

Land At Dam Hill Plantation – TPO/24/1036 – To consider whether to confirm a Tree Preservation Order (TPO) to protect an area of woodland NNDC TPO (EDGEFIELD) 2023 No.23 should be confirmed.

Tree Preservation Order

Date Order was served: 12 December 2023

Confirm by date: 12 June 2024

Case Officer: Imogen Mole

RELEVANT SITE CONSTRAINTS

Situated in the Countryside

Partially within River Valleys and Tributary Farmland Landscape Character Area

Located in the Glaven Vally Conservation Area

Site is situated between Edgefield Heath Quarry Geodiversity Site to south and Edgefield Heath County Wildlife site and Holt Lowes SSSI to the north.

Site is within SSSI Impact Risk Zones (when assessing planning applications for likely impacts on SSSIs/SACs/SPAs & Ramsar sites (England))

RELEVANT PLANNING HISTORY

IS2/21/2989: Siting of 5 shepherds huts and construction of 2 tree houses for use as holiday accommodation; reception/staff pod, bicycle storage, recycling/waste, parking/turning area with associated access tracks, footpaths and landscaping: Advice given. On information submitted the proposal could not be supported, proposal would harm the character of the area, is contrary to development policies and Highways raised concerns about the safe access onto the highway.

NP/23/1067: Prior notification of proposed erection of building for agricultural or forestry use as a store, workspace and welfare room: Further information required because of the potential impact to trees.

NP/23/2017: Prior notification of proposed erection of building for agricultural or forestry use as a store, workspace and welfare room: Remains a lack of information submitted.

NP2/23/2374: Submission of further details required in respect of prior notification of proposed erection of building for agricultural or forestry use as a store, workspace and welfare room (following decision for NP/23/2017): Refused, the proposed unit within a wooded location would have an unacceptable harmful impact on nearby trees which has not been properly considered.

FELLING LICENCE HISTORY

Two separate felling licences are associated with the site. As the site is within a Conservation area and now associated with a Tree Preservation Order the Council is consulted on the license details.

License 017/609/2023 – Primarily to thin dense conifer plantation to the west of the site

License 017/128/2024 – Thinning work to remaining area of woodland to reduce sycamore trees and other broadleaf species.

RELEVANT ENFORCEMENT ACTION

March 2023 - Reports of unauthorised works to protected trees and new camping activity.

BACKGROUND

The site is situated south of Holt, close to Holt Country park, the site was former gravel works until after World War II. A small stream runs through from Valley Farmstead to the south with an outfall into the River Glaven to the north.

Complaints were received detailing unauthorised development including connecting water supplies and new camping activities were happening in Spring 2023. Enforcement officers visited the site, assessed work and enforcement action has been taken. An appeal against this action is currently in progress.

Following a series of planning applications as detailed above, Officers visited the site on 8/12/23 to check the arboricultural information submitted and the siting of the proposals relating to NP2/23/2374. Officers witnessed damage to roots of several trees including one ancient pollard oak tree along the route of a newly constructed road that extends from the access of the site towards the lakes.

The excavation work is located within the root protection area of several younger woodland trees and also one ancient tree, the damage occurring within 1m of the stem of the ancient tree and is approximately 1.5m deep.

The work represents significant damage to the ancient tree, the injury causes physiological stress and can make the tree's roots susceptible to a range of organisms that can kill and/or introduce decay to the woody tissue.

Ancient trees are considered irreplaceable habitat by Natural England and Forestry Commission in their 'standing advice' for ancient woodland, ancient trees and veteran trees within the National Planning Policy Framework.

The work carried out to construct the road, to make the access level, has directly and significantly damaged the tree by severing roots. Approximately 40% of the functional roots have been cut on the eastern aspect of the root plate and engineering works have damaged the soils around the tree.

There are other ancient and veteran trees on site with ancient woodland indicator herbaceous plants present in the woodland to the east. The historic maps indicate that the area has been under canopy cover for a considerable amount of time.

At least two glamping huts were nearing completion at the time of the visit and other materials were present on site around the woodland. A large hole was dug to the west of the site uncovering water connections. The work indicates illustrates a lack of consideration with regard to tree protection when undertaking works and future damage is considered likely to occur elsewhere on site.

REPRESENTATIONS

1 letter received raising **objections** to the Order on the following summarised grounds:

Summary of Objections	Officer Response
<p>We employ qualified and experienced arboriculturists to help appropriately manage the woodland.</p> <p>We have granted and implemented felling license associated with the site.</p>	<p>The woodland management details submitted by Fraser Bradbury, Forests and Ecology Manager of Westacre Woodland Management Consultant is of good quality and appropriate management proposals have been put forward.</p>
<p>The site has been neglected for many years, our work will improve the biodiversity of the woodland</p>	<p>It is evident that the works undertaken in the conifer compartment to the west of the site under license 017/609/2023 has been beneficial to the structure and composition of this compartment of the woodland.</p>
<p>We have communicated with the council about our intentions for the site, the Order was served without prior communications.</p>	<p>Advice was communicated to the owners of the site in response IS2/21/2989 that there would be issues with bringing the site forward for commercial camping or glamping recreational use. This advice has not been followed.</p> <p>A pre-warning or communication of an impending Tree Preservation Order is not given to an owner of a tree because this can instigate pre-emptive tree removal.</p>
<p>The Order is counter productive and will prevent good woodland management.</p>	<p>The woodland category will not hinder beneficial woodland management. The felling licenses have been granted and these allow good woodland management through thinning works.</p> <p>We have encouraged the landowners through positive responses to the FC felling licenses and through contact with their woodland management advisors to bring the woodland into positive management.</p> <p>We encourage applications to manage the trees in ways that would benefit the woodland, for example by making a single application for regularly repeated operations.</p>
<p>There is no risk to the trees, the Order is not expedient</p>	<p>The damage observed to the tree roots evidences the risk to the trees.</p>
<p>The land and trees have no public amenity contribution</p>	<p>The site is visible from Holt Road, the purpose of the woodland Order is to safeguard the woodland as a whole.</p>
<p>There are large rotten, old trees that could pose a safety risk</p>	<p>The large rotten, old trees have not been recognised as Ancient trees, these trees are considered irreplaceable habitat by Natural England and Forestry Commission in their 'standing advice' for ancient woodland, ancient trees and veteran trees within the National Planning Policy Framework.</p>

<p>The woodland management plans demonstrate the land is under good arboricultural and silvicultural management</p>	<p>The owners have demonstrated the thinning works have benefited the woodland, however the ongoing development, camping and glamping activities risk ongoing damage to the woodland.</p>
<p>The Order can not be enforced - 2021 Swale Borough Council instigate prosecution proceedings in Maidstone Crown Court for contravention of a TPO.</p>	<p>The case referred to relates to tree felling, the approved felling license does not grant permission to damage retained, ancient trees that are not subject of the licensed work.</p>

HUMAN RIGHTS IMPLICATIONS

It is considered that the serving of the Order may raise issues relevant to Article 8: The right to respect for private and family life, and Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's human rights, and the general interest of the public, it is anticipated that the confirmation of this Order would be proportionate, justified and in accordance with planning law.

EQUALITY AND DIVERSITY ISSUES

The application raises no significant equality and diversity issues.

MAIN ISSUES FOR CONSIDERATION

1. Whether or not the Order was served correctly in accordance with the relevant legislation and the Council's adopted policy.

Officers are satisfied that the proper procedures were followed when serving the Order.

2. Whether or not the Order has been served on trees of sufficient amenity value to warrant a Preservation Order.

Officers consider that the woodland at Dam Hill makes a significant and positive contribution to the quality of the local environment and its enjoyment by the wider public and that therefore the site has high amenity value.

RECOMMENDATION:

That the Order be confirmed with modification.

Officer: Imogen Mole – Senior Landscape Officer