



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
13 AUGUST 2018**

Tree Preservation Order	TPO 8/91
Location	The Orchard, Nipsells Chase, Mayland
Proposal	Revocation of TPO 8/91
Target Decision Date	N/A
Case Officer	Emma Worby
Parish	MAYLAND
Reason for Referral to the Committee / Council	Decision on the revocation of a Tree Preservation Order as per the Council's scheme of delegation.

1. RECOMMENDATION

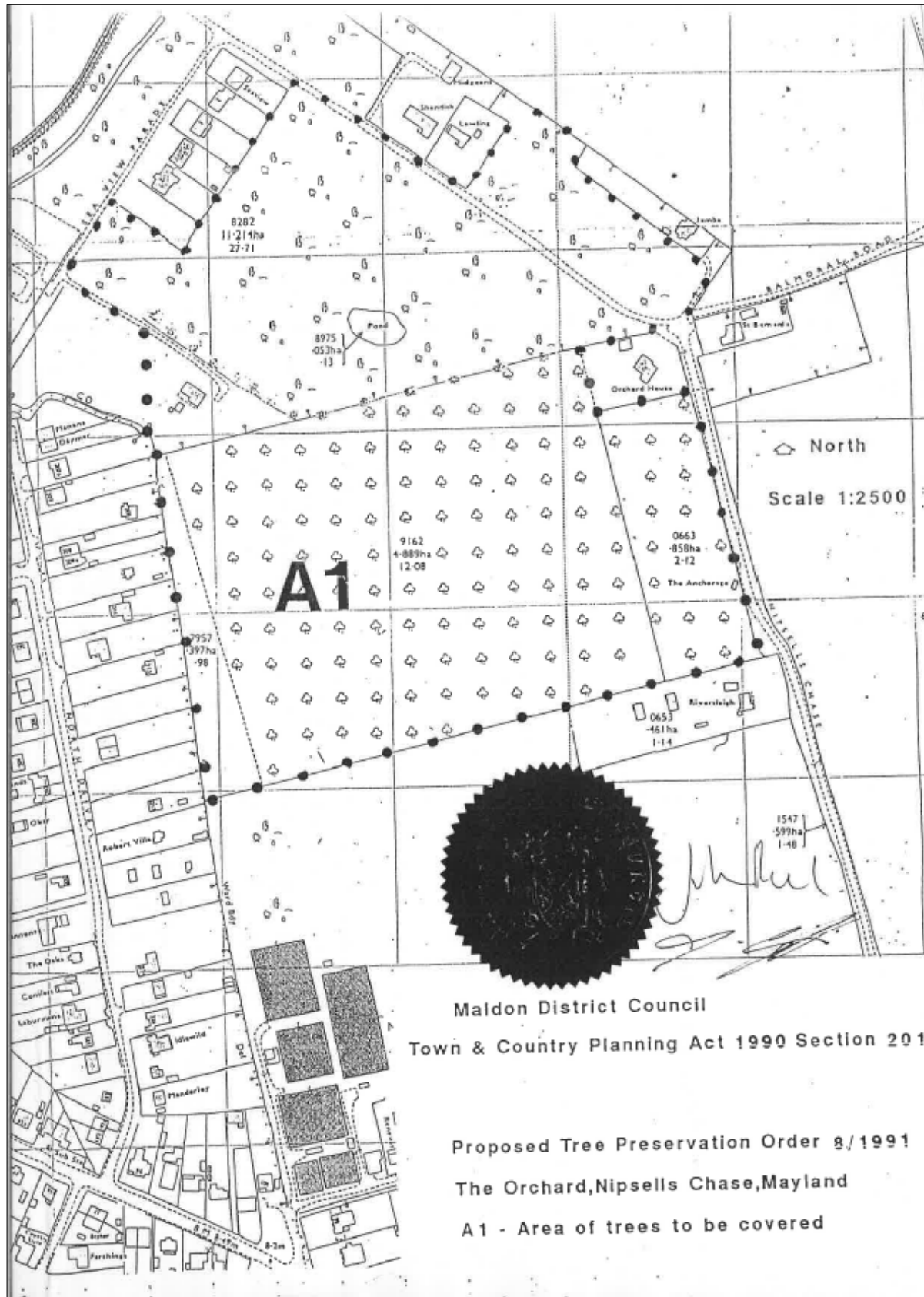
REVOKE Tree Preservation Order (TPO) 8/91 subject to the confirmation of TPO 4/18.

Please be aware that this item was deferred for consideration at the previous South East Area Planning Committee Meeting of 23 August 2017 in order for a site visit to take place, clarification to be provided and a Tree Consultant to be in attendance when the item is considered.

2. SITE MAP

Please see overleaf.

Area Covered by TPO 8/91



3. SUMMARY

- 3.1 The trees located at The Orchard, Nipsells Chase, Mayland are currently protected under the area classification TPO 8/91. An 'area order' covers all the trees within the specified area at the time of serving the order. Any new trees which are planted or that grow after the TPO is served are not protected. In line with government guidance the council believes that this TPO should be updated to better suit the current site and the TPO 4/18 has been served for the same site, intended to replace the TPO 8/91.
- 3.2 In line with the scheme of delegation, the revocation of the TPO 8/91 has been brought before members to decide.
- 3.3 **The Site**
- 3.3.1 The site referred to as The Orchard runs between the dwelling Riversleigh on Nipsells Chase up to the rear of the properties on Seaview Parade and to the rear of the properties on North Drive.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 Corporate Plan 2015-2019:

- Corporate Goals: 2. Protecting and shaping the District – 2.b. Protection and enhancement of the District's distinctive character, natural environment and heritage assets.

4.2 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)

4.3 Government Guidelines

- 4.3.1 The Town and Country Planning (Tree Preservation)(England) Regulations 2012 states that:

Where an authority revokes an order they shall—

- (a) endorse the original order with a statement to the effect that the order has been revoked, specifying the date of the revocation;
- (b) notify the persons interested in the land affected by the order that the order has been revoked; and
- (c) withdraw from public inspection the copy of the original order made available in accordance with regulation 5.

- 4.3.2 Government guidelines advise that before revoking a TPO the Local Planning Authority are not required to publicise their intention to do so or consult local people or groups.

5. MAIN CONSIDERATIONS

- 5.1 The area of land which is the subject of the existing TPO 8/91, is located on Nipsells Chase in Mayland. The TPO is currently an area classification which protects all trees in place when the TPO was served, which in this case is 1991. The drawbacks of an area classification include the possibility that trees will be included in the TPO which do not merit protection and the difficulty in determining which trees were standing at the time the TPO was served. Recent government guidance states that 'In the Secretary of State's view the area classification should only be used in emergencies, and then only as a temporary measure until the trees in the area can be assessed properly and reclassified. LPAs are encouraged to resurvey their existing TPOs which include the area classification with a view to replacing them with individual or group classifications where appropriate.'
- 5.2 In line with the above guidance, the site was re-assessed by a qualified arboriculturalist and a new TPO 4/18 was served in a similar location. This included a woodland section, three groups of trees and twelve individually listed trees. The confirmation of the TPO 4/18 is also being decided by members of the South East Area Planning Committee. Therefore, as it is recommended that the new and updated TPO for this location be confirmed, the current TPO 8/91 is outdated and is no longer required.
- 5.3 It is noted that a public consultation was not carried out prior to this request to revoke TPO 8/91 as it is not a statutory requirement. However should the TPO be revoked then all interested parties will be notified and served the revocation order which is required under the Town and Country (Tree Preservation)(England) Regulations 2012.

6. ANY RELEVANT SITE HISTORY

Land South West of Nipsells Chase:

- **WTPO/14/01276** - TPO 08/91 Area 1 - Area marked by pink boundary on plan - Remove Blackthorn, Hawthorn and area of diseased/dead Elm. Retain 1-2m wide rooting area of boundary vegetation. Clear a 3m x 4m area for new access gate. T1 Blackthorn - Remove. T2 Hawthorn – Remove – Approved.
- **WTPO/14/00657** - TPO 08/91 - Area 1. Erect fence along line marked in red on plan JEP/MDC/TPOM/14/01 removing to ground level, any trees along this line. On plan land labelled EX14344 - all trees apart from viable fruit trees and perimeter trees plus any significant 'quality' to be cut down to ground level i.e.. roots removed to create a partially clear area which will then be planted with trees such as Horse Chestnut, Beech, Hazel, Sycamore et al. Viable fruit trees to be dealt with on an individual basis and selective pruning undertaken, where necessary and none removed. Area A as on plan - filter out the existing trees to produce an appropriate density. Further information submitted to clarify trees to be removed - Plan 1 re EX14344 and plan 3 re Area A. Trees to remain shown on Plan 2 re EX14344 and Plan 4 re Area A – Approved.
 - **WTPO/08/00724** - TPO 08/91 Area 1 - If necessary, remove some trees to enable erection of boundary fence, others along boundary to be coppiced to hedge. Area A on plan - remove all trees apart from viable fruit trees and perimeter trees. Area B - coppice 50% of trees. (NB TPO only applies to trees that existed as trees at the time of serving 1991) – Approved.

Land North of Riversleigh:

- **DD/17/01060** - T1 - Elm - Fell. T2 - Wild Pear - Fell. T3 - Wild Pear - Fell. Can works proceed under 5 day dead and dangerous trees notice - Approved.

7. **CONCLUSION**

- 7.1 TPO 8/91 is intended to be updated by the serving of the new TPO 4/18 in line with government guidance to review all area TPOs with a view to replacing them with individual or group classifications where appropriate.
- 7.2 The serving of TPO 4/18 does not automatically supersede TPO 8/91. Therefore it is considered that the TPO 8/91 should be revoked to ensure that the trees within this location have effective protection against any proposed works or felling which may affect the amenity value that they provide without the confusion of two TPOs covering the same location.