



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

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE**  
**5 February 2018**

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|---|---|
| <b>Tree Preservation Order</b>                        | <b>TPO 12/17</b>  |
| <b>Location</b>                                       | Beatbush Wood, Park Lane, Tolleshunt Knights  |
| <b>Proposal</b>                                       | Confirmation of TPO 12/17   |
| <b>Confirmation by</b>                                | 01.03.2018  |
| <b>Case Officer</b>                                   | Emma Worby, Planning Officer (01621 875860)   |
| <b>Parish</b>   | <b>TOLLESHUNT KNIGHTS</b>   |
| <b>Reason for Referral to the Committee / Council</b> | Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation |

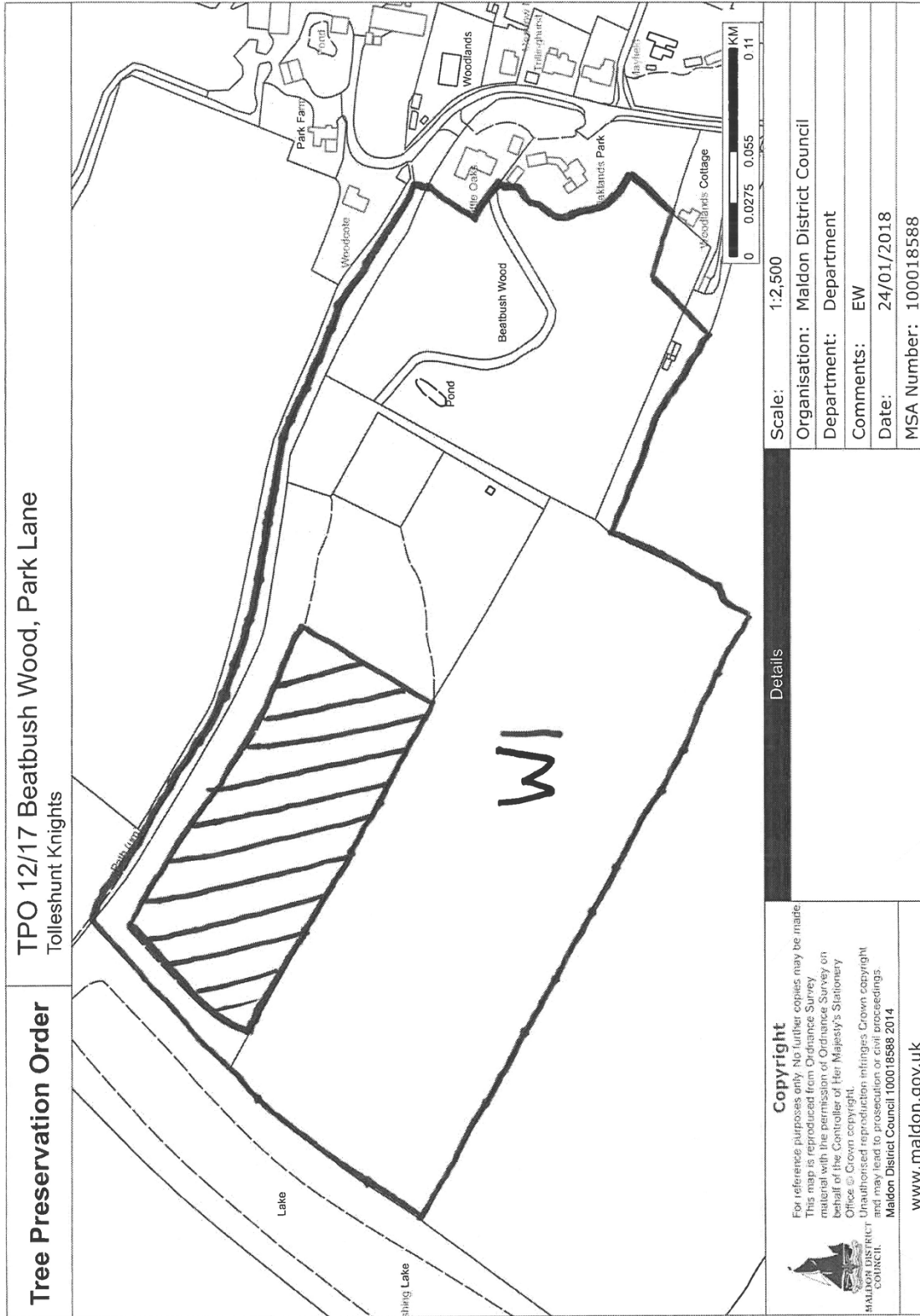
**1. RECOMMENDATION**

**CONFIRM Tree Preservation Order (TPO) 12/17** with the following modification:

1. Removal of the large clearing to the north west of Beatbush Wood which was included in the TPO 12/17 when served. Please see APPENDIX 2 for the revised map.

**2. SITE MAP**

Please see overleaf.



### **3. SUMMARY**

3.1 An application for a new dwelling was received in August 2017 (reference 17/00891/FUL) which detailed a new access route from Park Lane through Beatbush Wood. The application is still pending consideration and is due to be determined in March 2018. This potential development activity raised concerns for the health of the woodland, as it is likely the felling of mature trees would be required for the access road. Therefore, to prevent the uncontrolled felling of the trees, a Tree Preservation Order was served.

3.2 An objection has been received relating to the serving of TPO 12/17 and it has not been resolved, therefore the question of whether or not to confirm the TPO has been brought before members to decide.

#### **3.3 The Site**

3.3.1 The woodland, which is made up of broadleaf trees and several conifers, is located to the West of Park Lane and to the rear of the properties Oaklands Park and Littleoaks.

#### **3.4 Ownership**

3.4.1 The majority of the woodland is owned by Mr. Peter Leonard, Ms. Ashley Wilson of Oaklands Park, Park Lane, Tolleshunt Knights, Essex, CM9 8HB. A smaller section to the north east of the woodland site is owned by Janice Dacosta of Littleoaks, Park Lane, Tolleshunt Knights, Essex, CM9 8HR.

### **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 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.

4.3.2 If Members decide to Confirm TPO 12/17, 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.

- 4.3.3 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 Beatbush Wood, which is the subject of the proposed TPO 12/17, is located to the west of Park Lane in Tolleshunt D'Arcy and made up of mainly broadleaf woodland with open pasture and some conifer trees. The area is not currently protected by an existing TPO, nor is the area located within a conservation area. Therefore, prior to the serving of the TPO 12/17, no statutory protection was afforded to the woodland. The order was served due to potential development works which would be likely to require the felling of some of the trees within the woodland. In the arboricultural method statement submitted with the planning application for development works (reference 17/00891/FUL), it is stated that some trees have already been felled prior to the serving of the TPO.
- 5.2 The woodland covered by W1 in the TPO is large in size at approximately 10 hectares and is visible in the public realm from both Park Lane, a public footpath to the north of the site and Brookhall Lake, a fishing lake to the west. There are several residential properties in the surrounding area on Park Lane. Due to the size of the site and its public location it is considered that the woodland has a positive impact on the character of the area and the amenity value of the woodland is considered to be significant. Please see APPENDIX 1 for the site photos.
- 5.3 It is considered that any uncontrolled loss of trees within the woodland covered by the TPO could vastly reduce the amenity value of the woodland to the detriment of the area. In response to the planning application submitted for a new dwelling, the Tree Officer stated that the site could benefit from some woodland management to benefit the amenity of the landscape and its wildlife value. However, it is considered that the TPO would ensure that the works proposed are suitable and would promote the longevity of the woodland. Within the objection to the TPO (summarised below), it was stated that a woodland management plan is required and it is considered by the Local Planning Authority that the serving of a TPO would be the best method to manage these works.
- 5.4 Within the objection to the TPO (summarised below) it was stated that the TPO would cause unnecessary administrative burden. However it is considered that, whilst there are administrative procedures required for applications submitted for works to a tree protected by a TPO, these are necessary to give the Local Planning Authority the ability to assess any works and protect trees that make a significant contribution to visual amenity. The procedures are also set out under the Town and Country Planning (Tree Preservation)(England) Regulations 2012 and are not set by the Local Planning Authority.
- 5.5 The area the subject of the Tree Preservation Order includes a large clearing. This was included on the grounds that the Forestry Commission description of Woodland includes '*land under strands of trees, with a canopy cover of at least 20% (of having the potential to achieve this), including integral open space and including felled areas that are awaiting restocking*'. The objection that has been received objects to the

inclusion of this 'field' which it is stated measures approximately 230 metres by 70 metres and has been cut and managed. There are very few trees within this area and they do not form woodland cover. It is also suggested that the menege area within the site should not be included and that the Tree Preservation Order should not be confirmed until the planning application has been determined.

- 5.6 For the reasons set out above, it is considered that the provisional tree preservation order could legitimately include 'clearings' that contribute to the woodland environment. However, to address the objection that has been raised, Officers are willing to suggest the modification of the area to be covered by the Tree Preservation Order to exclude the open field and the menege that is referred to by the objector. It is not considered that the determination of the planning application at the site should precede the serving of the Tree Preservation Order, but in any event, removing the area of land on which the dwelling is proposed (for other reasons as set out above) would address the issue raised.
- 5.7 Section 7(2) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012 states that "*an authority may confirm an order with or without modifications.*" It is therefore considered that the modification of the order through the exclusion of land from that which was previously proposed can be undertaken in accordance with section 7(2) provided that the procedures set out at section 7(3) and 7(4) are followed and it is noted that the modification would not conflict with paragraph 7(5).
- 5.8 The objection also highlights that the description fails to reference a strand of pine trees that have been planted and that the woodland definition does not adequately distinguish between areas of different tree coverage within that woodland. In this instance it is considered that the designation of woodland is adequate and individual clusters and areas of specific tree types are not considered to be necessary.
- 5.9 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.

## **6. RELEVANT SITE HISTORY**

- 6.1 17/00891/FUL – Erection of a detached dwelling – pending consideration.

## **7. CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### **7.1 Representations received from Interested Parties (*summarised*)**

- 7.1.1 **Objections** to the serving of the TPO have been received from the Nigel Cowlin of Nigel Cowlin Landscape, Planning and Design on behalf of the majority land owners Mr. Peter Leonard and Ms. Ashley Wilson of Oaklands, Park Lane, Tolleshunt Knights, Essex, CM9 8HB. A summary of the objections are as follows:

| Objection Comment   | Officer Response  |
|---|---|
| <p>Unnecessary legal device that will result in the need for ongoing administrative procedures that could otherwise be avoided.</p> <p>There are a number of individual non-woodland areas or features which do not include tree cover and should not form part of any TPO.</p> <p>There is no risk to the long-term wellbeing of this woodland and as such a TPO is an unnecessary administrative burden to all concerned.</p> <p>7.1. The woodland has been left un-managed for approximately 20 years and is in need of a woodland management plan.</p> <p>As there is a pending planning case, no action should be taken to revise or confirm the order until it has taken its course to a planning determination. This is because the presence of a dwelling and domestic curtilage across an area covered by a woodland TPO would present a fundamental conflict and the TPO would need to be revised at that stage in any event.</p> | <p>Please refer to section 5.9</p> <p>Please refer to section 5.5 and 5.6</p> <p>Please refer to section 5.9</p> <p>Please refer to section 5.3</p> <p>It is not considered that a revision of TPO 12/17 would be required should planning permission be granted for application 17/00891/FUL. Furthermore, the TPO needs to be confirmed by 01.03.2018, which is before the determination date of the planning application. Please refer to section 5.6.</p> |

2 A letter received **in support** of the TPO has been received from Terena Waylen. A summary of the comments are as follows:

| Supporting Comment  | Officer Response   |
|---|--|
| <p>The land should not be developed on now or in the future.</p> <p>This woodland has been present in Tolleshunt Knights for several hundred years and has hundreds of mature oaks and other trees with grasslands.</p> <p>This land supports many varieties of birds, including several hawks and birds of prey and all other birds, bees, butterflies, lizards etc.</p> | <p>Please refer to the main considerations in section 5.</p> |

**8. CONCLUSION**

- 8.1 The woodland W1, which is the subject of this TPO, offers a significant contribution to the character and appearance of the area on Park Lane in Tolleshunt Knights due to its prominent position and its large, mature and attractive nature.
- 8.2 Therefore it is consider that the TPO should be confirmed to ensure that the local planning authority can assess any proposed works to the trees or felling of the trees which may affect the health or amenity value of the woodland that may be carried out due to the potential development of the land.



## Site Photos

In the woodland:



View from Park Lane:



Agenda Item no. 11

Our Vision: To make Maldon District a better place to live, work and enjoy