



REPORT of CHIEF EXECUTIVE

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
17 JULY 2017**

TREE PRESERVATION ORDER (TPO) 2/17 - LAND REAR OF 24-54 MALDON ROAD AND SOUTH OF GREEN LANE, BURNHAM-ON-CROUCH

1. PURPOSE OF THE REPORT

- 1.1 Objections have been received relating to the serving of TPO 2/17 - Land rear of 24 – 54 Maldon Road and south of Green Lane, Burnham-on-Crouch. The TPO protects an area of emerging woodland with some mature trees, developing shrub layer and ground flora. The majority of the area has been designated as woodland in the TPO, with a small area to the rear of the Woodford's Garage being designated as an Area. The objections have not been resolved, therefore the question of whether or not to confirm the TPO has been brought before Members to decide.

2. AREA FOR DECISION/ACTION

- 2.1 In 2016 a planning application 16/01189 was received proposing the use of a wooded area to the rear of Woodford's garage be changed to a parking area for use in connection with the garage and a car hire firm, this application was refused. Subsequently clearance of trees commenced on the area in question with the permission of the land-owner who is also part-owner of the wider area of land covered by TPO 2/17. Following the refusal of 16/01189 a 2m high fence was erected around the parcel of land to which the application had pertained, with large double gates leading out into the wider woodland area. The area affected by the application was a small part of the larger woodland. TPO 2/17 was served to prevent further tree removal and damage to the flora in the area. A Woodland designation was applied to the larger part of the site. A Woodland designation in a TPO protects the woodland as a whole, it is all-inclusive from the seed bank in the soil to the trees, including all vegetation in between. An Area designation was applied to the trees remaining within the fenced off area. The Area designation protects the trees that are present when the order is served.

2.1.1 Ownership

The parcel of land in question, including the fenced in area to the rear of Woodford's garage is in joint ownership:

Mr G Smith, 37 North St, Southminster CM0 7DG – Owns A1 and part of W1.

Beverley Ayres, 31 Cherry Orchard, Southminster CM0 7HE – Part owner of W1

Elsie Partridge, 19A Hillside Rd, Burnham on Crouch CM0 8EY – Part owner of W1.

2.1.2 Objections

Objections to the serving of the TPO have been received from Mr Smith and Ms Ayres.

- a) Mr Smith has objected to the serving of TPO 2/17. He has not cited any individual grounds for his objection, however he mentions his difficulty in managing the land, especially around the boundaries where neighbours cause problems with tipping garden waste, lighting fires and stealing land.

[APPENDIX 1]

- b) Ms Ayres has objected to the serving of TPO 2/17 as follows:

The land has always been classed as Freehold property and it has always been the intention that eventually it would be used for building land.

The woodland referred to is simply a case of trees self-seeding over a period of time. It has never been cultivated as a woodland.

[APPENDIX 1]

2.1.3 Tree Officer's response to points of objection

- a) The TPO does not preclude reasonable works to manage the land, provided an application is made and approved. Neighbours were served with the TPO, any actions by neighbours that breach the TPO may be subject to enforcement action. The concern that neighbours may breach the TPO, is not a reason to not confirm a TPO.
- b) The trees and vegetation on the land is a material consideration in the determining of any planning application. However, the trees being protected by a TPO would mean that their protection was of greater weight when determining any future applications. The trees would also be protected prior to the determination of an application; without the TPO, they are not.

The trees and vegetation on the land have developed into a young woodland structure through natural succession. This is how many new woodlands develop, rather than being cultivated. Naturally generated woodland will develop in association with species of flora and fauna that will naturally colonise during its development. Cultivated woodland will not have the benefit of this gradual association, so may be slower to develop in variety and quality of species and ecological benefits.

2.1.4 Site Assessment

The land in question is approximately 2.5ha. The majority of the land is covered by trees of different ages, varying from young saplings to mature high canopy trees. The portion to the east is partly open meadow, surrounded by trees. Woodland as described by the Forestry Commission, is 'land under stands of trees, with a canopy cover of at least 20% (or having the potential to achieve this), including integral open space and including felled areas that are awaiting restocking.'

The quality of woodland depends on many things, amongst which are the age/species ranges of the trees, the presence and species diversity of ground flora and shrub layer.

A public Right of Way passes north to south, linking Maldon Road and Green Lane, through the centre of the land and this appears to be well used

The TPO does not place any additional burden upon the owner to carry out works, it does however require a formal application to be submitted and approved before carrying out works that may involve felling of trees and changes in the vegetative character of the area. If the owner prefers to submit a management plan, an application for a programme of works over time can be approved for up to a 5 year period.

2.1.5 Planning History

15/01064 - Formation of 26 No vehicle parking spaces for use in connection with garage and car hire company. – Withdrawn.

15/01216 - Formation of 19 No vehicle parking spaces for use in connection with garage and car hire company. – Refused.

Reason for refusal:

1. The proposal due to its location, scale, design and consequent loss of vegetation result in a development that would be visually intrusive and so adversely affect the character and appearance of the local landscape to the detriment of the amenities of local residents and users of the nearby public footpath. In addition the noise and general disturbance arising from the car parking would adversely affect the occupiers of neighbouring residential properties. As such the proposal would be contrary to the requirements of policies BE1 and CC6 of the Maldon District Replacement Local Plan.
2. It has been established that the site may provide a habitat for protected species and that further surveys need to be undertaken to ascertain whether this is the case and what measures can be taken to secure the protection of these species. No such surveys have been undertaken and so due to this lack of assurance that protected species will not be harmed the proposal is contrary to the requirements of policy CC5 of the Maldon District Replacement Local Plan.

16/01189 - To extend existing car parking into land rear of Woodfords Garage creating 19no parking spaces. – Refused.

Reason for refusal:

The proposal due to its location, scale, design and consequent loss of vegetation result in a development that would be visually intrusive and so adversely affect the character and appearance of the local landscape to the detriment of the amenities of local residents and users of the nearby public footpath. In addition the noise and general disturbance arising from the car parking would adversely affect the occupiers of neighbouring residential properties. As such the proposal would be contrary to the requirements of policies BE1 and CC6 of the Maldon District Replacement Local Plan.

3. CORPORATE OBJECTIVES

2 Protecting and shaping the district and balancing the future needs of the community

- The right balance between protecting the natural environment and supporting development opportunities.
- A natural and built historic environment that is safeguarded and enhanced.

4 Delivering good quality, cost effective and valued services in a transparent way

4. IMPLICATIONS

- 4.1 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.

If Members decide to Confirm TPO 2/17, 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.

There are costs involved in this procedure which can be awarded. An application must be made within 6 weeks of the date the TPO was confirmed.

5. CONCLUSIONS

5.1 Tree Officer's Summary

- The land is an attractive wooded area which has the potential to improve in appearance and quality in time
- The woodland is not currently under a management plan and felling works have recently taken place prior to a development application being submitted
- The woodland may be under threat from actions by neighbours
- There is public access through the land in question, therefore the woodland has amenity value
- The loss or minimisation of this maturing area will have a detrimental effect on the rural character of the immediate area
- Whilst not directly related to the criteria for making a TPO, the benefits that this green wooded area brings are wider spread than the limits of the site, through the connections to the green corridor network in the wider countryside

6. RECOMMENDATION

Confirm TPO 2/17 without modification.

Background Papers:

Objections – Appendix 1

Site photos - Appendix 2

TPO 2/17 - Appendix 3

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