

Crawley Borough Council

Report to Planning Committee

7 March 2023

Objections to the Crawley Borough Council Tree Preservation Order – St Joan Close No. 1 - 04/2022

Report of the Head of Economy and Planning – *PES/429*

1. Purpose

- 1.1 This report presents the St Joan Close No. 1 - 04/2022 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 Committee **CONFIRMS** the Tree Preservation Order St Joan Close No. 1 - 04/2022 without modification.

3. Reasons for the Recommendation

- 3.1 The trees have good shape and form.
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 are clearly visible from the public highway.
The trees are visually important in the local area.

4. Background

- 4.1 The trees the subject of this Order are two oak trees, one is located at the bottom of the rear garden of 30 St Joan Close and the other located adjacent within the rear garden of 31 St Joan Close. The rear gardens in which these trees are situated back onto the side/rear boundary of 28 Ivanhoe Close, rear boundary of 26 Ivanhoe Close and a small garage court/car park which appears to be privately owned. The tree within the garden at 30 St Joan Close is privately owned while 31 St Joan Close is a Council property and the tree is therefore owned by CBC.
- 4.2 The Tree Preservation Order was made following receipt of a TPO status enquiry submitted by the owner of 28 Ivanhoe Close stating that they and the tree owners intend to fell the tree within 30 St Joan Close. When the trees were found not to be protected, a desktop assessment was made followed by a site visit, which determined that the trees made a strong visual contribution to the surrounding area with good amenity. Access to the garden and the base of the stems was gained following the service of the TPO and the trees were then able to be assessed in detail. On assessment the trees appeared to be in good general health and condition at the time of inspection with no signs of major structural defects. The trees form an important screen between the residential properties in Ivanhoe Close and St Joan Close. The Local Planning Authority (LPA) therefore decided that it was expedient in the interests of amenity to protect the trees by the making of a Tree Preservation Order in order to ensure their continued contribution to green amenity of the area. The trees provide part of

a strong landscape feature that runs north to south along the rear boundaries of properties in St Joan Close and Ivanhoe Close and also links into a wider network of mature trees running east to west between St Joan Close and Vivienne Close.

- 4.3 The provisional Tree Preservation Order was made on 6th October 2022 and remains provisionally in force for a period of six months until 6th April 2023. If the Order is confirmed, the protection becomes permanent; if the Order is not confirmed, it ceases to have effect.
- 4.4 It is considered that these trees make an important contribution to the green amenity of the area and their loss would have a detrimental impact on amenity. The serving of a the TPO on these trees seeks to prevent this.

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, 30 St Joan Close, Crawley, RH11 7SW
- Justin Roberts, Crawley Borough Council (Amenity Services), Town Hall, The Boulevard, Crawley, RH10 1UZ
- The Owner/Occupier, 26 Ivanhoe Close, Langley Green, Crawley, RH11 7UF
- The Owner/Occupier, 28 Ivanhoe Close, Langley Green, Crawley, RH11 7UF
- The Owner/Occupier, 31 St Joan Close, Langley Green, Crawley, RH11 7SW

Owners and occupiers of adjoining land affected by the TPO:

- 7 Wolverton Gardens, Horley, RH6 7LZ
- 46 Upfield, Horley, RH6 7LF
- Hyde Housing Association Ltd, 30 Park Street, London, SE1 9EQ

- 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 10th November 2022. Confirmation of the Order 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 28 Ivanhoe Close, the tenant of 28 Ivanhoe Close and the owner of 30 St Joan Close respectively objecting to the TPO. The full objection letters are provided at Appendix A. The objections are summarised below.

Accuracy

- The map is inaccurate as it shows the tree incorrectly plotted in the wrong garden.

Amenity

- The tree does not have 'good shape and form'. It is, as Council Officers would have seen if they had been out to see it, enormous and overgrown with a huge canopy that blights a very large area where it drops debris and cuts light.
- The application claims that the tree is 'prominent in the locality'. Prominent (as defined by the Oxford English Dictionary: jutting out, projecting, conspicuous, distinguished) is not something that applies to it. It is only conspicuous because its over-sized canopy covers part of the car park, the gardens of several houses in St Joan Close and the garden of 28 Ivanhoe Close.
- The tree is definitely not 'visible from the public highway'. The only nearby highway is Ivanhoe Close – from there it is around the bend in an access road and at the end of a car park.

- It does not have 'significant amenity value'; it has no amenity value at all and is just a big, ugly, overgrown tree with diseased branches that keeps out light.
- In no way is the tree 'visually important' in the area. It is however very visually intrusive to me and my neighbours, in that its canopy covers a large area of this fairly densely developed area. Rather than being 'important' it is considered a nuisance.
- It is a blight on the surroundings and an eyesore.

Health and Long-Term Retention Value

- The tree does not have significant long-term potential. It is overgrown and diseased, with dead branches and other unhealthy ones where leaves are discoloured during the height of the growing season.

Seasonal Nuisance

- [The tree] drops deadwood and other material including leaves on the car park and vehicles. Sticky stuff and other bits including acorns spoil my lawn.

Safety

- It is unstable, parts of it are dead and diseased and it's a danger to the area.
- Because of its poor condition, the tree is a danger. My tenant is very concerned because deadwood from it had been falling into his garden, where his young grandchildren like to play. One large piece actually fell near one of the children.

Other

- It is extremely difficult to communicate with the people who deal with these protection orders. I had been trying since March of this year to find out whether the tree has been subject to a TPO. I do not want to go through this again in order to seek permission to make my tree safe and in a state where it no longer constitutes a nuisance.

- 5.4 One representation was received from the owner of 26 Ivanhoe Close (also attached at Appendix A) in support of the Tree Preservation Order with the following reason given:

"I totally agree that the tree[s] should stay and are important to the environment and am happy [for the trees] to have a preservation order".

The representation did however raise some concerns regarding the safety and management of the larger tree and asked if the tree could be trimmed.

6. Amenity Value/Assessment

- 6.1 TPO groups are demarcated on the associated map by a broken black line delineating the extent or edge of the combined canopies of the trees in order to indicate the total area covered by the group as a whole. It is considered that the group has been plotted with a level of accuracy sufficient to identify the group and its position. The Town and Country Planning (Tree Preservation) (England) Regulations 2012 Section 3 (1) (c) requires that "[an order] Shall indicate the position of the tree, groups of trees or woodlands, as the case may be, by reference to a map". It is considered that the map adequately identifies the group and its position.
- 6.2 The trees were visited by the tree officer prior to the TPO being served and were found, particularly the larger one, to be attractive trees with good form, typical of the species.
- 6.3 The trees are approximately 16-18m tall and are therefore clearly visible over the rooftops when viewed from all parts of Ivanhoe Close, Vivienne Close and St Joan Close and can also be glimpsed from Dobson Road and are clearly visible from the public highway. The trees are therefore considered

to have very good visual amenity from several public areas as well as being visible from many private residential properties and are therefore considered of significant amenity value.

- 6.4 The considerable contribution to the visual amenity and character of the area made by these trees comes by virtue of their size which allow them to be visible from several streets away as mentioned above. This is considered a positive and is the main reason the group was protected and is the primary criteria for protecting trees.
- 6.5 Deadwood can be removed from protected trees without the need to apply for planning permission while any unhealthy or dysfunctional branches can be removed subject to planning permission. The presence of deadwood etc does not necessarily indicate that the tree is unhealthy or diseased. Discoloured leaves were not observed during the site visit as this was undertaken during the dormant period, however, should next year's leaves start to show signs of ill health, this can be assessed by a suitably qualified tree surgeon and an application for any remedial works can be submitted.
- 6.6 Leaves, acorns, twigs and honey dew are considered a seasonal nuisance and is a part of the normal life cycle of a tree. Leaves and acorns do not damage or spoil lawns and can be easily raked up. Similarly honey dew does not damage cars and can be simply cleaned off with soap and water. None of these are considered reasons not to protect trees that make such an important contribution to the green amenity.
- 6.7 A level of works/surgery for the trees can be agreed by way of an application to the LPA. The health of the tree along with safety and amenity for the nearby residents are important considerations that are taken into account when agreeing an appropriate level of surgery to a protected tree within its setting. All trees are inspected and the relative merits of the request for works are always considered on a case-by-case basis.

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.

Article 8 and Article 1 of the First Protocol

- 7.2 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 St Joan Close No. 1 - 04/2022

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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)

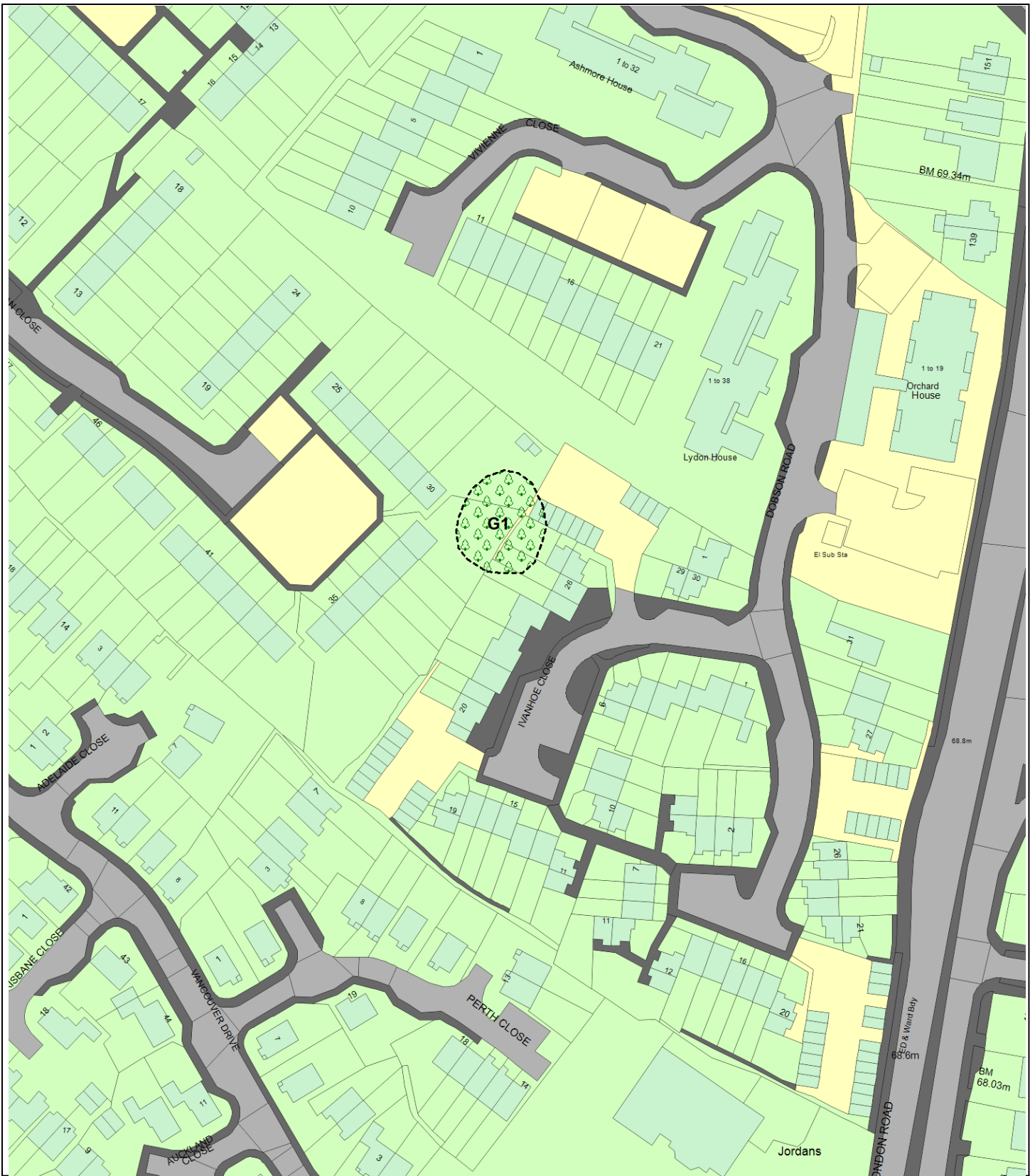
Reference on Map	Description	Situation
G1	English oak (2)	Grid Ref: TQ-26877-38259

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 04/2022
St Joan Close No. 1**

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



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

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Scale 1:1250

Date 14/02/2023

