

# Crawley Borough Council

## Report to Planning Committee

4<sup>th</sup> December 2017

### Objections to the Crawley Borough Council Tree Preservation Order Midhurst Close, Ifield No. 1 - 10/2017

Report of the Head of Economic and Environmental Services – PES 263

---

#### 1. Purpose

- 1.1 This report presents the Midhurst Close No. 1 - 10/2017. 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 Midhurst Close No. 1 - 10/2017 without modification.

#### 3. Reasons for the Recommendation

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

#### 4. Background

- 4.1 The trees the subject of this Order are a group of 11 pine trees located within the rear gardens of numbers 4 – 9 Midhurst Close. The trees are towards the end of the rear gardens and form a row of trees running roughly north-south along the rear boundary. Due to lack of access to the rear gardens it was not possible to ascertain exactly which properties the trees were in. Immediately to the east of the trees is a line of trees (mainly Lime) running parallel to the subject trees, within the grounds of St Margaret's C of E Primary School. The pine trees form one of the more dominant groups of trees in the area being highly visible and conspicuous due to their darker foliage that stands out against the surrounding, mainly broadleaved trees.
- 4.2 The Order was served following receipt of a TPO application for works submitted by the owner of no. 7 Midhurst Close to fell the Pine tree located within the rear garden. After further investigation it was found that the order (The Crawley Borough (Ifield School Campus) TPO 1984 does not cover the Pine trees. The LPA therefore decided to protect the trees in order to ensure their continued contribution to the green amenity of the area.
- 4.3 The LPA was faced with a decision to either serve a new order to protect the Pine trees or allow the one in the rear garden of no. 7 to be removed which would likely have led to the removal of some if not all of the others in the group. The trees have strong cohesive strength and are highly visible in the local area and, due to the extremely high amenity of these trees it was considered expedient to serve the TPO and ensure their continued contribution.

- 4.4 The provisional Tree Preservation Order was made on 1st August 2017 and remains in force for a period of six months (until 1<sup>st</sup> February 2018). 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:

### **Owners and occupiers of the land:**

4 Midhurst Close, Crawley, West Sussex, RH11 0BS  
5 Midhurst Close, Crawley, West Sussex, RH11 0BS  
6 Midhurst Close, Crawley, West Sussex, RH11 0BS  
7 Midhurst Close, Crawley, West Sussex, RH11 0BS  
8 Midhurst Close, Crawley, West Sussex, RH11 0BS  
9 Midhurst Close, Crawley, West Sussex, RH11 0BS  
10 Midhurst Close, Crawley, West Sussex, RH11 0BS  
Crawley Borough Council, Town Hall, The Boulevard, West Sussex, RH10 1UZ

### **Owners and occupiers of adjoining land affected by the TPO:**

St Margaret's Church of England Primary School, The Mardens, Crawley, West Sussex, RH11 0AQ  
15 Nuthurst Close, Crawley, West Sussex, RH11 0BU

- 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 *7th September 2017*. 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 an owner/occupier objecting to the Tree Preservation Order. The following reasons have been submitted for consideration.

#### *Accuracy of Order*

- There is no detailed survey of number of tree species and current state condition of trees which should be the basis for making the order. The plan provided is wrong as trees in G1 do not exist at 4 Midhurst Close

#### *Amenity and Safety Issues*

- Trees within area G1 are not of good shape and form and all urgently need maintenance. Work is suggested for Council trees at nos 5 and 6 Midhurst Close prior to confirmation of Order (suggesting one third reduction in 'top height').
- The row of trees significantly reduce light to rear of property
- The trees pose a risk to persons and property and effect the environment to housing and adjoining school.

## 6. Amenity Value/Assessment and Consideration of the Representations

### *Amenity and Safety Issues*

- 6.1 The Pine trees do have good form and appeared to be in good general health at the time the survey was carried out. Trees in close proximity to buildings, particularly residential properties will often need maintenance works such as containment pruning etc. in order that tree and building can coexist. The imposition of a Tree Preservation Order does not preclude reasonable and justifiable works from being carried out to trees provided that these works can be shown to be proportional and do not destroy the amenity of the tree(s). Reducing the height or 'topping' these trees is not arboriculturally sound due to the unique growth habits of Pine trees and would result in the trees being disfigured and a considerable loss of amenity.
- 6.2 Due to the orientation of the trees in relation to the houses (both houses and trees run north-south) the trees do not cast a significant shadow over the gardens from roughly noon onwards. Moreover

there is no right to light as far as trees are concerned and this will rarely be considered justification to fell or undertake excessive works to visually important trees such that the amenity of the trees are destroyed.

- 6.3 The trees are in good physiological condition with full, healthy crowns. At the time of the site visit there were no obvious signs of significant structural defects in the crowns. Notwithstanding the concerns of the objector no evidence has been provided to show that the trees are dangerous or that a lower level of works such as removing deadwood would not alleviate any issues with safety. Clearly it is not unusual for trees to loose leaves/twigs, but with good on going management risks from falling branches etc. can be minimised as they are with street trees and those in public parks. It is not therefore considered on the basis of the information submitted that these trees are likely to be an imminent danger to nearby occupiers. The School (St Margaret's C of E Primary School) is not affected by the trees as they are on the boundary away from any high occupancy areas. As stated above shading and similar issues would rarely be considered justification for undertaking excessive works to protected trees.

#### *Accuracy of Order*

- 6.4 The trees were surveyed prior to the order being served, the number and species of trees within the group is stated in the TPO schedule. The condition (and therefore suitability) of the trees were assessed during the initial survey however there is no requirement to record this formally. The broken line delineating the group shows the extent of the combined crowns and since the crown of the northern most tree extents over the garden of no. 4, this is how it is shown on the TPO plan.

## **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.

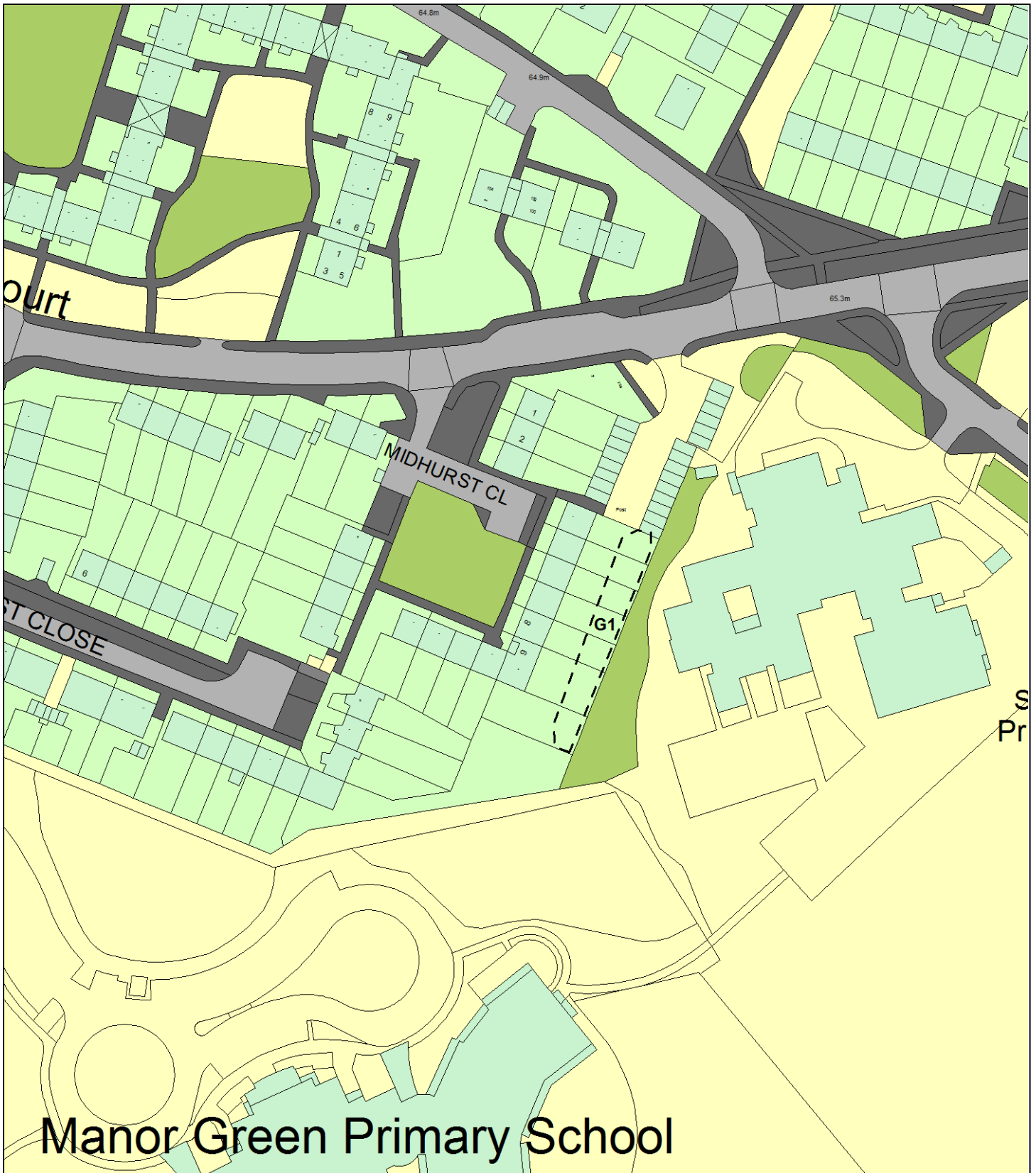
#### *Planning legislation*

- 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 Midhurst Close No.1 Tree Preservation Order No 10/2017

Contact Officer: Russell Spurrell  
Direct Line: 01293 438033  
Email: russell.spurrell@crawley.gov.uk



**Tree Preservation Order No 10/2017  
Midhurst Close No. 1**

**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	21/11/2017

© Crown copyright and database rights 2014 Ordnance Survey 0100023717

