

**Maidstone Borough Council  
PLANNING COMMITTEE  
6 April 2017**

**REPORT BY THE HEAD OF PLANNING SERVICES**

**The Maidstone Borough Council  
TREE PRESERVATION ORDER NO 5023/2016/TPO**

**Land Off, Blunden Lane, Yalding, Kent**

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**EXECUTIVE SUMMARY**

**This report seeks the permission of the Planning Committee to Confirm without modification TPO Tree Preservation Order No 5023/2016/TPO for which objections have been received.**

**FOR DECISION**

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**RELEVANT PLANNING HISTORY**

15/509402/OUT Land At Mount Avenue/Blunden Lane Yalding Kent - Outline application for a residential development of 30 dwellings considering the access arrangements from Mount Avenue and Blunden Lane with all other matters (appearance, landscaping, layout and scale) reserved for future consideration. Refused 17/02/2016. Appeal Allowed 31/01/2017

**SUMMARY TPO INFORMATION**

<b>TPO Served (Date):</b> 18/10/2017	<b>TPO Expiry Date</b> 18.04.2017	
<b>Served on:</b> Owners Agents Adjacent properties where trees overhang		
<b>Copied to:</b> Public Right Of Way Kent Highway Services Mid Kent Division GIS Team MKIP Parish/Town Council Land Charges Team Planning Applications Unit		
<b>Representations</b>	Representations: 2	Objections: 1

## OBJECTIONS

An objection to the TPO was received from Millwood Designer Homes, also made on behalf of the owners of the site. The objection is summarised below, with the Landscape Officer response to the objection being made in italics:

A tree survey was carried out and submitted as supporting evidence for the planning application. This did not identify any individual trees with an A category grading (using the BS5837:2012 criteria), with the vast majority of the trees present being graded B or C; Several large, mature Ash and Oak are present on the northern and eastern boundaries, with the remainder of the tree stock being poor quality, self-set Ash, Cherry and Hawthorn and several over-mature Crab Apple trees.

*This is a broadly accurate description of the tree cover present on the site. Some larger and good quality trees are present, mainly on the boundaries as described, but with some larger trees within the site, with a lower quality understorey of regenerating woodland.*

A Landscape and Visual Appraisal was also prepared and submitted as supporting evidence for the planning application. This noted that there is a network of informal paths across the site, but the land is private and does not have any formal public access. Public Right of Way KM192A runs along the northern boundary. The site has a very limited visual envelope, with views restricted to those from KM192A, residential properties close to the site and from a small number of locations on two other Public Rights of Way to the east of the site. The Council's Landscape Character Assessment mentions 'small broadleaf woodland blocks scattered frequently across the landscape' but woodland is not listed as one of the key characteristics of this Landscape Character Area. The site is in poor condition, does not represent a rare or unusual landscape feature and does not make a significant contribution to local landscape character.

*Again, this is a broadly accurate description of the site. Long-range views are limited, but Public Right of Way KM192A, which is immediately adjacent to the woodland and passes under the canopy of the trees, gives public views into much of the site and a feeling of passing through woodland. This is clearly a well-used path, being close to many residential properties and also the route of The Greensand Way. Whilst the woodland does not contribute significantly to the wider landscape character, it's short range views and woodland character close to the urban edge is considered to give it value on a localised level.*

The objection refers to the TPO guidance, particularly around the issue of amenity value, public visibility and the quality of individual trees present. It argues that the TPO is inappropriate on this site for a number of reasons:

The site has a limited visual envelope as discussed above. The majority of the trees are poor quality, self-set and graded as moderate to low quality, being suppressed, poorly formed, declining in health or dying/dead and the guidance states that it is inappropriate to make a TPO in respect of

a tree that is dead, dying or dangerous. The removal of such trees (those graded U in the survey) would leave a far more open vegetation cover, which would not resemble woodland.

The woodland has been unmanaged for at least 30 years and continues to be unmanaged, so its future amenity potential is low. It has no rarity value, and although it does provide some screening to the edge of the village, it makes no contribution to the village conservation area. The site makes a limited contribution to the Yalding Farmlands landscape character area and it contributes to the poor condition of the local landscape. Other mature tree groups in the vicinity reduce the significance of the trees on the site.

*The fact that a site is unmanaged woodland containing trees of low quality that would otherwise be removed in a managed situation does not necessarily devalue a whole woodland, nor does it mean that it will remain unmanaged. It is difficult to justify the amenity value of any woodland on the basis of visual amenity, as in most cases it is the only the edge trees that are visible, as these block views of the trees deeper within the site. It is acknowledged that this woodland is not of the best quality and that if the removal of poor quality trees was carried out, it would be more open. Many of the poor quality trees are the younger semi-natural understorey that has developed in the last 30 years – this is typical at this stage of any naturally regenerating woodland and despite its unmanaged state, contributes to amenity in other ways. ‘Amenity’ encompasses more than just visual amenity. An unmanaged woodland ecosystem will have value in its contribution to biodiversity, for example, and its screening value softens and filters views of the urban edge from countryside viewpoints. It is considered that this woodland contains a number of good quality mature trees in addition to the poorer quality trees present and that, at this time, a woodland designation is appropriate.*

The objection concludes that the reports submitted in support of the planning application for residential development on the site conclude that the trees do not make a significant contribution to amenity and local landscape character and that without appropriate management the vegetation cover will continue to decline and with it, any contribution it makes to amenity and local landscape character. The planning application for the site proposes to retain the boundary trees together with the best quality trees within the interior of the site, which will then be appropriately managed. The boundaries of the site will be reinforced with additional native planting and there will be additional tree planting within the developed part of the site. The planting will mitigate the removal of the poorer quality interior trees and enhance the contribution the site makes to local amenity and landscape value.

*The merits of the planning application are not considered relevant to whether the TPO should be confirmed. At the time the objection was submitted, the Council had refused the planning application, a decision that the objector appealed against. Outline planning permission has subsequently been granted at appeal, but this does not alter the considerations of this report. Whilst the implementation of a full planning permission effectively overrides a TPO, outline permission does not and a subsequent detailed scheme could propose changes to the indicative layout in the outline scheme that would affect the trees that are retained. Appearance, landscaping, layout and scale were all matters reserved for future consideration and could*

*therefore be subject to change. Alternatively, having secured the principle of development on the site, an entirely different scheme could come forward.*

## **REPRESENTATIONS**

Representations were received from the occupiers of The Brambles, Vicarage Road and The Beeches, Vicarage Road. The properties are both adjacent to the southern boundary of the TPO, and next-door to each other. Neither objected to the TPO in principle, but both expressed concern about trees in the woodland close to their properties potentially failing, following an incident last year when a large branch failed, causing damage to a fence, and wish for the specific trees in question to be excluded from the Order.

*Millwood Designer Homes have since contacted the Council and met with the Landscape Officer to inspect the trees in question. It has been agreed, due to their poor condition, that they may be felled under the exceptions to the Tree Preservation Regulations.*

## **APPRAISAL**

The woodland contains a number of good quality mature trees on its boundaries and a sparse covering of good quality trees in the interior of the site, with a poorer quality understorey. It still resembles woodland, albeit unmanaged. Its public visibility is limited to relatively short range views, including from the immediately adjacent footpath/Greensand Way. Longer range views of the woodland in the wider landscape are less significant. The woodland is considered to contribute to amenity for biodiversity, even in its unmanaged state and for its screening function. It is not an outstanding quality piece of woodland, but it does contain some good quality mature trees and has value as a whole. On balance, it is still considered that the woodland makes sufficient contribution to localised landscape character and amenity to merit TPO protection.

It is considered that the Woodland designation is currently the most appropriate. The site broadly resembles woodland and whilst it would be possible to pick out better quality individuals and groups of trees, this would exclude many lower quality trees, a component of any woodland ecosystem, and naturally regenerating seedlings and saplings present that could become good quality trees in the future.

The Council must also consider whether it is expedient to continue to protect the trees. The outline planning consent granted at appeal does not mean that the applicant is bound to continue to pursue the indicative scheme in submitting details, nor that they will continue to pursue a similar scheme.

Without the benefit of ongoing TPO protection on the site, the landowner could fell trees at will. Forestry Commission felling licence controls would prevent the wholesale clearance of the site, but would not prevent severe pruning and would still allow the felling of up to five cubic metres of timber without a felling licence; this could still result in the uncontrolled felling of some of the better quality trees present and works that could destroy the amenity value of remaining trees. It is therefore recommended that the Council should continue to maintain control over proposed felling

and pruning works to prevent pre-emptive felling and pruning ahead of a detailed development proposal.

Any subsequent detailed planning consent will not be frustrated by a TPO and, subject to available resources, officers could reconsider whether a woodland designation is still the most appropriate once a detailed planning consent is being implemented.

**RECOMMENDED**

Tree Preservation Order No. 5023/2016/TPO be confirmed without modification

**Contact Officer:** Nick Gallavin

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**Head of Planning Services**

**Appendices: Plan and schedule for 5023/2016/TPO**