

## Tree Preservation Order 005/2017/TPO

### **Bellman Hanger, Shurlock Row and Crockfords Cottage Shurlock Row**

#### **1. Background:**

There has been recent loss of significant mature oak trees, potentially veteran, along the southern boundary of the woodland, known as Crockford's Copse, which also encompasses a small part of the site at Bellman Hanger, prior to the submission of the Outline Planning application 16/02861/OUT. The outline application was for the consideration of Access and Layout matters only for the erection of 20 no. dwellings with associated access, parking, turning and landscaping following the demolition of the existing buildings and hardstanding at Bellman Hanger.

The Order is to deter further inappropriate works to the woodland, this includes individual trees within it, which grow over into the neighbouring site at Bellman Hanger. The TPO is also to protect remaining significant trees in the grounds of Bellman Hanger.

The majority of the woodland, W1, is an 'Ancient and Semi Natural Woodland' and 'Ancient Replanted Woodland'. Ancient woodland is irreplaceable. Ancient woodland takes hundreds of years to establish and is considered important for its wildlife, soils, recreation, cultural value, history and contribution to the landscape. It is also listed as 'Deciduous Woodland Priority Habitat' on Natural England's Priority Habitats Inventory. This describes habitats of principal importance under the Natural Environment and Rural Communities Act (2006) Section 41.

TPO 005/2017 relates to trees as per the specification below:

- W1 All trees of whatever species.
- A1 All trees of whatever species.

#### **2. Objections:**

A letter of objection was received from Mr Taylor of Crockfords, Shurlock Row, who is the owner of Crockford's Copse. His objections are summarised below:

- 1) The TPO's purpose is to deter the further removal of trees by the developer of the Bellman Hanger site, from the woodland strip adjacent to Bellman Hanger. However, the TPO on the entire wood is excessive, creates cost and time overheads that are unnecessary and restricts my ability to continue to actively and effectively manage the woodland.
- 2) We would like to propose a more appropriate course of action that will specifically address the original concern more precisely, this being a ribbon of protection on the first 10m width of trees centred on the boundary ditch that separates the wood from the development of the Bellman Hanger.

#### **3. Response to the objection and justification for the order:**

Under the Town and Country Planning Act 1990 and Town and Country Planning (Tree Preservation) (England) Regulations 2012, Local Authorities may make a TPO if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area. The Act does not define amenity, nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, a TPO should be used to protect selected trees and woodlands if their removal would have a significant impact upon the local environment and its enjoyment by the public. Local Planning Authorities should be able to show that a reasonable degree of public benefit would accrue before the TPO is made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath. Trees may be worthy of preservation, amongst other reasons, for their intrinsic beauty or for their contribution to the landscape or because they serve to screen an eyesore or future

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development; the value of the trees may be enhanced by their scarcity; and the value of a group of trees or woodland may be collective only. Other factors such as importance as a wildlife habitat may be taken into account which alone would not be sufficient to warrant a TPO.

The woodland and trees subject to this TPO are prominent features within the local and wider landscape and can be viewed from the public vantage points of Broadmoor Lane and Shurlock Road.

The TPO should cover the whole of the woodland, rather than a piecemeal strip along the southern boundary with Bellman Hanger. This would provide consistent protection throughout for this important and potentially vulnerable habitat. During a site visit it was noted extensive ditch clearance works had been carried out by Mr Taylor, with resulting spoil deposited within the woodland. We were advised that further works may be carried out with the use of a digger. Tacking a digger through the woodland is likely to result in harm to trees, due to compaction of the soil and potential physical contact. There can also be associated implications for the flora and fauna. The TPO can help control the nature of the operations, so any further works employ suitable protection measures to minimise or avoid harm.

Following a walk around the perimeter and internal network of footpaths within the woodland, it was agreed with Mr Taylor the scope of the woodland Order would be reduced to cover only the two key woodland trees species, oak and ash. These two species form the main structure of the woodland. This would remove the protection on the ornamental trees and the minor tree species.

The protection on the woodland does not prevent it from being managed, the TPO is simply to deter inappropriate works. Some low level and sensitive management would be beneficial and could include the removal of a small percentage of the regenerative ash. The proposed modifications to the TPO would allow the hazel to be coppiced and any non-native species, particularly invasive species, to be actively managed, which is similar to the management works undertaken in the past.

If the property is sold in the future, the Local Authority is unlikely to know about the intentions of new owners in advance and therefore the retention of the TPO is considered prudent. This would help avoid operations that would harm the unique qualities of the woodland and ensure the current owner's guardianship of the woodland is not undone after he relinquishes control. The TPO will also deter neighbours from having an adverse impact on the woodland. The Council's Tree Team can discuss principles of woodland management and the TPO with potential purchasers should the land be sold in future. This should provide some reassurance to prospective owners.

The TPO does not require the landowner to undertake any management works, so does not place any financial burden on them. Applying for works is straight forward, a simple form is filled out and submitted, there is no fee. A woodland management plan can be attached and works can be granted for that plan. This would prevent the need for repeated applications on a regular basis, so in effect enable the land owner to manage the woodland along similar lines as he has been accustomed to in the past. Any management plan could identify the number of trees to remove per annum with an associated indication of volume. The management plan could last for up to 5 years and would mean little, if any, contact with the Council during the consent period. The management plan could then be reviewed towards the end of the 5 year period, updated if necessary and submitted as part of a fresh free application.

However, there is no requirement to have a management plan in place and under the TPO a works application could simply be submitted whenever works to the Oak and Ash are desired. The removal of a certain % of ash trees over a 5 year period could be consent to.

As further reassurance, the Department for Communities and Local Government (DCLG) 'Tree Preservation Orders and trees in conservation areas' states:

*An authority dealing with an application relating to woodland must grant consent so far as accords with good forestry practice unless it is satisfied that the granting of consent would*

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*fail to secure the maintenance of the special character of the woodland or the woodland character of the area.*

Generally, an arboriculturist would visit on receipt of an application, and if there are any queries in relation to the safety of trees, for example, the Tree Officer would be able to provide advice at the same time. This may be particularly pertinent for trees next to the highway. There would be no cost implication for this, so may be seen as a benefit of having trees protected by the TPO.

A TPO should not hinder the appropriate management of the woodland and trees. The Council's Tree Team can provide arboricultural advice and discuss any works with interested parties. An application to undertake work would be judged in line with good arboricultural and woodland management practice and the Council would not withhold consent for appropriate works. Not all work requires the consent of the Council, the removal of dead branches, for example, can be carried out under an exemption in the legislation and there are other exemptions that may apply in particular circumstances.

#### **4. Modified Order**

It is proposed to modify the schedule of Order as follows:

- W1 Oak (*Quercus* spp.) and Ash (*Fraxinus excelsior*)
- A1 All trees of whatever species, excluding Leyland cypress.

#### **4. Sustainable Development Implications:**

In terms of the sustainable development policy the recommendation contained in the report will have the following significant beneficial sustainable development implications: A positive impact on the natural environment by retaining an important woodland and other trees.

**RECOMMENDATION that Tree Preservation Order 005/2017 is confirmed with modifications.**

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