

Crawley Borough Council

Report to Planning Committee

8 February 2022

Objections to the Crawley Borough Council Tree Preservation Order The Tweed - 06/2021

Report of the Head of Economy and Planning – *PES/396*

1. Purpose

- 1.1 This report presents The Tweed - 06/2021 Tree Preservation Order. The Committee is requested to consider the objections received 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 the Planning Committee CONFIRMS the Tree Preservation Order – The Tweed - 06/2021 without modification.

3. Reasons for the Recommendation

- 3.1 The trees are considered to have good landscape amenity value in the surrounding area. The trees are prominent in the locality and have significant amenity value. The trees are visually important in the local area. The trees has significant wildlife value.

4. Background

- 4.1 The trees the subject of this Tree Preservation Order (TPO) are a group on land to the north of and adjacent to The Tweed, Tweed Lane, Ifield. This land was formerly part of the garden of the Tweed and has been sold off as a residential plot for a single dwelling. There are a total of 10 individual trees comprising large, mature specimens of oak, ash and sycamore. T1, T2, T3, T4, T5 and T6 cover the eastern half of the site, the western half of the site is open with T7 - T10 located along the western boundary. The site is within the Ifield Village Conservation Area. A copy of the TPO showing the location of the trees is attached to this report.
- 4.2 The TPO was made following receipt of a notification for tree works in a conservation area submitted under section 211 of the Town and Country Planning Act by the landowner. A site visit was undertaken and it was determined that the trees were of high amenity value. The Council therefore decided to protect the trees in order to allow tighter control over the works undertaken, to ensure their protection during any building works and to ensure replacements for any felled trees.
- 4.3 The provisional TPO was made on 15th September 2021 and remains provisionally in force for a period of six months (until 15th March 2022). If the TPO is confirmed the protection becomes permanent; if the TPO is not confirmed it ceases to have effect.
- 4.4 Since the making of the TPO, consent for the felling of T3 and T10 was granted under application reference CR/2021/0758/TPO in November 2021. T3 (oak) while in basically good health and condition and with some cohesive strength with the rest of the group, was suppressed by the adjacent trees and was obstructing the roof of the car port. It was therefore considered on balance that removing T3 and replacing it elsewhere within the site would enhance amenity in the long term. T10

(ash) was located on the western boundary, growing out of the bank of the drainage ditch and was leaning considerably into the site. Following a closer inspection of the tree in connection to the above TPO application, the tree was considered to be a safety concern and its removal was considered justified with a condition requiring a replacement.

5. Notification/Consultation/Representation

5.1 A Council must, as soon as practicable after making a TPO and before it is confirmed, serve persons interested in the land and affected by the TPO a copy of the order and a prescribed notice. The Council served the owner(s)/occupiers(s) of the land and other interested parties a copy of the provisional TPO and notice. The following persons were served.

Owners and occupiers of the land:

- The owner/occupier, 75 Malthouse Road, Southgate, Crawley, RH10 6BQ

Owners and occupiers of adjoining land affected by the TPO:

- The owner/occupier, The Tweed, Tweed Lane, Ifield, Crawley, RH11 0NH
- The owner/occupier, 1 Tweed Cottages, Tweed Lane, Ifield, Crawley, RH11 0NH

5.2 The Council is required to consider any objections or representations made within 28 days of the date of the TPO. The notification period for objections ended on 20th October 2021. Confirmation of the TPO is required within six months of the date upon which it was provisionally made.

5.3 Three representations have been received; from the owner of the plot as well as the nearby neighbours at The Tweed and at 1 Tweed Cottages, all objecting to the TPO. The full objection letters are attached to this report as appendix A. The following reasons have been submitted for consideration.

Objections received from the owner of the land:

- T1 oak – numerous dead limbs overhanging public footpath, in need of deadwooding and removal of limbs in direct conflict with telephone cables.
- T3 oak – growing with a very uneven crown and has branches that frequently drag across the tiled roof of the existing car port.
- T5 ash – evidence of dieback highly visible and significant. This tree has a life expectancy of less than 10 years due to the presence of dieback; frequently sheds limbs. It will conflict with the new dwelling.
- T7 ash – evidence of dieback very visible as well as significant rot up to 400-500mm deep in one particular hole. Sheds limbs.
- T10 ash – this tree is now leaning significantly into our plot and poses a real threat. In strong winds this tree sways notably, with a very uneven crown, having dropped a large limb approx. 5 weeks ago. Ash dieback is very clear.

Objections received from the neighbours:

- The tree (T10) is growing out of the side of the bank of a drainage ditch [which] could lead the tree to sink into the ditch thus exacerbating the problem.
- The reinforced concrete floor of the workshop situated on the west side of the tree (T10) is evidencing an east to west crack in line with the tree.
- The tree (T10) is already suffering from ash dieback and is already shedding limbs in severe weather. Strong gale force winds cause the tree to sway
- Due to the position of these trees in relation to our garden we suffer from a large amount of shading in the latter half of the year.
- T2 is very much a concern as it is a very large double-trunked sycamore, very close to the boundary. There is a bough which overhangs our garden which could cause damage to the garage if it came down.

6. Amenity Value/Assessment

- 6.1 Since the TPO was made, there have been a number of visits to the site and various works consented to the trees following a more thorough site inspection and to address concerns raised by the site owner and neighbours.
- 6.2 Works to T1 (oak) for the removal of damaged limbs overhanging the footpath have been granted under the emergency 5 Day Notice procedure (reference CR/2021/9013/5DN). Further surgery was consented under CR2021/0758/TPO to prune branches obstructing the telephone cables so the nuisance highlighted by the landowner has been addressed.
- 6.3 Consent to fell T3 (oak) was granted under CR/2021/0758/TPO with a condition to replant in a suitable location to be agreed with the Planning Department. It was considered that a replacement tree of better quality will offer greater amenity and enhance the character of the Conservation Area further in the longer term. This new specimen will be protected under the TPO – once the tree is planted the TPO will need modification to plot the new tree's location. This can be done by officers under delegated authority.
- 6.4 Works were consented to T5 (ash) for a crown lift and removal of deadwood under application CR/2021/0604/TPO as requested by the applicant (the landowner). The tree is showing signs of dieback although it could not be determined if this is due to ash dieback or other factors such as drought stress to which ash is susceptible. The tree is still considered to be worthy of retention and the works consented are considered to be sufficient to address the issues above. The planning application for the new dwelling at the plot (reference CR/2020/0693/FUL) identifies T5 for retention and clearly does not consider it to be a constraint to development.
- 6.5 Works were consented to T7 (ash) for a 3m reduction in height and lateral spreads under CR/2021/0758/TPO as requested by the applicant (the landowner). Upon inspection during the site visit in relation to the application, the tree was found to be in reasonably good condition with no major structural defects at the time of inspection. The tree is located at the edge of a drainage ditch and is either twin-stemmed or more likely two trees that have grown together and become conjoined at the base, one of the stems is positioned on the side of the bank of the drainage though this stem showed no signs of instability or subsidence. It is considered that the works permitted have addressed the issues expressed above.
- 6.6 Permission to fell T10 was granted under CR/2021/0758/TPO with a condition to replant a replacement in a suitable location to be agreed with the Planning Department. A replacement tree of better quality is considered to offer greater amenity and enhance the character of the Conservation Area further in the longer term. This new specimen will be protected under the TPO – once the tree is planted the TPO will need modification to plot the new tree's location. This can be done by officers under delegated authority.
- 6.7 The hornbeam (*Carpinus*) at the front of the plot referenced by the landowner is not covered by the TPO.
- 6.8 With regard to the objection on grounds of shading, trees can be pruned within reason (and subject to consent) to allow more light to pass through, however trees necessarily cause shade and there is no right to light in relation to trees. The fact that a tree is casting shade over a property should not automatically disqualify a tree from protection, in this case it is considered that the contribution that these trees make to the wider green amenity and character of the area far outweighs the negligible shading impact on neighbouring properties.
- 6.9 For the reasons set out above, it is considered that the substantive objections raised to the making of the TPO have been addressed through further consultation with the affected parties, including the granting of consent for some tree works. The TPO should be confirmed for amenity reasons.

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 these trees 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 The Crawley Borough Council Tree Preservation Order The Tweed - 06/2021

Application CR/2021/0758/TPO – Officer Report and Photographs – see planning register <https://planningregister.crawley.gov.uk/Planning/Display/CR/2021/0758/TPO#>

Application CR/2021/0604/TPO – Officer Report and Photographs - see planning register <https://planningregister.crawley.gov.uk/Planning/Display/CR/2021/0604/TPO#>

Application CR/2020/0693/FIL – Application Plans and supporting details – see planning register <https://planningregister.crawley.gov.uk/Planning/Display/CR/2020/0693/FUL#>

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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-24932-38127
T2	sycamore	Grid Ref: TQ-24924-38131
T3	English oak	Grid Ref: TQ-24924-38124
T4	English oak	Grid Ref: TQ-24914-38123
T5	Common ash	Grid Ref: TQ-24911-38131
T6	sycamore	Grid Ref: TQ-24906-38133
T7	Common ash	Grid Ref: TQ-24885-38133
T8	English oak	Grid Ref: TQ-24881-38128
T9	English oak	Grid Ref: TQ-24883-38122
T10	Common ash	Grid Ref: TQ-24883-38117

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

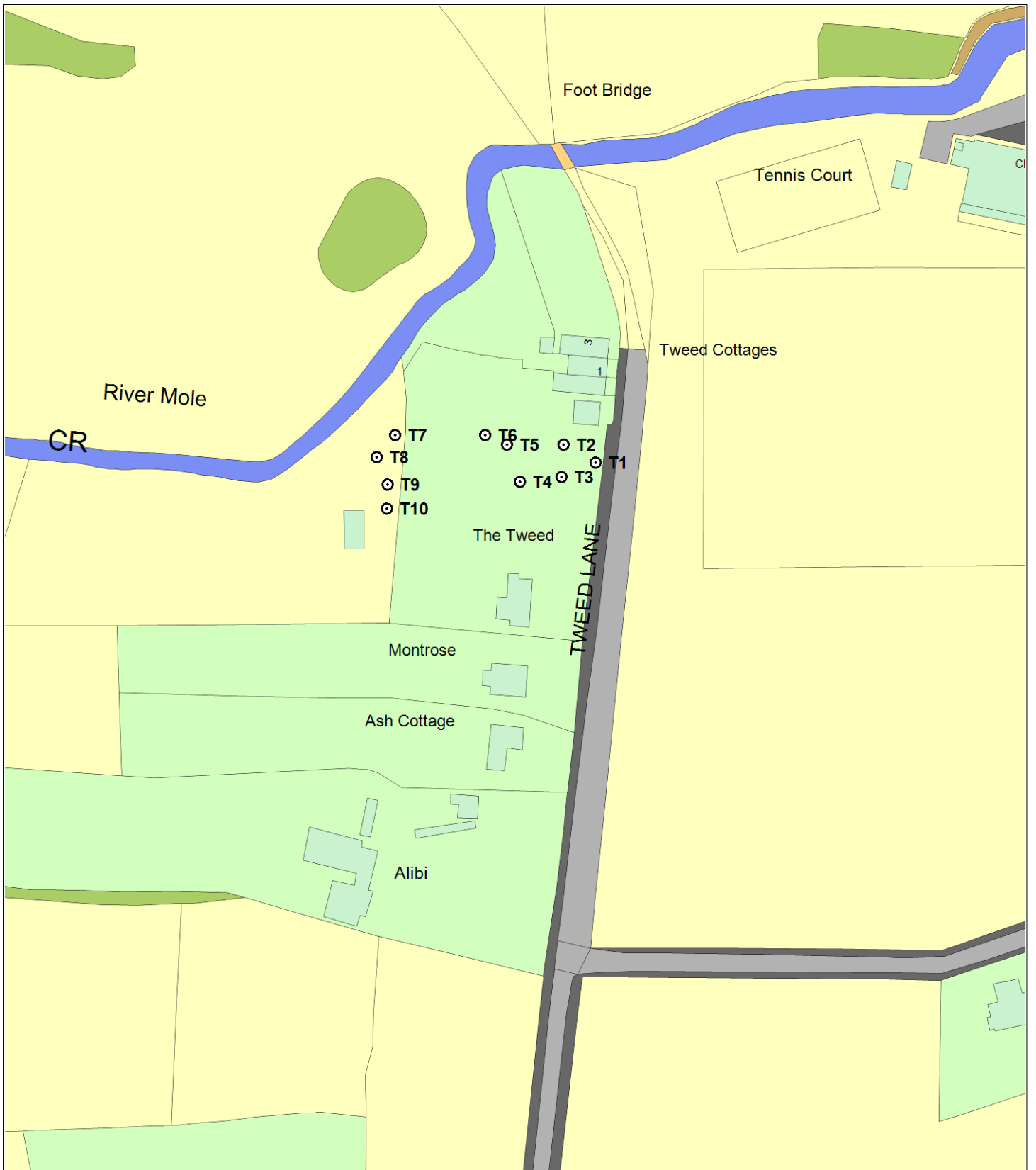
Reference on Map	Description	Situation
NONE		

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		



**Tree Preservation Order No 06/2021
The Tweed**

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

**Clem Smith
Head of Economy and Planning Services**

Scale 1:1250

Date 24/01/2022

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