

REPORT SUMMARY

CASE REFERENCE: 5001/2024/TPO	
ADDRESS: Woodland Between Moncktons Lane And, Kerry Hill Way, Maidstone, Kent	
RECOMMENDATION: CONFIRM Tree Preservation Order No. 5001/2024/TPO WITHOUT MODIFICATION as per the attached Order.	
SUMMARY OF REASONS FOR RECOMMENDATION: The objection received to the making of the TPO does not throw its validity into doubt. Consequently, it is considered expedient to confirm the order to ensure the continued protection of the woodland trees.	
REASON FOR REFERRAL TO COMMITTEE: An objection to the making of the TPO has been received.	
PARISH: North	WARD: North
CASE OFFICER: Paul Hegley (MBC)	SITE VISIT DATE: 30 th November 2023
PROVISIONAL TPO MADE: 03.01.2024	PROVISIONAL TPO EXPIRY: 03.07.2024
PROVISIONAL TPO SERVED: 03.01.2024	TPO OBJECTION EXPIRY: 31.01.2024

RELEVANT PLANNING HISTORY

Planning:

None

Enforcement:

None

Appeals:

None

MAIN REPORT

1. INTRODUCTION AND BACKGROUND

- 1.01 The Maidstone Borough Council made the provisional Tree Preservation Order No. 5001/2024/TPO on the 03.01.2024, which is attached at Appendix 1.
- 1.02 The site subject to this TPO is a rectangular area of woodland/copse that sits between Moncktons Lane and Kerry Hill Way (as seen in the aerial photograph Image 1 below outlined in yellow). Prior to the making of TPO 5001/2024/TPO, two trees within the copse were already subject to TPO No. 5 of 2002 a Horse Chestnut (designated as T7) and Larch (designated T5). Towards the end of last year the Council became aware that the land had been put up for auction/sale which may put the trees under threat, so woodland TPO No. 5001/2024/TPO was made and served to ensure the trees long-term retention within the wood are secured.

Image 1 – Aerial view of Woodland subject to TPO 5001/2024/TPO outlined in yellow.



2. DESCRIPTION OF TREES

- 2.01 The woodland outlined in yellow on Image 1 above, consists primarily of Sycamores of varying ages and sizes from small saplings to more mature specimens. Smaller individual Elm, Yew and Holly trees have also established as an understory to the larger more dominant Sycamores. Shrubs such as Dogwood and Elder are growing towards the edges of the woodland where daylight is more prevalent.
- 2.02 Overall, the mix of tree species and shrubs within the wood are considered to contribute positively and significantly to the mature and verdant landscape of the area and to its sylvan character, biodiversity and appearance as can be seen in Photo 1 below, taken from Moncktons Lane.



3. OBJECTIONS

3.01 One objection has been received to the making of the TPO, the details of which can be seen summarised below.

3.02 Objections Summary:

1. Trees are in poor condition and some are at risk of falling.
2. Trees are damaging the historic wall forming the original boundary.
3. Easements across the land state no trees are to be planted or be left to grow due to access and southern water pipelines.
4. In 2003 the land was assessed by a tree officer and a TPO was placed on one single larch tree which has since fallen over. It appears that the rest of the trees were not deemed significant then.
5. Trees are on private land and when fences are erected this will limit public amenity value as trees will not be in full view.
6. There is a natural clearing within the trees and trees bordering 1 the mallows should not be there due to easements and risk to building and garden fences.
7. I think it would make sense to form a group of trees TPO at the north east end of the site and TPO's on individual trees as an opposed to a woodland TPO. This would allow the land to be managed and will keep the same view from the public roadway.

4. REPRESENTATIONS

4.01 No other representations were received to the making of the TPO

5. APPRAISAL & RESPONSES TO OBJECTIONS

5.01 In response to the objections summarized in 3.02 above, I would respond as follows:

1. Although dense Ivy growth hindered a full assessment, at the time of a ground level inspection the trees within the wood did not appear to show any significant defects to indicate they pose an abnormal safety risk, and no evidence has been submitted to the Council to prove otherwise.

2. A low double skin stone wall (at approximately 0.5 meters in height) is present along the northern boundary of the woodland running adjacent to the road footpath of Moncktons Lane (as seen in photo 1 at section 2 above). From a laymen's perspective the general condition of the wall is poor with large areas of weathered stone that have crumbled and partly fallen in places. Moss, Lichen, Ferns and Ivy growth has established on the face and top of the wall, although there did not appear to be any evidence to prove that the walls current poor condition is contributable to the growth of the nearby woodland trees.
3. The presence of easements (usually for statutory underground utilities such as Water or gas pipelines) on parcels of land are often commonplace. In this case, there is no historical or current evidence to indicate that the easements necessitate the affected areas to be kept free of vegetation.
4. Prior to the making of this TPO a Larch and Horse Chestnut growing within the woodland were already subject to confirmed tree preservation order 5 of 2002 as individuals numbered T5 and T7 respectively.

The Larch T5 has regrettably been lost in past storms but the Horse Chestnut is still present and deemed a healthy prominent specimen. Looking back at past records TPO 5 of 2002 was made to protect the older historical trees in the area during the development of Kerry Hill Way. Now 22 years later, the trees within the woodland have become a significant feature in their own right and so are considered suitable for inclusion within a TPO.

5. As can be seen in photo 1 at section 2 above, many of the trees within the wood are of maturing age at over 15m in height. Therefore, I do not share the view that the erection of any type of boundary fencing would significantly reduce/limit the trees public amenity.
6. There is no evidence to indicate the trees growing closest to No. 1 The Mallows pose a risk to either the property or boundary fencing. If there were then any works can be controlled by way of a TPO application.
7. In this case, the designation of the trees as a woodland TPO rather than individuals or as groups is considered to be more expedient given the nature of the site and the fact that a woodland classification protects all species of whatever size/age whether the trees are self-seeded or planted.

6. CONCLUSION

- 6.01 The reasons raised in the objection (as listed in section 3.02 of this report) not to confirm TPO 5001/2024/TPO are not considered sufficient to throw its validity into doubt. Therefore, in the interests of good arboricultural practices and in line with current government guidance it is recommended that the TPO be confirmed without modification to ensure long-term protection of the trees.

7. RECOMMENDATION

- 7.01 **CONFIRM** Tree Preservation Order **No. 5001/2024/TPO WITHOUT MODIFICATION** as per the attached Order.

Case Officer: Paul Hegley (MBC)

Date: 16.05.2024

Note: Tree Officer assessments are based on the condition of the trees on the day of inspection. Whilst every effort is made to ensure that the assessments are accurate, it should be noted that the considerations necessary for determining applications/notifications may be able to be made off-site and, in any case, no climbing or internal inspections or excavations of the root areas have been undertaken. As such, these comments should not be considered an indication of safety.

APPENDIX 1 – Copy of tree preservation order No. 5001/2024/TPO

Tree Preservation Order

Town and Country Planning Act 1990

The Tree Preservation Order No. 5001/2024/TPO

Location: Woodland between Moncktons Lane and Kerry Hill Way Maidstone Kent

The **Maidstone Borough Council** in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as Maidstone Borough Council Tree Preservation Order No. 5001/2024/TPO- Woodland between Moncktons Lane and Kerry Hill Way Maidstone Kent

Interpretation

2. (1) In this Order “the authority” means the Maidstone Borough Council
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees). This Order takes effect as from the time when the tree is planted.

Dated this 3rd day of January 2024

R. LL. Jarman

Authorised Officer to sign in that behalf
Rob Jarman
Head of Development Management
Maidstone Borough Council

SCHEDULE

Specification of Trees

Tree Preservation Order No.5001/2024/TPO

Woodland between Moncktons Lane and Kerry Hill Way Maidstone Kent

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		

NONE

Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description including number of trees of each species in the group)</i>	<i>Situation</i>
NONE		

NONE

Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	mixed deciduous and coniferous trees/species consisting mainly of Sycamore, Holly, Yew, Elm and Hazel	Land between Moncktons Lane and Kerry Hill Way Maidstone Kent

