

# Crawley Borough Council

## Report to Planning Committee

14 January 2025

### Crawley Borough Council Tree Preservation Order – Oak Tree At The Moat House - 07/2024

Report of the Head of Economy and Planning – *PES/478*

---

#### 1. Purpose

- 1.1 This report presents the “Oak Tree At The Moat House - 07/2024” Tree Preservation Order. The Committee is requested to consider the objection 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 **CONFIRM** the Tree Preservation Order *Oak Tree At The Moat House - 07/2024* without modification.

#### 3. Reasons for the Recommendation

- 3.1 The tree is prominent in the locality and has significant amenity value.  
The tree is clearly visible from the public highway.  
The tree is visually important in the local area.  
The tree has significant wildlife value.

#### 4. Background

- 4.1 The tree the subject of this Order is an individual Oak tree located in the rear garden of The Moat House, Balcombe Road. The tree is large and is visible from Balcombe Road as well as Trevanne Plat, Oak Dell, Mereworth Drive and Briarswood Close over the roofs of the properties. The tree has good individual amenity but also makes a solid contribution to the overall green amenity and character of the area together with the surrounding trees.
- 4.2 The tree, along with the other mature trees along Balcombe Road and in the immediately surrounding area provide a pleasant sylvan character to the street and green back drop that helps to soften the hard edge of development. The trees along Balcombe Road and in the immediately surrounding area are typically mature and visually prominent and combined with the hedges and other green landscaping provide a natural structural element which complements the built form in the area.
- 4.3 A planning application was received on 22<sup>nd</sup> December 2022 (Reference: CR/2022/0826/FUL) for various modifications and extensions to the property. Following a site visit by the planning case officer it was noted that in addition to the works described to extend the dwelling, further groundworks had recently taken place that included the raising of the levels of the rear garden. The change in ground levels was

extensive, the rear garden previously sloping down towards the west. The garden levels have been raised and a retaining wall created to retain the raised garden along the western boundary. The site had also been cleared of landscaping except for the large oak tree that is the subject of this Tree Preservation Order and the rear garden has been laid to grass. Around the base of oak tree located in the northwest corner of the garden the ground levels have been raised.

- 4.4 The Tree Officer was informed of the works at the base of the tree following the planning officers initial site visit and the tree was inspected in May 2024. The front and rear gardens had previously contained a large number of large shrubs and small trees along with this oak, which created a pleasant green screen between the property and Trevanne Plat to the west and it also provided screening along the Balcombe Road. The Oak tree while retained was considered to be under threat of removal and furthermore the recent change in ground levels is considered detrimental to its long term health. In order to safeguard the tree and ensure its longer term retention, the decision was made to serve a TPO. It should also be noted that the planning permission granted under ref. CR/2022/0826/FUL was revised so the land levels around the tree would be restored to their original levels to help to ensure the long term health of this tree.
- 4.5 The provisional Tree Preservation Order was made on 1st August 2024 and remains provisionally in force for a period of six months until 1<sup>st</sup> February 2025. 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, The Moat House, Balcombe Road, Crawley, RH10 7SY

### Owners and occupiers of adjoining land affected by the TPO:

- The Owner/Occupier, 5 Trevanne Plat, Pond Hill, RH107TW
- The Owner/Occupier, Little Moat House, Balcombe Road, Pound Hill, RH107SY
- The Owner/Occupier, Woodways, Balcombe Road, Pound Hill, RH107SY
- The Owner/Occupier, 6 Trevanne Plat, Pound Hill, RH107TW

- 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 5th September 2024. Following a request from the owner/occupier an extended period for consultation was agreed until 15<sup>th</sup> November 2024. Confirmation of the order is required within six months of the date upon which the Order was provisionally made.
- 5.3 One representation has been received from the owner of the property. A copy of the objection is attached to this report at **Appendix A**. A summary of the comments made are set out below but relate to two main reasons for objection were:
- That the basis for the TPO is not sufficient to warrant an Order and is contrary to legislation and,
  - Concerns that the tree may not return to full health, concerns about fairness, court action and potential fines.
- 5.4 The objection comments are summarised below:
- No reason has been given for why the TPO was served. There is no danger to the tree (other than risks relating to its neglect by a previous owner), which we are proactively trying to resolve. The tree was close

to dead with large amounts of deadwood when the property was purchased, it's now in better condition, is being monitored but is considered "at risk". No inspection has been made of the tree by the council despite confirmation having been requested.

- *"The Tree is prominent in the locality and has significant amenity value"* - No reason has been given to why the TPO was served. 'Amenity' is not defined in law. The Council have not demonstrated the protection would bring a reasonable degree of public benefit. The tree is in a rear garden only visible by a small number of neighbouring properties. It is not prominent in the locality. There are lots of oak trees in the area which are more visible and do not have a TPO.
- *"The tree is clearly visible from the public highway"*. - The tree is hardly visible at all from the public highway to the front of the property and is partially visible from a limited number of residential properties to the rear. There are lots of oak trees in the area (none of which have TPO's) which are clearly visible from the public highway.
- *"The tree is visually important in the local area"* - The tree offers some limited visual attraction to a small number of neighbours, this is not sufficient to warrant an Order. Government guidance advises the council to assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including size and form, potential future amenity, rarity, cultural or historic value, contribution and character to the landscape and the character of the area.
- *"The tree has significant wildlife value"* - The tree has a wildlife value consistent with an average tree in a residential setting. It is not significant and not a sufficient basis to warrant an order.

5.5 Other matters listed in the letter relate to the delays with the processing of the planning application and a Subject Access Request, these are not considered directly relevant to the consideration to be made by the Planning Committee on whether or not the TPO should be confirmed.

## **6. Amenity Value/Assessment**

6.1 The TPO was served following the removal of all other vegetation, including several trees, from the rear garden, and the removal of trees and shrubs along the boundary with Balcombe Road. The owner's actions with regard to other trees on the site and the changes to the land levels undertaken were considered to leave this oak with significant amenity at potential risk in the future. The TPO was served and was expedient on the basis that the ongoing amenity provided by the tree is potentially under threat. If a tree is considered to be under threat the Council's only course of action is to serve a TPO. Justification for the TPO based on the tree's merits were communicated by letter to the objector as well as other interested parties as part of the notification process and are for the reasons listed in section 3 of this report (which was in the correspondence).

6.2 The tree was assessed by the Tree Officer from within the site and surrounding public viewpoints prior to its service and was also assessed by the Planning Case Officer in relation to the planning application. During both assessments the tree was considered to have significant visual amenity in the area due to it being a prominent and the only mature specimen within this substantial plot.

6.3 A tree is considered to have amenity value if it makes a positive impact on the character and visual appeal of the area, this can include, but is not limited to softening the hard edge of development, the provision of green spaces or screening value. The general, often historic character of an area can also be taken into consideration. Many neighbourhoods in Crawley being particularly green and it is this quality that is an attraction for people to these areas, it is therefore vitally important that trees as a resource are safeguarded. The tree was considered to be under threat and following assessment was judged to make an important contribution to the green amenity and character of the Balcombe Road and surrounding area, were this tree to be lost it would result in an erosion of the tree cover and harm to amenity which is considered to be a defining characteristic of Balcombe Road and Pound Hill more broadly.

- 6.4 The tree is large and can be viewed between the houses of Balcombe Road as well as Trevanne Plat, Oak Dell, Mereworth Drive and Briarswood Close, the tree is therefore considered to have good individual amenity as well as making a solid contribution to the overall green amenity and character of the area together with the surrounding trees and on this basis the TPO was served. Its amenity has been increased more recently and it is now arguably more important following the recent removal of other trees and landscaping from this house's gardens.
- 6.5 The Council seeks to protect trees which are considered to be of significant amenity value, especially if it has reason to believe that the tree may be under threat and this is often, by necessity, done on a reactionary basis as and when a threat to a tree becomes apparent.
- 6.6 The Town and Country Planning Act 1990 section 198 (1) states that *"If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order"*. The Planning Practice Guidance (PPG) states that visibility alone will not be sufficient to warrant an order and that an authority should consider a tree's size and form, future potential as an amenity, rarity, cultural or historic value and contribution to, and relationship with, the landscape. The subject tree is a large mature specimen with clear visibility from several public and many private spaces within the area. The tree is considered to have a useful life expectancy of 20-40 years and provided the TPO remains in force, the Council can require a replacement once the tree dies or requires removal thus ensuring the continued presence of a tree in this location for generations to come and the amenity it provides. While it cannot be said that Oak trees are rare in Crawley, a map from 1875 shows that what is now the northern boundary of this house, (where the tree is located), was once a historic field boundary lined in part with trees. It shows a tree in the precise location of the subject tree and it is therefore possible if not likely that this is one of those original trees. As stated already, Balcombe Road and Pound Hill neighbourhood are particularly green and this is certainly one of the aspects that attract residents to the area. It is therefore of vital importance that this resource is protected and preserved.
- 6.7 Consideration of a tree's contribution/importance to wildlife and ecology is not, by itself sufficient to warrant protection, however this together with the other criteria discussed above is still a valid consideration especially in a day and age when the quality of the environment/biodiversity is increasingly important. Oaks are a species which are known to have significant habitat and ecological value.
- 6.8 Consideration must also be given to the trees health, and the Council has inspected and viewed it on a number of occasions. Whilst there is deadwood within its crown, this is not untypical with oak trees and the tree should have a reasonable life expectancy. It is not moribund. It is not accepted that the tree has ever been in a condition that was 'close to dead', it is in reasonable condition and past photographic evidence shows the tree in reasonable condition with an important crown over an extended period of time.
- 6.9 Furthermore, with regard to the long term future health of the tree, the approved plans granted for planning application CR/2022/0826/FUL on 27<sup>th</sup> November 2024 show ground levels within the root protection area of the oak tree being reinstated to previous levels before the land raising was undertaken in the rear garden as increased soil around the base of the tree compacts the roots and would impact on the long term health of the tree. The ground conditions therefore need to be reinstated. The timely and careful removal of the soil reinstating the land back to existing ground levels should assist with the long-term health of the tree. A recent site visit 16<sup>th</sup> December noted that these works have not yet been undertaken.
- 6.10 In respect of the owners concerns about costs, the tree was not the subject of a Preservation Order when the land raising was carried out, so no offence was committed. However, the land raising works did need planning permission which has now been granted retrospectively, with amendments taking into account the need to safeguard the long term future of this important tree. A set of plans with ground levels changed from the current levels has been approved by the Council, but at the time of the recent site visit on 16<sup>th</sup> December 2024 these plans have not yet been complied with. Provided the works to reinstate

the ground levels are carried out in a timely manner as agreed and without damage to the tree roots, there would be no risk of further action or costs. Failure to reinstate the levels or if the works are undertaken in a way that damage the tree could result in enforcement action and a risk of prosecution.

- 6.11 Under the TPO legislation any cutting down, topping, lopping, root cutting, uprooting, wilful damage or wilful destruction requires consent and any works that go beyond what has been agreed under the planning permission would be guilty of an offence and may be fined. This requirement remains in force for the life of the protected tree (and any subsequent replacement).
- 6.12 The Council are pleased that the owner wishes to retain the tree and aside from the immediate works needed to remedy the ground levels, the tree (like all trees) does require monitoring going forward in the interests of good arboricultural management. In the event the tree does decline and at some future point requires removal, the imposition of the TPO would ensure that a replacement tree can be planted and that the green amenity of the area would be safeguarded in the longer term.

## **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 Crawley Borough Council Tree Preservation Order Oak Tree At The Moat House - 07/2024
- 8.2 Planning Application - CR/2022/0826/FUL - Demolition of existing conservatory in central courtyard and the link to Woodways to the south. enclosure and extension into central courtyard remodelling of the dwelling including; creation of new first floor and loft area on the main house, insertion of roof lights and new dormers, increase in the height of the roof by 0.4m , replacing the gable of the roof to the front elevation with a hipped roof. The enlargement of the basement. Replacement of the garage with new garage block incorporating 2 bedroom self-contained garage annex (2 bay garage with dormers above), the erection of new gate and fencing along the front boundary, and retrospectively an increase in land levels of rear garden, with retaining wall and rear fence. (amended description).

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)**

<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
T1	English Oak	Grid Ref: TQ-29632-37438

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

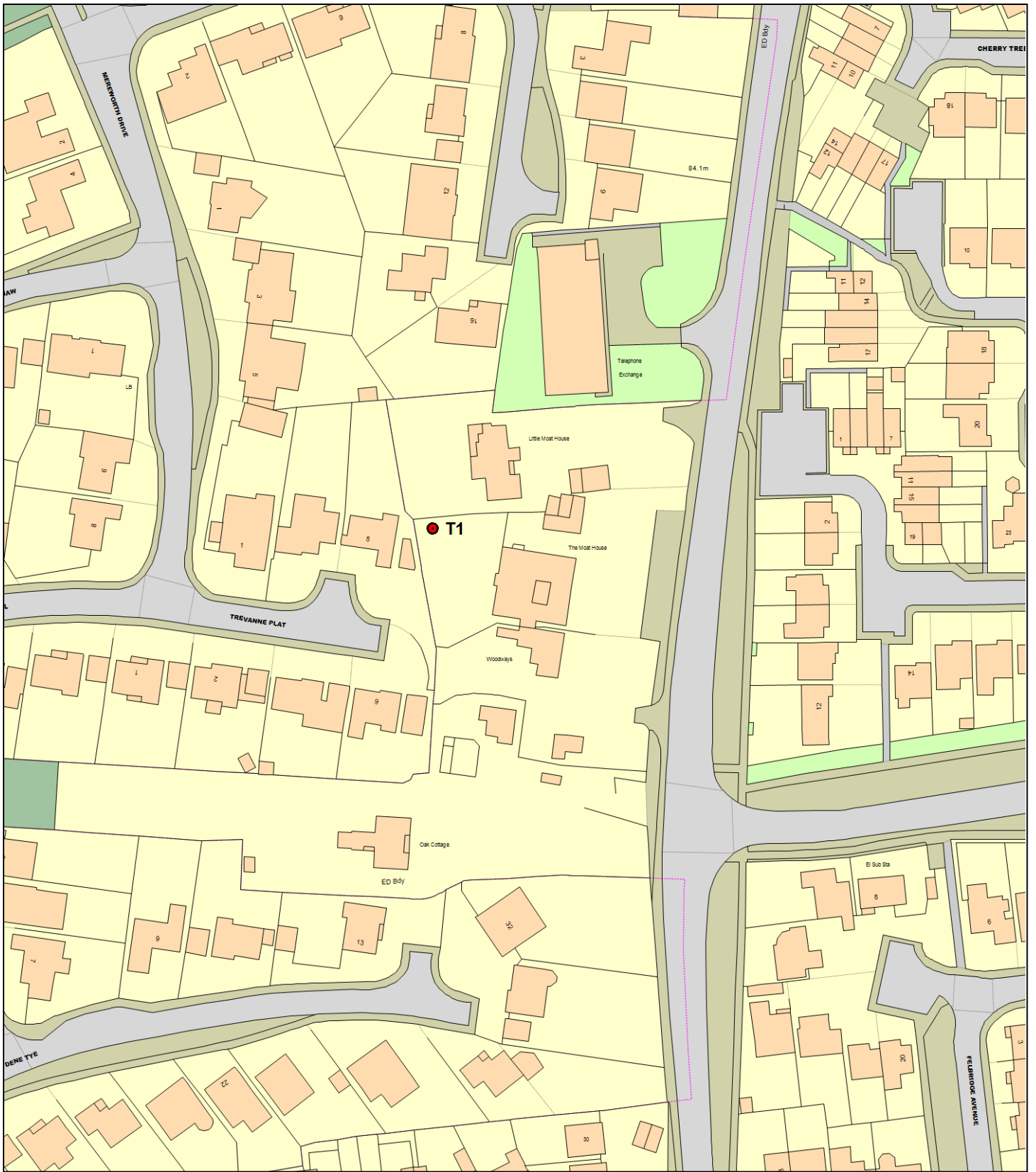
<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
NONE		

**Woodlands**  
**(within a continuous black line on the map)**

<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
NONE		

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

<b>Reference on Map</b>	<b>Description</b>	<b>Situation</b>
NONE		



**Tree Preservation Order No 07/2024  
Oak Tree At The Moat House**

**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 02/12/2024

© Crown copyright and database rights 2014 Ordnance Survey 0100023717

