

## Tree Preservation Order 35 of 2008

### **On land at Ffiennes Farm, Littlewick Green, Maidenhead, Berkshire SL6 3QR**

#### 1. Background:

Tree Preservation Order (TPO) 35 of 2008 was created in July 2008 on a parcel of woodland at Ffiennes Farm, Littlewick Green, Maidenhead and was initiated following concern expressed by local residents, in combination with the Council receiving a planning application for lawful use of the woodland for shooting. As the likelihood of any intensification of the use of the site or how the woodland was to be managed was unknown, it was considered expedient to serve a TPO.

The Order relates to a parcel of woodland at Ffiennes Farm, Littlewick Green, Maidenhead as per the specification below:

- W1 All trees of whatever species. Located in the middle of arable land identified as parcel no 5617 on the Ordnance Survey plan, 800m south east of Littlewick Green, Maidenhead.

#### 2. Objections:

Letters of objection were received in respect of this TPO, from Mr Christopher Westacott and Mr Thomas Westacott, owners of the woodland, from other members of the Westacott family and from Mr Eric Davis of Flightline Targets who operates clay pigeon shoots from within the wood. Mr Davis also submitted 71 copies of a template letter from participants of the shoot and three further template letters were received separately. All of these letters can be viewed in full in the TPO file and are summarised below:

- Why has the TPO been made? The Council has listened to local residents who fear that shooting in the wood will escalate but whose views are based on rumour rather than fact. Most of the supporters of the TPO have never been to the copse, which is private woodland with no public access. There are no plans to fell the copse, nor to increase the activity within the woodland. The RBWM have not dealt with the TPO in a democratic way. Clearly the TPO is a tactical decision by RBWM to stop the clay shoot and deny the many clay shooters the right to enjoyment.
- The management of the woodland has never been questioned before, the wood has been in the ownership of the Westacott family since 1948, so why now? There is every intention of maintaining and preserving this woodland area for the enjoyment of future generations. Trees in the woodland cannot be removed without license from the Forestry Commission therefore there is no need for the TPO. This woodland is a great family asset. The family respects the presence of this wood and recognizes that it is a natural landmark and a haven for wildlife.
- Mr Davis has been organising the clay shoot since 1997; he has treated the wood with the greatest respect and has a passion for retaining the trees and fauna as naturally as possible. The shooting activities have not harmed the wood in any way. If anything the area has been enhanced with careful woodland management leading to the regeneration of young trees and natural undergrowth and has had a positive effect to the wildlife present.
- The plantation contains Sycamore, Beech and Ash planted in straight rows interspaced with self sown Oak, Holly and Firs. Some of the Beech and Sycamore have outgrown themselves and are now dead and need removing. This TPO means planning consent will be required for every woodland management task. The plantation has been sympathetically managed for the last 60 years with advice from rural experts such as Defra, the NFU, the Forestry Commission and the Country Landowners Association and the intention is to continue in this way.
- No site visit was made before the order was implemented. Surely a site visit has to be made before any TPO could be enforced.

Letters of support for the TPO were received from White Waltham Parish Council, The Woolley Firs Conservation Trust and from 55 local residents. The Parish Council is of the opinion that

'the current activities performed in the copse could be detrimental to the trees planted there and consequently recommends that the TPO be confirmed'. Rosa Lee writing as the founder and trustee of The Woolley Firs Conservation Trust supports the confirmation of the order as 'small areas of woodlands should not be lost, to maintain an important visual break in large arable landscapes. This area is important for the diversity of wildlife and generally enhances the landscape'. The letters from local residents refer to the important visual amenity that the copse provides within the otherwise featureless, flat and open landscape to the south of Littlewick Green. As such it is enjoyed not only by local residents but also by ramblers, horse riders and cyclists using the national cycle track immediately north of the wood. This Green Belt area is important for leisure activities and the most attractive landscape feature in the area is the copse. It is a rare remnant of ancient woodland and must be preserved. Local residents also refer to the damage that has been done to the copse by the use of the ever-expanding clay shooting operation. Trees have already been cut down to accommodate buildings, trees and their regrowth are being damaged by regular lopping and clearing that takes place as part of the commercial shooting operation. There is no duty of care exercised by Flightline towards the natural habitat. Photographs were supplied to illustrate this view. The letters of support for the TPO also draw attention to the importance of the woodland as an important wildlife habitat with several endangered species of birds having been recorded there. Mrs Lyn Penfold of The Thatch, Littlewick Green submitted a list of flora and some birds and butterflies observed in the copse in July 1992 prepared by the Thames Valley Environmental Record Centre (TVERC). At this time the copse possessed a considerable list of plants and trees which supported an array of wildlife. Bluebells and wood anemones were found, both plants being considered 'ancient woodland indicators'. Mrs Penfold writes that many of these species may have since disappeared given the activities in the copse however with correct management, called for under a TPO, most would soon grow into life. Despite this yellowhammers, corn buntings, sky larks, turtle doves and grey-legged partridges are regularly spotted on the edge of the copse and in the surrounding fields. These are either on the 'red' or 'amber' endangered list and their habitats need protecting. Small copses like this are a vital refuge for wildlife and as such far too important to be left unprotected.

### 3. Responses to the objection and justification for the Order:

Under the Town and Country Planning Act (1990) local planning authorities may make a Tree Preservation Order (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.

In this case, the woodland subject of the TPO is considered to have high visual amenity, providing a focal point in an otherwise flat and open landscape. It is clearly visible from Westacott Way and the footpath/cycle path running to the north of the wood. This is an area of predominantly open arable farmland where the only other trees are those found some distance away, for example along the roadsides.

Trees may be worthy of preservation, amongst other reasons, for their intrinsic beauty or for their contribution to the landscape. Therefore, the legislation makes no distinction between species or size. The local planning authority may make a TPO when it is believed there is a risk of a tree being adversely affected in ways that would have a significant impact on the amenity of the area. This TPO was prompted as a result of concern expressed by local residents, in combination with the Council receiving a planning application for lawful use of the woodland for shooting. As it was unknown as to the likelihood of any intensification of the use of the site or how the woodland was to be managed, it was considered prudent to serve a TPO to provide protection for the trees.

A forestry felling licence is not required for lopping or topping of trees or for felling trees which have a stem diameter of 8cm or less, or in the case of thinnings, having a diameter of 10cm or less. A licence is also not required for the removal of up to 5 cubic metres of timber in any one annual quarter, so long as no more than 2 cubic metres are sold. Using these exemptions, over time the woodland could diminish in extent and density to a point where it no longer exists. The only means available of securing the long term protection of the woodland is by the use of a TPO.

The imposition of the TPO is not used to prevent the management of the woodland along the lines of best practice. Should there be any increase in the activity in the woodland, then a further deterioration in the health of the woodland is likely to occur, for example trampling or clearing of undergrowth, ground compaction, possible contamination and disturbance of wildlife. This TPO has been created as a precautionary measure simply to deter inappropriate works or damage to the woodland as a result of any activities within it.

In terms of the woodland, its continued use for limited shooting should not unduly harm it. Mr Westacott has advised that all shooting is directed out of the woodland, so as not to contact trees. It is appreciated that clear windows need to be maintained from the existing shooting bays, and it is accepted that some minor pruning may need to be carried out to maintain them. Given that pruning may need to be carried out on a regular basis it would be less onerous to produce a management proposal which the Council could give rollover consent for up to say 5 years rather than putting in individual applications on a regular basis.

The woodland has not been as sympathetically managed as it could have been. In broader management terms, it would be preferable to reduce the width of the walkways running through the wood, by bringing the ropes in to a point that is just sufficient to allow two people to pass each other, approximately 1.8m. This would reduce the extent of trampling and associated damage to ground flora, it would also reduce the risks to users of the site, as they would be directed further away from particular 'wildlife' or dead/dying trees. Wood waste which has been stockpiled in the south eastern sector of the woodland should be moved so it is outside the minimum root protection zone of trees. The stockpiling of wood waste reduces or can even prevent rainwater from reaching the soil beneath, it can raise soil temperatures and reduce gaseous exchange into and out of the soil, all having an adverse impact on tree root health. If the material is not clean, then pathogens may be introduced that could spread throughout the woodland. As an alternative, the material should be stockpiled outside the woodland and brought in and spread thinly over the paths, as and when needed. Stockpiling of hardcore or any other materials should also be avoided within the woodland for similar reasons.

The Council's consent is not required for cutting down or carrying out work on trees which are dead or dying or have become dangerous. In the Secretary of State's view, this exemption allows the removal of dead wood from a tree or the removal of dangerous branches from an otherwise sound tree. Determining whether a tree is dead, dying or dangerous, for the purpose of a statutory exemption, is not always a straightforward matter. The Council's Tree Section can provide confirmation on site, should there be any uncertainty. Anyone proposing to cut down a tree under this exemption is advised to give the Council five days' notice before carrying out the work, except in an emergency. If work is carried out on a protected tree under this exemption, the burden of proof to show, on the balance of probabilities, that the tree was dead, dying or dangerous rests with the defendant.

A site visit was made by an arboricultural officer to assess the visual amenity of the woodland prior to making the TPO. It was at this site inspection that it was deemed the woodland did meet the criteria for the serving of a TPO.

If the TPO is confirmed, there is still a possibility that in future the TPO could be revoked, if it were shown that the woodland had become subject to, for example, a woodland management grant issued by the Forestry Commission. The terms of a woodland management grant would ensure the woodland is managed in a sympathetic way for a set period of time.

#### 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 the tree stock.

**RECOMMENDATION that Tree Preservation Order 35 of 2008 is confirmed without amendment.**