

**HIGH PEAK BOROUGH COUNCIL  
DEVELOPMENT CONTROL COMMITTEE**

**AGENDA ITEM  
2<sup>nd</sup> December 2019**

**TREE PRESERVATION ORDER AT Lees Hall Quarry Turnlee Road  
Glossop**

**1. REASON**

For Development Control Committee to consider the objections raised to the above temporary Tree Preservation Order (TPO) made in respect of woodland on land off Turnlee Road mainly within Lees Hall Quarry and decide whether the order should be confirmed and made permanent or allowed to lapse.

**2. SUMMARY**

A temporary emergency TPO was made on 9<sup>th</sup> July 2019 in response to a planning enforcement investigation with regards to various engineering works at and near Lees Hall Quarry. Some trees had been removed/ affected by these works. A Derbyshire County Council Tree Preservation order (DCCTPO61) covers the site, the plan of which is shown at Appendix 1, but does not protect all the trees and due to the age and type of TPO it is extremely difficult for DCC to enforce. Accordingly the TPO was made to protect the remaining trees on the site. The owners of Lees Hall Quarry have made objections to the order to be considered here.

**3. RECOMMENDED**

- i) The Committee confirms the Tree Preservation Order for reasons given at 5 (i) a-b notwithstanding the objections raised. But that the TPO is modified to make a distinction between land known as Lees Hall Quarry and that which is known as Chunal Fields as shown on the proposed Modifications to the TPO at Appendix 2.

**4. BACKGROUND**

- i) On 19/5/1960 DCC made a TPO on many trees and woodlands around Glossop including this site (Appendix 1). The trees were protected as an Area designation which protects all trees present when the order was made. The TPO is now 59 years old and therefore only trees greater than this age are protected by this order.
- ii) The site was used for many years as a tree contractors yard and the main current occupier purchased the site in 2009. He is also a tree work contractor.

- iii) The engineering works on site were being investigated by the Planning enforcement team (HPC/2019/0113). The impact on the trees was brought to the attention of DCC and the TPO reviewed. Given the status of the DCC TPO it was decided that it would be appropriate to consider superseding the existing DCC TPO with a Woodland designation in a new emergency TPO. A woodland designation protects all trees no matter what species or age and includes trees which are subsequently planted or establish naturally within the designated area.
- iv) An assessment of the trees and their amenity was made by the Arboricultural Officer in June 2019 (Appendix 3) and using the council's procedure for making Tree Preservation Orders. It was concluded that it was appropriate to make a TPO in respect of the trees as it was expedient in the interests of amenity and the woodland was under potential threat of harm or removal.
- v) The TPO was duly made on 9<sup>th</sup> July 2019 and served on the owners of the trees and their agents.
- vi) On 25<sup>th</sup> July 2019 formal objections to the order were received from Mr Duckworth the owner of Lees Hall Quarry. The objections were considered and a response sent to the objection Appendix 4 and 5).
- vii) A comment was also received from the owner of a small section of the woodland to the south with regards to the naming of their land within the order. (Appendix 6).

## **5. ISSUES AND OPTIONS**

- i) Reasons for confirming the order.
  - a) It is expedient in the interests of amenity
  - b) The woodland is under potential threat of harm or removal.
- ii) Summary of objections raised by Mr Duckworth
  - a) There is an existing order which protects the older higher value trees
  - b) The woodland is not under threat of removal and a felling license would be required to remove more than a 'few small trees'.

- c) The TPO would prevent normal management of the woodland, including the thinning of younger trees which were planted by the previous owner.

iii) Summary of comments of Wendy Beesley

- a) They have no objection to the order but advise that it is registered with DEFRA as Chunal Fields

iv) Consideration of objections – Mr Duckworth

- a) The Order made at this time was an area order which can only cover those trees which were present when the order was made. This type of order can be ambiguous and current advice is that these type of orders should be replaced with other types of designations where appropriate. As such the making of this order is in line with Government Guidance.
- b) Prior to the making the order the matter was discussed with DCC's tree officer and it was decided that a woodland order would be more appropriate in this instance. This type of order would avoid any ambiguity as to what was protected and would recognise the value that younger trees contribute to the amenity of the woodland as a whole.
- c) One reason given for making the TPO was to protect the woodland from the potential threat of harm or removal.
- d) With regards to tree removal an analysis of aerial photos from 2005 to 2018 (Appendix 7) shows clearly tree cover prior to Mr Duckworth's occupation of the site circa 2009 and the incremental reduction of the wooded area over the following years. Although some consents have been issued by DCC for trees works and some of the young trees were not protected by the TPO and did not require consent the impact is noticeable and combined with the current activity suggests that further encroachment into the wooded area can reasonably be anticipated.
  - e) A felling licence is required by law if more than 5m<sup>3</sup> is felled in one calendar quarter or 2m<sup>3</sup> if the wood is being sold, However, it is clear that the cubic meterage is cumulative and over time this could have an impact on the woodland as demonstrated by the aerial photos. Also it is hard to enforce particularly when the site is used for storing and processing wood from tree work activities off site.
- f) The new TPO would not prevent works that are required in accordance with council approvals and could cover works over a defined period of time. There are also Government woodland management grants available and if a woodland management

scheme is agreed as part of grant funding then these works would not necessarily require additional consent if agreed in consultation with the Council.

- g) In summary, a TPO does not prevent tree management or felling where appropriate. Consent to fell trees and enable sensible woodland management is possible and historical records show that if not properly managed this woodland will continue to dwindle and potentially over time be lost. That would result in a loss of an amenity to the area visible from some distance at various points around Glossop and in keeping with the landscape character of the area. In addition the woodland is a designated wildlife site and contiguous with ancient woodland which is with the PDNP area. For those reasons the recommendation is to confirm the order subject to the modifications suggested by the Ms Beasley below.
- v) Consideration of Comments – Wendy Beasley
- a) To clarify ownership and for clarity with regards to existing formal agreements it is considered that the woodland to which Mrs Beasley refers should be designated within the order separately, identified as W2 on the plan and described in the schedule as;

*Woodland off Chunal Lane land known as Chunal Fields adjacent to adjacent to Lees Hall Quarry woodland*

The suggested modification to the Schedule and plan of the TPO is shown in Appendix 2.

## **6. IMPLICATIONS**

- a) Resources

No significant implications.

- b) Legal, Human Rights Act, Equalities, Community Safety, Consultation

A temporary or emergency TPO is usually made when it appears that trees could be under threat of removal and the trees have amenity value that ought to be preserved.

A minimum of 28 days is given for owners or other interested parties to comment or object on the order which is considered by the Council. If objections remain and cannot be resolved then the Development Control committee considers the order and the objections to it and decides whether to confirm the TPO at which point the Order becomes permanent. Alternatively the

Committee may determine to modify the order or to allow it to lapse, any temporary order will lapse and be of no effect if it is not confirmed, either as it is or in modified form before the end of 6 months after the TPO is made.

If a TPO is confirmed the owner can still apply to undertake works to the trees. If an application were refused they would then have a right appeal to the Planning Inspectorate against the council's decision.

Once confirmed there is a right of appeal to the High Court only on a point of law.

c) **Environmental Issues and Risk Assessment**

Trees, particularly mature trees, contribute to the environment not only in terms of visual amenity, but they also have broader environmental benefits. The woodland is a designated wildlife site and contiguous with ancient woodland which is with the PDNP area.

The risk from trees is generally very low and there were no defects in these that has elevated their risk beyond a tolerable level.

## **7. HOW THIS LINKS TO CORPORATE PRIORITIES**

Using planning legislation to protect trees on private land contributes to Corporate aim 4: Protect and Improve the Environment

It is also in line with the Council's tree policy 2.2.1 which states that 'The Tree Preservation Order system will be used to ensure that trees of high amenity which are under threat are protected.'

## **8. APPENDICES**

1. Copy of the plan accompanying the DCC Tree Preservation Order showing the location of the trees
2. Example of the proposed modified TPO
3. Assessment of the trees the subject of the TPO
4. Objection from Mr Duckworth
5. Response to Mr Duckworth
6. Comment from owners of Chunal Fields
7. Aerial Photos from 2005 to 2018