

WYRE FOREST DISTRICT COUNCIL

PLANNING COMMITTEE

9TH FEBRUARY 2010

**Land off Puxton Lane, Kidderminster
Tree Preservation Order No. 335**

| OPEN | |
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| APPENDICES: | Appendix 1 Location Map |

1. PURPOSE OF REPORT

- 1.1 To determine whether Tree Preservation Order No. 335 relating to woodland on Land off Puxton Lane, Kidderminster should be confirmed or not.

2. RECOMMENDATION

- 2.1 That the Tree Preservation Order dated 20th October 2009 be confirmed as this area of woodland contributes to the amenity of the locality and is considered worthy of protection.**

3. BACKGROUND

- 3.1 During early 2009 the owners of the land off Puxton Lane started to undertake a felling exercise within the wooded area. The work was comprehensive and a large number of trees were removed.
- 3.2 As a result of this operation a number of local residents contacted the Council to express their concern for the works and the potential loss of amenity and wildlife habitat if the works continued.
- 3.3 The Forestry Commission became involved as no Felling Licence had been obtained. However, following an investigation by the Commission's Area Woodland Officer, it was found that the amount of timber removed did not require a Felling Licence at this time.
- 3.4 As a result of the Commission's investigations, and following a site visit from the Arboricultural Officer, in April it was decided expedient to make a new Tree Preservation Order in order to prevent any future works taking place.
- 3.5 A Tree Preservation Order ("TPO") was made and served on 27th April 2009 to protect the woodland on the site. However, following an objection by the owners of the land, it was

agreed that the area to be protected should be reduced. The objectors confirmed that their objection would be withdrawn based on the revised, reduced area. The Order was reserved on 20th October 2009 to include a smaller area of woodland.

4. KEY ISSUES

4.1 The area of woodland comprises trees of various sizes and conditions, however as a small woodland block it has a high amenity value as it is clearly visible from a number of public vantage points in addition to a Bridle Path that runs through the woodland.

4.2 An objection to the TPO has been received from Hill Dickinson on behalf of Morbaine Development Limited, who are the owners of the land

4.3 The only objection raised, following the modification of the Order from Hill Dickinson on behalf of Morbaine Development Limited, states that:

“I am instructed to advise that my client feel that the Council is using the TPO process to blight any development of the land to the south of the berm”.

IN RESPONSE TO THE OBJECTION:

4.4 Whether the Council is using TPO legislation to blight development.

4.5 A Local Planning Authority has the right and responsibility under the Town and Country Planning Act 1990 to preserve trees and woodlands where it feels that it is expedient to do so. This can be as a result of a formal planning application that would have a detrimental effect on trees and/or woodlands or from a single tree in a private dwelling that the Council discovers is to be felled.

4.6 It is also part of the TPO legislation that TPO's should not be made to block development, however where a tree and/or woodland has sufficient amenity to warrant preservation, even if that will have an effect on the potential to develop a site, the Council has a duty to exercise its powers.

4.7 When deciding whether a woodland is worthy of protection the Council utilises an amenity evaluation system to ensure a consistent approach in making TPO's and considering objections to TPO's. The system incorporates methods of evaluation similar to other recognised amenity valuation systems, and includes the three relevant criteria as identified in the 2000 publication of The Blue Book 'Tree Preservation Orders: a Guide to the Law and Good Practice'.

4.8 Firstly, visibility: the extent to which the woodland can be seen by the general public will inform the Council of whether its impact on the local environment is significant. All woodland which is the subject of a TPO is suitable candidates meeting this visibility criterion. The woodland is clearly visible from a number of public vantage points, particularly from the Public Right of Way that runs to the west of the site.

4.9 Secondly, the impact: the mere fact that the woodland is publicly visible will not itself be sufficient to warrant a TPO. The Council must also assess the woodland's particular importance by reference to its potential as an amenity, taking into account any special factors such as the total coverage of woodland within the area and contribution to the character of the area.

- 4.10 It should be noted that woodland Orders do differ from TPOs on individual trees, as the condition of individual trees within the woodland do not need to be of a high quality. In addition all new trees that grow within the woodland will be covered by the TPO, therefore instead of looking at the quality of individual trees when assessing the condition and amenity of the woodland, it should be assessed as a whole and thought should also be given to the potential of the woodland in the future as it develops to a climax ecosystem. In this case the woodland is a large area and provides significant amenity value to the surrounding area and particularly when viewed with out woodlands and groups of trees within the vicinity.
- 4.11 Thirdly, the wider impact: the significance of the woodland in their surrounding should also be assessed, taking into account how suitable it is to the particular settings as well as the presence of other trees and woodlands in the vicinity. The woodland that is subject to this objection offers good screening to people living on Avill Grove, Marlpool Lane and Marlpool Court, is situated next to a Site of Scientific Interest and can be enjoyed by walkers and Horse Riders who can use the bridal path that runs right through the woodland.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications arising directly as a result of this report.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 There are no legal or policy implications arising directly as a result of this report.

7. RISK MANAGEMENT

- 7.1 There are no risk management issues arising from this report.

8. CONCLUSION

- 8.1 Officers consider that the objection has been fully considered in accordance with relevant legislative guidance and that the Tree Preservation Order should be confirmed.

9. CONSULTEES

- 9.1 None

10. BACKGROUND PAPERS

- 10.1 Tree Preservation Order No. 335 (2009)

PLANNING COMMITTEE

TPO 335

Date:- 28 January 2010

OS sheet:- SO8277SW

Scale:- 1:1250

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