

Reference	TPO/17/00011
Report Title	Confirmation of Tree Preservation Order No.11, 2017
Location	Land South of Shorts Wood, Tenterden Road, Biddenden.
Parish Council	Biddenden
Ward	Biddenden

Introduction

1. The Joint Development Control Manager and the Head of Development Management and Strategic Sites have delegated authority to deal with all matters relating to Tree Preservation Orders. However, in order to comply with Human Rights Legislation, it is considered inappropriate for the same officer to make and then confirm Orders under delegated powers where an objection has been received. For this reason the following Tree Preservation Order, which is subject to an objection, is being reported to this Committee with a view to seeking authority for confirmation.

The Order

2. The Order was made on 13th September 2017 to protect an area of woodland, which forms the South East section of Shorts Wood, Biddenden. An Ordnance Survey Background Map may be found in Annex 1a and a copy of the TPO map and schedule may be found in Annexes 1b & 1c.
3. The woodland forms a significant area of coppice with Oak standards, the major part of which is classified as Ancient Woodland as per the 'Revision of the Ancient Woodland Inventory for Ashford Borough Council (Sansum & McKernan, December 2008) – See Annex 1d.
4. Accordingly, lying in the High Weald Clapper Hill Wooded Farmlands Landscape Character Area (LCA) it has a significant historical and nature conservation value and represents the South East section of a much larger tract of Ancient woodland known as Shorts Wood, which is contiguous with Gribble Wood, forming a considerable woodland asset.
5. The woodland's protection is expedient in view of the fact that correspondence was received alleging that areas of woodland had been cleared. The matter was investigated resulting in the discovery that 400m² area of coppice had been grubbed out and on one section, a structure subsequently erected. The removal of woodland below 1 hectare is below the threshold for the Forestry Commission to require an Environmental Impact

Assessment and as a result, control of woodland removal and associated development may be effected by a Woodland TPO.

6. The purpose of the TPO is to control the future removal of small areas of Ancient Woodland to ensure that the Shorts Wood section of Gribble Wood retains its relative land area and ecological and cultural value.
7. An objection to the confirmation of the TPO has been received from the owner, Mr P T Barrett of Foxwood Farm on the following grounds:
 - The area forms a ...”roadside verge and not an open area as suggested”;
 - The woodland has been ...“successfully managed for over thirty years without any need for TPO” and has been managed with the requisite Forestry Commission Licences;
 - The order has been served on ...”the whim of a disgruntled neighbour”;
 - The order has been served without consideration for the ...”well-being or financial implication”...that it may have on the owners’;
 - That the order infringes the owners’ human rights and shows ...”utter contempt”...and a ...”total disregard”...for a landowner who has managed the woodland successfully for over thirty years.
 - Mr Barrett contends that an area of woodland is due for removal from the Ancient Woodland Inventory and that this has been agreed with Natural England.
8. The cleared roadside area did not form the focus of the investigation and subsequent decision to serve a TPO. Two distinct areas to the north and south of the roadway had been cleared, one having wood stored (Photo 1 in Annex 1e) and one having a structure erected on it (Photo 2 in Annex 1e). There was evidence that a number of mature coppice stools having been grubbed out with machinery (Photo 3 in Annex 1e).
9. It is not in doubt that the woodland has been legally and successfully managed via Forestry Commission licences. However, a number of mature coppice stools and attendant natural regeneration have been grubbed out representing an area of 400m². This level of denudation of the Ancient Woodland may not be regulated by Forestry Commission licences and the only method open to the Council is the serving of a TPO. Ashford Borough Council work in close partnership with the Forestry Commission and are actively sharing information regarding woodland removal cases to ensure that protection is afforded and due process is observed.

10. The Council has investigated an alleged breach of planning fairly and appropriately, (CO/17/00222) and finds that it is necessary to prevent further clearance by serving a TPO.
11. The serving of the order will not in any way hinder the lawful management of the woodland nor impose any financial burden on the owners. Evidence of this may be found by the processing, without any objection, of application 17/00237/FC, which was received from the owners via the Forestry Commission, which sought to manage areas for timber production. In terms of the well-being, it is appreciated that the order may cause initial anxiety, but a lengthy telephone call with Mr Barrett from the Tree Officer set out the implications of the order and how they would not affect the owners' legitimate timber harvesting operations.
12. The order has taken account of the owners' human rights and whilst it is accepted that the covert nature of the evidencing process may feel that the owners are treated with contempt, this is necessary to ensure that trees are not removed by owners in the intervening period between contact and serving the TPO. As in point 11 above, the order has due regard in not seeking to frustrate the lawful activity of timber harvesting.
13. No further details have been supplied by Mr Barrett regarding the removal of areas of Shorts Wood from the Ancient Woodland Inventory by Natural England. Whilst this is of interest, the regulation of woodland clearance would be necessary by means of a TPO whether or not the woodland was classified as Ancient or not.
14. In summary, the serving of TPO no.11, 2017 has not, and will not, have a material impact on the legitimate woodland management activities that Mr Barrett wishes to engage in.

Recommendation

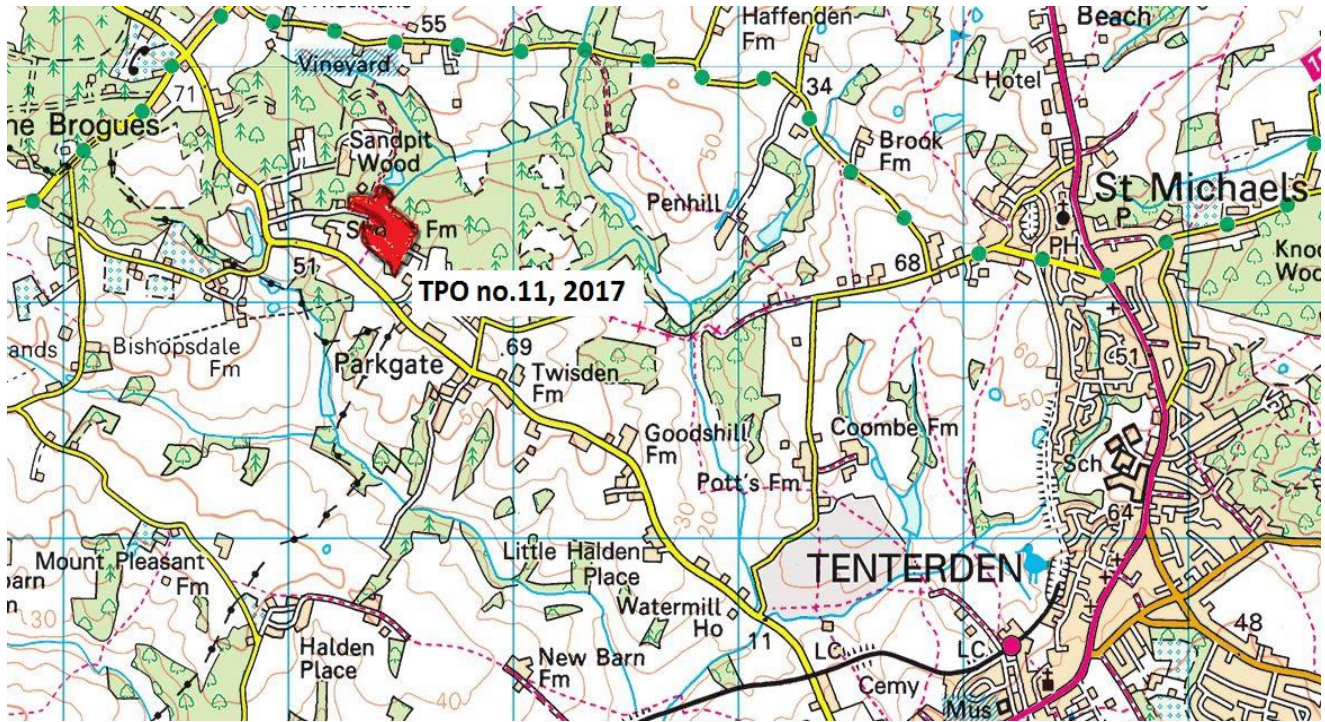
To confirm the order notwithstanding the objection.

Contact Name: Phillip Cook

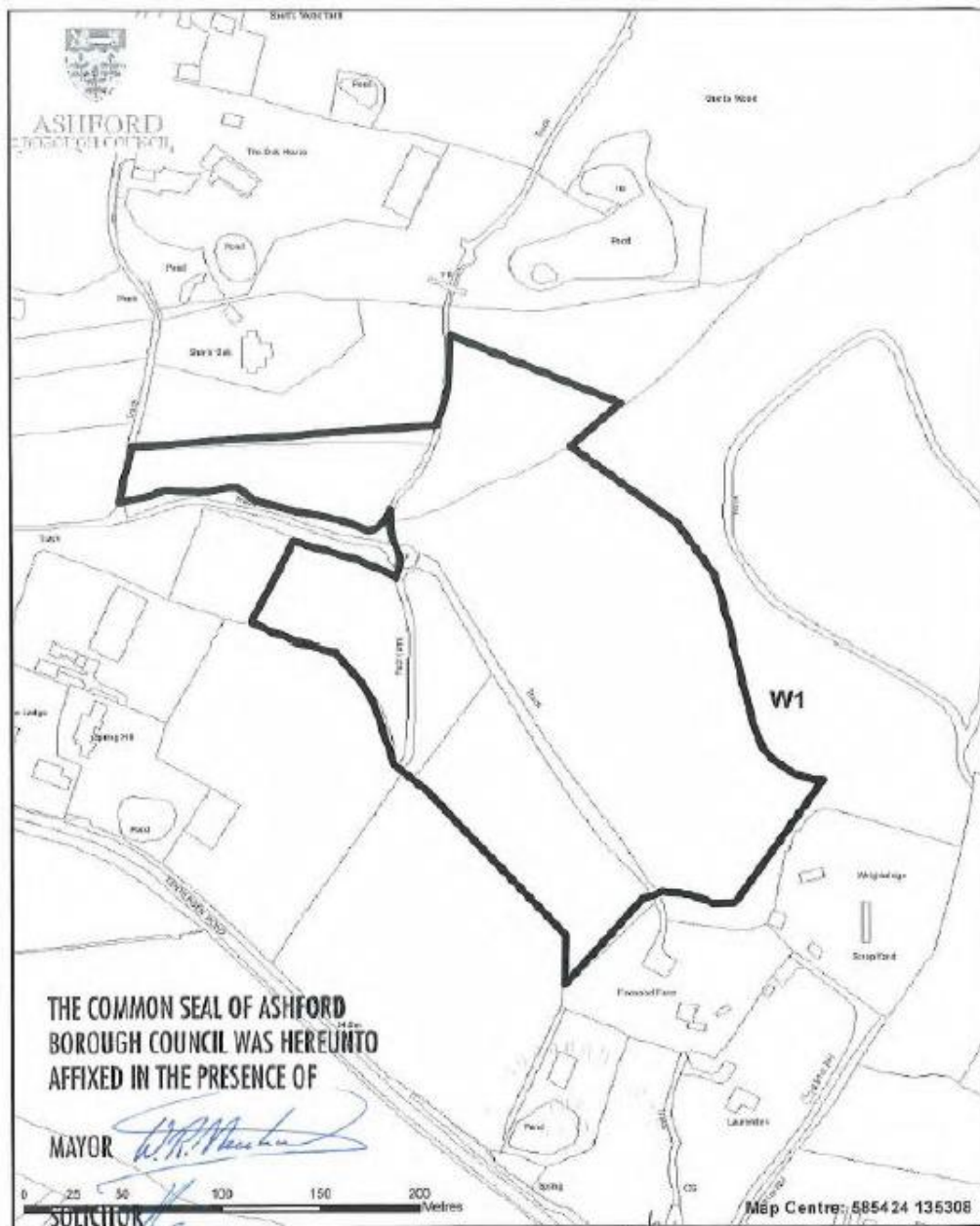
Telephone: (01233) 330730

Email: phil.cook@ashford.gov.uk

Annex 1a Ordnance Survey Location Map



Annex 1a - Location Plan and TPO no.11 2017 Map



ASHFORD BOROUGH COUNCIL
TREE PRESERVATION ORDER NO 11, 2017
South East Section of Shorts Wood,
Cranbrook Road, Biddenden. Grid Ref: 854354

17.746
Planning and Development
Civic Centre
Tannery Lane
Ashford
Kent

Annex 1b – Copy of TPO no.11 2017

TOWN AND COUNTRY PLANNING ACT 1990

**ASHFORD BOROUGH COUNCIL
TREE PRESERVATION ORDER NO. 11,2017
South East section of Shorts Wood, Biddenden**

Ashford Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order:-

Citation

1. This Order may be cited as Ashford Borough Council Tree Preservation Order No 11,2017 - South East section of Shorts Wood, Biddenden

Interpretation

2. (1) In this Order "the authority" means Ashford Borough Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3. (1) Subject to regulation 4, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall -
(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of

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wa any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

So Dated this 13 September 2017

THE COMMON SEAL OF ASHFORD BOROUGH COUNCIL

was affixed to this Order in the presence of -

Mayor

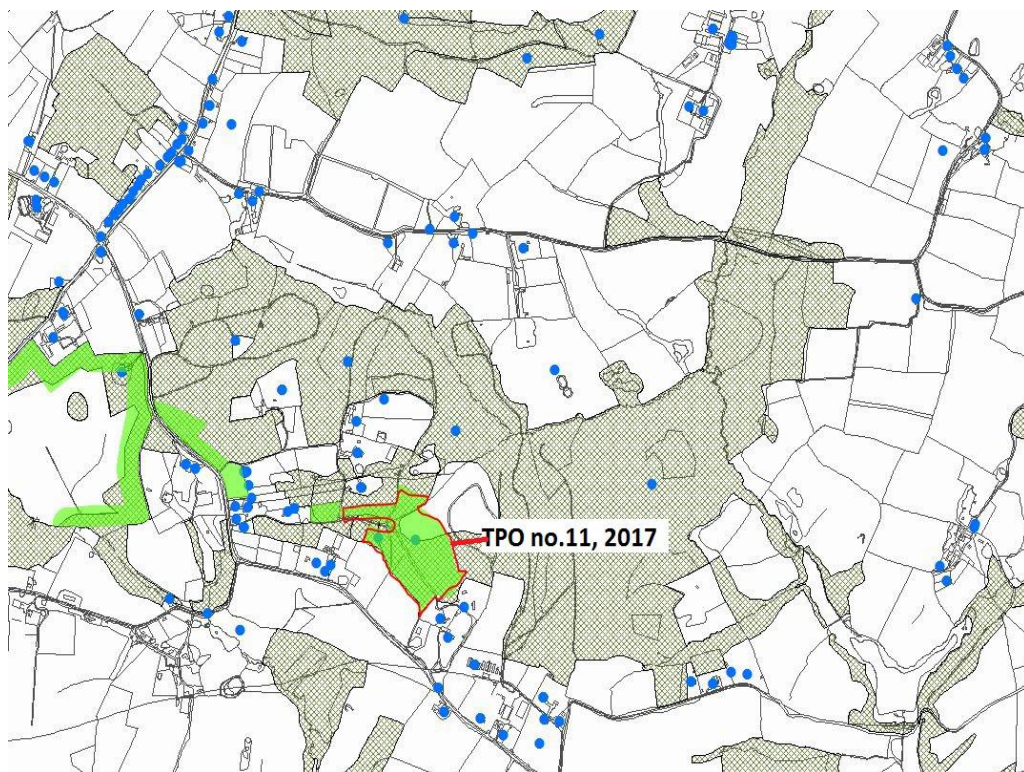
Solicitor



Annex 1c – Map Sources Defining the Extent of Ancient and TPO Woodland in the Shorts and Gribble Wood Area



Map 1 - Extent of Ancient Woodland (Sansum & McKernan, December 2008).



Map 2 - Extent of Ancient Woodland (dark green hatching), ABC Mapping Layer – note other TPO woodland areas in light green.

Annex 1d – Photos of the Site Clearance Works Investigated Under CO/17/00222



Photo 1 – Larger Cleared Area to the North of the Roadway



Photo 2 – Cleared Area to the South of the Roadway Showing Structure



Photo 3 – Example of Mechanically Removed Mature Sweet Chestnut Coppice Stool