

MID SUSSEX DISTRICT COUNCIL

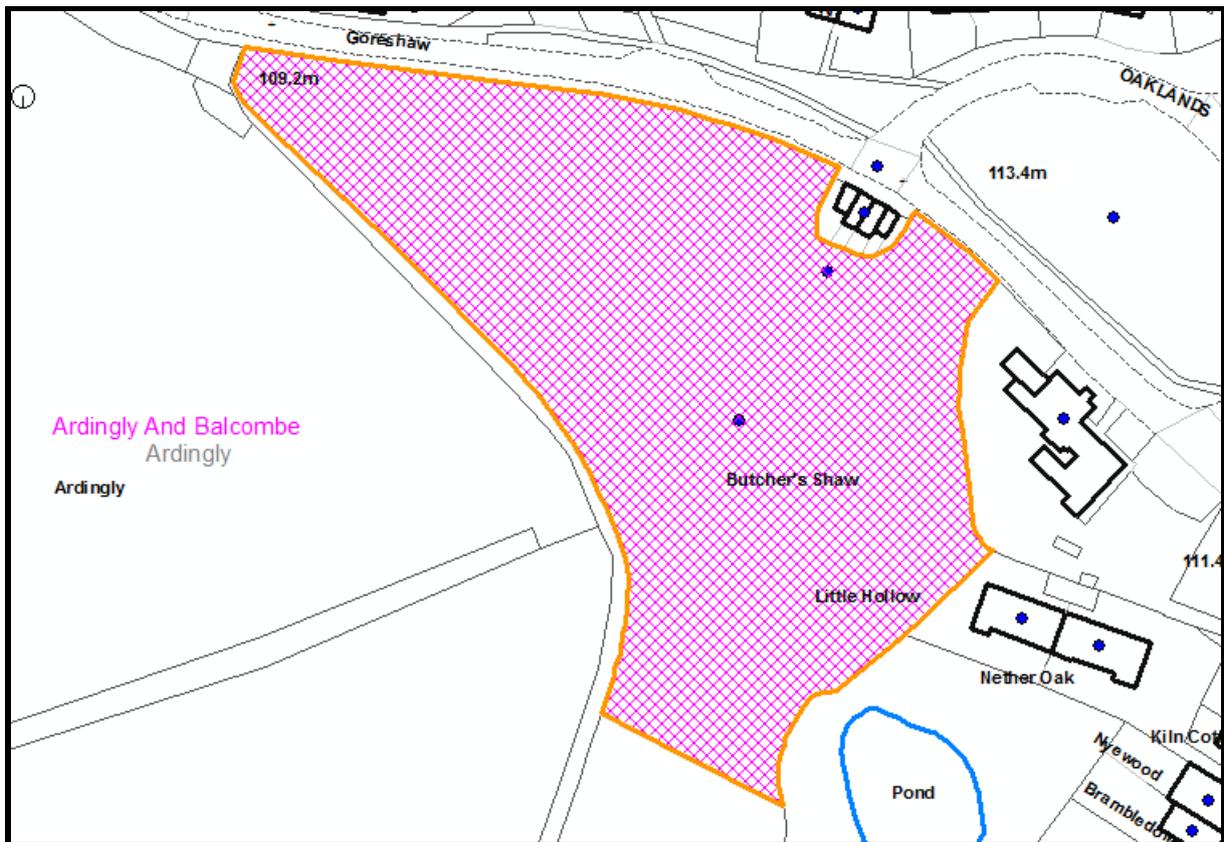
Planning Committee B

28 MAR 2019

OTHER MATTERS

Ardingly

TP/18/0007



Butchers Shaw, Street Lane Ardingly – Mid Sussex District (No.7) Tree Preservation Order 2018

REPORT

Members are being requested to consider whether or not to confirm a new Tree Preservation Order (TPO), TP/18/0007 refers, on a woodland known as Butchers Shaw in Street Lane, Ardingly.

The trees comprise a mix of mature trees, predominantly oak, ash and hornbeam with a little understorey mainly comprising holly and hazel, remaining.

The trees are classified as Ancient Woodland and are located within a Conservation Area.

The frontage trees are highly visible from Street Lane and form part of a transition between the village of Ardingly and its rural outskirts. Almost directly adjoining the site are other frontage trees protected under TPO (AR/01/TPO/11 refers) and following this, other trees protected under TPO (TP/17/0001 refers) . The Conservation Area of Ardingly, which is in two parts, then continues.

BACKGROUND

The trees are considered to be under threat due to the continued erosion of the understorey. Complaints were received regarding felling, the use of heavy machinery, ground disturbance by heavy plant and bonfires.

There have been a number of complaints over the last couple of years and requests to make a TPO on the land, including from the AONB unit. A number of visits have been made to the land by both the Tree Officer and Planning Investigation staff.

Up until the Order was served, it was considered that the Conservation Area afforded adequate protection to the woodland, but incremental works, as well as the denudation of the woodland, planting of inappropriate species, the storage of heavy plant/equipment in root protection areas, bonfires and the owners intention to create a wildflower meadow have given rise to concerns, and it was considered that further protection was need. The Conservation Area status of the land does not protect young trees or understorey.

The trees scored an average of 20 on the TEMPO assessment, definitely meriting protection by TPO.

THE OBJECTION

An objection has been submitted on behalf of the owner of the woodland. This may be summarised as follows:

- Unnecessary additional layer of protection and difficult to understand what public benefit will ensue from the TPO. The area is already protected by its Conservation Area status. The area was included in MSDC document 'Conservation Areas in Mid Sussex ' because of its value.
- The owner has removed dumped materials and invasive weeds from the land and engaged bodies such as the Forestry Commission, Natural England and the Small Woods Association for advice.
- The owner wishes only to enhance the woodland and carry out beneficial woodland management for the benefit of wildlife and the local community.
- The only additional benefit conferred by the TPO is to protect naturally regenerating tree saplings but given the owner's desire to protect the woodland, this appears superfluous and disproportionate

- Glades and open areas are integral features of woodlands
- The local authority cannot control the planting of trees and only a limited area of fruit trees has been planted
- No evidence exists to demonstrate that clearance works have removed understorey or seedlings
- The storage of plant and machinery under canopies etc. has been exaggerated by the LPA and cannot be said to have impacted unduly on the woodland
- Bonfires are a normal and routine way of disposing of brash and other arisings from woodland management. It is an overreaction on the council's part to use this as justification for making an Order
- The council is disingenuous to advise that the making of a TPO does not involve an additional burden or paperwork on the owner. The owner will be required to justify or provide reasons for works to TPO trees.
- No basis for the claim that the owners activities have caused 'cumulative damage which has occurred over a period of time' to the woodland
- The owner has recently met with the Forestry Commission and a programme of works has been recommended.

THE LETTER OF SUPPORT

A local resident has submitted a representation in support of the Order, making the following points;

- The woodland was in a virtually untouched state for many years until the current owner purchased it and systematically cleared the understorey. This has resulted in a gravely detrimental effect on wildlife including the use of heavy machinery which has destroyed wildlife corridors and habitat
- Planings and rubble have been imported to create hard roadways which have impacted wildlife habitats and corridors. There were no wide tracks previously, just a narrow path; it was certainly in no way 'woodland maintenance'. I visited this woodland 25 years ago and it was a wildlife haven
- Several trees have been felled, creating wide open spaces through the woodland
- Previous google images show a virtually unbroken canopy of foliage before Mr White began to clear the trees
- More clearance work has taken place and the diggers have gone on to dig out a pond and level areas throughout the woodland in an entirely inappropriate way

- Protection of bats, dormice etc. has been ignored

EVALUATION OF COMMENTS

With regard to the letter received on behalf of the woodland owner, it has been confirmed to the owner that a TPO protects seedling and young trees as well as understorey. A Conservation Area designation does not protect against the removal of young trees, seedlings or understorey. There is photographic evidence available that shows the woodland in July 2016 and shows the removal of a substantial amount of trees and understorey.

It is contended that an additional level of protection, such as that provided by the TPO, would allow some natural regeneration, indeed, that is the purpose of a woodland Order. Whilst reasons are required for works to TPO trees, as long as the works are required in the interests of beneficial woodland management, then there would be no resistance to the works. This would also be in accordance with government advice which advises that the purpose of a woodland Order is that ... 'it should not hinder beneficial woodland management' (Guidance: Tree Preservation Orders and Trees in Conservation Areas 6 March 2014.)

If the owner wishes to manage the woodlands in a proper and consistent manner, the TPO imposes no additional burdens, and, at MSDC the same form is used to make both applications/notifications with a TPO area or a Conservation Area. No additional paperwork is required.

The tree officer has met with the owner and a representative from the Forestry Commission, and has agreed to some thinning with some of the remaining trees around the fringe of the site by way of a felling licence. The tree officer has not resisted this. However, both the tree officer and the woodland officer were concerned about the planting of inappropriate fruit tree species, the deposition of machinery and rubbish within RPAs and the denudation of the woodland floor and understorey. It was indicated to the owner that further licences would only be granted in the future if good woodland management was demonstrated, including the planting of native species.

Whilst some glades and open spaces are beneficial to woodlands, nevertheless, the cleared ground is either completely bare or planted with inappropriate and domestic planting.

At the time of one visit, two bonfires were burning. This has a bad effect on both understorey and the habitat floor. At a very recent visit, materials etc. were still being stored under trees, despite repeated requests from the tree officer and a request from the forestry officer to move them.

With regard to the representation received supporting the TPO, the author has been advised that wildlife issues are a matter for the police.

The planning Investigations team have investigated the matter of imported materials, and, whilst there was found to be a breach of planning control, it was not felt to be expedient to pursue enforcement action. This is considered to be a separate matter from the making of

the TPO. Photographic evidence is available showing the woodland in July 2016 and more recently.

The Parish Council have been contacted as they requested that a meeting be arranged with an officer from the Forestry Commission. Following this meeting, they wish to raise no objection to the making of the Order.

ASSESSMENT

It is considered that trees have significant public amenity value and value as a woodland in their own right and that it was expedient to issue an Order in accordance with government advice. It also provides additional protection for its Ancient Woodland designation.

It is also consistent with the making of other Orders on the land between the two Conservation Areas.

If it is the owner's stated aim to conserve and enhance the woodland, then the TPO will provide no obstacles to this and although reasons are required, this will place such reasons in the public domain and may lead to less allegations against the owner.

Officers are content that the trees meet the relevant criteria for inclusion in the Order and that their protection is justified, and it is considered that the Order should be confirmed.

RECOMMENDATION

It is recommended that the Order is confirmed.