

Your reference: LEGAL/TMB/TPO895

Dear Trevor,

Please regard this email comprising a formal objection to TPO Number 4 2015 (your letter of 7 April 2015 refers).

I have been instructed to challenge the TPO on the basis that the grounds for making the Order are badly found and do not stand up to proper scrutiny. The grounds for making the Order are reliant solely on visual amenity impacts centred on concern that the woodland can be seen from public footpaths surrounding the area – it is considered that the TPO adds no significant additional visual amenity benefit compared to simply leaving the extant TPO in force. It should also be pointed out that there is no threat to the trees within proposed area W1 – the planning application in respect of the adjacent land to the west was adjusted to ensure the woodland will not be affected and has, in any event, 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 TPO or have any unacceptable on the character of the footpath running through the site.

The starting point in evaluating the grounds given for making the Order is that 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. Before the Council make or confirm this Order they have to be able to show that protection would bring a reasonable degree of public benefit in the present and/or future, in this case by providing better protection in respect of those parts of the area of woodland to the eastern side of the caravan park which are not already protected by the extant TPO. The existing TPO is an important material consideration in terms of weighing up any additional public benefit from effectively extending the TPO.

It is not known if the council has an adopted methodology for assessing the amenity value of trees in a structured and consistent way but the following criteria would ordinarily be regarded as key matters in evaluating if TPO can be justified:

### **Visibility**

The extent to which the trees or woodlands can be seen by the public and the context of any such visibility are key to the assessment of whether the impact on visual amenity is significant. The trees, or at least a significant part of them, have to be visible from a public place – in this case the public footpaths in the surrounding area. Simply being visible to people on the public rights of way is not enough to warrant a TPO – 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. In this case, the visual amenity impacts are different depending on the part of the footpath network the TPO area is seen from with two main contexts – firstly, when seen from outside of the site and then from the footpath within the park.

It should be stressed that in respect of both the 'inside' and 'external' views, 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. From all three approaches to the park via the

public footpaths (ie: from the paths entering the site from the north and south and that passing the park to the east) the additional area proposed to become part of the extended TPO will not be readily visible and not seen at all from virtually any point along the paths. This is because 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 so the trees further in the site now proposed for protection make no or virtually no beneficial contribution as they will not be seen. This effective screen from outside of the park means that the proposed TPO has no additional benefit in respect of visual amenity from the perspective of views from outside of the site.

This leaves only the issue of the perception of the trees from the footpath that runs through the park itself. This path runs through a formal caravan park with many seasonal (year round) and static caravans along with caravan storage, permanent buildings, roads, lighting etc. Irrespective of the presence of trees within the caravan park 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 come what may as the area of the proposed TPO includes areas of trees protected by the existing TPO on all boundaries seen from the footpath when looking across at the area of the proposed TPO – the extant TPO protects trees on the north, east and south sides of the area of trees so whatever happens the views across from the footpath within the site will fundamentally remain as is with the presence of trees and their function as a visual backcloth to the developed caravan park remaining unaltered. As such, 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.

#### **Individual, collective and wider impact**

Public visibility alone is not sufficient to warrant an Order. The council should also have assessed the particular importance of any individual trees, of groups of trees or of the woodland area by reference to its or their characteristics. In this case the woodland appears to have been assessed as having importance as a single entity with no individual tree(s) of particular note. Wider impact is confined to impact on the users of the public rights of way which is dealt with above. Any additional 'collective' impact also needs to appraise:

- size and form – this needs to be looked at in the context of the existing TPO which already protects the trees about the periphery of the site such that the apparent size of the overall extent of the woodland will not be adversely impacted upon even if some of the other trees were to be removed because the external extent of the woodland will appear no different (other than for the short time any users of the footpath through the caravan site are actually walking through the park itself). Once outside of the site boundaries 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.
- future potential as an amenity – none so not applicable.
- rarity, cultural or historic value – this is not relevant here for although the woodland is categorised as being ancient woodland (and is therefore a relative rarity) and the

grounds for the Order make passing reference to this, the reference is irrelevant as the grounds for making the Order are clear – it is only the visual amenity value of the trees that is of consequence and the status of the trees as ancient woodland or not is entirely silent/neutral in terms of impacting on visual amenity - 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.

- contribution to, and relationship with, the landscape – 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. However, the existing TPO ensures that the status quo will be maintained in respect of the contribution to and relationship with the wider landscape – in essence, the trees benefitting from the existing TPO are what define the relationship of this parcel of land with the wider landscape: as set out above, from views towards the site from the public rights of way nothing will change in respect of the appearance of the woodland.
- contribution to the character or appearance of a conservation area – not applicable.

### **Other factors**

Factors such as any importance to nature conservation or the value of trees in terms of climate change do not warrant making a TPO but in any event these factors have not been identified by the Council and are considered of little relevance here especially given that judging impact on visual amenity the only matter at issue.

### **Conclusion**

The woodland within the proposed TPO area W1 is fundamentally the same as when the original, extant TPO was made. There is no greater amenity value to the trees than then and no additional threat to the trees here so it is difficult to see why it is now considered appropriate to try to extend the area protected by the existing TPO, especially when the recent planning application clarified that the area will not be impacted on by way of the proposed static caravans on the adjacent land to the west.

It is difficult to understand why the Council seem to feel that the appraisal of this area of trees first undertaken in making the extant TPO is now considered to be inadequate – there is no evidence of any proper re-appraisal of the merits of the additional area and it seems almost as if making reference to ancient woodland may (wrongly) be reason enough. The grounds for making the order confirm that the only issue is that of the visual amenity merits of the additional area when seen from the public rights of way network - circumstances here are such that that it is clear that the additional area of trees confer no significant visual amenity benefits over and above those conferred by way of the extant TPO. The proposed TPO is badly found and does nothing of sufficient consequence to warrant the TPO in terms of any enhancement/visual amenity benefit over and above that resulting from the existing TPO. The required reasonable degree of public benefit in the present and/or future simply does not accrue from this proposal and so it is asked that the proposed TPO be withdrawn forthwith.

Kind regards,

Mark.