

APPEALS AND REVIEW COMMITTEE – 30TH JANUARY 2023

Provisional Tree Preservation Order – Kings Lane South Croxton

1.0 Introduction

1.1 Background

Following a complaint about hedgerow removal on 20th June 2022 an enforcement officer visited the site and noticed that significant tree clearance had taken place along the eastern side of the woodland and that a hedgerow forming the eastern boundary of the woodland had also been removed.

It became apparent that the landowner had made an application to divert a public right of way that runs across the site (see figure 1) and that Leicestershire County Council were processing the application but had received objections from South Croxton Parish Council. Once the Council became aware of this they contacted the second landowner and extended the period in which objections could be made.

A follow up visit was made by the Senior Ecological Officer to confirm the extent of hedgerow and tree removal. The forestry commission were informed and also made a site visit but ultimately did not to conclude that the extent of removal reached the threshold for requiring a felling licence.

1.2 The Site

Woodland W1 lies on the south eastern edge of the village of South Croxton and on the southern side of Kings Lane. It has a total area slightly in excess of 1Ha and is dominated by even aged ash trees in an early mature state, giving the appearance of ash plantation.

Aerial images show the site to have been characterised by rough grassland with scattered scrub during the late 1990's, with the northern half of the site attaining a closed canopy by around 2010. The woodland character of the southern half of the site has developed more gradually and remains more open even today.

There is a well established public footpath through the woodland that forms part of a historical route to Baggrave Hall, between 1-2 km to the south east. Queniborough Brook forms the southern boundary of the site.

Following the issuing of the provisional order the council was made aware that part of the land has been sold to the owner of a neighbouring property on King's Lane. This area represents a strip of land along the woodland's western boundary which, until recently supported a mixture of closed canopy woodland and a small area of scrub woodland. The deadline for representations was extended to allow adequate time for the second landowner time to object to the order.

1.3 Condition of the trees

A swathe of land running down the eastern boundary, from where the hedgerow has been removed, has been clear felled and the understorey has been almost entirely removed from

the remainder of the woodland. Most of the remaining trees are in good condition. At the time a site visit was made in August there were several piles of tree trunks and smaller branches throughout the woodland. Some of the smaller stumps remained and were regrowing and there was evidence of woodland regeneration from the seedbank in the cleared area.

2.0 The Objection to the Order

Two objections to the order have been received. The first, dated 10th October 2022, was from AD and DN Coombes, of 36 Kings Lane South Croxton, who have been the owners of a strip of land within Woodland W1, along its western edge since May 2021. The objection letter expresses concern about the woodland clearance on the eastern boundary of the woodland, which the objectors say has been carried out in stages over a two-year period, with many of the felled trees having been burned on site. They go on to say that no trees were removed from land within around 20m of their property, 36 Kings Lane.

The objectors go on to state that, as part of management of land within their ownership they have removed a number of hawthorn trees which, owing to their poor state should be excluded from the order. They go on to propose that any replacement planting should take place on the neighbouring land and include a plan which proposes the conversion of the part of the woodland within their ownership to a “wildflower area” as part of a larger “agricultural paddock” immediately to the south of 36 Kings Lane and also within the ownership of the objectors.

The second objection was received on 5th December 2022 from Andrew Whitfield solicitors on behalf of Blyth Farms Ltd. This objection provides some background information and states that, in the first instance a tree surgeon was engaged to remove trees in response to an objection from Mr AD Coombes. It goes on to say that the purpose of work within the woodland was to “eliminate” low quality trees such as hawthorn and goes on to suggest that certain “invasive” trees have caused problems in the area. It states that the result of the work has been to improve access and open a public right of way. The objection points out that part of the site is devoid of trees. The objection also states that the landowners have planted trees elsewhere and have no intention of harming “good quality” trees.

The objection concludes that the order is unworkable and benefits no-one.

3.0 Responses to the Objections

The Council shares the concern expressed in the first objection about tree removal from this woodland but notes that there has been a significant loss of woodland cover on land within the ownership of AD and DN Coombes. The proposal to establish a wildflower meadow is not considered sufficient to compensate for the loss of woodland, either in terms of its public amenity or biodiversity values. Even if the council could have confidence in the equivalence and deliverability of this proposal, the principle of compensatory mitigation is not a part of the legislation governing the making of TPOs. For these reasons the landscaping proposals provided by the objectors are not sufficient to overcome the reasons for making the order. The council has been in touch with AD and DN Coombes to make constructive suggestions about how the part of the woodland within their ownership could be managed, in the context of it being protected by a TPO. (See appendix 2).

The second objection makes a number of statements that are difficult to agree with, as follows;

- The objection states that tree clearance was carried out in response to a complaint by a neighbour (referred to as Adrian Coombes), The first objection, made by Mr Coombes, states explicitly that none of the tree clearance undertaken by contractors acting for Blyth Farms has addressed their complaint. However, clearance has taken place across the remainder of the woodland, including the swathe of clear-felling on the opposite side of the woodland to Mr Coombes' land.
- Current (see appendix 1) and historic photographs (provided in the bundle accompanying the Blyth Farms objection) show that the existing public right of way was useable and accessible before the felling took place. The Senior Ecological Officer first visited the site in around 2019 and found the site easily accessible and the footpath useable, although there were a number of clay pigeons scattered throughout the woodland in close proximity to the footpath.
- The Council is aware that an application was made by Blyth Farms to Leicestershire County Council to divert the footpath from its current route to the eastern edge of the woodland. However, the woodland clearance and hedge removal has been well beyond what would be required to divert the footpath and the new entrance created in the north-eastern corner of the woodland appears to have been designed as a vehicle access.
- Far from being problematic and invasive, the hawthorn and blackthorn that has been removed are examples of native species that make an important contribution to the woodland's character, its amenity and biodiversity values.
- Government guidance is clear that woodland TPOs should not prevent beneficial woodland management. Whilst it is not accepted that the recent clearance represents a good example of beneficial management, this makes it incorrect to say that this order is unworkable.
- Although the absence of trees from part of the site is explained by recent interventions, it is also clear from historic aerial images that a narrow strip along the southern boundary has been kept clear of trees for some time and has neither the look or feel of woodland.

Amenity value

The woodland protected by this order has demonstrable public amenity value, having a public footpath which runs through it. It is easily accessible from the village of South Croxton and is clearly well used. Its value to the local community is also in part demonstrated by objections to the footpath diversion application by South Croxton Parish Council.

The woodland provides a secluded and quiet space for members of the public using the footpath to enjoy nature, to find space and separation from their daily lives. Whilst many of the larger trees remain, the recent tree removal has significantly diminished its value, leaving it exposed and open, with adjacent buildings easily visible from the woodland interior and with a significant reduction in bird nesting habitat.

Proposed order

It is considered that the proposed woodland order is necessary to secure the retention and beneficial management of the woodland by both of its owners. However, it is acknowledged that the proposed order includes a narrow strip of land along the southern boundary and immediately to the north of Queniborough Brook that lacks a woodland character. The committee may therefore wish to consider an alternative drawing of the boundary of woodland W1. One potential alternative approach is shown in appendix 3.

Appendix 1: figures and photographs

Figure 1) Woodland (in green) with existing public right of way (red line) and proposed diversion (blue line)





Figure 2) Looking east from the eastern edge of the woodland



Figure 3) Clear felling along the eastern boundary



Figure 4) New vehicle access in north east corner of woodland



Figure 5) bare ground along new vehicle access



Figure 5) clearance along western boundary showing the former woodland edge on the left side of the picture and a new footbridge over the ditch in the background



Figure 7) recent aerial image showing two of the larger piles of felled trees and Queniborough Brook to the south



Figure 7) The largest brush pile with bicycle for scale



8) Queniborough Brook at Southern Edge of the site

Appendix 2 Email sent by Senior Ecological Officer to AD Coombes on 8th November 2022

From: Rupert Simms
Sent: 08 November 2022 13:19
To: a.d.coombs
Cc: Laura Strong; Sarah Hallam
Subject: RE: Coombs PT/76 TPO Kings Lane South Croxton

Dear A D and G N Coombs

I have considered your letter and understand that, in the time since you sent it, my colleague Sarah Hallam may have been in touch to offer a site visit to discuss your views about managing the area of woodland you own land and the recently made TPO. In the meantime, as the officer responsible for making the order, I thought it might help to share some background to the order. I note of course that you have already stated that you have no objection in principle to the order although I concur with my colleague Laura Strong's view that your request to have an area of your land removed from the order should be treated as an objection in the first instance.

I understand that the area you wish to have removed from the order is the area hatched in green in the plan you sent as part of your letter. This area falls within the woodland that is subject to the recently made order, which explains its inclusion in the first instance. Without wishing to speculate or comment on the circumstances of any of the tree removal on this land it is clear to us, having considered various aerial images, that there has been significant tree clearance in the southern half of this area. This provides a reason of expedience for making the order, IE: the intention of the order is to prevent further unauthorised felling both here and elsewhere in the woodland. Further north there is a scallop of land, immediately to the west of what I believe is your home, that appears to be scrub dominated and whilst this area is different in character from the rest of the woodland it does still represent a part of the woodland and adds to its overall structural diversity. On this basis it is appropriate to have included this area within the original order.

You may already be aware that the order is a Woodland TPO. This is a type of TPO that not only protects existing mature trees but all trees of all sizes within the woodland, including seedlings and saplings. This allows an element of flexibility relative to other types of TPO since, as set out in government guidance <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas> , woodland TPOs should not hinder beneficial woodland management.

Beneficial management in this context might include, for example; maintaining coppice stands or woodland rides, where appropriate. Considering your specific request with this in mind I believe that it would be possible to manage the areas of woodland you own to implement the following management approaches: a) management (by removal and replanting or by coppicing) of the leaning hawthorns you identified in your letter b) increasing the canopy cover in the southern part of you land by a combination of natural regeneration and understory planting c) maintaining the scrub character of the woodland area immediately west of your home by a combination of planting and natural regeneration. You may wish to suggest alternative approaches that are consistent with maintaining and enhancing the woodland character of the land you own that is covered by this TPO. We are of course aware of the restrictions on planting ash which is one reason why we would be willing to consider an element of natural regeneration in this case. That said the woodland is already ash dominated and so the introduction of suitable additional native species would add interest to the woodland as a whole

Please get in touch if you have any questions and of course the offer of a site visit is still available if you think it would be helpful

Regards

Rupert

Appendix 3 potential approach for alternative order



Figure 1) Recent aerial view with blue lines showing the route of Queniborough Brook and approximate extent of woodland cover

Figure 2) OS mapping showing approximate extent of woodland cover and a distance of approximately 22m from Queniborough Brook (red line)

