

Crawley Borough Council

Report to Planning Committee

24 July 2023

Objections to the Crawley Borough Council Tree Preservation Order - Oak Trees Located Between 92 Gales Drive and 139 Three Bridges Road - 02/2023

Report of the Head of Economy and Planning –*PES/432*

1. Purpose

- 1.1 This report presents the Oak Trees Located Between 92 Gales Drive And 139 Three Bridges Road - 02/2023. 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 for Oak Trees Located Between 92 Gales Drive and 139 Three Bridges Road - 02/2023 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 clearly visible from the public highway.

4. Background

- 4.1 The trees the subject of this order are two Oak trees located in the rear garden of 139 Three Bridges Road, on the boundary with the rear garden of 92 Gales Drive. The trees are large and visually prominent and form part of an important line of trees which create a backdrop to and screen between Three Bridges Road and Gales Drive.
- 4.2 A TPO status enquiry was received by telephone from someone claiming to be a Tree Surgeon as they wished to cut the larger oak tree down and having checked the Local Planning Authority records the trees were found not to be protected. Upon visiting the site, one of the trees was found to have been severely and poorly pruned although it was still considered to have good amenity value and is considered likely to recover well with time. The imposition of a TPO will allow this tree the chance to recover and regain its amenity and prevent further excessive works which would further impact the trees health and amenity will offer ongoing protection to both trees in order to safeguard their futures.
- 4.3 The provisional Tree Preservation Order was made on 6th February 2023 and remains provisionally in force for a period of six months until 6th August 2023. 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, 92 Gales Drive, Three Bridges, Crawley, West Sussex, RH10 1QE
- The owner / occupier, 139 Three Bridges Road, Three Bridges, Crawley, West Sussex, RH10 1JT

Owners and occupiers of adjoining land affected by the TPO:

- The owner / occupier, 141 Three Bridges Road, Three Bridges, Crawley, West Sussex, RH10 1JT
- The owner / occupier, 137 Three Bridges Road, Three Bridges, Crawley, West Sussex, RH10 1JT

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 13th March 2023. Confirmation of the order is required within six months of the date upon which the Order was provisionally made.

5.3 Two representations have been received from the owners of 139 Three Bridges Road and 92 Gales Drive commenting / objecting to the TPO. A copy of these letters are provided within this report at **Appendix A**. There have been subsequent exchanges in emails and a site visit with the occupants of 139 Three Bridges Road. The Group Manager's comprehensive response to the occupant the subsequent TPO matters raised is attached to the committee report as **Appendix B** for further information.

5.4 A summary of the comments made to the initial TPO notification are set out below.

Validity

- Concerns raised about the way in which the Order was made and how the trees came to the attention of the Local Planning Authority.

Amenity

- Both these trees are located in an enclosed garden, with properties at all boundaries. There is no access to these trees unless through my garden. From the road the trees are visible but do not understand how they are more or less significant than all the other trees visible from this position, considering only the tops of the trees are visible from this point.
- Opposite my house there remains the remnants of Tilgate Forest and further down my road there are a number of significant trees so I don't see how these trees add significant value over and above the current background especially considering this is not a conservation area.

Safety

- Recent trim of trees following health and safety concern. Our family have not been able to enjoy our personal garden because of the large tree to the centre of it, there is considerable concern over the risks posed by falling branches and acorns.
- Placing a group TPO significantly impacts our decision to live here as a family – the dangers posed by the large tree are not insignificant and I am worried for the health and wellbeing of my family.
- Concern for the spindlier tree which has been neglected which leans and has dead branches. Would like to have longer branches removed to reduce danger to property and allow more light to garden.

Other

- We have no intention of felling either tree however maintain that this decision should be within our control as it was when we purchased the property almost 2 years ago and has been since prior to 1960s when the property was built. Want to enjoy living in property without restriction.
- The TPO should not be granted however prepared to concede that oak tree to right of property (139 Three Bridges Road) does provide beauty and does not pose a risk.

6. Amenity Value/Assessment

- 6.1 There has been concerns raised about the way in which the Order was made and how the trees came to the attention of the Local Planning Authority (LPA). The trees had come to the attention of the LPA and were considered as being under threat of removal. It is not normal practice to advise the landowner prior to a TPO being served as there is a risk the trees could be removed before the Order is made. In this case the Order was served without any prior warning to the tree owners/ occupiers and this is usual practice given the nature of the process.
- 6.2 In respect of amenity, during the site visit it was found that one oak tree had suffered an excessive level of pruning, leaving large diameter pruning wounds and without pruning to suitable growth points or indeed any growth points at all. While the long term health of the tree likely has not been impacted the short to medium term health likely has and the visual amenity of the tree has been harmed in the short to medium term also. It was considered that these works would not have been allowed had the tree already been protected and given the significance of both the trees to the visual character of the area, a TPO was considered expedient. The trees are considered to make an important contribution to the visual amenity of the area.
- 6.4 Public access to a tree is not required in order for a tree to have visual amenity or to contribute to the visual environment. The trees make a strong contribution to the character of the area in their own right as well as the wider group with which they have cohesive strength. The subject trees form part of the screen of trees which were clearly retained and incorporated into the new town development at the time. The level of contribution made by a tree/group of trees goes beyond simply the overall tree cover or gross number of trees in a particular neighbourhood.
- 6.6 In relation to safety, the imposition of a TPO does not preclude necessary or justified works from being undertaken. Works that are justified and proportional and/or required for safety are likely to receive planning consent, however the imposition of a TPO protects the tree against excessive or unnecessary works which would have a negative impact on health and amenity. The works that had already been carried out to the larger Oak are exactly what a TPO seeks to protect against. Any individual whether they are the tree owner or not can apply for works to protected trees if for example there is a need to improve light to gardens or there is concern about damage. All applications are assessed by a site visit and works considered on their merits taking into account the health and amenity of the tree.
- 6.7 When a tree is considered to be under good arboricultural management and is not considered to be under threat from unjustified or excessive works it is unlikely to be considered for protection, however the larger tree was found to have been subject to a disproportionate level of pruning which was not arboriculturally sound nor conforming to industry best practice and was not therefore considered to be under good management. It was therefore considered expedient to protect the tree along with the second tree in order to safeguard their amenity going forward.

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 The Crawley Borough Council Tree Preservation Order Oak Trees Located Between 92 Gales Drive And 139 Three Bridges Road - 02/2023

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Email: russell.spurrell@crawley.gov.uk

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)

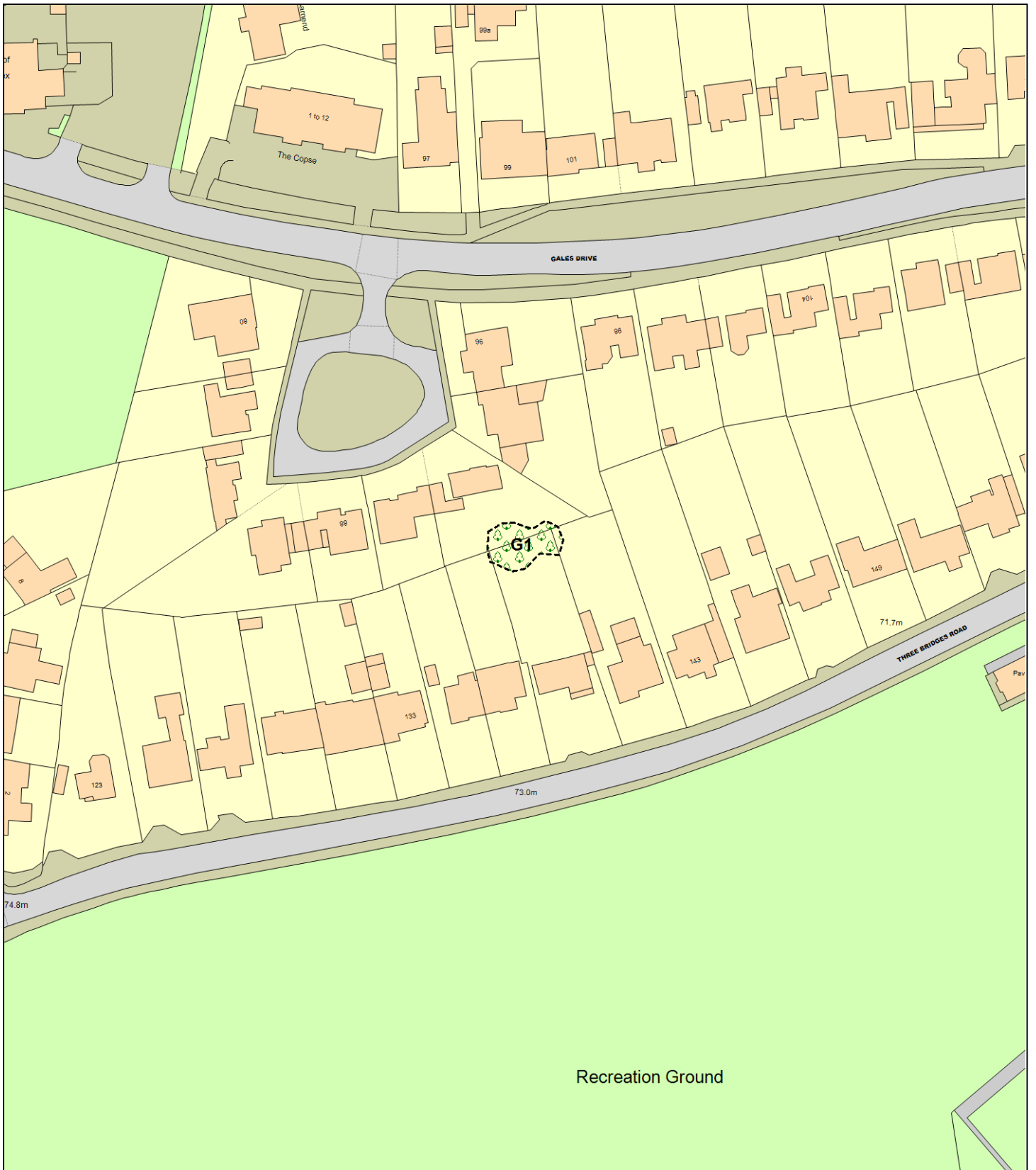
Reference on Map	Description	Situation
G1	English Oak (2)	Grid Ref: TQ-28177-36835

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 02/2023
Oak Trees Located Between 92 Gales Drive and 139
Three Bridges Road

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	12/06/2023

