



Horsham District Council

PLANNING COMMITTEE REPORT

TO: Planning Committee South
BY: Head of Development and Building Control
DATE: 24th May 2022
SITE: Stone Croft Wood, Frylands Lane, Wineham.
WARD: Cowfold, Shermanbury and West Grinstead.
APPLICATION: Tree Preservation Order No. 1553.

REASON FOR INCLUSION ON AGENDA: Objection to a Tree Preservation Order.

RECOMMENDATION: To confirm Tree Preservation Order 1553 as served.

1. THE PURPOSE OF THIS REPORT

To consider whether Tree Preservation Order 1553 should be confirmed, as served.

DESCRIPTION OF THE ORDER

- 1.1 Provisional tree preservation order 1553, Stone Croft Wood, Frylands Lane, Wineham, was served on the 23rd of Feb 2022 on woodland under the provisions of the Town and Country Planning (Tree Preservation) (England) Regulations (2012). Under these Regulations, the trees forming the woodland benefited from immediate protection.
- 1.2 The statutory consultation period for the receipt of representations has now expired, enabling the order to be confirmed.

DESCRIPTION OF THE SITE

- 1.3 The woodland is suited to the north of the River Adur, to the south of Frylands Lane, and to the east of the of the residential dwellings East Lodge and Newlands on Frylands Lane. The wood is roughly rectangular in shape, and almost 7.5 acres in square area.

2. INTRODUCTION

STATUTORY BACKGROUND

- 2.1 Section 198(1) of the Town & Country Planning Act 1990 places an obligation on local planning authorities to 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 woodlands in their area*".

PLANNING HISTORY

- 2.2 The western part of the woodland was included in a change of use application ref DC/21/1986 to extend the property curtilage of the dwelling formally known as Newlands that has recently been converted from an old Coach House into a residential dwelling.

- 2.3 Within the wood the landowner owner has installed a large concrete base and septic tank, upon which they have placed a mobile home, which they have surrounded with non-native invasive plants – laurel. This matter is currently under investigation by the Council's enforcement team ref EN/21/0569.

3. OUTCOME OF CONSULTATIONS

PUBLIC CONSULTATIONS

- 3.1 One letter of objection to the order was received on 03/03/2022 from the landowner. The grounds stated in the objection are:
- i. The tree surgeon who undertook the works has only removed to date Ash trees, which were all diseased, mainly from the Northeast area of the woodland.
 - ii. There is clear evidence of existing diseased/dying trees that require attention, especially on the West Boundary adjacent to the field which has a public footpath through it.
 - iii. As a responsible landowner the objector has a legal responsibility to ensure that the trees under their ownership are maintained to a safe and reasonable standard and do not pose any danger to anybody entering the land including trespassers.
 - iv. The woodland was not maintained/managed for an estimated 70-80 years and since the woodland owner purchased the land in July 2021, they have embarked upon managing and removing diseased/dying/dead trees, with the sole aim to try and restore the woodland to good health for the future enjoyment of themselves and generations to come.
 - v. They attest that the works were covered by the felling licence which was applied for in August 2021, and they have not acted outside of the requirement of the felling licence. They claim that they are not trying to, or have any future plans to destroy the woodland, and that they are solely interested in managing the woodland for the long-term benefit and will replant areas that have been blighted by the Ash Dieback disease.

4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

- 4.1 Article 8 (Right to respect of a Private and Family Life) of the Human Rights Act 1998 is relevant to this application. Human rights issues form part of the assessment below.

5. ASSESSMENT

- 5.1 Stone Croft Wood is a tract of woodland to the north of the River Adur. The western part of the woodland is shown as wooded on the 1875 Ordnance Survey (OS) maps of the area, and the eastern section is shown to be wooded on the revised OS maps dating from 1896. Since the change of use application at the site, the western part of the woodland now falls within the property curtilage of Newlands. The change of use of the western part of the woodland has resulted in most of the trees in the area being removed. This area was initially included within the boundaries of TPO/1553. However, because the area can no longer be described as woodland, it has been omitted from the TPO.
- 5.2 From reviewing street view images of the wood taken from Frylands Lane dated May 2009 and June 2011, it is apparent that at this time, the wood had not been managed for many years. The trees and shrubby understory appeared dense and typical of a woodland that has not been maintained. Since the forestry operations have taken place, the bulk of the shrubby understory trees at the site have been removed; this action has compromised the natural regeneration process of the woodland. Most of the trees still present within the woodland boundaries are young and semi-mature specimens, together with many Oak standards

suggesting deliberate stock planting around the end of the nineteenth century. No ancient or veteran trees have been found on the site, and it is not registered as Ancient Woodland.

- 5.3 Nonetheless, the area remains an important tract of woodland, which contributes to the rural nature and visual amenities of the locality, while also providing a valuable ecological habitat. The primary public view of the wood is from the north on Frylands Lane, and it is considered to have a high level of public amenity value. An assessment under TEMPO (Tree Evaluation Method for Preservation Orders) has been completed, and, despite the known deficiencies in this tool, a 'score' is arrived at from the survey data of 13, suggesting that the TPO is 'defensible'.
- 5.4 The objector accedes that they have only removed diseased Ash from the woodland. A large quantity of felled Ash with some Oak and Sycamore was observed stacked on the roadside during the site visits. It is accepted that some of the timber was showing signs consistent with that of infected trees, and since a site visit was not undertaken before the works, it is challenging to disprove this claim. During the second site visit, it was evident that several Ash still standing in the woodland were showing signs that they were infected with Ash Dieback.
- 5.5 The objector has raised concerns with people entering their land without permission and that they had a legal responsibility to remove any potentially dangerous trees in the interests of safety. Whilst acknowledging these concerns, in particular regard to the presence of unauthorised persons entering the woodland, the woodland is fenced off, and signs have been erected stating that it is privately owned. The majority of the trees that have been felled at the site are located in the eastern part of the wood, some distance from the woodland edge and any public right of way. The TPO does not prevent the wood owner from removing any potentially dangerous trees, and in this respect, it is not considered that this is reasonable justification not to confirm an order upon a woodland of high merit.
- 5.6 It is also claimed that the TPO is unjustified as they had obtained a felling licence from the Forestry Commission before undertaking the works. While this is correct, the licence issued to the landowner permitted them to undertake a 30% thin of the woodland canopy across the entire woodland. Thinning operations are generally considered to be where you select the best-formed trees to keep and remove some of the younger surrounding trees to increase the growth rate of the better-established ones.
- 5.7 The works that have taken place in the eastern part of the woodland are not considered to represent typical thinning operations; because all the trees in the area have been felled rather than thinned out. Whether or not the trees were infected with Ash Dieback, the current guidance is quite clear on the matter and states, "Felling diseased ash requires a felling licence from the Forestry Commission." It also states that "some ash trees may have genetic tolerance to ash dieback, meaning they may survive and reproduce to create the next generation of ash trees. Therefore, it is important to retain some infected trees where they stand out as being healthier than those around them, where it is safe to do so." This has not been the case with the works that have taken place at Stone Croft Wood, and a large area of Ash has been clear-felled. The Forestry Commission have confirmed that the landowner would have needed to obtain a felling licence to fell the trees in the eastern part of the site.
- 5.8 Despite the requirement to seek a licence for the felling of trees within the woodland, this 'protection' also offers a very low level of legal restriction upon it. Five cubic meters of timber may be removed under exemption every calendar quarter; a licence is only required for trees with a diameter at 1.3m from the ground in excess of 8cm (or 10cm in respect of thinnings); and no licence is required for any work save felling – lopping and topping. Whereas the TPO would ensure that should the woodland owner wish to undertake any works upon the trees within, they would need to seek consent from the Council beforehand.
- 5.9 During the second site visit, the woodland owner raised concerns that the TPO is unjustified as being an additional obstruction, requiring them to engage with, and seek consent from,

the Council on all matters to do with the management of the woodland. It is true that under the government's guidance, a woodland TPO should "not hinder beneficial woodland management". However, under the same guidance, it is also stated that "authorities can still encourage applications to manage the trees in ways that would benefit the woodland without making a serious impact on local amenity, for example, by making a single application for regularly repeated operations". Members are also reminded that applications for works to protected trees and woodlands are free of charge.

- 5.10 Due to concerns raised by several members of the public and the local Parish Council, investigations undertaken by the Council concluded that the domestication of the woodland by placing permanent structures within it and the introduction of invasive species would have a detrimental impact on the condition of the wood. In addition, further felling works and loss of trees from within the woodland would harm the character and amenities of the locality, and it is considered to be necessary and appropriate to protect the woodland by confirming TPO/1553.

6. **RECOMMENDATIONS**

It is recommended that Tree Preservation Order 1553, Stone Croft Wood, Frylands Lane, Wineham, is confirmed with an amended plan.

Background Papers: TPO/1553

Tree Preservation Order: 1553.