

Agenda Item No: 11 **Report No:** 42/17
Report Title: Tree Preservation Order (No.6) 2016, Beggars Wood,
Beggars Wood Road, Chailey.
Report To: Planning Applications **Date:** 22 February
Committee 2017
Lead Councillor: Councillor Tom Jones
Ward(s) Affected: Chailey Ward
Contact Officer(s): Daniel Wynn, Trees & Landscape Officer

Purpose of Report: To consider whether to confirm the Order.

1. Officers Recommendation(s):

1.1 There are three options to consider:

- a) To confirm the Order as modified (this is the recommended course of action)
- b) To confirm the Order as proposed
- c) To allow the Order to lapse or expire.

2. Information

- 2.1 This a woodland site located on the south side of Beggars Wood Road, Chailey, which is owned by the occupier of the adjacent 'Birchdale'. It is opposite the Chailey Common Site of Special Scientific Interest (SSSI). The woodland in question is known as 'Beggars Wood' and was designated Ancient Woodland in Natural England's Ancient Woodland Inventory. Since the designation was made, however, Natural England has since reduced the extent of the Ancient Woodland designation.
- 2.2 This Tree Preservation Order at Beggars Wood was raised in response to an erosion or loss of woodland in the longer term, arising from the use of parts of the woodland area as domestic garden. This has resulted in loss of designated ancient semi-natural woodland. The boundary of the Order which it is recommended to be confirmed is smaller than that identified in the Order actually served, so that it is more consistent with the amended extent of the Ancient Woodland designation by Natural England referred to above, and covers two separate areas of Ancient Woodland.
- 2.3 **A plan of the recommended modification to the Order is attached as Appendix 'A'.**

3 Representations

3.1 Chailey Parish Council made the following comments.

"Councillors thought it unusual for a blanket TPO to be imposed over an entire area. They recognised that it was now proposed to reduce the scope and therefore effect of the existing TPO in line with the reduction in the area of ancient woodland identified by Natural England in their report dated 16th

December 2016. However, the proposed revised blanket TPO would still impede the proper management of the land area at Birchdale still designated as ancient woodland. Councillors considered that the blanket TPO should be revoked and replaced by TPOs over individual and significant trees to be identified by Natural England and/or Lewes District Council's Tree Officer as being worthy of protection."

- 3.2 The landowner objects to the imposition of the Order on the following grounds:
- a. That there were procedural and administrative errors made in imposing the TPO.
 - b. That the woodland Order includes an area of 'long established garden' which has been 'garden' since at least 2004, if not longer.
 - c. That there was insufficient time to commission the services of an arboricultural expert to draft a suitable objection to the imposition of the Order.
 - d. That most of the land and trees included within the Order, particularly the land in the central garden area, are not visible to the public from the surrounding roads.
 - e. That contrary to a statement by the Council's Trees & Landscape Officer, the making of a TPO is a discretionary power and the Council is not compelled to impose an Order.
 - f. That there has been no 'progressive felling' apart from the removal of dead or dangerous or fallen trees.
 - g. That the plans shown in past planning applications were out of date and do not accurately reflect the situation we see today.
 - h. That the Ancient Woodland Inventory may not accurately reflect the situation we see today.
 - i. Five separate letters, supporting the landowner's position, were included with the bundle of documents accompanying the landowner's written representations. None of these letters were sent directly to the planning department, but each describe or outline personal recollections from people who have visited the site about the extent of the garden area during their visit.
 - j. That the council has recently given permission for a glass sided Huf house, which is visible from Beggars Wood Road and the A275 (Planning application LW/15/0066) which has a detrimental visual impact on the open countryside.

4 Material considerations

Policy on Ancient Woodland

- 4.1 Generally, 'ancient woodland' is any wooded area that has been wooded continuously since at least 1600 AD. 'Wooded continuously' does not mean there has been a continuous tree cover across the entirety of the whole site. Open space, both temporary and permanent, can also be an important component of woodlands.

4.2 Some ancient woods, however, may link back to the original woodland that covered the UK around 10,000 years ago, after the last Ice Age. Because they have developed over such long timescales, ancient woods can have unique features such as relatively undisturbed soils and communities of plants and animals that depend on the stable conditions ancient woodland provides, some of which are rare and vulnerable.

4.3 The Forestry Commission and Natural England's standing advice is:

"Ancient woodland is an irreplaceable resource of great importance for its wildlife, soils, recreation, cultural value, history and the contribution it makes to our diverse landscapes. It is a scarce resource, covering only 3% of England's land area."

4.4 For these reasons, where development is proposed, national and local policy exists for the protection of Ancient Woodlands. The National Planning Policy Framework, at para 118, states:

"planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;"

4.5 The Council is under a duty to protect trees and can impose Tree Preservation Orders under section 197 of the Town & Country Planning Act 1990 which states:

'it shall be the duty of the local planning authority to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made by the imposition of conditions, for the preservation or planting of trees'

4.6 Section 197 of the Act also states that:

'..it shall be the duty of the local planning authority to make such Orders [Tree Preservation Orders] under section 198 of the Act as appears to the Authority to be necessary...'

Part of the woodland, excepting the original residential domestic garden and now an area just outside, is designated by Natural England as 'Ancient Woodland'.

4.7 The Council is under a 'duty' to protect important trees and woodland under the Town & Country Planning Act 1990 (as amended).

5 Response to landowners representations

5.1 No known procedural or administrative errors were made that would invalidate the Order. Minor corrections can be made during the confirmation process where and if required.

5.2 Whether the Order includes 'garden' areas is irrelevant; it is the value of the trees within the Order area which is considered to be important.

- 5.3 The landowner had the statutory 28 days in which to submit written representations about the imposition of the Order. Subsequently, a further 14 days for the landowner to respond was given, and this has since been added to with 'late letter' submissions right up until publication of this report. It is considered that the landowner has had adequate opportunity to submit their written representations in this case.
- 5.4 The woodland is widely visible from the surrounding area, including Chailey Common, and from Beggars Wood Road.
- 5.5 The power to impose a Tree Preservation Order is discretionary; in this case it is considered that the TPO is justified.
- 5.6 The term '*progressive felling*' refers to trees being lost over a protracted period of time. It does not apportion blame on any party. The most recent episode of tree loss relates to the removal of self-set saplings and seedlings in areas where there were likely to have been trees at some point in the past. The erosive nature of tree loss, no matter how small, accrues over time resulting in the permanent loss of ancient woodland.
- 5.7 Past planning applications for development relating to 'Birchdale' contain plans which can be used to help try to determine the extent of the residential garden curtilage.
- 5.8 The Trees & Landscape Officer has been in close contact with Natural England's Woodland, Trees & Forestry Specialist, to determine whether the ancient woodland designation should be modified. In an e-mail received 16 December 2016, Natural England concluded that:

"There is enough evidence to suggest that part of Birchdale [Beggars Wood]..... is not ancient woodland and it will be removed from the ancient woodland inventory"

- 5.9 For this reason, it is recommended to modify the Order to only include the area of the revised ancient woodland with an overlap to include the vulnerable rooting systems so that they remain within the protected area.
- 5.10 The planning application LW/15/0066 was in part for a new dwelling to replace a mobile home and the report which recommended approval stated that:

"On balance the concerns regarding the size of the proposed dwelling is not considered to outweigh the benefits of the change of use back to agricultural/equestrian and the general improvements (including removal of some buildings). The proposal will enhance both the immediate and wider setting and complies with the broad objectives of planning policy contained within the NPPF"

6 Reasons for Confirmation of Order

- 6.1 The woodland as a whole provides significant visual amenity and on this basis it is considered that there are sufficient grounds to support the view that the replanted area, which is now claimed to be domestic garden, can be considered to be part of the larger woodland area.

- 6.2 The two separate woodland components, however, identified as W1 and W2, are designated as Ancient Woodland by Natural England and are important amenity assets for their wildlife, soils, cultural value, historic and contribution to the landscape.
- 6.3 Any further tree loss is likely to expose the residential dwelling to views from the surrounding countryside, and this in turn will have a detrimental visual impact on the open countryside.
- 6.4 The Order will elevate the woodland to a 'material consideration' for any future planning applications for development which propose the loss of part or of the whole woodland.
- 6.5 The reasons given in objection to the imposition to the Order are considered to fall short of overcoming the importance of the woodland to the area.
- 6.6 In the event the Council decides to confirm the Order, it will be the officer's intention to support pruning proposals where it is reasonable and practicable and where the works do not significantly conflict with the long-term health of the trees or the woodland and its public amenity and wildlife habitat value. It should be noted that the Order should not impede or prevent proper management of the woodland subject to approval by the Council.

7 Summary

- 7.1 It is considered that under the circumstances the Order, as modified, is justified and should be made permanent (or 'confirmed').
- 7.2 It is considered that the reasons given in opposition to the Order do not outweigh the public amenity benefit that the ancient woodland provides.

8 Financial Implications

- 8.1 There are no financial implications for the Council at this time.

9 Environmental Implications

- 9.1 None.

10 Background Papers

- [provisional] Tree Preservation Order (No.6) 2016.
- Planning Applications LW/84/1099; LW/88/0793; and LW/96/0848
- Natural England's Ancient Woodland Inventory
- Email and report: Dr Marion Bryant, Woodland & Trees Officer, Natural England, Polwhele, Newquay Road, Truro. TR4 9AD

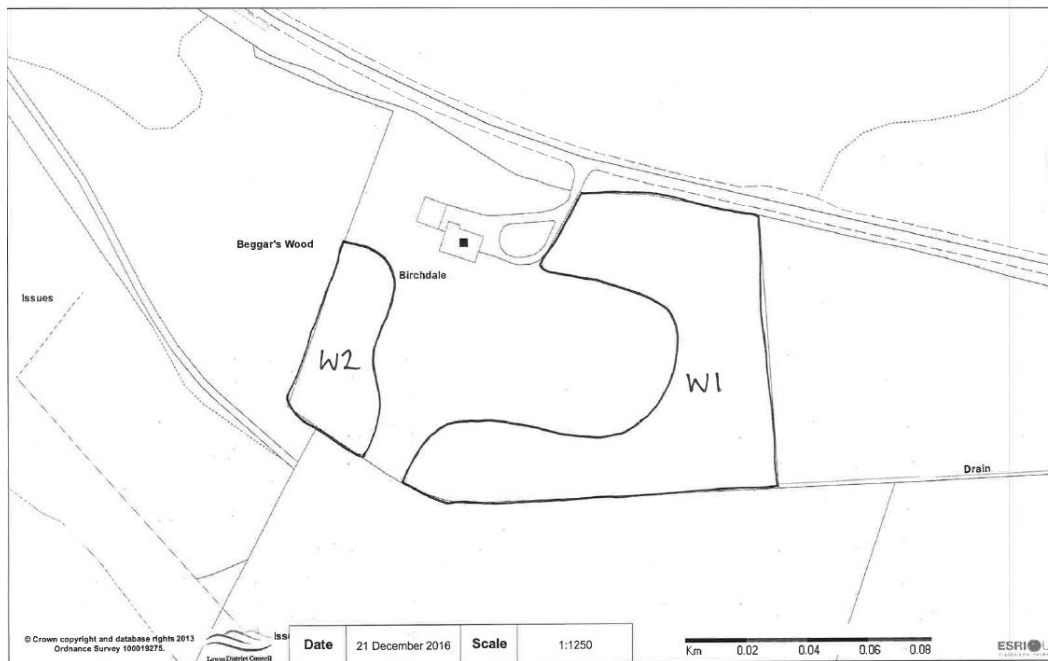
Note: Any documents that disclose exempt information are excluded from the above list of background papers.

10 Appendices

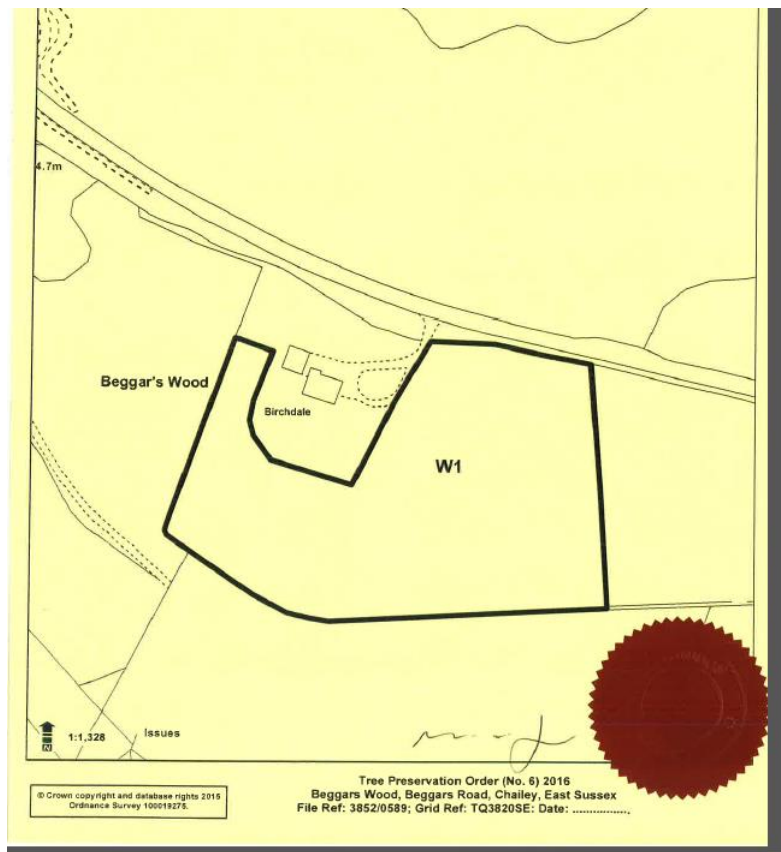
- Appendix 'A' - A plan showing the recommended modification to the Order
- Appendix 'B'- Extracts from plans submitted in association with planning applications for development
- Appendix 'C'- Combined plan showing extent of the ancient woodland according to the original ancient woodland inventory together with an aerial photograph of the area at the same scale.
- Appendix 'D'- Plan showing the wider context of the local ancient woodland network together with an aerial photograph of the same.
- Appendix 'E' - Photographs of views of the woodland from two selected areas.
- Appendix 'F' Timeline of Ordnance Survey maps from circa 1874 to 1978

APPENDIX 'A'

Proposed 'Modified' Order which takes into consideration Natural England's proposed amended Ancient Woodland designation.



This is the Order as it was originally proposed which followed the original outline of Natural England's ancient woodland boundary.

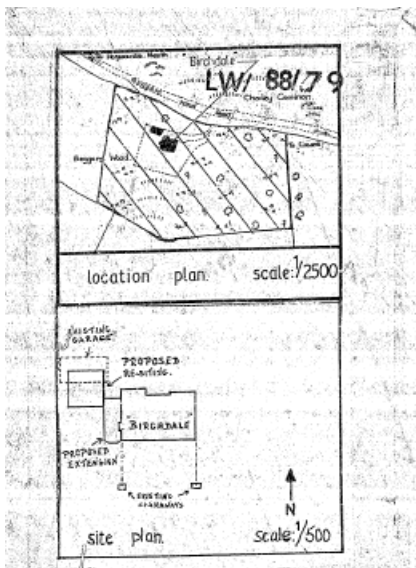


Appendix 'B'

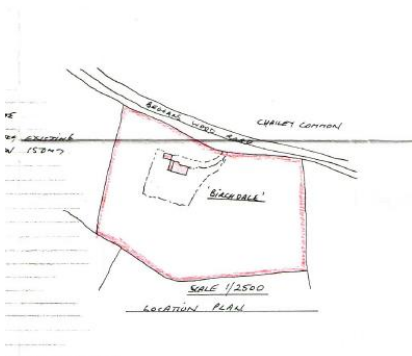
Plan associated with Planning Application LW/84/1099.



Plan Associated with Planning Application LW/88/0793

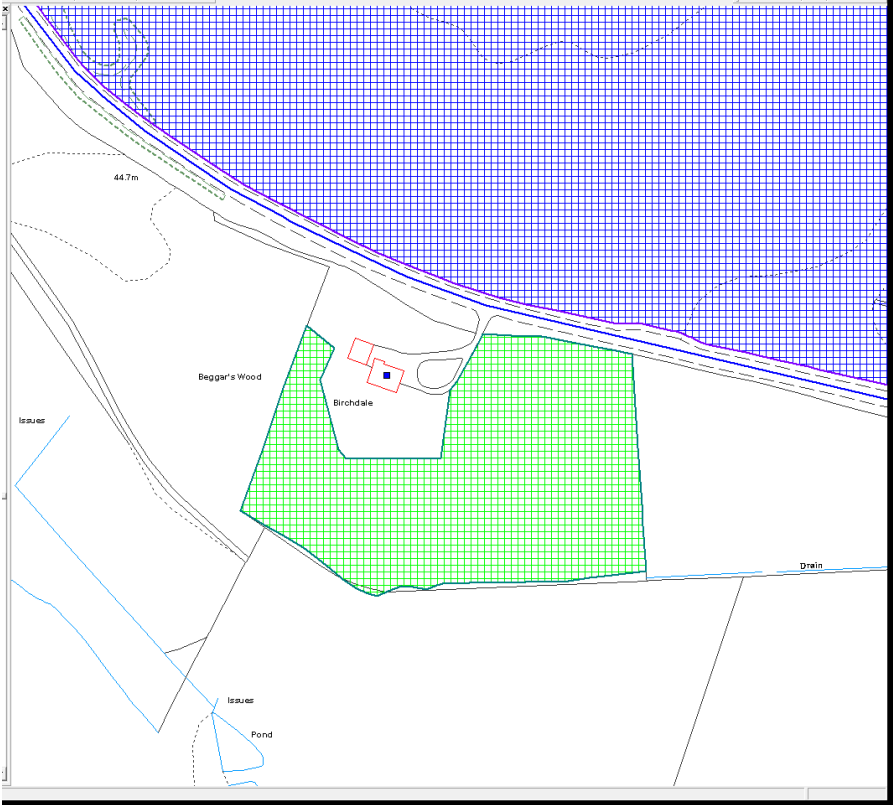


Plan associated with Planning Application LW/96/0848



APPENDIX 'C'

Plan showing extent of the original ancient woodland according to Natural England's 'Ancient Woodland Inventory' (shaded green). The blue shaded area is Chailey Common SSSI (Site of Special Scientific Interest). Beggars Wood Road divides the two.

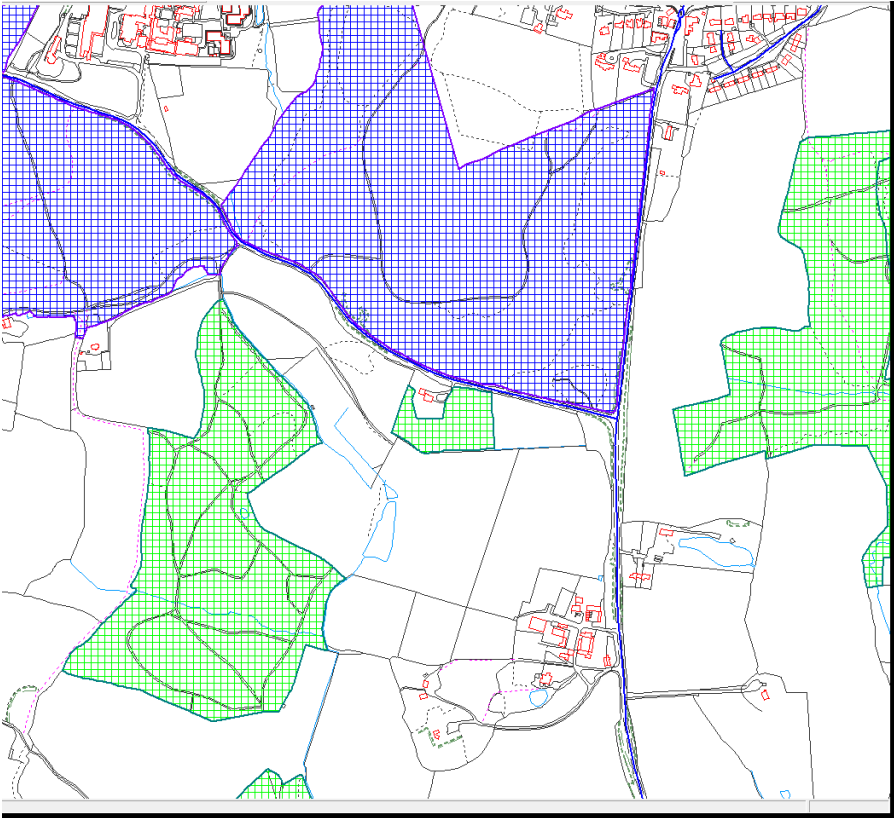


Aerial photograph dated circa 2012



APPENDIX 'D'

Plan showing wider context of the site within the surrounding countryside – The green shaded areas are ancient woodlands and the blue are SSSIs



Aerial photograph circa 2012



APPENDIX 'E'



Photo # 1 – view looking north west up Beggars Wood Road.



Photo# 2 – View from East Grinstead Road (A275) just south of the junction of Beggars Wood Road

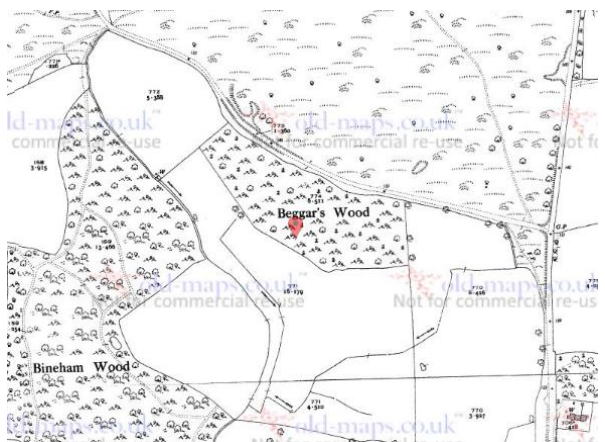
APPENDIX 'F'

Series of OS plans dating from 1874 through to 1978

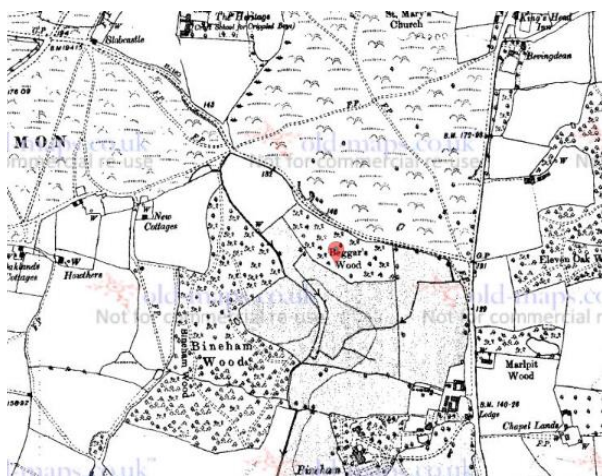
Map Circa 1874



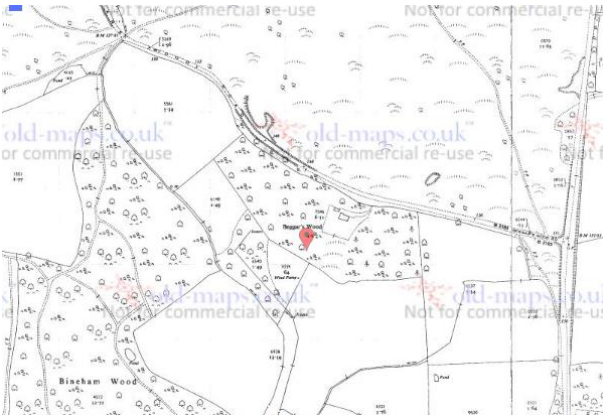
Map circa 1931-1937



1932-1952



Map Circa 1955



1978

