

5.1 **Objection to Tree Preservation Order number 11 of 2014**

Located on land situated to the East of Swanley Park, New Barn Road, Swanley

ITEM FOR DECISION

This report sets out details of objections and support received following this order.

RECOMMENDATION

That the Tree Preservation Order No 11 of 2014 be confirmed without amendment.

The Site and Background

- 1 Tree Preservation Order (TPO) No. 11 of 2014 relates to an area of land, which is approximately 10.70 Hectares in size. It is located due east of Swanley Park in Swanley and is mainly wooded throughout with differing tree species, age classes and conditions over its area.
- 2 It was brought to our attention that following many years of being in the same ownership and left unmanaged, it was to be sold at auction. Concern was raised regarding the possibility of a new owner looking to develop the land and removing all/or areas of trees. TPO 11 of 2014 was therefore served due to the uncertainty of the future of the land and to protect its future amenity.

Representations

- 3 Swanley Town Council have written in support of the serving of the TPO as follows;
“This area of land has been a woodland for in excess of 50 years and is directly attached to Swanley Park, which is within the Green Belt and is a critical part of the green wedge which separates the communities of Swanley and Hextable. Together with the park, the woodland is an extremely popular amenity which is greatly used by residents and visitors from outside the town and Swanley Town Council is keen to protect the woodland against possible future development so that enjoyment of the amenity by all can be continued”.
- 4 A further nine letters have been received from local residents in support of the serving of the order. Most have stated their concern about losing an amenity that they have enjoyed for many years. Reference has also been made regarding the noted wildlife inclusive of many variety of bird. All have strongly urged the Council to make the TPO permanent.
- 5 A further five e-mailed letters have been received with names and e-mail addresses claiming to be Swanley residents with no postal addresses. The comments are varied but tend to mirror the correspondence received within paragraph 4.
- 6 A formal letter of objection has also been received from Middlemarch Environmental on behalf of the new owner. The objector has agreed with certain areas of the TPO being justified, but objects to the TPO on two points:

a) **The objection is on the grounds that the Order does not properly take into account the variance in visual amenity of the trees present. It also refers to the lack of age of an amount of the trees, especially within areas to the north of the site.** A walk through the woodland has taken place as well as a walk along the eastern perimeter of Swanley Park. It is clear from this visual survey that there are differing ages, species and values of trees throughout the site. Within the objection details, the author has stated quite rightly that some areas of trees have greater amenity value than other parts. A large part of the southern area for instance has mature Oaks, whereas a large part of the northern area consists mainly of Hawthorn. The TPO legislation does not grade trees in order of their amenity. The legislation simply requires a degree of amenity value be present. It is then a subjective issue for the deciding officer to make a recommendation on the way forward. In this instance there are many footpaths present throughout the site, all of which appear well trodden. The potential for amenity is therefore clearly present. The quality of the trees within the northern sector of the land is not what I would consider high grade, but nonetheless affective in providing a degree of amenity. If they were to be removed, it would detract from the visual amenity that currently exists.

b) **The objector also raises the issue of expediency in serving the order. The objector has stated that the trees cannot all be felled as they are protected by means of the Forestry Act, which would only allow 5 cubic metres to be felled in any one calendar quarter.** The Forestry Act refers to the felling of 5 cubic metres of timber within any one calendar quarter being allowed without application. Any more than this would require a felling licence from the Forestry Commission. A felling licence would be required for the felling of timber but not young smaller stems without commercial value, which would cover a large quantity of the trees within the northern sector of the land. This formal protection would not therefore afford full protection as stated within the objection. The only protective legislation therefore available is a TPO. The objector has queried the expediency of serving this order. Planning practice guidance on this matter states; "In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order". The new owner has stated that he would like to build a family home on the site. The amenity of the trees has been demonstrated as existing from various viewpoints within and externally to the wood. It is therefore considered that the TPO is justified and expedient.

- 7 The treescape could be managed to create an improved amenity. Such a proposal could be negotiated. A woodland grant scheme could also be sought from the Forestry Commission. Any such improvements would be encouraged. In the meantime TPO 11 of 2014 remains the only protection for the trees upon this land.

Conclusion

- 11 TPO 11 of 2014 was served in order to halt any tree works following the sale of this land. The new owner has referred to the possibility of constructing a family home for his own large family. Amenity value is present and a perceived threat to that amenity has been identified. A proposal to build can be looked at in more detail during a formal planning application. This would be the time to fully assess what is required by the owner and what may be acceptable for this part of Swanley. It is the recommendation that this TPO be confirmed without amendment.

Please find attached TPO/11/2014 (Appendix 1).

Contact Officer(s): Mr L Jones Arboricultural & Landscape Officer
Extension 7289

Richard Morris
Chief Planning Officer



SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation*</i>
	None	

Trees specified by reference to an area
(within a dotted black line on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation*</i>
	None	

Groups of trees
(within a broken black line on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation*</i>
	None	

Woodlands
(within a continuous black line on the map)

<i>Reference on Map</i>	<i>Description</i>	<i>Situation*</i>
W1	Mixed deciduous woodland	Situated on land to the east of Swanley Park, New Barn Road, Swanley.

* complete if necessary to specify more precisely the position of the trees.