

Agenda Item No: 14 **Report No:** 108/17

Report Title: Tree Preservation Order (No.4) 2017, Land at 'Nuggets' Valebridge Road, Burgess Hill.

Report To: Planning Applications Committee **Date:** 19 July 2017

Lead Councillor: Councillor Tom Jones

Ward(s) Affected: Chailey & Wivelsfield 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 You are recommended to confirm the Order.

Note: This report specifically relates to W1 of the Order. No objections have been raised in relation to W2 or W3 of the Order.

2. Information

2.1 The site is located at the northern end of Burgess Hill to the east side of Valebridge Road. The western access to the site is partly located within Mid-Sussex District Council's jurisdiction. It is considered that the site forms part of a larger historical ancient woodland complex.

2.2 The woodland in question is known as 'Knowle Wood' part of which to the north was designated Ancient Woodland in Natural England's Ancient Woodland Inventory, but has since been bisected by the dwelling 'Nuggets' and its associated outbuildings since circa 1970s. The revision of the ancient woodlands inventory in 2010 appears however, to have overlooked the inclusion of the area identified as W1.

2.3 The Tree Preservation Order was raised in response to pre-emptive felling operations that resulted in a large number of mature trees being felled in preparation for development proposals in the near future. Some of the felled trees actually formed part of the wooded boundary to a development site to the south which has recently acquired planning permission (LW/16/1040 erection of 55 residential homes, with associated access, car parking, cycle parking, refuse/recycling storage and landscaping).

3 Representations

3.1 No comments have been received from Wivelsfield Parish Council at the time of going to print.

3.2 The landowner's appointed tree expert objects to the imposition of the Order for the following reasons:

- a. '...the imposition of the TPO in its current form is considered inappropriate.

- b. 'The 'connective woodland'whilst being considered ASNW [ancient semi-natural woodland], was not recorded as such on the LPA [local planning authority] register or on the government MAGIC webportal.'
- c. 'The remaining vegetation within this corridor is predominately understory shrubs and small trees, which are not worthy of inclusion within a TPO....and is not considered expedient in the interests of amenity to do so.'
- d. 'It is considered at this juncture that the TPO is being used to prevent or inhibit perceived development, when it should only be utilised where trees are intrinsically worthy of preservation.'

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...’

5 Response to landowners representations

- 5.1 A woodland category tree preservation order is considered to be the most appropriate form of TPO in this case. According to the government’ guidance:

“The woodland category’s purpose is to safeguard a woodland as a whole. While some trees may lack individual merit, all trees within a woodland that merits protection are protected and made subject to the same provisions and exemptions. In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made are also protected by the Order”

- 5.2 The woodland compartment identified as W1 is not included within the ancient woodland inventory. It is, however, a relic of larger woodland originally shown as ‘Nolands Wood’ (as shown on circa 1875 OS maps) and later named as ‘Knowle Wood’ (circa 1910) which is now designated Ancient Woodland. Similarly, the adjacent woodland to the east, identified as W2 of the Order, is historically connected and is also designated ancient woodland. It is quite reasonable to conclude that W1 must also be ancient woodland but was for some reason omitted from the review of the ancient woodland inventory in 2010.
- 5.3 W1 also contains a range of other features that are directly associated with the two adjacent ancient woodland compartments. It has the same woodland species composition of the same age range, the same ancient woodland ground flora indicator species and the same type and arrangement of ancient woodland archaeology. For these reasons W1 of the Order is considered to be a relic of, and an integral part of the larger local ancient woodland complex.
- 5.4 The entire local ancient woodland complex contains predominately Oak standards with an understory of Hornbeam, which is typical of the traditional ‘coppice-with-standards’ woodland of the area. Unfortunately, the Oak standards have all been recently felled in W1 but the stumps remain. They, together with the Hornbeam, will regrow and form an area of coppice, which is typical of traditional woodland management practice in Sussex. It is also worth mentioning that such coppice is highly beneficial for wildlife.
- 5.5 The woodland is considered to be important for the visual amenity it provides and also for its natural, historical and cultural associations and for its contribution to the historic landscape of the area.
- 5.6 Order was raised in direct response to unauthorised clear felling operations being undertaken most likely in preparation for a planning application for development. As a result there remains a clear and present threat of further pre-emptive felling operations. The fate of the woodland, particularly W1 of the Order, can be decided when a planning application for development is eventually submitted. The Committee will then be in a position to consider all the pertinent factors at that time before deciding the outcome.
- 5.7 The Forestry Commission considers the felling of the trees to be in breach of the terms and conditions of the Forestry Act 1967. To help protect Britain’s forests and woodlands a felling license is required to fell trees and it is an offence to fell trees without a license if an exemption does not apply. In response to the unauthorised clear felling operations, the Forestry Authority has issued a ‘Restocking Notice’. This

requires the landowner to replant the entire area with trees in accordance with the terms of the Notice.

6 Reasons for Confirmation of Order

- 6.1 There is sufficient evidence and sound reasons to consider W1 of the Order to be an integral part of the local ancient woodland complex.
- 6.2 The Council is under a duty to protect all woodland, with particularly emphasis on protecting ancient woodland.
- 6.3 Ancient woodlands are important public amenity assets for their wildlife, soils, cultural value, historic and contribution to the landscape.
- 6.4 The Order will incorporate the new trees planted in accordance with the 'Restocking Notice' issued by the Forestry Commission.
- 6.5 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.
- 6.6 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.

7 Summary

- 7.1 It is considered that under the circumstances the Order is entirely justified and should be made permanent (or 'confirmed').
- 7.2 The Forestry Commission has imposed a 'Restocking Notice' to replant the area of felled woodland which infers support for the imposition of the Order.
- 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.4) 2017.
- Strategic Housing Allocation Assessment 10WV; 18WV and 22WV
- Natural England's Ancient Woodland Inventory
- Forestry Authority's 'Restocking Notice' [details to be provided in due course]

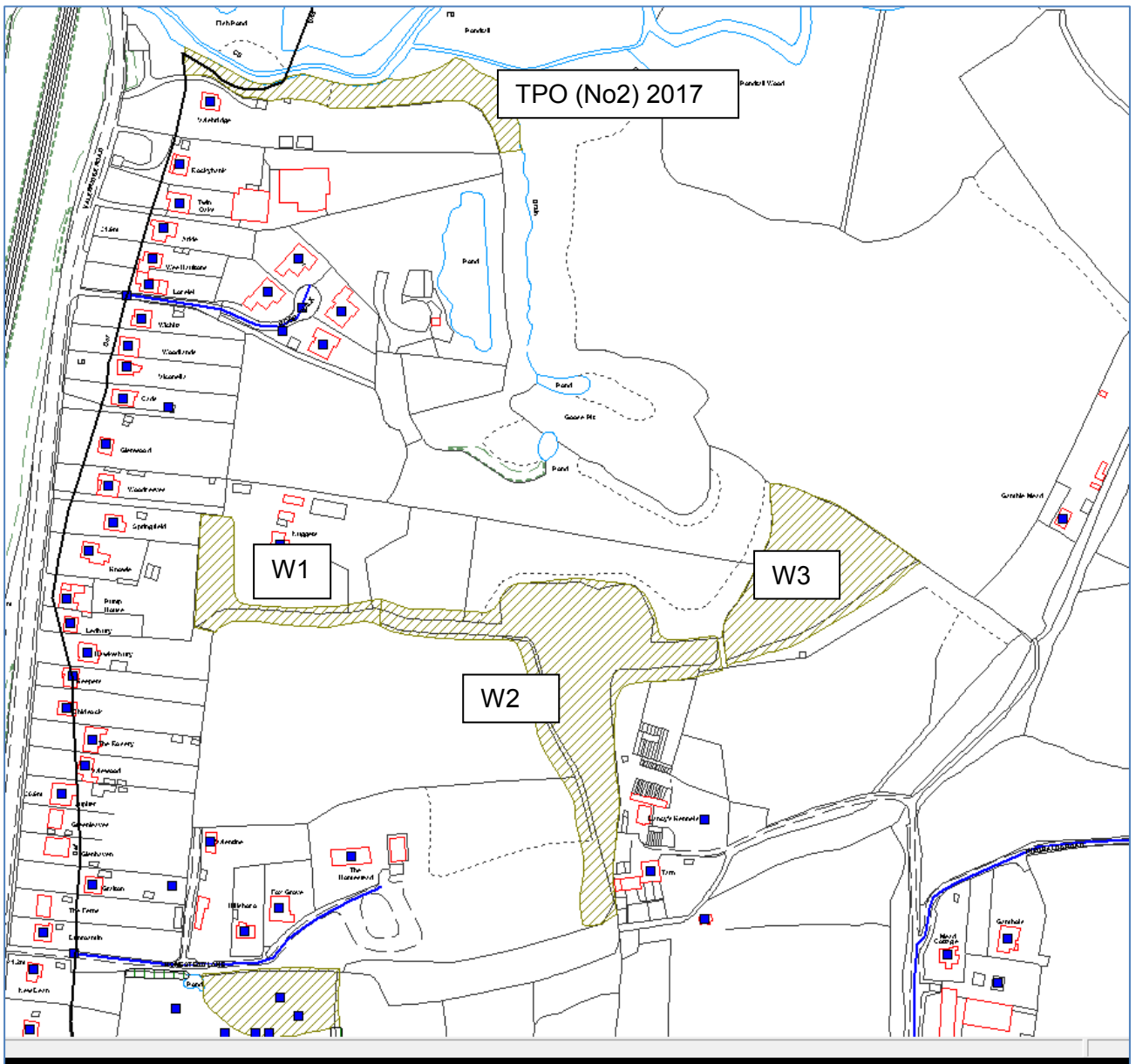
Note: Any documents that disclose exempt information are excluded from the above list of background papers.

11. Appendices

- Appendix 'A' - A plan of the Order
- Appendix 'B'- A plan showing the local designated ancient woodland compartments
- Appendix 'C'- A circa 1874 & 1910 maps showing original woodland complex

APPENDIX 'A'

Plan of proposed Order.



APPENDIX 'C'

Ordnance Survey map dated 1875



And 1910

