

Crawley Borough Council

Report to Planning Committee

1 October 2024

Crawley Borough Council Tree Preservation Order – Car Park, The Boulevard - 05/2024

Report of the Head of Economy and Planning – *PES/471*

1. Purpose

- 1.1 This report presents the “Car Park, The Boulevard - 05/2024” Tree Preservation Order (TPO). 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 “Car Park, The Boulevard - 05/2024” 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 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 TPO comprise the various specimens located along the southern side of The Boulevard Car Park. The trees help to soften the hard developed edge of the Boulevard and together with the other trees along the Boulevard and surrounding areas provide an attractive green character to this route within the town centre. Crawley is a particularly verdant town with particular importance having been given to new tree planting during its original development and the more recent regeneration of Queen’s Square. The subject trees can be seen in aerial photos from the 1960s when the town centre was first developed and so were clearly part of the original vision for the town when ‘The Boulevard’ was initially laid out. The importance of this area has recently been acknowledged with the recent designation of the Queens Square Conservation Area on 2nd November 2022 with The Boulevard forming part of a relatively intact and extensive example of post-war town centre New Town planning.
- 4.2 On 13th March 2024 a conservation area notification (Section 211 Notice) Reference CR/2024/0138/TCA was received from RCP Parking in relation to 1 no. False Acacia and 3 no. Silver Maple trees within The Boulevard. The notification was to fell the trees due to their poor condition and damage to the nearby footpath/car park from the roots. A site visit was undertaken and it was established that while the works specified within the 211 Notice were likely to be considered to be justified, it was considered important

to secure replacements so as to retain the tree cover and character of the Boulevard. Under the Section 211 Notice procedure there is no mechanism to secure replacement trees for any specimens lost, so an objection was issued to the notification on 25th April 2024 and a tree preservation order was made to protect these trees and the others which form the row along the southern side of the car park.

- 4.3 On 16th April 2024. West Sussex County Council notified CBC under the Statutory Undertakes Tree Exemption (SUTE) for tree works for some of the Boulevard Trees reference CR/2024/2023/SUTE. These notifications are not held on the public planning register. The Council responded confirming agreement to these works on 30th April 2024.
- 4.4 The provisional Tree Preservation Order was made on 23rd April 2024 and remains provisionally in force for a period of six months 24th October 2024. If the Order is confirmed, the protection becomes permanent, if the Order is not confirmed it ceases to have effect. The Order was served on all remaining specimens within the row. As is evident from the TPO plan, some trees have already been lost from the original row as is evident between T5 and T7. The preservation and continuation of tree cover within Crawley's town centre is important as once lost it can be difficult to reinstate trees in such an environment.
- 4.5 An application was submitted on 30th April 2024 by RCP Parking to fell T4 (False Acacia), T8 (Silver Maple), T13 (Silver Maple) and T14 (Silver Maple) reference CR/2024/0205/TPO. These are the same trees that formed part of the Section 211 Notice request (see paragraph 4.2). This application is yet to be determined.

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:

- Homes And Communities Agency, 4th Floor, One Friargate, Coventry, CV1 2GN
- RCP Parking Ltd, 13 Diamond Road, Norwich, Norfolk, NR6 6AW
- West Sussex County Council, County Hall, West Street, Chichester, PO19 1RG

Owners and occupiers of adjoining land affected by the TPO:

- Crawley Borough Council, Town Hall, The Boulevard, Crawley, RH10 1UZ

- 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 29th May 2024. Confirmation of the TPO is required within six months of the date upon which the Order was provisionally made.
- 5.3 Two representations have been received from West Sussex County Council (WSCC) and MDJ Arboricultural Consultancy Ltd. Copies of these objections are attached to this report at **Appendices A and B**.
- 5.4 A summary of the comments made are set out below.

Management

- It is not expedient to place a Tree Preservation Order upon the trees, whilst they may merit protection on amenity grounds, they are already under good arboricultural management with West Sussex County Council.
- WSCC state that where trees that are of notable size and of local cultural interest, with their defects every reasonable effort is made to retain and managed as best as the situation allows.

- It is not expedient to confirm this order, it is WSCC policy is not to fell healthy trees unless evidence which implicates the tree(s) is provided to justify removal - such as in subsidence claims.
- The imposition of a TPO for trees already within a conservation area represents administrative challenges for both the landowner and manager of the trees (West Sussex County Council), and any agent working on behalf of RCP Limited, and this may foreseeably diminish effective arboricultural management for the public interest.

Tree Condition and Amenity

- The condition of the trees in question (specifically, MDJAC refs. T3, T4, T5, T9, T10, T11, T12, T13, and T15) are generally poor condition with limited future potential for a number of reasons (see appended survey schedule).

Health and Safety

- WSCC state that the Oak in G3 has numerous fungal pathogens and but have sought to crown reduce it rather than fell. *[The crown reduction works formed part of the SUTE notification referenced in paragraph 4.3 above].*

Nuisance

- The hostile environment in which the trees have been planted, and the inclusion of several shallow-rooted species, has led to an actionable nuisance being posed by tree roots to various degrees (specifically, MDJAC refs. T3, T5, T6, T8, T13, T14, T15, T18, T19, T20 and T21) as they continue to damage and lift the surrounding hard surfaces.

Other

- WSCC raise concerns that current/recent TPO applications made to CBC are not being decided within adequate time. This provisional TPO will add more strain to the local planning authority and delay to existing tree requests made. MDJ also raise concerns about administrative delays in respect of tree works.

6. Amenity Value/Assessment

- 6.1 While the trees may be considered to be under good arboricultural management a number of specimens are showing signs of decline and it is considered important to secure replacements for any trees to be removed due to their considerable importance in the street scene and the character of the town centre. In the absence of a Tree Preservation Order, the Council has no powers to enforce replacements for any trees felled within a conservation area. While it is accepted that WSCC have a policy to retain trees where practical, some of these specimens are on third party land where no such policy is applicable. For consistency it is therefore considered expedient or all the trees within the row to be subject of the controls afforded by a Tree Preservation Order.
- 6.2 While the default position of any tree owner should be to retain visually important trees in the interests of amenity/ecology, it is evident that some of the trees are mature and are under stress in the street setting and that over time some may need to be removed. The group value of the trees forming the 'tree lined boulevard' are therefore under threat. Trees T4, T8, T13 and T14 already have a TPO application for removal (CR/2024/0205/TPO) which is yet to be determined having been held pending a decision on whether to confirm this Order. While some of these trees are poor specimens, they have considerable value as part of the group and therefore need to be afforded protection through the confirmation of the Order. With a TPO in place appropriate tree replacements can be secured for any tree removed to ensure the row of Boulevard trees is retained in the longer term.
- 6.3 There is little difference administratively speaking between submission of a Conservation Area Notice and a TPO application as both can be dealt with in a similar timeframe (6-8 weeks). The main difference is that the imposition of a TPO gives tighter controls over the works that are allowed to be undertaken and importantly the provision of suitable replacements can be enforced.

- 6.4 The imposition of the TPO would not preclude reasonable works to the tree needed to manage the trees appropriately within their setting. For example, a conservation area notification was received in 2023 and allowed (reference: CR2023/0659/TCA) for routine crown lifting to the trees overhanging in the car park as the works were justified in the interests of good management/ husbandry and would not have had a detrimental impact on the tree's visual amenity. This included all the trees now subject to the TPO.
- 6.5 Should the remaining trees require further works, a TPO application can be submitted and if justified will be granted, furthermore under Section 14 (1) (a) (iii) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, Statutory Undertakers if the tree works are needed by West Sussex Highways they have the power to undertake works to protected trees without the need for planning permission when the trees are on operational land and the works are required for the safe operation of the highway.
- 6.6 The Oak within G3 has *Inonotus dryadeus* and crown reduction is considered the correct course of action in many cases as this is not generally a particularly aggressive pathogen. This Oak is a large and important tree in amenity terms and a replacement would be vital to retaining the character of The Boulevard.
- 6.7 If in future the removal of these trees becomes necessary as a result of damage or other actionable nuisance an application can be submitted, if the works are considered justified, consent will be granted but suitable replacement would need to be secured to retain long term visual amenity.
- 6.8 Resourcing is a challenge within the Council however, this should not be a reason for not protecting the trees and the character of the area in the longer term in the wider public interest. The trees have amenity value which enhance the character and aesthetic of the town and enrich the character of the public realm.

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 Development 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 Car Park, The Boulevard - 05/2024

CR/2023/0659/TCA - G1: 1 yew, 3 silver maples, 2 robinia, 1 oak & 1 london plane - lift all trees in group to a height of 4 metres on sides that encroach on rcp land to clear access, parking bays, lights & signs.
G2: 4 silver maples, 2 apples, 1 robinia & 2 london planes - lift all trees in group to a height of 4 metres on sides that encroach on rcp land to clear access, parking bays, lights, signs & cameras

CR/2024/0138/TCA - Site-wide car park improvement works. T4 - false acacia - fell to ground level, T8 - silver maple - fell to ground level, T13 - silver maple - fell to ground level, T14 - silver maple - fell to ground level.

CR/2024/0205/TPO - T4 - false acacia - fell to ground level, T8 - silver maple - fell to ground level, T13 - silver maple - fell to ground level, T14 - silver maple - fell to ground level

Contact Officer: Russell Spurrell
Direct Line: 01293 438033
Email: russell.spurrell@crawley.gov.uk

SCHEDULE
SPECIFICATION OF TREES

Trees Specified Individually
(encircled in black on the map)

Reference on Map	Description	Situation
T1	False Acacia	Grid Ref: TQ-27192-36790
T2	Silver Maple	Grid Ref: TQ-27183-36790
T3	Callery Pear	Grid Ref: TQ-27173-36790
T4	Callery Pear	Grid Ref: TQ-27163-36790
T5	Silver Maple	Grid Ref: TQ-27144-36790
T6	Silver Maple	Grid Ref: TQ-27114-36790
T7	Silver Maple	Grid Ref: TQ-27075-36790
T8	Silver Maple	Grid Ref: TQ-26993-36789
T9	False Acacia	Grid Ref: TQ-26983-36790
T10	Silver Maple	Grid Ref: TQ-26974-36790
T11	English Oak	Grid Ref: TQ-26962-36791
T12	False Acacia	Grid Ref: TQ-26949-36789
T13	Silver Maple	Grid Ref: TQ-26939-36790

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

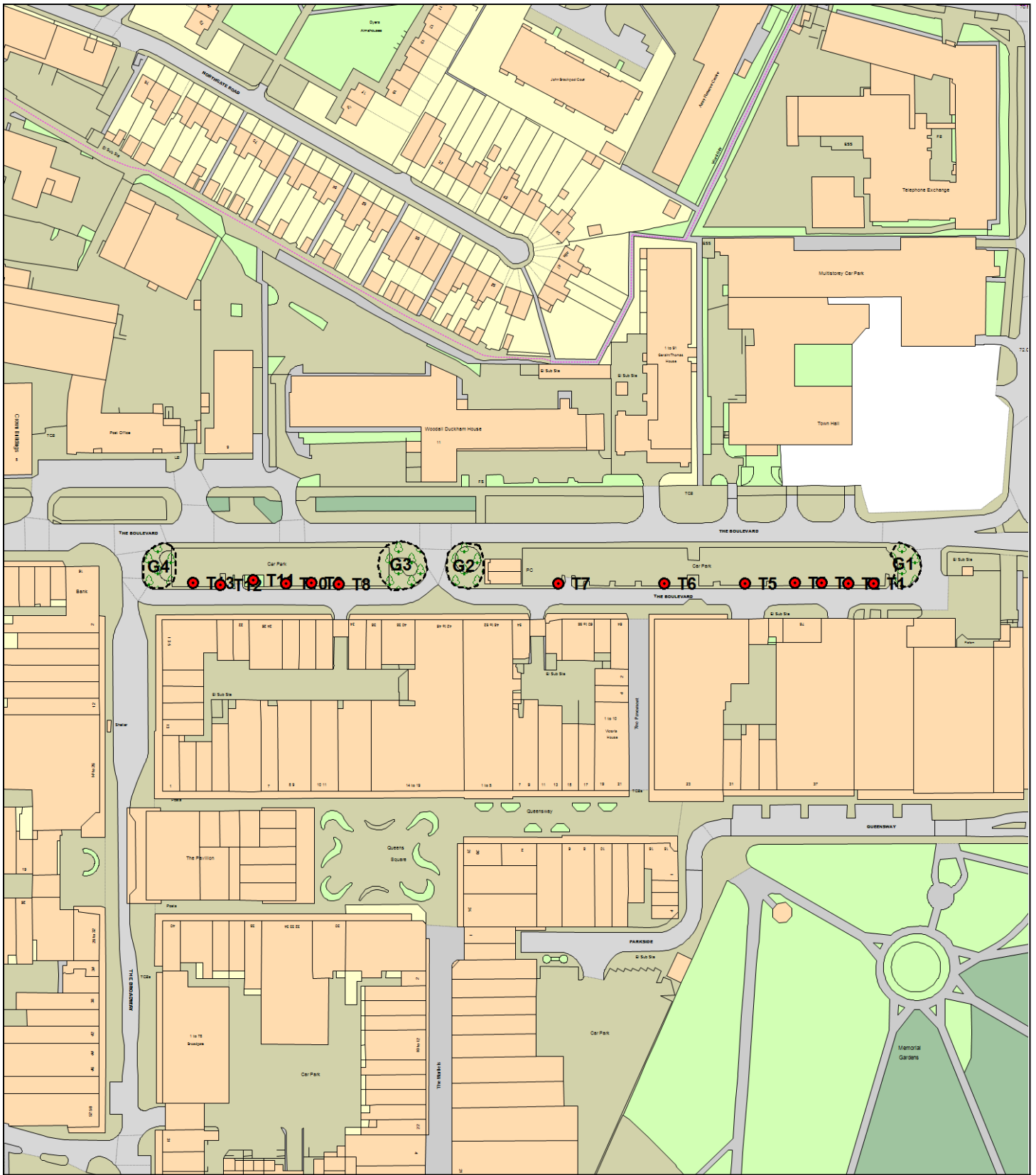
Reference on Map	Description	Situation
G1	London Plane (2)	Grid Ref: TQ-27203-36797
G2	Field Maple, Sycamore	Grid Ref: TQ-27040-36796
G3	English Oak, Common Yew	Grid Ref: TQ-27016-36797
G4	London Plane (2)	Grid Ref: TQ-26926-36796

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 05/2024
Car Park, The Boulevard**

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

