

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 2 PLANNING COMMITTEE

30 September 2015

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Delegated

1 TREE PRESERVATION ORDER NO. 4 2015

1.1 Background

1.1.1 On instructions received from the Director of Planning, Housing and Environmental Health, a Tree Preservation Order (No. 4 2015) was made on a woodland consisting of mixed deciduous trees, including Hornbeam, Oak, Beech and Ash on land at Thriftwood Camping and Caravan site, Plaxdale Green Road, Stansted, Kent.

1.1.2 The grounds for making the Order are to protect the trees in the interest of visual amenity as this is ancient woodland which can be seen from public footpaths surrounding the area.

1.1.3 The Order is the subject of an objection from the owner, S Sellers, submitted by his agent, Mr M Southerton.

1.2 Objection received from Mr Southerton:

1.2.1 The original objection is set out in full at Annex 1 to this report, however I summarise it below:

1.2.2 There is no threat to the trees within proposed area W1 – the planning application was adjusted to ensure the woodland will not be affected and has been refused and dismissed on appeal. The Inspector did not consider the scheme to impact adversely on the adjoining area of trees the subject of this Tree Preservation Order (TPO) or have any unacceptable on the character of the footpath running through the site.

1.2.3 The Order can only be justified if the removal of the woodland would have a significant negative impact on the local environment and its enjoyment by the public – in this case the impact on the public enjoyment arising from the visual amenity value of the woodland to users of the public footpaths in the area.

1.2.4 The TPO adds no significant additional visual amenity benefit compared to simply leaving the extant TPO. The trees, or at least a significant part of them, have to be visible from the public footpaths in the surrounding area: the users of the footpaths

have to suffer a significantly diminution of their perception of the contribution the trees make to the visual amenity benefits associated with the trees. The apparent size and form of the woodland will appear no different than at present and therefore have no impact on the appreciation of the visual amenity value of the trees.

- 1.2.5 Only a small part of the trees will be seen over and above these parts already benefitting from the protection conferred by the existing TPO. The public using the paths will only see the trees already protected which is a belt of trees of a minimum depth of 6 metres and considerably more at the approaches from the south east and north. The trees further in the site now proposed for protection make no or virtually no beneficial contribution as they will not be seen.
- 1.2.6 The overwhelming perception of the visual amenity of the area seen from the path is one of a developed caravan park with a backcloth of trees. The backcloth to the developed area of the caravan park will remain as the extant TPO protects trees on the north, east and south sides of the area of trees. There will be no unacceptable diminution of the visual amenities of the users of the public footpath running through the site – their view will effectively be dominated by caravans and associated development.
- 1.2.7 Rarity, cultural or historic value is not relevant here as the grounds for making the Order. The ancient woodland status is acquired as a consequence of the presence of woodland here over time and not any appraisal whatsoever of the visual amenity value it may or may not have. The woodland appears to have been assessed as having importance as a single entity with no individual tree(s) of particular note.
- 1.2.8 The wider area is interspersed with many pockets of woodland and whilst this reduces any impact from the loss of one of them, it is acknowledged that there is a benefit in terms of visual amenity in respect of the combined importance of the appearance of the woodland areas to the overall landscape of the area.

1.3 The Director of Planning, Housing and Environmental Health's response to the objection:

- 1.3.1 National Planning Practice Guidance states that Tree Preservation Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.
- 1.3.2 There is a TPO served on the site in 1981 which covers Areas including one that is a horseshoe shape on the southern, eastern and northern edges of the relevant woodland. This provisional woodland Order covers the whole woodland not just 3 of its edges as is the case of the 1981 TPO.

- 1.3.3 It is good practice and required in the 2012 Regulations for Area Orders to be reviewed. The woodland Order will therefore accord with up to date Regulations and will allow the long term regeneration of the tree cover as, unlike an Area Order, it protects saplings within the seed bank that emerge through natural regeneration whereas an Area order only protects trees in existence at the time the Order was confirmed, ie that existed in 1981.
- 1.3.4 It is considered that the woodland has a visual amenity greater than a belt of trees around the three edges as it is the mass of trees over large area that provides the visual character of a typical wooded treescape. Long strips of trees at some points only 6m across do not provide the depth of natural growth that consolidates into the appearance of a wooded backdrop. This is evident from there being an Area TPO of similar width on the western boundary of the caravan site which is too thin to present the appearance of the edge of a “wood”.
- 1.3.5 The agent’s argument on the Inspector’s decision on the refused planning application 13/03923/FL is illogical. The Inspector did not need to assess the impact of the proposed enlargement of the caravan site on the woodland trees because the application was amended to exclude them at the request of officers and contemporaneous with the serving of this provisional TPO. That is not the same as alluding to the Inspector thinking they were not important. Similarly, that the caravan site application was refused and dismissed on appeal has no bearing on whether the trees are at risk. The agent has on a number of occasions proposed works within the woodlands of a type that they claim as a permitted development right. Therefore the trees remain at risk in my opinion.
- 1.3.6 Notwithstanding that the TPO will protect an extra 2.6ha of woods visible from the Public Rights Of Way (PROW), I am of the view that the restriction of public amenity value to only the users of the PROW is too limited a definition of amenity. The users and visitors to the large caravan park benefit from the visual amenity provided by being adjacent a woodland, notwithstanding that the site is privately owned. The density of treescape provided by the woods benefits rural views from the wider locality from local roads and neighbouring land etc.
- 1.3.7 Other privately owned woodlands in the area are also protected by TPOs, so this is not an abnormal decision.
- 1.3.8 In these circumstances, I am of the view that the TPO accords with the legislation and National Guidance and should be confirmed unamended. There is no need to partially revoke the 1981 Area Order notwithstanding the overlap and there is are no legal repercussions from the partial duplication.

1.4 Legal Implications

- 1.4.1 None.

1.5 Financial and Value for Money Considerations

1.5.1 Not applicable.

1.6 Risk Assessment

None.

1.7 Equality Impact Assessment

1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.8 Recommendations

1.8.1 Members are asked to either:

- 1) **CONFIRM** the Tree Preservation Order as served; or
- 2) **UPHOLD** the objection to the Order

Background papers:

contact: Trevor Bowen

File TPO 889 and 895

Adrian Stanfield

Director of Central Services and Monitoring Officer