

Reference	TPO/17/00027
Report Title	Confirmation of Tree Preservation Order No. 27, 2017
Location	Aldworth, Bromley Green Road, Ruckinge, Ashford, Kent TN26 2EG
Parish Council	Ruckinge
Ward	Saxon Shore

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 5th December 2017 to protect an area of ancient woodland to the southern part of the curtilage of Aldworth, (a residential dwelling) and a very small strip of land within the adjacent property Talavera, to the east. A location map may be found in annex 1a.
3. The area is designated as Ancient Woodland and is reported as such in the document - A revision of the Ancient Woodland Inventory for Ashford Borough, Kent (Sansum and McKernum 2009). The tree species are largely oak and birch but with occasional hazel, hornbeam and sweet chestnut. The wood within the curtilage of 'Aldworth' forms part of a larger tract of Ancient Woodland including the local Chequertree Wood, Little Hurst, Long Hurst and Twelve Acre Wood. The area has significant biodiversity interest and the amenity value of the woodland may be gained from footpath AE552, which bisects the larger complex of woods from east to west.
4. The tree's protection is expedient owing to the recent felling and partial clearance of approximately 0.25ha of Ancient Woodland. The domestication of the Bromley Green area has resulted in the loss of a large amount of Ancient Woodland in the last seventy-five years. There are concerns that further woodland could be felled without the regulation of the Forestry

Commission licence scheme and that the quality of the woodland will be denuded as a result.

5. The woodland meets the TEMPO criteria for the consideration of a TPO. The industry standard TEMPO (Forbes Laird –Tree Evaluation Method for Preservation Orders) Assessment, which acts as a decision guide aid for the serving of a TPO, a score of 18 was derived - any score exceeding 16 fits into the classification 'Definitely Merits TPO'. A copy of the assessment may be found in Annex 1d.
6. The important considerations as defined by Planning Guidance (Tree Preservation Orders and trees in conservation areas) when making and serving a TPO are;
 - Expediency;
 - Visibility;
 - Amenity;
 - Individual, collective and wider impact;

It is considered that the criteria have been satisfactorily met.

7. The purpose of the TPO is to ensure that further clearance and felling works do not occur within the Ancient Woodland whilst respecting the right of the owners to engage in legitimate silvicultural management. A copy of the Order may be found in annex 1b.

Representations

8. Following the serving of the TPO a letter of objection dated 21st December 2017 was received from a planning agent on behalf of the owners of the land. A summary of the points is listed below:
 - The standardised format of the documentation does not supply sufficient evidence to justify the serving of an order;
 - No survey of the trees has been undertaken by the Council to determine the need for an order;
 - There are a number of dead, dying and veteran trees that require removal;
 - The Council did not state the reasons for the serving of the order

- The Council did not apply the test laid down in Section 118 in the NPPF to determine the retention of the woodland;
- The TPO prevents the reasonable beneficial use of the woodland;
- The Forestry Commission Licence Scheme provides sufficient protection to the woodland;
- The signature of the Mayor and Solicitor signing the plans is illegible;
- The name of the Mayor is not supplied;
- The covering letter to the documentation is unsigned;
- Under application 17/00527/AS an application was refused that had woodland management and biodiversity at its centre – the council is inconsistent in its approach.

Assessment

9. A site visit was undertaken by the Council's Tree Officer on the 23rd November 2017 which assessed and photographed the Ancient Woodland area. The species present were noted in addition to the scale of felling and clearance works. This site visit and assessment form provided the information required which underpin the decision to serve an order. Site photographs may be found in Annex 1e.
10. The serving of the order was expedient owing to the continued removal of Ancient Woodland over a period of approximately a year. Small sections have been removed without the need for a Forestry Commission Licence, as it was claimed that the five cubic metres threshold in any one quarter had not been breached. Had the order not been served, further sections of Ancient Woodland could have been legally removed each calendar quarter. Over a period of time this would equate to the loss of a significant area.
11. The woodland is clearly visible from Public Right of Way AE552. This footpath provides a link from Capel Road to Shadoxhurst and is regularly frequented by local dog walkers.
12. The woodland has significant amenity value in both the Aldworth section and the wider woodland tract. It is characterised by a mature Oak and Birch canopy with an understory of other species and the amenity value may be characterised as visual, recreational and economic.

13. As a component of the wider tract of Ancient Woodland that runs along the south side of Bromley Green Road, the area of woodland plays a part in the cumulative importance of woodland cover and the associated biodiversity benefits. The similar area to the north of Bromley Green Road (Bishops Wood) was the subject of a TPO in 1991 and with the ongoing small-scale clearance of the woodland to the south of Bromley Green Road it is important to consider the wider impact of the Ancient Woodland tracts.

Representation Points

14. The format of the documentation accords with the model schedule as specified in The Town and Country Planning (Tree Preservation) (England) Regulations 2012, Regulation 3(1).
15. Under the Town and Country Planning (Tree Preservation) (England) Regulations 2012, Regulation 14 (1), exceptions apply to the removal of dead trees and limbs allowing them to be removed once a notification has been made in writing to the Council; no individual veteran trees were noted on the site.
16. The reasons for serving the order were clearly set out in page 8 of the documentation (See Annex 1c.) as served to the owners.
17. Section 11, Paragraph 118 of the National Planning Policy Framework sets out that the ... "loss or deterioration of irreplaceable habitats, including ancient woodland" ... are a reason for planning permission refusal. Whilst the TPO does not directly relate to a planning permission, the reason for the clearance of the land is unknown and could relate to a future application, on these criteria, it is clear that significant harm has occurred to the woodland and that paragraph 118 is a relevant guiding principle.
18. The serving of a TPO does not preclude appropriate silvicultural management from being undertaken to the woodland. An application may be submitted which is straightforward and free to the applicant.
19. The legibility or otherwise of the Mayor's or Solicitor's signatures and the printed name of the Mayor are not a requirement set out within Regulation 5 (1) and (2) of the Town and Country Planning (Tree Preservation)(England) Regulations 2012. The covering letters are not generally signed as they are system generated, again this is not a requirement under the regulations.
20. Application 17/00527/AS (submitted by the same planning agent making representations on this particular application) sought prior approval for the erection of a structure to house a tractor, elevator and forestry equipment. The application was not successful as it was considered to not be reasonably

necessary for the purposes of forestry on the site and would be likely to result in adverse harm to TPO trees. This application was determined on its own merits as is the case with all applications.

21. In conclusion, 0.25ha of Ancient Woodland has been cleared, the Forestry Commission Felling Licence Scheme does not regulate small-scale works and in this case, a TPO is the only satisfactory method of protecting the Ancient Woodland from further clearance works. The visual amenity value of the Ancient Woodland is easily appreciated but this is augmented by the recreational and economic amenity value. Ancient Woodland is a habitat that has been identified as being a priority habitat under the UK Biodiversity Action Plan and the planning system by virtue of serving TPOs as in this case has a part to play in addressing woodland loss.

Recommendation

To confirm the order notwithstanding the objection.

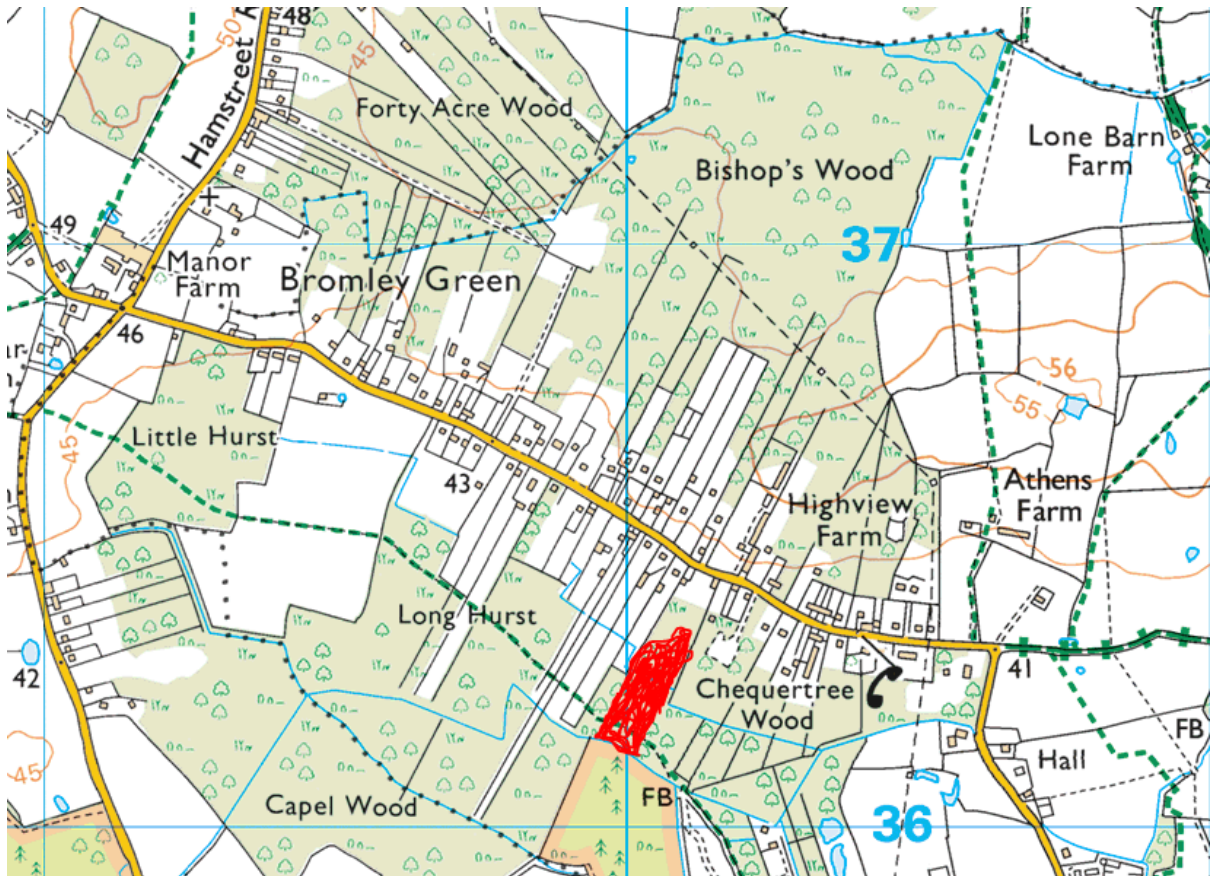
Contact Name: Phillip Cook

Telephone: (01233) 330206

Email: phil.cook@ashford.gov.uk

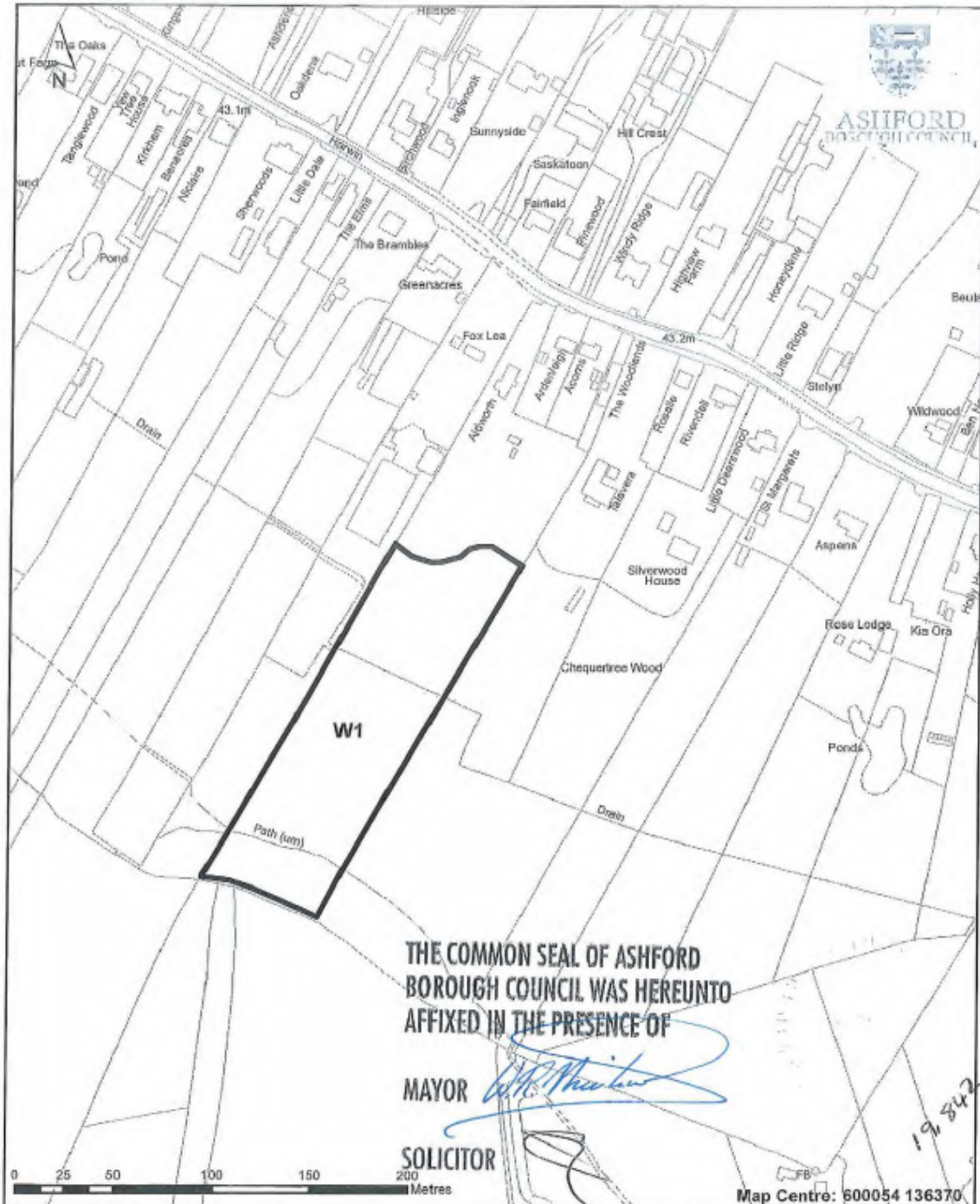
Annex 1a.

Location Map – TPO Area Marked in Red



Annex 1b.

Copy of Tree Preservation Order - TPO no.27, 2017.



ASHFORD BOROUGH COUNCIL
TREE PRESERVATION ORDER NO 27, 2017
Aldworth, Bromley Green Road, Ruckinge,
Ashford, Kent. TN26 2EG

December 2017 Scale: 1:2500

Planning and Development
Civic Centre
Tannery Lane
Ashford
Kent
TN23 1PL

TOWN AND COUNTRY PLANNING ACT 1990

**ASHFORD BOROUGH COUNCIL
TREE PRESERVATION ORDER NO. 27,2017
Aldworth, Bromley Green Road, Ruckinge, Ashford, Kent TN26 2EG**

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 27,2017 - Aldworth, Bromley Green Road, Ruckinge, Ashford, Kent TN26 2EG

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
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.

Dated this 05 December 2017

THE COMMON SEAL OF ASHFORD BOROUGH COUNCIL

was affixed to this Order in the presence of -

Mayor

Solicitor



SCHEDULE

SPECIFICATION OF TREES

Trees specified individually
 (encircled in black on the map)

Reference on map	Description	Situation
		None

Trees specified by reference to an area
 (within a dotted black line on the map)

Reference on map	Description	Situation
		None

Groups of trees
 (within a broken black line on the map)

Reference on map	Description	Situation
		None

Woodlands
 (within a continuous black line on the map)

Reference on map	Description	Situation
W1	Oak and Birch Woodland	Northern boundary of the ancient woodland to the South of Aldworth stretching southwards to watercourse 25 metres south of PROW AE552

Annex 1c.

Reasons for the making the Order

This is a **Formal Notice** to let you know that on **05 December 2017** the Council made the above Tree Preservation Order.

A copy of the Order accompanies this Notice and a list of persons served with these documents is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping, uprooting or damaging any of the trees described in the First Schedule to the Order and shown on the map within it, without the Council's consent.

Some explanatory guidance on Tree Preservation Orders (*'Protected Trees: A Guide to Tree Preservation'*) is available from the DCLG website at: -
www.communities.gov.uk/publications/planningandbuilding/guideprotectedtrees.

If you are unable to access this document, please telephone planning enquiries on (01233) 330264 who will send you a hard copy of the document.

The reasons for making the Order are as follows:-

The area is designated as Ancient Woodland and is reported as such in the document - A revision of the Ancient Woodland Inventory for Ashford Borough, Kent (Sansum and McKernum 2009). The tree species are largely oak and birch but with occasional hazel, hornbeam and sweet chestnut. The wood within the curtilage of 'Aldworth' forms part of a larger tract of Ancient Woodland including the local Chequertree Wood, Little Hurst, Long Hurst and Twelve Acre Wood. The area has significant biodiversity interest and the amenity value of the woodland may be gained from footpath AE552, which bisects the larger complex of woods from east to west.

The tree's protection is expedient owing to the felling of approximately 0.25ha of Ancient Woodland without the requisite Forestry Commission felling licence. The domestication of the Bromley Green area has resulted in the loss of a large amount of Ancient Woodland in the last seventy five years. There are concerns that further woodland could be felled without the regulation of the Forestry Commission licence scheme and that the quality of the woodland will be denuded as a result. The woodland meets the TEMPO criteria for the consideration of a TPO.

The order is being made in accordance with Section 11 Paragraph 118 of the National Planning Policy Framework, CS1 of the Ashford Borough Council Local Development Framework (July 2008), saved policy EN32 of the Ashford Borough Council Local Plan 2000 and the Draft Ashford Local Plan Policy ENV5 - Protecting Important Rural Features.

Annex 1d.

Tempo Assessment

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 23 NOV 17	Surveyor: P LOOK
Tree details TPO Ref (if applicable):	Tree/Group No: WOODLAND
Owner (if known):	Species: Oak, Birch, Hornbeam Location: Aldworth hazel sweet ch.

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable |

Score & Notes

5

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes

5

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes

2

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of formal arboricultural features, or veteran trees |
| 4) Tree groups, or principal members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) |
| -1) Trees with poor form or which are generally unsuitable for their location |

Score & Notes

3

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- | |
|---|
| 5) Immediate threat to tree inc. s.211 Notice |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only |

Score & Notes

3

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total:

18

Decision:

Y

Annex 1e.

- 1) Cleared area viewed from the west.



- 2) Felled mature Oak and Birch



3) Character of adjacent retained Ancient Woodland

