



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
25 NOVEMBER 2020**

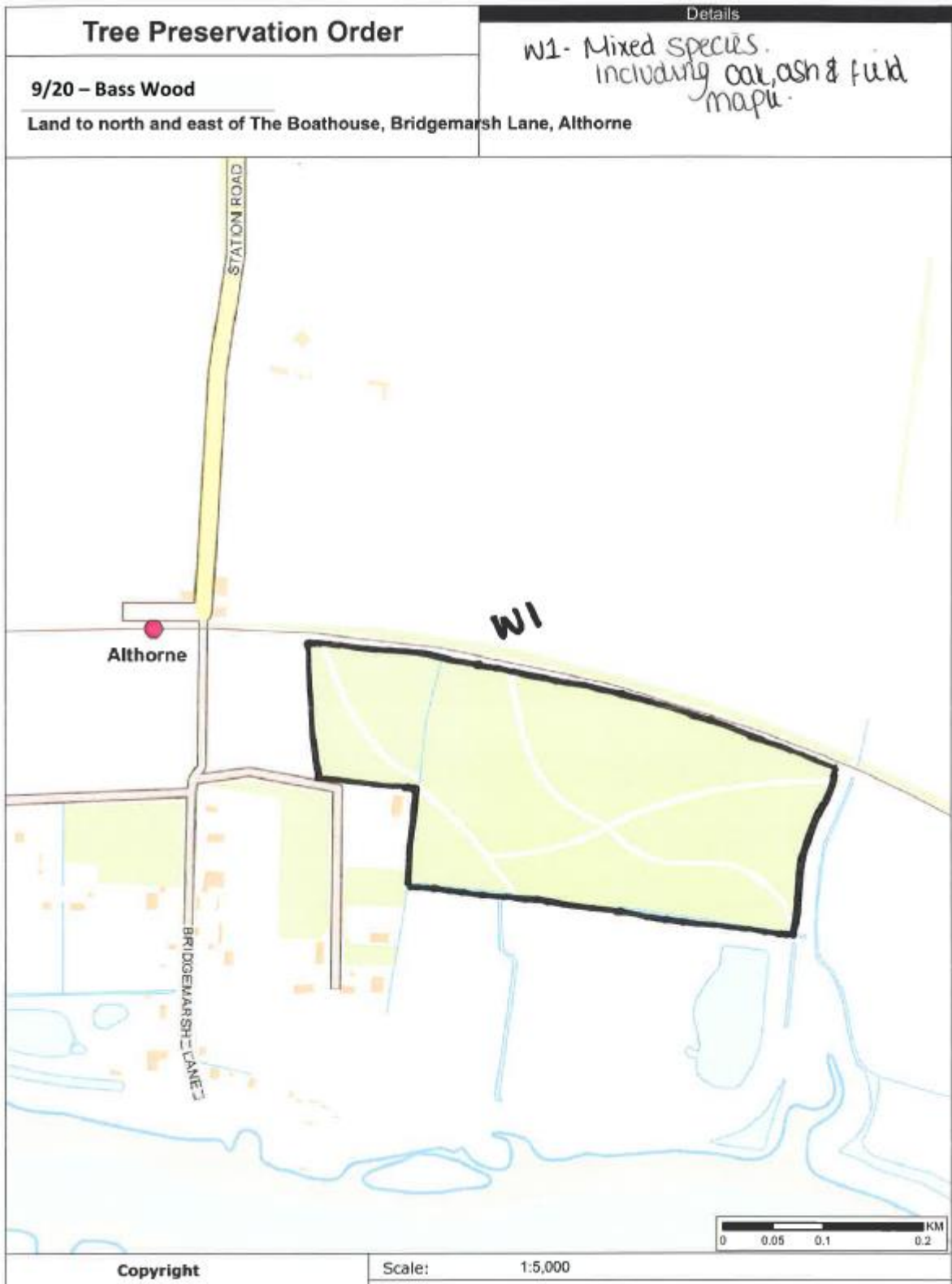
Application Number	TPO 9/20
Location	Bass Wood (land to the north and east of The Boathouse, Bridgemarsh Lane, Althorne)
Proposal	Confirmation of TPO 9/20
Owner	J and H Wilsdon Agriculture, Lee and Marisa Batt
Confirmation by	23.12.2020
Case Officer	Hayleigh Parker-Haines
Parish	ALTHORNE PARISH COUNCIL
Reason for Referral to the Committee / Council	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation

1. **RECOMMENDATION**

CONFIRM Tree Preservation Order (TPO) 9/20 without any modifications.

2. **SITE MAP**

Please see overleaf.



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1. In March 2019, the Council received information that part of the above woodland was up for sale. The sale of this land was considered to put the woodland at risk and therefore, a Tree Evaluation Method for Preservation Orders (TEMPO)) assessment, which is a professionally and nationally accepted system of scoring the amenity value of a tree, was carried out. The TEMPO assessment scored the woodland 19 out of 25 and concluded that the woodland was worthy of a Tree Preservation Order (TPO). Therefore, a TPO (3/19) was served on 1 April 2019. A letter of objection was received relating to the serving of TPO 3/19 on Land to the north and east of The Boathouse, Bridgemarsh Lane, Althorne and therefore, the decision as to whether or not this was to be confirmed was brought to members to determine on 12 August 2019, whereby members voted not to confirm this TPO for a number of reasons as detailed below.
- 3.1.2 During the discussion surrounding the confirmation of this TPO, members raised concerns regarding the validity of the information provided in relation to the sale of the woodland: as a point of clarity the Woodland has since been sold. Furthermore, concerns were raised in relation to the fact that the trees had been planted under a grant from the Forestry Commission and therefore, the trees are protected. It is pertinent to note that this does not prevent the Local Planning Authority (LPA) from serving a Tree Preservation on the woodland, just that any works agreed with the Forestry Commission would override the Tree Preservation Order. Permission would only be required from the Forestry Commission should the owners wish to fell over 5m³ in one calendar quarter, any lesser works are unlikely to require a license from the Forestry Commission. Whilst there is a contractual agreement between the owners of the woodland and the Forestry Commission which expires in 2030, this does not necessarily protect the trees, just that should the woodland (as a whole) be removed the grant would need to be paid back.
- 3.1.3 Furthermore, it was brought to Members' attention that this woodland was labelled as green space and an important amenity space in the current LDP. However, when this was put to the Inspector it was requested to be removed. However, the serving of a TPO would not class this woodland as green space or amenity space.
- 3.1.4 Since the previous decision to not confirm the TPO, the woodland has been sold and the LPA have received planning applications which have included part removal of the woodland to allow vehicular access and drainage works. Furthermore, concerns have been raised in relation to large machinery driving through the area and part of a hedgerow having been removed. Therefore, it is considered that the Woodland is at threat and a subsequent TPO has been served (9/20).

3.2 The Site

- 3.2.1 The Woodland is located to the eastern side of Bridgemarsh Lane, to the North and east of The Boathouse. The woodland is a feature that can be seen from Bridgemarsh Lane and public vantage points within the surrounding area; it is therefore considered to be an important landscape feature. This is a mixed species woodland which

includes oak, Ash and Field Maple.

- 3.2.2 The woodland comprises of young trees which are considered to have a significant retention span which would provide significant amenity value to the character and appearance of the site and surrounding area in the future. Therefore, it is considered that this woodland plays a significant role in underscoring the value of the visual amenity of the surrounding area.

3.3 Ownership

- 3.3.1 The Woodland is made up of a number of separate parcels of land owned and managed by a number of different people. The known owners at the time of writing this report are Mr Lee Batt, Mrs Batt and J and H Wilsdon Agriculture. It should be noted that the woodland was planted using a grant from the Forestry Commission in 2002.

4 MAIN RELEVANT POLICIES

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

4.1 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)

4.2 Government Guidelines:

- 4.2.1 Government guidelines advise that: the LPA is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.
- 4.2.2 If Members decide to Confirm TPO 9/20, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:
1. that the TPO is not within the powers of the Act, or
 2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.
- 4.2.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO was confirmed.

5 MAIN CONSIDERATIONS

- 5.1 The woodland is to the eastern side of Bridgemarsh Lane, to the north and east of The Boathouse. It is a feature of the landscape of the area and is considered to have future high amenity value as once the trees have reached maturity, they will be highly visible and prominent from the public realm.
- 5.2 Planning Practice Guidance states (Paragraph 10 reference ID: 36-010-21040306) *'It may be expedient to make an Order if the authority believes there is a risk of trees*

being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.’. The Council have received concerns that large machinery has been accessing the area and could cause damage to the trees and that part of a hedgerow has been removed. The woodland is not located within a Conservation Area and therefore did not have any form of statutory protection prior to the serving of the TPO. Therefore, any of the trees within this woodland could have been removed without the permission of Maldon District Council (MDC), which would damage the amenity value that the woodland offers within the surrounding landscape.

- 5.3 In the interest of protecting this prominent landscape feature and the amenity value of the woodland within the locality, the woodland was assessed using the Tree Evaluation Method for Preservation Orders (TEMPO) which is designed as a guide to decision making and stands as a record that a systematic assessment has been undertaken. The TEMPO considers all of the relevant factors in the TPO decision making chain including amenity assessment, expediency assessment and decision guide. Within the assessment the woodland scored highly for the suitability of a TPO for the amenity of the woodland as there are medium trees with limited visibility to the public with tree groups or principle members of groups important for their cohesion. The expediency assessment reflected the perceived threat of the tree as mentioned in section 5.2. The woodland scored an overall total 19 out of 25 which means that the woodland would definitely merit a TPO.
- 5.4 It is worth noting that the guidance provided to sit alongside the TEMPO assessment acknowledged that the reason for serving the TPO can be quite minor (precautionary only). It is worth noting that a number of applications have been submitted to the LP A since the 12 August 2019 in relation to the woodland. This has resulted in officers considering that there is a greater threat to the trees than there was at the time of the last decision.
- 5.5 It should be noted that the TPO would not prevent works to the trees from being carried out, however it would control any works to ensure that they were suitable, justified and did not harm the health of the trees within, or the amenity value the woodland as a whole offers to the surrounding area.

6 ANY RELEVANT SITE HISTORY

- 6.1 **3/19** – TPO served – Not confirmed.

7 CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Interested Parties

- 7.1.1 One letter was received **objecting** to the serving of the TPO 9/20 and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
<p>The woodland is not under threat, prior to the new owner purchasing the land, Ash mortality was potentially damaging a third of the woodland. To stem further deterioration to an impenetrable mass there are two management options available:</p> <ul style="list-style-type: none"> - Clearance and replanting the worst areas - Selective clearing and replanting. As there is no prospect of wood harvest and a further grant aid being unlikely, the possibility of farming out the land has been explored. This would include dividing the wood into 0.5 acre woodlets which could be leased. <p>This difficulty with this is controlling the enthusiasm of new wood owners as to what they can and can't do by way of serving a TPO.</p>	<p>As mentioned in section 5.5 of this report. There does not need to be significant threat to the woodland for a TPO to be served. The woodland scored 19 out of 25 and therefore, would definitely merit the serving of a TPO to protect the future amenity of the trees and the contribution they make to the surrounding area. It should be acknowledged that the serving of a TPO on this woodland would not prevent any works being carried out on the Woodland, this can be for individual trees or for a Woodland Management Plan that can last 5 years. Therefore, it should not cause issues should any works need to be undertaken to the trees.</p>
<p>The Forestry Commission grant manages Bass Wood. Any damage will involve repayment of a considerable grant. I am not against a TPO as it ups the amenity value of the wood but it duplicates existing controls and raises even further expectations of local vigilantes who might one day be a problem for you. This is another example of The Council gladly finding work from complainants in contrast to rate paying businesses.</p>	<p>Although, the trees are planted using a grant from the Forestry Commission, this does not prevent the Local Planning Authority from serving a Tree Preservation on the woodland, just that any works agreed with the Forestry Commission would override the Tree Preservation Order. The TPO would protect the trees from unacceptable works, whereas the Forestry Commission and the restrictions of the grant relate to the removal of the trees. Furthermore, the serving of a Tree Preservation Order does not prevent works/felling of the trees, an application is required to ensure that the proposed works are appropriate and represent good tree management.</p>

8 **CONCLUSION**

- 8.1 The woodland subject of the TPO makes a contribution to the character and appearance of the surrounding area and has the potential to provide significant amenity value to the character and appearance of the surrounding area due to the size and density of the woodland. Given that the woodland has a TEMPO score of 19, it is considered that the TPO should be confirmed to prevent inappropriate works being carried out which could harm the amenity value and overall health of the woodland.