

- the provision of affordable housing;
- contribution for open space of £39,059.25;
- contribution for tree planting of £77,000;
- the implementation of measures within the Travel Plan and payment of a monitoring fee of £1440.00;
- the submission and implementation of a car club scheme
- the submission and implementation of a car park management scheme;
- to secure the implementation of the Water Neutrality Strategy;
- An Employment and Skills Plan to be agreed prior to commencement; and
- A financial contribution of £8,451.08 for Employment and Skills;

And subject to the conditions set out in report PES/474a.

5. **Planning Application CR/2020/0274/FUL - Ambulance Station, Ifield Avenue, West Green, Crawley**

The Committee considered report [PES/474b](#) of the Head of Economy and Planning which proposed as follows:

Demolition of existing ambulance centre and erection of 39 flats with associated parking and amenity space.

Councillors Jaggard, Mwangale, and Nawaz declared they had visited the site.

The Group Manager (Development Management) provided a verbal summation of the application, which sought permission for the construction of a block of residential units in West Green neighbourhood. The application had been previously considered by the Committee in April 2021 and December 2023, but due to changes to the National Planning Policy Framework in December 2023 and the Council's Local Plan in October 2024, re-consideration of the application against these new policies was now required. The application was otherwise unchanged from the version that the Committee most recently resolved to permit, but slight modifications had been made to the conditions. Although the authority had previously resolved to grant planning permission, the S106 agreement had not been completed due to water neutrality restrictions. The permission had therefore not been issued as the legal agreement had not been finalised and signed. The Officer then gave details of the various relevant planning considerations as set out in the report.

The Committee then considered the application. A Committee member noted that the estimated affordable housing provision had increased from 30% to 40%, and enquired as to the reasons for this change. It was explained that there had been no material changes to the development, but that the parties involved were now more confident in their ability to reach an agreement to provide a higher percentage of affordable units on the site.

In response to a Committee member's query about the development's proposed parking provision and possible parking spillover into the area surrounding the site, the officer confirmed that the parking standards in the updated Local Plan were lower than when the application was previously considered. The application conditions included a traffic

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Planning Committee (19)

2 December 2024

regulation order which would assist with controlling parking around the site, but control of any unauthorised parking on private land was the responsibility of the landowner.

The Committee then moved to a vote on the recommendation set out in the report. The recommendation was moved by Councillor Pritchard as the Chair and seconded by Councillor Mwangale as the Vice-Chair.

RESOLVED

Permit, subject to a Section 106 agreement to secure:

- A financial contribution of £7,418 for the Traffic Regulation Order;
- A financial contribution of £12,287 or equivalent on site mitigation measures to address the air quality impacts;
- A financial contribution of £38,500 towards off site new and replacement tree planting;
- A minimum of 40% affordable housing (11 Affordable Rent and 5 Intermediate/Shared Ownership);
- The submission and implementation of a Water Neutrality Strategy;
- An Employment and Skills Plan to be agreed prior to commencement;
- A financial contribution of £11,671.81 for Employment and Skills; and
- A financial contribution of £2,663.00 towards Sustainable Transport;

And subject to the conditions set out in report PES/474b.

6. Tree Preservation Order Application CR/2024/0348/TPO - Harlech Close, Pound Hill, Crawley

The Committee considered report [PES/474c](#) of the Head of Economy and Planning which proposed as follows:

Oaks 8002, 8003, 8026, 8020, 8024, 8056, 8027, 8073, 8081 & 8068 - reduce height and crown radius by a maximum of 2 metres to nearest suitable growth points.

The Principal Planning Officer provided a verbal summation of the application, which sought permission for the pruning of ten protected oak trees to the south of a footpath off Harlech Close. The works were considered necessary to maintain the trees at an appropriate size and reduce their proximity to nearby residential properties. The Officer then gave details of the various relevant planning considerations as set out in the report.

The Committee then considered the application.

The recommendation was moved by Councillor Pritchard as the Chair and seconded by Councillor Mwangale as the Vice-Chair.

RESOLVED

Delegate the decision to consent to the Head of Economy and Planning to await the expiry of the consultation period on 5 December 2024, subject to the conditions set out in report PES/474c.

7. Tree Preservation Order Application CR/2024/0369/TPO - Cherry Meadow, 26 Perryfield Road, Southgate, Crawley

The Committee considered report [PES/474d](#) of the Head of Economy and Planning which proposed as follows:

247200 oak rear of car park - reduce height and crown radius by a maximum of 2 metres to nearest suitable growth points (amended description).

Councillor Charatan declared he had visited the site.

The Group Manager (Development Management) provided a verbal summation of the application, which sought permission for works to one of three protected oak trees situated around the parking area at Cherry Meadows. The tree was a large specimen with a long life expectancy, and a reduction in height and crown size was considered necessary to maintain the tree at an appropriate size. The Officer then gave details of the various relevant planning considerations as set out in the report.

The Committee then considered the application.

The Committee then moved to a vote on the recommendation set out in the report. The recommendation was moved by Councillor Pritchard as the Chair and seconded by Councillor Mwangale as the Vice-Chair.

RESOLVED

Delegate the decision to consent to the Head of Economy and Planning to await the expiry of the consultation period on 5 December 2024, subject to the conditions set out in report PES/474d.

8. Tree Preservation Order Application CR/2024/0378/TPO - Cherry Meadow, 26 Perryfield Road, Southgate, Crawley

The Committee considered report [PES/474e](#) of the Head of Economy and Planning which proposed as follows:

247203 oak (rear of car park) - section fell.

Councillor Charatan declared he had visited the site.

The Group Manager (Development Management) provided a verbal summation of the application, which sought permission for the felling of one of three protected oak trees situated around the parking area at Cherry Meadows. The tree was in an advanced state of decline and had a limited life expectancy, and was in close proximity to the adjacent building so presented a safety risk. The Officer then gave details of the various relevant planning considerations as set out in the report.

The Committee then considered the application. Committee members noted that the tree looked unhealthy and that on this occasion felling was the only viable option; the officer confirmed that the removal of the unsafe or dangerous parts of the tree was not possible as the majority of the decay was in the tree's trunk.

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2 December 2024

It was highlighted that the report stated that there was no record of any previous works being undertaken to the tree, but that it was clear from the tree's appearance that it had previously been pruned. The officer confirmed that no works had been undertaken recently, and there was a chance that any works had been unauthorised, but the evidence showed that this likely occurred a long time ago. Following a request from a Committee member, the officer resolved to seek further information and report back to Committee members.

The Committee discussed the Tree Preservation Order process and the responsibility of landowners to maintain protected trees.

The Committee then moved to a vote on the recommendation set out in the report. The recommendation was moved by Councillor Pritchard as the Chair and seconded by Councillor Mwangale as the Vice-Chair.

RESOLVED

Delegate the decision to consent to the Head of Economy and Planning to await the expiry of the consultation period on 5 December 2024, subject to the conditions set out in report PES/474e.

9. Section 106 Monies - Q2 2024/25

The Committee considered report [PES/475](#) of the Head of Economy and Planning, which summarised all the Section 106 (S106) monies received, spent and committed to project schemes in quarter two of the financial year 2024/25.

A Committee member raised a concern that the monies listed as being committed to the Crawley Growth Programme Three Bridges Railway Station development was one of a number of lump sums granted to the project over several months. In response, the Head of Economy and Planning clarified that all monies allocated so far were as planned had been budgeted for. In conversation about the scheme, it was explained that negotiations with the railway authorities were ongoing – progress was being made and it was expected that land exchange arrangements would soon take place which would allow work to begin (following the appropriate consultation periods and assessments by relevant authorities).

RESOLVED

That the update on S106 monies received, spent and committed in quarter two of the financial year 2024/25 was noted.

Closure of Meeting

With the business of the Planning Committee concluded, the Chair declared the meeting closed at 8.35 pm.

S Pritchard (Chair)

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Crawley Borough Council

Report to Planning Committee

14 January 2025

Crawley Borough Council Tree Preservation Order – Oak Tree At The Moat House - 07/2024

Report of the Head of Economy and Planning – *PES/478*

1. Purpose

- 1.1 This report presents the “Oak Tree At The Moat House - 07/2024” Tree Preservation Order. 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 Tree Preservation Order *Oak Tree At The Moat House - 07/2024* without modification.

3. Reasons for the Recommendation

- 3.1 The tree is prominent in the locality and has significant amenity value.
The tree is clearly visible from the public highway.
The tree is visually important in the local area.
The tree has significant wildlife value.

4. Background

- 4.1 The tree the subject of this Order is an individual Oak tree located in the rear garden of The Moat House, Balcombe Road. The tree is large and is visible from Balcombe Road as well as Trevanne Plat, Oak Dell, Mereworth Drive and Briarswood Close over the roofs of the properties. The tree has good individual amenity but also makes a solid contribution to the overall green amenity and character of the area together with the surrounding trees.
- 4.2 The tree, along with the other mature trees along Balcombe Road and in the immediately surrounding area provide a pleasant sylvan character to the street and green back drop that helps to soften the hard edge of development. The trees along Balcombe Road and in the immediately surrounding area are typically mature and visually prominent and combined with the hedges and other green landscaping provide a natural structural element which complements the built form in the area.
- 4.3 A planning application was received on 22nd December 2022 (Reference: CR/2022/0826/FUL) for various modifications and extensions to the property. Following a site visit by the planning case officer it was noted that in addition to the works described to extend the dwelling, further groundworks had recently taken place that included the raising of the levels of the rear garden. The change in ground levels was

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extensive, the rear garden previously sloping down towards the west. The garden levels have been raised and a retaining wall created to retain the raised garden along the western boundary. The site had also been cleared of landscaping except for the large oak tree that is the subject of this Tree Preservation Order and the rear garden has been laid to grass. Around the base of oak tree located in the northwest corner of the garden the ground levels have been raised.

- 4.4 The Tree Officer was informed of the works at the base of the tree following the planning officers initial site visit and the tree was inspected in May 2024. The front and rear gardens had previously contained a large number of large shrubs and small trees along with this oak, which created a pleasant green screen between the property and Trevanne Plat to the west and it also provided screening along the Balcombe Road. The Oak tree while retained was considered to be under threat of removal and furthermore the recent change in ground levels is considered detrimental to its long term health. In order to safeguard the tree and ensure its longer term retention, the decision was made to serve a TPO. It should also be noted that the planning permission granted under ref. CR/2022/0826/FUL was revised so the land levels around the tree would be restored to their original levels to help to ensure the long term health of this tree.
- 4.5 The provisional Tree Preservation Order was made on 1st August 2024 and remains provisionally in force for a period of six months until 1st February 2025. 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 A Council must, as soon as practicable after making a TPO and before it is confirmed, serve a copy of the Order and a prescribed notice on persons interested in the land affected by the TPO. The Council therefore served a copy of the provisional TPO and notice on all the owners/occupiers of the land and other interested parties as set out below.

Owners and occupiers of the land:

- The Owner/ Occupier, The Moat House, Balcombe Road, Crawley, RH10 7SY

Owners and occupiers of adjoining land affected by the TPO:

- The Owner/Occupier, 5 Trevanne Plat, Pond Hill, RH107TW
- The Owner/Occupier, Little Moat House, Balcombe Road, Pound Hill, RH107SY
- The Owner/Occupier, Woodways, Balcombe Road, Pound Hill, RH107SY
- The Owner/Occupier, 6 Trevanne Plat, Pound Hill, RH107TW

- 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 5th September 2024. Following a request from the owner/occupier an extended period for consultation was agreed until 15th November 2024. Confirmation of the order is required within six months of the date upon which the Order was provisionally made.
- 5.3 One representation has been received from the owner of the property. A copy of the objection is attached to this report at **Appendix A**. A summary of the comments made are set out below but relate to two main reasons for objection were:
- That the basis for the TPO is not sufficient to warrant an Order and is contrary to legislation and,
 - Concerns that the tree may not return to full health, concerns about fairness, court action and potential fines.
- 5.4 The objection comments are summarised below:
- No reason has been given for why the TPO was served. There is no danger to the tree (other than risks relating to its neglect by a previous owner), which we are proactively trying to resolve. The tree was close

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to dead with large amounts of deadwood when the property was purchased, it's now in better condition, is being monitored but is considered "at risk". No inspection has been made of the tree by the council despite confirmation having been requested.

- *"The Tree is prominent in the locality and has significant amenity value"* - No reason has been given to why the TPO was served. 'Amenity' is not defined in law. The Council have not demonstrated the protection would bring a reasonable degree of public benefit. The tree is in a rear garden only visible by a small number of neighbouring properties. It is not prominent in the locality. There are lots of oak trees in the area which are more visible and do not have a TPO.
- *"The tree is clearly visible from the public highway"*. - The tree is hardly visible at all from the public highway to the front of the property and is partially visible from a limited number of residential properties to the rear. There are lots of oak trees in the area (none of which have TPO's) which are clearly visible from the public highway.
- *"The tree is visually important in the local area"* - The tree offers some limited visual attraction to a small number of neighbours, this is not sufficient to warrant an Order. Government guidance advises the council to assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including size and form, potential future amenity, rarity, cultural or historic value, contribution and character to the landscape and the character of the area.
- *"The tree has significant wildlife value"* -The tree has a wildlife value consistent with an average tree in a residential setting. It is not significant and not a sufficient basis to warrant an order.

5.5 Other matters listed in the letter relate to the delays with the processing of the planning application and a Subject Access Request, these are not considered directly relevant to the consideration to be made by the Planning Committee on whether or not the TPO should be confirmed.

6. Amenity Value/Assessment

6.1 The TPO was served following the removal of all other vegetation, including several trees, from the rear garden, and the removal of trees and shrubs along the boundary with Balcombe Road. The owner's actions with regard to other trees on the site and the changes to the land levels undertaken were considered to leave this oak with significant amenity at potential risk in the future. The TPO was served and was expedient on the basis that the ongoing amenity provided by the tree is potentially under threat. If a tree is considered to be under threat the Council's only course of action is to serve a TPO. Justification for the TPO based on the tree's merits were communicated by letter to the objector as well as other interested parties as part of the notification process and are for the reasons listed in section 3 of this report (which was in the correspondence).

6.2 The tree was assessed by the Tree Officer from within the site and surrounding public viewpoints prior to its service and was also assessed by the Planning Case Officer in relation to the planning application. During both assessments the tree was considered to have significant visual amenity in the area due to it being a prominent and the only mature specimen within this substantial plot.

6.3 A tree is considered to have amenity value if it makes a positive impact on the character and visual appeal of the area, this can include, but is not limited to softening the hard edge of development, the provision of green spaces or screening value. The general, often historic character of an area can also be taken into consideration. Many neighbourhoods in Crawley being particularly green and it is this quality that is an attraction for people to these areas, it is therefore vitally important that trees as a resource are safeguarded. The tree was considered to be under threat and following assessment was judged to make an important contribution to the green amenity and character of the Balcombe Road and surrounding area, were this tree to be lost it would result in an erosion of the tree cover and harm to amenity which is considered to be a defining characteristic of Balcombe Road and Pound Hill more broadly.

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- 6.4 The tree is large and can be viewed between the houses of Balcombe Road as well as Trevanne Plat, Oak Dell, Mereworth Drive and Briarswood Close, the tree is therefore considered to have good individual amenity as well as making a solid contribution to the overall green amenity and character of the area together with the surrounding trees and on this basis the TPO was served. Its amenity has been increased more recently and it is now arguably more important following the recent removal of other trees and landscaping from this house's gardens.
- 6.5 The Council seeks to protect trees which are considered to be of significant amenity value, especially if it has reason to believe that the tree may be under threat and this is often, by necessity, done on a reactionary basis as and when a threat to a tree becomes apparent.
- 6.6 The Town and Country Planning Act 1990 section 198 (1) states that *"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 or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order"*. The Planning Practice Guidance (PPG) states that visibility alone will not be sufficient to warrant an order and that an authority should consider a tree's size and form, future potential as an amenity, rarity, cultural or historic value and contribution to, and relationship with, the landscape. The subject tree is a large mature specimen with clear visibility from several public and many private spaces within the area. The tree is considered to have a useful life expectancy of 20-40 years and provided the TPO remains in force, the Council can require a replacement once the tree dies or requires removal thus ensuring the continued presence of a tree in this location for generations to come and the amenity it provides. While it cannot be said that Oak trees are rare in Crawley, a map from 1875 shows that what is now the northern boundary of this house, (where the tree is located), was once a historic field boundary lined in part with trees. It shows a tree in the precise location of the subject tree and it is therefore possible if not likely that this is one of those original trees. As stated already, Balcombe Road and Pound Hill neighbourhood are particularly green and this is certainly one of the aspects that attract residents to the area. It is therefore of vital importance that this resource is protected and preserved.
- 6.7 Consideration of a tree's contribution/importance to wildlife and ecology is not, by itself sufficient to warrant protection, however this together with the other criteria discussed above is still a valid consideration especially in a day and age when the quality of the environment/biodiversity is increasingly important. Oaks are a species which are known to have significant habitat and ecological value.
- 6.8 Consideration must also be given to the trees health, and the Council has inspected and viewed it on a number of occasions. Whilst there is deadwood within its crown, this is not untypical with oak trees and the tree should have a reasonable life expectancy. It is not moribund. It is not accepted that the tree has ever been in a condition that was 'close to dead', it is in reasonable condition and past photographic evidence shows the tree in reasonable condition with an important crown over an extended period of time.
- 6.9 Furthermore, with regard to the long term future health of the tree, the approved plans granted for planning application CR/2022/0826/FUL on 27th November 2024 show ground levels within the root protection area of the oak tree being reinstated to previous levels before the land raising was undertaken in the rear garden as increased soil around the base of the tree compacts the roots and would impact on the long term health of the tree. The ground conditions therefore need to be reinstated. The timely and careful removal of the soil reinstating the land back to existing ground levels should assist with the long-term health of the tree. A recent site visit 16th December noted that these works have not yet been undertaken.
- 6.10 In respect of the owners concerns about costs, the tree was not the subject of a Preservation Order when the land raising was carried out, so no offence was committed. However, the land raising works did need planning permission which has now been granted retrospectively, with amendments taking into account the need to safeguard the long term future of this important tree. A set of plans with ground levels changed from the current levels has been approved by the Council, but at the time of the recent site visit on 16th December 2024 these plans have not yet been complied with. Provided the works to reinstate

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the ground levels are carried out in a timely manner as agreed and without damage to the tree roots, there would be no risk of further action or costs. Failure to reinstate the levels or if the works are undertaken in a way that damage the tree could result in enforcement action and a risk of prosecution.

- 6.11 Under the TPO legislation any cutting down, topping, lopping, root cutting, uprooting, wilful damage or wilful destruction requires consent and any works that go beyond what has been agreed under the planning permission would be guilty of an offence and may be fined. This requirement remains in force for the life of the protected tree (and any subsequent replacement).
- 6.12 The Council are pleased that the owner wishes to retain the tree and aside from the immediate works needed to remedy the ground levels, the tree (like all trees) does require monitoring going forward in the interests of good arboricultural management. In the event the tree does decline and at some future point requires removal, the imposition of the TPO would ensure that a replacement tree can be planted and that the green amenity of the area would be safeguarded in the longer term.

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 control the use of property in accordance with the law and if necessary to control the use of property in accordance with the general interest. The recommended continued protection of this tree by confirming the TPO 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 Crawley Borough Council Tree Preservation Order Oak Tree At The Moat House - 07/2024
- 8.2 Planning Application - CR/2022/0826/FUL - Demolition of existing conservatory in central courtyard and the link to Woodways to the south. enclosure and extension into central courtyard remodelling of the dwelling including; creation of new first floor and loft area on the main house, insertion of roof lights and new dormers, increase in the height of the roof by 0.4m , replacing the gable of the roof to the front elevation with a hipped roof. The enlargement of the basement. Replacement of the garage with new garage block incorporating 2 bedroom self-contained garage annex (2 bay garage with dormers above), the erection of new gate and fencing along the front boundary, and retrospectively an increase in land levels of rear garden, with retaining wall and rear fence. (amended description).

Contact Officer: Russell Spurrell
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Email: russell.spurrell@crawley.gov.uk

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SCHEDULE

SPECIFICATION OF TREES

Trees Specified Individually (encircled in black on the map)

Reference on Map	Description	Situation
T1	English Oak	Grid Ref: TQ-29632-37438

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

Reference on Map	Description	Situation
NONE		

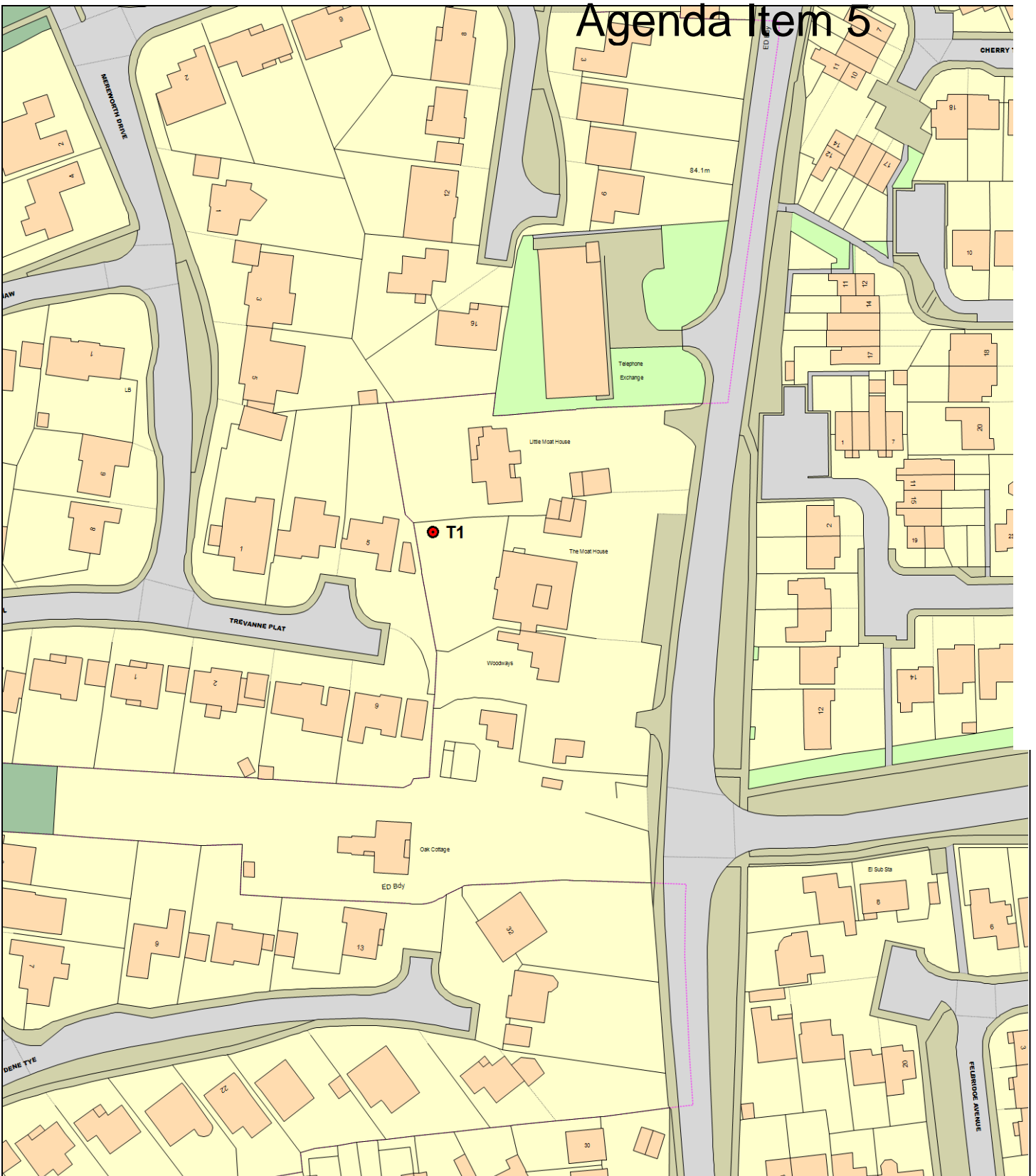
Woodlands (within a continuous black line on the map)

Reference on Map	Description	Situation
NONE		

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

Reference on Map	Description	Situation
NONE		

Agenda Item 5



Tree Preservation Order No 07/2024
Oak Tree At The Moat House

Clem Smith
Head of Economy and Planning Services

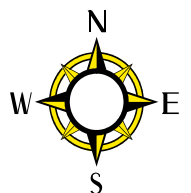


The scale shown is approximate and should not be used for accurate measurement.

Scale 1:1250

Date 02/12/2024

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Proposed Tree Preservation Order (TPO) No 07/2024 Oak Tree At The Moat House

The council have placed a provisional TPO on an oak tree in the rear garden of our family home on the basis that:

- The tree is prominent in the locality and has significant amenity value
- The tree is clearly visible from the public highway
- The tree is visually important in the local area
- The tree has significant wildlife value

Reason for objection

My objection is that:

1. The council's basis for the TPO is not sufficient to warrant an order and contrary to the legislation governing Tree Preservation Orders.
2. If, despite our best endeavours, this tree does not return to full health, I will be required to go to court and could face up to a £20,000 fine. This would not be a fair or just outcome.

Background

We bought the Moat House (a former Victorian wash house for the Worth Park estate) in June 2022, at which point it had been neglected for several decades and at times used as an illegal HMO [REDACTED]. The former garden was inaccessible due to the overgrowth. In December 2022 we submitted a planning application to restore the property to its former glory and make it our family home. Myself, [REDACTED] and our [REDACTED] children [REDACTED] [REDACTED] currently live in [REDACTED] the now derelict building [REDACTED]. We cleared the overgrowth of the rear garden in late 2022 and now have a lovely garden.

In November 2023 our planning officer advised that everything was agreed in principle and that we could proceed with building control drawings with a view to commencing work in early 2024. Since then, we have reached out to the planning department on many occasions to understand why our application has still not been determined. A revised water neutrality statement was provided in February 2024. A lack of resource is not an acceptable explanation for the delays encountered. Throughout 2024 we were reassured numerous times that our application would be approved imminently and that the planning officer was sorry for the delays experienced. [REDACTED]

[REDACTED] We have raised the matter with council managers including Clem Smith. We do not understand what is delaying our application or when it might be resolved. Our architect tells us he has several other applications which have been outstanding for a similar amount of time. How can this be acceptable? How can residents, builders and architects work like this?

As has been documented in email with the planning department on several occasions, when we bought the property, the tree was close to dead with large amounts of deadwood which would frequently fall and an ivy like web which was wrapped around the full trunk of the tree. Evidence of this can still be seen today. Our tree surgeon and builders have been working

on, and monitoring, the tree over the past two years. The tree is now in much better health, however I would still describe it as “at risk”.

My family and I love the oak tree, it is the centre point of our garden, and we have been doing everything possible to help it recover from past neglect.

I also note that it is necessary for the protection of a tree by a TPO to be considered ‘expedient’. This is a test as to whether the serving of an Order in the public interest is a suitable/appropriate action in the circumstance of a particular case. For example, it is unlikely to be expedient to make a tree the subject of a TPO if it is under good proactive arboricultural management. This tree has been, and continues to be, under the management of All Seasons Tree Surgeons.

My comments on the council’s grounds for the TPO are as follows:

The Tree is prominent in the locality and has significant amenity value

No reason has been given for why the TPO was served. There is no danger to the tree other than risks relating to its neglect by a previous owner, which we are proactively trying to resolve. What is the difference between this oak tree and the thousands of other oak trees within the town that don’t have a TPO?

No inspection has been made of the tree by the council. I would be happy for an inspection to take place. I have previously sought confirmation from the tree officer if he had inspected the tree. No response was received.

‘Amenity’ is not defined in law, so authorities are advised 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.

The council have not demonstrated that protection would bring a reasonable degree of public benefit. The tree is in the rear garden of a private house and only visibly by a small number of neighbouring properties. It is not prominent in the locality.

The tree is clearly visible from the public highway

The tree is hardly visible at all from the public highway to the front of the property. It is partially visible from a limited number of residential properties to the rear.

There are lots of oak trees in the area (none of which have TPO’s) which are clearly visible from the public highway. This tree is not.

The tree is visually important in the local area

Public visibility alone is not sufficient to warrant an Order. Government guidance advises the council to assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

The tree offers some visual attraction to a small number of neighbours. This is not a sufficient basis to warrant an order.

The tree has significant wildlife value

Where relevant to an assessment of the amenity value of trees, authorities may consider other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

The tree has a wildlife value consistent with an average tree in a residential setting. It is not significant and not a sufficient basis to warrant an order.

Subject access request

[REDACTED]

Summary

There is no risk to the tree beyond correcting past neglect which we are proactively addressing. The council have failed to set out adequate justification to warrant an order for the reasons set out above.

I would welcome the opportunity to discuss this matter in more detail with the Development Control Committee at the right time.

[REDACTED]

Property Owner

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