

Crawley Borough Council

Report to Planning Committee 8 March 2022

Objections to the Crawley Borough Council Tree Preservation Order – Trees to Rear of 6 Wilson Close - 07/2021

Report of the Head of Economy and Planning – *PES 398*

1. Purpose

- 1.1 This report presents the Trees To Rear of 6 Wilson Close - 07/2021 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 that the Planning Committee CONFIRMS the Tree Preservation Order – Trees to Rear of 6 Wilson Close - 07/2021 without modification.

3. Reasons for the Recommendation

- 3.1 The trees have been identified as having significant long term potential. The trees are prominent in the locality and have significant amenity value. The trees provide an important visual screen between (future) properties. The trees are clearly visible from the public highway.

4. Background

- 4.1 The trees the subject of this Tree Preservation Order (TPO) are a group of two consisting of a grey alder and an ash-leaved maple located on a thin strip of amenity land to the rear of 6 Wilson Close and adjacent to Lucerne Drive, in Maidenbower. The land on which the trees are located forms one of several small strips of amenity land adjacent to Lucerne Drive (see attached map).
- 4.2 In August 2021, an enquiry was received from the owner of 5 Wilson Close regarding the removal of these trees, though no reason was given. In September 2021, a separate inquiry was made about the same trees from the occupier at 6 Wilson Close. On 20th September 2021, a site visit was undertaken and it was determined that the trees were of high amenity value. The Council therefore decided to make a TPO in order to ensure protection of these trees going forward and to allow the Planning Department control over any works that may be required.
- 4.3 The provisional TPO was made on 1st October 2021 and remains provisionally in force for a period of six months (until 1st April 2022). If the TPO is confirmed, the protection becomes permanent. If the TPO is not confirmed, it ceases to have effect.
- 4.4 The trees are visible for some distance along Lucerne Drive in both directions as well as from Henley Close. The trees form a screen between the houses of Wilson Close and Lucerne Drive and Henley Close – this is one of several small pockets of trees that create an important screen between the two areas of development. These pockets of green amenity land help to soften the hard edge of development along Lucerne Drive and enhance the green character of the area.

- 4.5 These trees make an important contribution to the green amenity of the area and their loss or unconstrained/excessive pruning would have a detrimental impact on amenity. The serving of the TPO on these trees sought to prevent this.

5. Notification/Consultation/Representation

- 5.1 A Council must, as soon as practicable after making an TPO and before it is confirmed, serve persons interested in the land affected by the TPO a copy of the order and a prescribed notice. The Council therefore 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:

- George Wimpey Southern Counties Ltd, Gate House, Turnpike Road, High Wycombe, HP12 3NR

Owners and occupiers of adjoining land affected by the TPO:

- The owner/occupier, 5 Wilson Close, Maidenbower, Crawley, RH10 7NX
- The owner/occupier, 6 Wilson Close, Maidenbower, Crawley, RH10 7NX
- The owner/occupier, 64 Carter Road, Maidenbower, Crawley, RH10 7NY
- West Sussex County Council, County Hall, West Street, Chichester, PO19 1RG

- 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 5th November 2021. Confirmation of the TPO is required within six months of the date upon which it was provisionally made.

- 5.3 One representation has been received from the owner of the neighbouring property at 6 Wilson Close, objecting to the TPO. The full objection letter is appended to this report as Appendix A. The following reasons have been submitted for consideration.

Objections received from neighbour at 6 Wilson Close:

- Your letter totally contradicts the email received confirming no issues to have the trees trimmed. My question is what has changed?
- I witnessed a double decker bus on learner training swerve at the last moment into the opposite lane to avoid an overhanging branch from our tree. Had a vehicle been coming in the opposite direction then this could have been a fatality.
- Already this morning I heard a large crash from what appears to be a high sided lorry coming into contact with the overhanging branches.
- I trust that the Council will be responsible should an accident occur as you oppose the trimming. Legal responsibility will fall on you [the Council] as I have documented evidence that you will not allow trimming.
- From opening of business today I hold the Council responsible for any accidents, damage sustained to any person or vehicle.
- This is a health and safety issue to motorists as well as the passing public walkers and children.

6. Amenity Value/Assessment

- 6.1 A TPO status enquiry was received from the owner of 6 Wilson Close on 13th September 2021 seeking to trim the trees and a response was sent by a member of the admin team on 15th September advising that the trees were not protected. This information was factually correct at that time.

- 6.2 Unfortunately, there was a miscommunication between staff as that response was not checked with the Tree Officer before being sent. The Tree Officer was due to assess these trees following the enquiry of August 2021. Following a site visit to assess the suitability of the trees it was determined that they were worthy of preservation and a TPO was duly served on 1st October 2021.

- 6.3 West Sussex County Council's Highways Department, as statutory undertaker, has the power to undertake works to protected trees, where said works are required for the safe use of the highway, without the need to apply for to the Local Planning Authority for consent. The imposition of a TPO does not therefore preclude the pruning of trees by the highways authority where required. It is recommended that the neighbour(s) contact WSCC and request that the trees are inspected.
- 6.4 The imposition of a TPO does not exonerate the landowner of their duty to maintain the trees on their land in a safe condition, or from responsibility should damage or harm occur as a result of neglect of this duty.
- 6.5 The imposition of a TPO by the Council does not transfer this responsibility on to the Council; this still lies with the landowner. The Council is not responsible for the trees or any accidents or damage caused by the trees.
- 6.7 The landowner is responsible for the trees and West Sussex Highways is responsible for the safe use of the highway. The objector is neither the landowner nor the Highways Authority and therefore has no responsibility for these trees.
- 6.8 The imposition of a TPO does not preclude works to trees where, following the submission of a tree works planning application, such works are considered justified and the necessary permissions granted. To date no tree works have been applied for.
- 6.9 The Council has not stated that trimming works to the trees would not be allowed. The advice has been that an application should be made and this would be considered.

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 Trees To Rear Of 6 Wilson Close - 07/2021

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SCHEDULE
SPECIFICATION OF TREES

Trees Specified Individually
(encircled in black on the map)

Reference on Map	Description	Situation
T1	Grey Alder	Grid Ref: TQ-29622-35366
T2	Ash Leaf Maple	Grid Ref: TQ-29620-35361

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

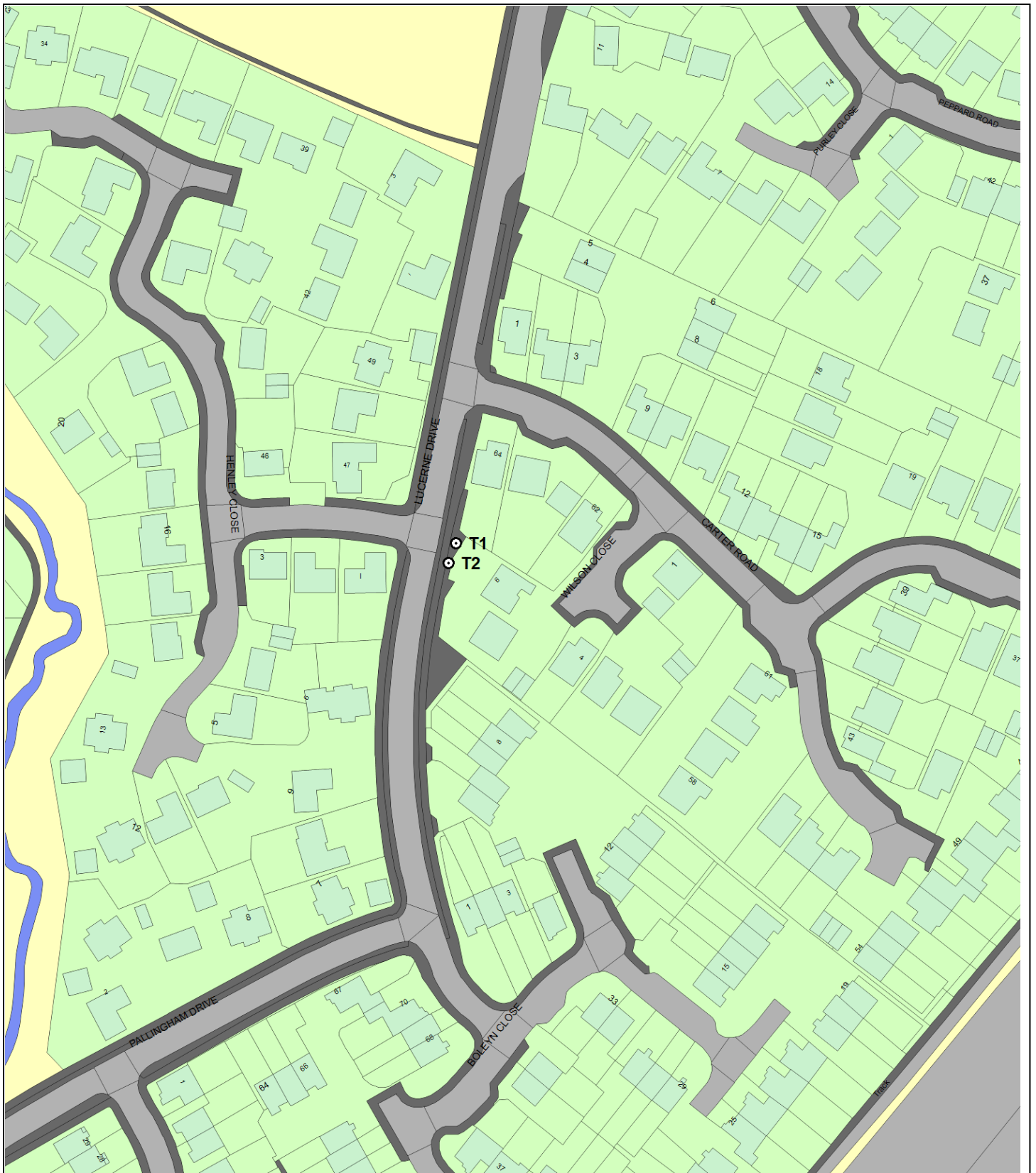
Reference on Map	Description	Situation
NONE		

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 07/2021
Trees To Rear Of 6, Wilson Close

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 15/02/2022

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