

Crawley Borough Council

Report to Planning Committee

4th December 2023

Objections to the Crawley Borough Council Tree Preservation Order Hazelwood, Balcombe Road - 07/2023

Report of the Head of Economy and Planning – **PES/448**

1. Purpose

- 1.1 This report presents the Hazelwood, Balcombe Road - 07/2023 Tree Preservation Order. The Committee is requested to consider the objections 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 - Hazelwood, Balcombe Road - 07/2023 – 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 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.
The trees are visually important in the local area.
The trees have significant wildlife value.

4. Background

- 4.1 The trees the subject of this order are a woodland group consisting of a variety of tree species within the rear garden of Hazelwood. The area is classified as ancient woodland. Hazelwood is a large property facing onto Balcombe Road and the trees are the last remaining remnant of Park Wood, now almost completely lost to development. Park Wood extended south towards Copthorne Road and was connected to Burleys Wood, a remnant of which still remains within the Wentworth Drive area of Pound Hill.
- 4.2 The trees on the site are large and visually prominent in the surrounding area and the woodland serves as a green break between the two separate areas of residential development in Haywards and Heathfield/Burgh Close. The significance of this green feature is recognised, the trees forming part of the Structural Landscaping (protected under Local Plan policy CH7) which links into a tree belt along Balcombe Road. The trees are clearly visible from Haywards, Lancaster Close, Bristol Close, Burgh Close, Blenheim Close, Wakehams Green Drive, Mannings Close and Balcombe Road and their contribution to the green amenity and character of the area is therefore considered extremely important.

- 4.3 There is another TPO covering the site (Balcombe Road No. 4 ref: 16.07.05) served in 1971 however this is an Area Order and only covers trees present at the time the TPO was served.
- 4.4 Earlier this year, the Local Planning Authority was contacted by the owner of the property requesting a site meeting to discuss possible tree removals as he wished to open the site up. During the site visit it was noted that the Balcombe Road No. 4 Order, served 52 years ago, would not cover many of the trees on site which are now significant. The decision was therefore taken to serve a Woodland Order on the site in order to protect all trees currently on site as well as any and all future trees that grow on the site going forward, thus protecting the regenerative aspect of the woodland.
- 4.5 The provisional Tree Preservation Order was made on 21st June 2023 and remains provisionally in force for a period of six months until 21st December 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:

- Murray Homes Limited, Springfield House, Springfield Road, Horsham, RH12 2RG.

Owners and occupiers of adjoining land affected by the TPO:

- Federated Homes Limited, Bucklersbury House, Bucklersbury, London, EC4
- Federated Homes Limited, 63 High Street, Crawley, RH10 1BQ
- Crawley Borough Council, Town Hall, The Boulevard, Crawley
- West Sussex County Council, County Hall, West Street, Chichester, PO19 1RG
- Owner/occupier, 8 Heathfield, Poundhill, Crawley, RH103TT
- Owner/occupier, 2 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 4 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 6 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 8 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 10 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 12 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 14 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 16 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 18 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 20 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 22 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, Annexe at 22 Haywards, Poundhill, Crawley, RH103TR
- Owner/occupier, 12 Lancaster Close, Poundhill, Crawley, RH103NB
- Owner/occupier, 17 Lancaster Close, Poundhill, Crawley, RH103NB
- Owner/occupier, 10 Burgh Close, Poundhill, Crawley, RH103TS
- Owner/occupier, 20 Heathfield, Poundhill, Crawley, RH103TT.

- 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 26th July 2023. Confirmation of the TPO is required within six months of the date upon which it was provisionally made.
- 5.3 Two representations have been received from neighbouring owners/occupiers about the impact of the trees on neighbouring properties. A copy of these letters is provided within this report at appendix A.

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

Impact on neighbouring properties

- Loss of light to lounge due to the increasing height of the trees bordering fence, garden has little sun and lights need to be on all day.
- The trees overhang the property and to protect the property some branches need to be removed that can be reached as the trees are never maintained.

Safety

- In windy weather [the pine tree bordering the garden] sways and creaks alarmingly. If the tree falls it would cause damage the property, kill or cause serious injury. This tree should be removed along with those nearest to the garden.

Other

- There should be no TPO in place before or until the culling/cutting back of the trees has taken place and boundary fencing replaced.
- There should be a duty of care owed to the residents who have property adjacent.
- This ancient woodland is not maintained and neither are the boundary fences.
- It is not clear how this area of ancient woodland is to be maintained given the recent planning permission.

6. Amenity Value/Assessment

- 6.1 The trees the subject of this TPO are classed as ancient woodland. It should be noted that the larger trees including those on the boundary of the site are also protected by the Crawley Borough Council Balcombe Road No. 4 Order (ref: 16.07.05) which has been in force since 1971, although this Order only protects trees that were present at the date the Order was served. Given the passage of time many of the trees are less than 50 years old.
- 6.2 It is accepted that the site is somewhat overgrown and that some of the trees around the site boundary are causing problems to neighbouring residents. The imposition of the TPO does not prevent any person from applying for works to the trees in order to maintain the trees (although the permission of the landowner would be required if works are on their land). Applications for tree works to mitigate nuisance from the adjoining trees are likely to be supported.
- 6.4 It should be noted that since the Order was served, an application was made (reference CR/2023/0212/TPO) for works to substantially reduce cypress trees which were overhanging the boundary of 14 Haywards. Consent has been granted for these works and they were considered justified on the grounds that the trees in question were non-native, the works would have only a minor impact on amenity, the works would reduce encroachment into the garden and would increase light into the garden. A further application has been made by the site owner for further tree works (reference CR/2023/0519/TPO) and this application is awaiting a decision.
- 6.5 There are no powers under the TPO provisions to make the landowner carry out works and maintenance to the trees. The service of the TPO does not make the trees the responsibility of Crawley Borough Council.
- 6.6 The replacement of the boundary fence is also the fence owner's responsibility and is not the responsibility of Crawley Borough Council or a consideration when serving a TPO on trees with significant amenity value. Should remedial works to protected trees be required in order to replace a boundary fence or other feature, this will be considered during the application process and an on-balance decision made, however the default position will always be to place the protected trees which make an important contribution to the character of the area first.

- 6.7 Planning permission CR/2020/0762/FUL was granted on appeal. This relates to the demolition of the single property 'Hazelwood' and its replacement with 5 houses to be erected fronting onto Balcombe Road, retaining the ancient woodland and the provision of a buffer zone in between.
- 6.8 The permission is subject to a Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 that relates to the buffer zone and the ancient woodland. The s106 applies to the owners of the land and any successors in title. The agreement outlines the provision of an access to the ancient woodland and buffer zone, an initial programme of works to remove non-native invasive shrub species, ongoing management operations and management schedules. It specifies that the landowners are responsible for the implementation of this plan. The future management of the ancient woodland should therefore be safeguarded under these provisions.

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 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 Hazelwood, Balcombe Road - 07/2023

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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)

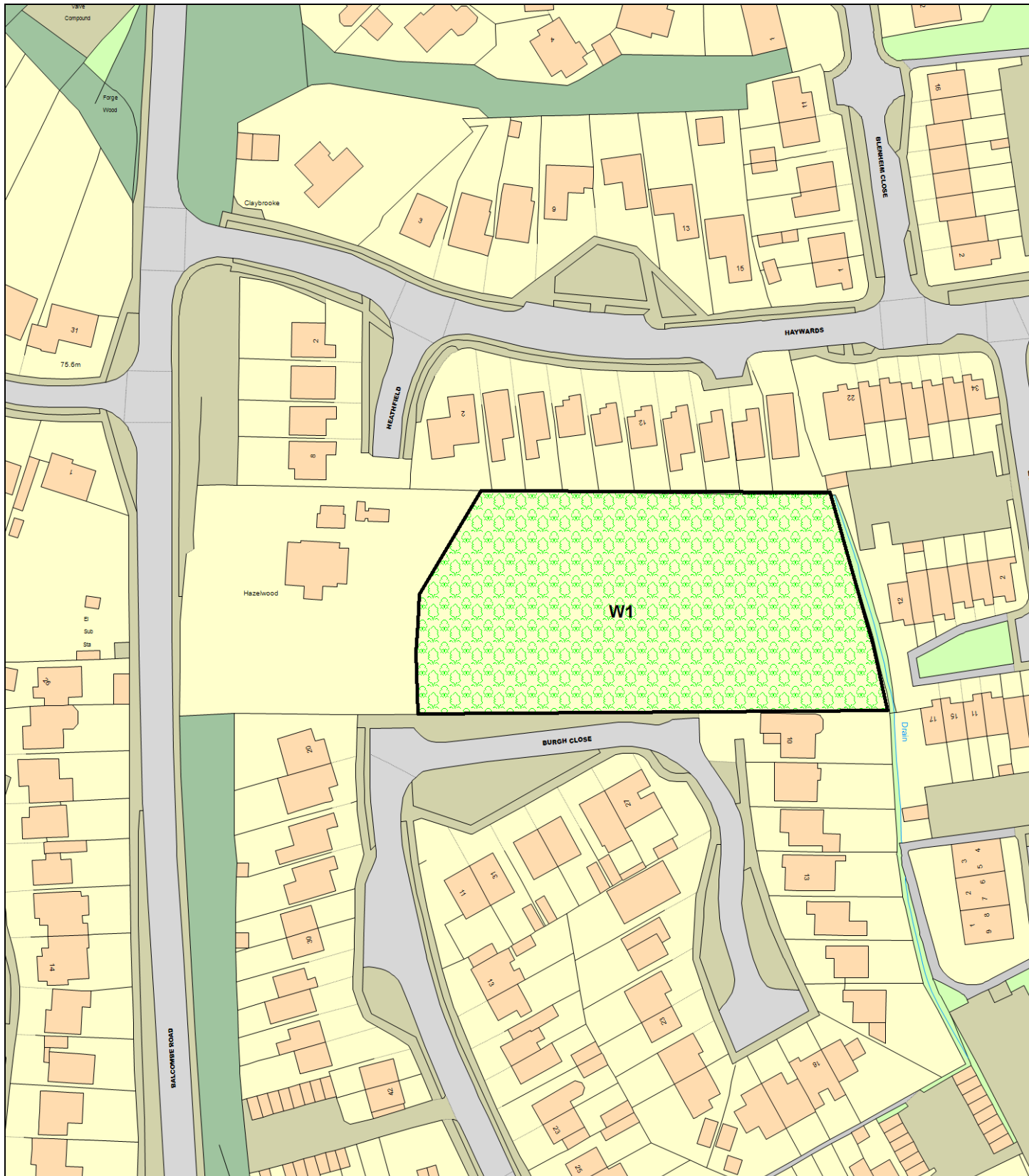
Reference on Map	Description	Situation
NONE		

Woodlands
(within a continuous black line on the map)

Reference on Map	Description	Situation
W1	Mixed woodland comprising mainly the following species: Mixed Broad/Conifers	Grid Ref: TQ-29813-38366

Reference to an Area
(within a dotted black line on the map)

Reference on Map	Description	Situation
NONE		



Tree Preservation Order No 07/2023
Hazelwood, Balcombe 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 14/11/2023

