

EAST HERTS COUNCIL

DEVELOPMENT CONTROL COMMITTEE – 29 FEBRUARY 2012

REPORT BY THE DIRECTOR OF NEIGHBOURHOOD SERVICES

8. CONFIRMATION OF EAST HERTFORDSHIRE DISTRICT COUNCIL  
TREE PRESERVATION ORDER(No. 8) 2011 P/TPO 564  
'WOODLAND TO THE SOUTH OF RECTORY FARM, MEESDEN  
HERTS'

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WARD(S) AFFECTED: Braughing Ward

Purpose/Summary of Report

- A woodland Tree Preservation Order (No. 8) 2011 Ref., P/TPO 564 was served under Section 201 of the Town and Country Planning Act 1990 on the 6<sup>th</sup> September 2011. This order had the immediate effect of protecting an area of woodland for period of six months, but it has to be submitted to the Development Control Committee for confirmation and for permanent effect.

**RECOMMENDATION FOR DECISION:** that

(A)	Tree Preservation Order (No.8) 2011 P/TPO 564 be confirmed as an opposed order and that the Director of Neighbourhood Services be authorised to bring it into operation.
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1.0 Background

1.1 The piece of woodland measuring some 1.1 acres (.45 ha) was sold at auction by Cheffins auctioneers during the spring of 2011. In the auction particulars the land was described as: -

- Mature hardwood woodland with road frontage
- Of interest to Wildlife Groups and amenity buyers

1.2 The freehold of the land was sold with vacant possession to a Mr Shajeed Shaikh, who later made contact with the Forestry Commission regarding whether a Felling Licence was required to fell a small number of trees. On 22<sup>nd</sup> June 2011, the Councils Arboricultural Officer received concerns from a member of the public, that trees were being felled in the woodland.

- 1.3 At the site visit it was noted that only a small number of trees had been felled to ground level and that heavy rain had forced a halt to the felling. Whilst the Arboricultural Officer was on site Mr Khan the owner's agent arrived and a brief discussion was had as to the reasons for the felling. It was later understood that the Forestry Commission were also aware and were in contact with Mr Khan.
- 1.4 On 11<sup>th</sup> July 2011, the Arboricultural Officer was made aware that more felling of trees had occurred and that the work carried out was not what had been initially approved by the Forestry Commission. The Arboricultural Officer made a further site visit on 30<sup>th</sup> August in which he carried out a brief survey of the remaining mature trees on the land. After some consultation with Officers of the Forestry Commission a decision was taken to serve a provisional Tree Preservation Order.
- 1.5 The provisional woodland Tree Preservation Order was served, both on the land on posts and by 1st class post to the owner and the owner's agent on the 6<sup>th</sup> September 2011. The effect of a woodland order is that it protects seedlings, saplings, cut stumps (that will regenerate - as in coppicing), pollarded trees and the remaining mature trees on the land.
- 1.6 In consultation with Officers in Development Control after the Tree Preservation Order was served it became apparent that a planning application for a bungalow had already been submitted by Mr Shaikh. The application documentation was withdrawn by the applicant.
- 1.7 Subsequent to the serving of the Tree Preservation Order a planning application was submitted to the Council, Ref: 3/11/1829/FP and registered on 3<sup>rd</sup> November 2011. This was a proposal for an agricultural building for use as free range chicken, egg production unit. Extensive landscape advice was provided by the Council's Landscape Officer on the impact of the building on the woodland and the development was refused on 14<sup>th</sup> December 2011.
- 1.8 A second and similar planning application for a larger agricultural building within the woodland has been received and registered on 6<sup>th</sup> February 2012 and is currently at the consultation stage.

## 1.9 Importance of Meesdenhall Woods

The area of woodland in question adjoins Meesdenhall Woods from which it is divided by a ditch of ancient origin. Meesdenhall Woods and the land in question have been identified as a Wildlife Site of local or regional importance.

1.10 Meesdenhall Woods would be classified as a plantation on an ancient woodland site (PAWS). There are a few remaining spruce trees in the southern part of the mainly native broadleaved woodland; the full description of the wood is contained in the Herts & Middlesex Wildlife Trust - Wildlife Site (16/009) survey of 22<sup>nd</sup> June 2000.

1.11 The land protected by the woodland Tree Preservation Order was included in the survey of 29<sup>th</sup> June 2000 by the Herts & Middlesex Wildlife Trust and the findings for the northern compartment are as follows:

- *“Northern compartment: Land in separate ownership*  
This small area of open woodland is dominated by a number of large Beech, Horse Chestnut, Sycamore, and Ash on the west side and bounded by a dense mixed hedge to the east. The open area in the centre is dominated by abundant Stinging Nettle. The sparse ground flora includes Wood Millet, Bluebell and Cleavers (f), Dog’s Mercury, Clustered Dock, Ground Ivy, Arum, and Cow Parsley(o), Dog Violet (la), Herb Robert, Nipplewort, and Wood Aven (r). There is scrubby Blackthorn, Hawthorn, Hazel, and Elder along the deep boundary ditch with single specimens of Dog Rose, and Gooseberry and frequent Ivy”.

1.12 The presence of herbaceous indicator species such as Dog’s Mercury indicate that the site is likely to be ancient semi-natural woodland.

1.13 The woodland in question is on the Forestry Commissions National Inventory of Woodlands.

1.14 The Council has specific policies set out in the East Herts Local Plan Second Review April 2007, to protect or encourage better management of trees or woodland or through replanting schemes to strengthen landscape character or to improve landscape condition. The specific policies are ENV10 Planting New Trees,

ENV11 Protection of Existing Hedgerows and Trees and ENV14 Local Sites.

1.15 The most pertinent policy in considering the confirmation of the Tree Preservation Order is ENV14.

1.16 A further consideration is that, woodland is an irreplaceable resource of great importance for its wildlife, its history and the contribution it makes to our diverse landscapes. Local Authorities have a vital role in ensuring its conservation, in particular through the planning system. The Development Control Committee, is asked to note the Council's obligation to protect woodland(s) from damage or loss by unfavourable development proposals. This is with particular regard to the requirements under PPS9 which states:

- *“Local Planning Authorities should not grant planning permission for any development that would result in its loss (woodland/ancient woodland) or deterioration unless the need for, and benefits of, the development in that location outweigh the loss of the woodland habitat”.*

1.17 Objection to the Tree Preservation Order

1.18 On 16<sup>th</sup> September 2011 the Council received a Claim for loss of agricultural earnings, resultant from the serving of the provisional Tree Preservation Order by East Herts Council. A similar claim was received on the 21st September. All letters from Mr Shaikh were answered fully. In the statement by Mr Shaikh, his objection to the serving of the provisional Tree Preservation Order was on the following grounds:

- The Tree Preservation Order has stopped all the agricultural works on the land
- Livestock will not be able to be kept on the land during the period the provisional Tree Preservation Order is in force.
- The Tree Preservation Order has caused a loss of the owners agricultural business
- The loss of the agricultural business is a breach of the owners human rights
- Tree Preservation Orders should only be served on trees that cannot be eaten by any agricultural livestock kept on the land
- The trees are infected with bracket fungus

## 2.0 Report

2.1 The Council's Arboricultural Officer has considered each objection and can only advise on the following points:

- The Council is not opposed to appropriate woodland management practices carried out in agreement with the Forestry Commission to manage woodland in a sustainable way.
- Tree works can still be applied for on completion of a formal application for tree works. The applicant would have the right of appeal to the Planning Inspectorate in respect of any tree works that are refused following the issue of a Refusal Notice by the Council.
- The LPA's consent is not required for cleaning the crowns of trees of dead, dying and defective branches or removing a tree stated to be in a dead, dying or dangerous condition.
- It is appreciated that trees may need to be felled for arboricultural reasons (dead, dying or dangerous) and that clearance can make way for new planting and restocking.
- The unfenced woodland beside the public highway is unsuitable for keeping livestock of any description. There is no grass or forage on site for livestock. Many of the indigenous plants (i.e. Dog's Mercury) are toxic to livestock.
- There are various bracket fungi of arboricultural significance. Such fungi are common and a natural part of decay and renewal. There is no method of chemical control or sanitation or woodland management to eradicate such fungi.

## 2.2 Local support for the serving of the Tree Preservation Order

2.3 After the provisional Tree Preservation Order was served the Council received thirty individual letters in support of the Council's action in serving the order. The majority of letters are from the residents of Meesden with many letters bearing one or more signatures.

2.4 Many of the letters refer to the need to maintain the woodland as a complete unit and for it to be retained as habitat for wildlife.

2.5 The number of letters received, demonstrates local support for

the serving and confirmation of the Tree Preservation Order.

- 2.6 In determining whether the TPO is to be confirmed it is requested that the Committee consider the amenity value of the remaining trees and the amenity value of the restocked woodland as directed by the Forestry Commission. Members should consider the desirability of preserving the special character or appearance of the rural area and woodland identified as a Wildlife Site.
- 2.7 The Arboricultural Officer offers the following reasons for confirming the Tree Preservation Order:
- 2.8 If the Tree Preservation Order is not confirmed the remaining trees can be felled without further consultation with East Herts Council providing that a Felling Licence is obtained from the Forestry Commission.
- 2.9 The woodland adjoins the public highway adjacent to Rectory Farm, so is clearly visible to the public. The remaining trees comprise mature horse chestnut, oak, ash, beech, sycamore, field maple and hawthorn. The condition of the mature trees is variable and their retention span in years is assessed as 10-20 years, so they are suitable for the protection afforded by the order. The woodland contributes towards the verdant character of the road junction by their height, crown spread and collective impact. These trees are suitable for their particular setting and sit well with the main bulk of Meesdenhall Woods. Using the Tree Evaluation Method for Preservation orders – TEMPO the remaining trees score sufficient points (12) to merit the confirmation of a TPO which is defensible.
- 2.10 The removal of the remaining trees would be detrimental to Meesdenhall Woods and the landscape character of Meesden. The woodland provides public amenity value to local residents and visitors to the area.
- 2.11 The serving and confirmation of the Tree Preservation Order on the land and woodland would ensure retention and natural regeneration of this piece of woodland that directly adjoins Meesdenhall Woods a locally identified Wildlife Site.
- 2.12 The District Council has a policy to protect trees because of their amenity value and the contribution that they make to the landscape character of our towns and villages.

2.13 In serving the provisional order the action taken was considered as appropriate. Confirmation of the order would safeguard against negative impacts on the Wildlife Site (16/009) Meesdenhall Woods.

Background Papers:

Cheffins auctioneers details of lot listing. Retrieved 19/09/2011  
Extensive Development Control Landscape Advice Re: 3/11/1829/FP.  
Summary Report for Officer Delegated Decisions Re: 3/11/1829/FP.  
Decision Notice Re: 3/11/1829/FP.

'Tree Preservation Orders: 'A Guide to the Law and Good Practice'  
East Herts Local Plan Second Review April 2007.

Landscape Character Assessment –Planning Policy Team.  
September 2007.

Herts and Middlesex Wildlife Trust - Wildlife Site (16/009) survey of 22<sup>nd</sup>  
June 2000.

Contact Member: Malcolm Alexander, Executive Member for  
Community Safety and Environment.

Contact Officer: Malcolm Amey, Arboricultural Officer, Extn: 1537.

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ESSENTIAL REFERENCE PAPER 'A'

<p>Contribution to the Council's Corporate Priorities/ Objectives (delete as appropriate):</p>	<p><b>Pride in East Herts</b>  <i>Improving standards of the built neighbourhood and environmental management in our towns and villages.</i></p> <p><b>Shaping now, shaping the future</b>  <i>Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.</i></p>
<p>Consultation:</p>	<p>There have been thirty individual letters in support of the TPO from local residents some bearing more than one signature:</p> <ul style="list-style-type: none"> <li>• The woodland constitute a very significant and positive feature in the locality</li> <li>• The woodland provides habitat for wildlife</li> <li>• The woodland has been a feature of the area for many years .</li> <li>• The auctioned land should be restocked with trees to return it to its previous condition and character.</li> <li>• Consultation with the Forestry Commission regarding the importance of this part of Meesdenhall Woods.</li> </ul>
<p>Legal:</p>	<p>Confirmation of Tree Preservation Orders is a legal requirement of the planning acts and is in compliance with the regulations.</p>
<p>Financial:</p>	<p>There are no financial implications in confirming this order.</p>
<p>Human Resource:</p>	<p>None</p>
<p>Risk Management:</p>	<p>Mr Shaikh has submitted a claim for loss of earning from the future development of an agricultural business at the site. No such business existed at the time of the serving of the Tree Preservation Order. The claim has been refuted. Under the Town and Country Planning Act (1990) compensation is not payable for the loss of development value.</p>