

# Crawley Borough Council

## Report to Planning Committee

30<sup>th</sup> July 2018

### Objections to the Crawley Borough Council Tree Preservation Order - Land Parcel Adj(acent) to Coronet Close, Pound Hill - 02/2018

Report of the Head of Economic and Environmental Services – PES 300

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#### 1. Purpose

- 1.1 This report relates to the 'Land Parcel Adjacent to Coronet Close, Pound Hill - Tree Preservation Order Number 02/2018'. The Committee is requested to consider the representations 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 **CONFIRM** the Tree Preservation Order Land Parcel Adj to Coronet Close, Pound Hill - 02/2018 without modification.

#### 3. Reasons for the Recommendation

- 3.1 Consideration has been given to the comments received during the public consultation period however, having regard to the considerable importance of the woodland to amenity, it is considered worthy of protection for the reasons outlined in this report.

#### 4. Background

- 4.1 The site which is the subject of this Order is a designated Ancient Woodland and Structural Landscaping site known as Burleys Wood located to the south of Byerley Way, east of Coronet Close and north of Sedgefield Close. A copy of the TPO plan is attached to this report.
- 4.2 This Order was served on the 13<sup>th</sup> February 2018 in response to alerts from local residents that trees within BurleysWood were being felled. Following a site visit by the Arboricultural and Enforcement Officers at approx. 11am, the decision was made to serve a TPO on the site with a woodland designation.
- 4.3 The woodland makes a significant contribution to the amenity of the local area, and this is formally recognised within the Local Plan as the site is identified as "structural landscaping". It was therefore considered expedient to serve a Woodland TPO on the site in order to retain and protect the amenity that this woodland provides to the area.
- 4.4 The provisional Tree Preservation Order was made on *13th February 2018* and remains provisionally in force for a period of six months (until 13<sup>th</sup> August 2018). 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 Following the making of the Order, the Council notified the owner(s)/occupiers(s) of the land and other interested parties that a provisional Tree Preservation Order has been made. The following addresses were notified:

### **Owners and occupiers of the land:**

3242 Investments Limited, 51 Goldsmith Road, Birmingham, B14 7EH

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

8a Byerley Way  
6 Byerley Way  
4 Byerley Way  
2 Byerley Way  
1 Coronet Close  
2 Coronet Close  
3 Coronet Close  
11 Sedgefield Close  
12 Sedgefield Close

### **Other interested parties:**

Taylor Wimpey UK  
Laing Homes Ltd

- 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 20th March 2018. Confirmation of the order is required within six months of the date upon which the Order was provisionally made.
- 5.3 A single representation has been made in support of the Tree Preservation Order stating the woodland's local amenity value and wildlife importance as reasons for a permanent Tree Preservation Order.
- 5.4 A single objection has been received from the owners of the land, 3242 Investments Ltd relating to the making of the Tree Preservation Order, the reasons for objecting to the order are summarised below:

#### Neighbour amenity and safety

- *"A single collapsed Willow is present at the northern end of the site and has reached the end of its useful life and will need to be removed in the foreseeable future. It should not be included in the TPO."*

#### Area of felled trees and immediate surroundings

- *"A rectangular area approximately 57m by 35m was cleared of trees on 13<sup>th</sup> February 2018 before the TPO was served and came into force. The Council's Tree Officer visited site at about 11am on 13<sup>th</sup> [February] 2018 and spoke to me. He did not indicate that the trees being felled were protected nor did he mention any intention to make a TPO"*
- *The etiolated (drawn up) young Birches adjacent to the northern boundary of 11 Sedgefield Close and the eastern boundary of 3 Coronet Close are distinct from the remainder of the protected woodland and should not be included under the designation of woodland.*
- *The temporary TPO encompasses an area that was not woodland at the point in time when the TPO was served and is no longer woodland now.*

## 6. Amenity Value/Assessment

- 6.1 The woodland subject to protection by this order comprises a mixed deciduous woodland that forms a remnant of a much more extensive area of Burleys Wood that once covered this area prior to the residential development of Pound Hill. This site forms part of two distinct areas of woodland identified

as ancient woodland (ref. 1476388) which link to each other. The second related parcel of woodland is a Council owned area to the south-west of this TPO site.

- 6.2 The area of woodland the subject of this TPO includes a number of mature trees previously the subject of individual protection, and areas of less mature tree growth due to felling and replanting/reseeding. The woodland currently has mature and semi mature trees at its eastern end. Much of the site has recently had a large number of its trees felled, however, there is much regrowth in this area from young trees or from the stumps of the felled trees. This area is therefore recovering from recent works undertaken and still retains a large number of trees, although there are now few of large size. The area forms a fundamental part of the mature retained woodland to the east and links this area of woodland to the council owned woodland to the south west.
- 6.3 The area provides a significant undeveloped and tree covered site which provides a landscaped backdrop to nearby development. The trees are visible from nearby roads and the more mature specimens above the tops of nearby houses, and the site has also been used by nearby residents as open space for a considerable time for walking and recreation. Although privately owned, the site is open to the public from a number of directions including from Byerley Way/Coronet Close to the west, Byerley Way to the north (Public footpath that runs close to the site and then towards the M23 to the east) and forms important linkage to amenity land further to the east which has public access.
- 6.4 The integrity of the woodland has been affected by the recent felling of trees however the impact upon the medium and long term amenity of this area will not be significant as there is already substantial regrowth of trees since the beginning of this year. The wider amenity of this area will recover, and the area will therefore continue to provide amenity to the area whilst ensuring the wider integrity and amenity of the woodlands in the area that includes the retained woodland to the east and the council owned woodland to the south-west.
- 6.5 The woodland is therefore considered to have good amenity value now and its long term protection will provide long term high amenity value within this area.

## **7. Response to Objection Received.**

### Neighbour amenity and safety

- 7.1 The Willow tree was formally part of the woodland and its death and decay would have been a normal part of the woodlands ecosystem had the woodland not been removed. Woodland orders are created specifically to protect this natural cycle of death and regeneration and woodland orders do not require the replacement of trees that die naturally and protects those trees that subsequently regenerate naturally. Should the Willow begin to pose a risk to safety or start causing damage to adjacent properties, an application can be submitted for its removal.

### Area of felled trees and immediate surroundings

#### *Site visit*

- 7.2 During the site visit the contractors and project arboriculturist were well aware of the protected trees further to the east and that the area being cleared did not contain protected trees, and there was therefore no need to bring this to their attention. At this time there was no apparent breach of any Tree Preservation order and as the expediency of serving a TPO on the site needed further consideration/consultation with other Council departments, the serving of a TPO was not discussed during the site visit.

#### *Whether a woodland TPO can be made?*

- 7.3 A woodland is any land that is covered in trees. The felled trees in the cleared area have regenerated and now have up to 3m of regrowth in just 5 months and there are also sapling trees covering the site that were not removed during the works carried out on the 13<sup>th</sup> February together with seedlings that have germinated subsequently throughout the woodland. Since a tree is considered to be a tree

regardless of its size/age or past 'management' etc. and since this site is clearly still covered by trees, this site is still to be considered woodland.

- 7.4 The group of remaining young Birch were part of the woodland and the site remains woodland regardless of whether the tree cover was, for a short time, removed. Under the protection afforded to the site under a woodland order, the tree cover can regenerate and will enjoy the same level of protection as the trees currently on site. The remaining group of birch will once again form part of the woodland as a whole.
- 7.5 It is considered normal woodland management practice to clear sections of woodland from time to time for various reasons and to allow natural regeneration, this does not alter the fact that it is still woodland due to there being no actual change in land use and due to the significant richness of the soil ecology/seed bank that still remains. In order for the site to no longer be considered woodland the site would have to remain devoid of trees for a significant amount of time. The site would also need to undergo a significant change in land use and since the site is subject to national designation as Ancient Woodland as a Local Plan designation as Structural Landscaping, both of which seek to retain and enhance woodland areas. These designations are key considerations for any development proposals and provide further protection to the status of the woodland. It is therefore considered reasonable to continue to regard the site as woodland and protect it as such with a woodland order. The argument that a woodland order should not apply given the long term potential and amenity of this area of woodland therefore is considered to carry little weight in deciding whether or not to confirm the Tree Preservation order.
- 7.6 The confirmation of the woodland order will ensure the continued protection of not only the trees left standing and those that are regenerating following the felling operation carried out by the owners of the site, but also all trees that naturally germinate and grow in the future. It will ensure the continued tree cover of the site that provides by local residents and prevent any further acts such as the one that occurred on the 13<sup>th</sup> February 2018 from happening again.

## **8. Implications**

### *Human Rights Act 1998*

- 8.1 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.
- 8.2 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 woodland 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 Land Parcel Adj To, Coronet Close, Pound Hill - 02/2018

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*Photos of site taken approx. 5:00pm following felling operation.*





Photos of site taken on 13<sup>th</sup> July 2018







**SCHEDULE**  
**SPECIFICATION OF TREES**

**Trees Specified Individually**  
**(encircled in black on the map)**

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

**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>
W1	Mixed woodland comprising mainly the following species: Mixed Broadleaves	Grid Ref: TQ-30073-37304

**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 02/2018**  
**Land Parcel Adj To, Coronet Close, Pound Hill**

**Clem Smith**  
**Head of Economic and Environmental Services**

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

Scale 1:1250

Date 30/05/2018

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