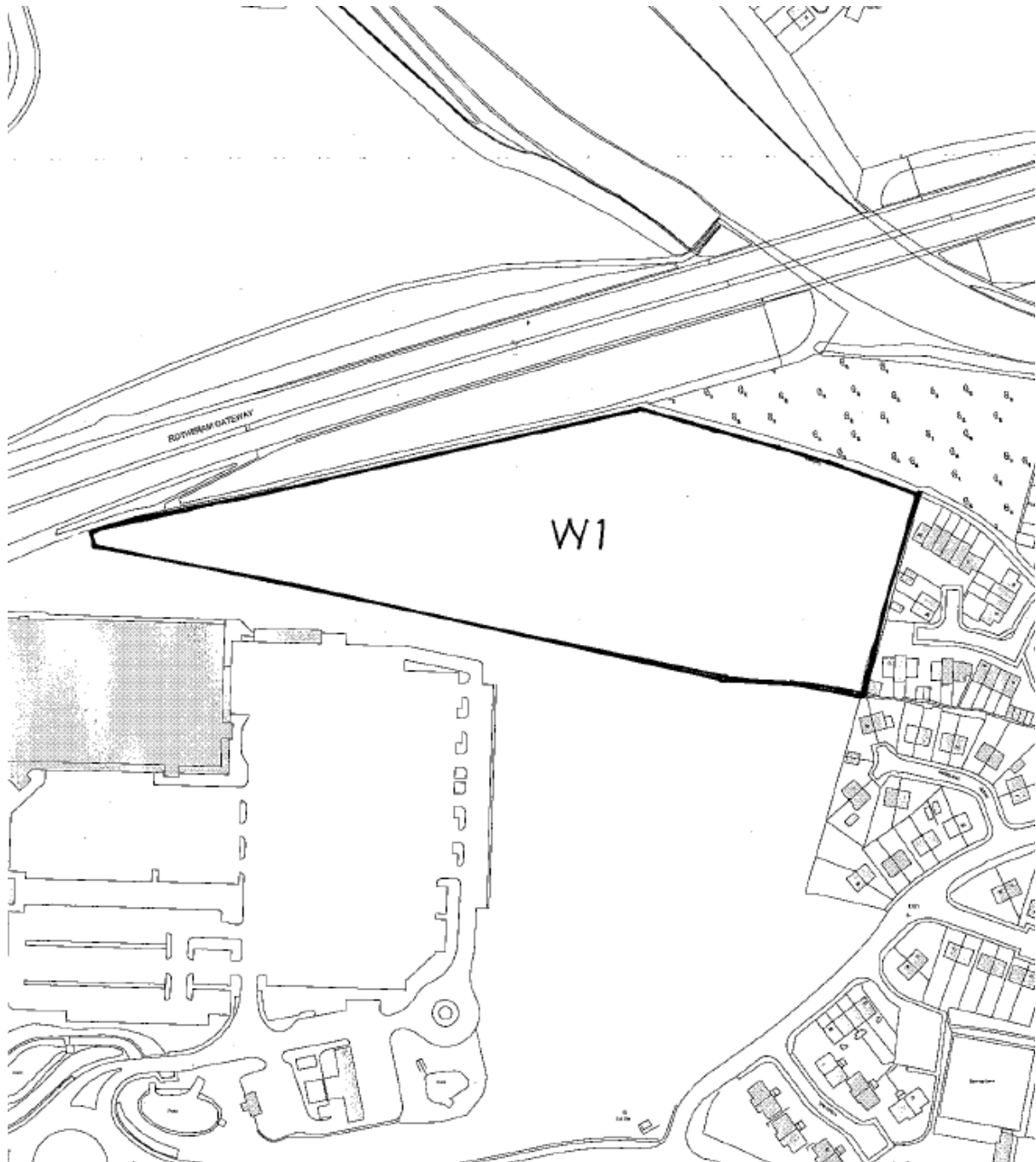


Item 1

Proposed Tree Preservation Order No 3, 2016 – Land at Blue Man’s Way Catcliffe



RECOMMENDATION:

That Members confirm the serving of Tree Preservation Order No. 3, 2016, with regard to the trees the subject of this report, situated on land off Blue Man's Way at Catcliffe under Section 198 and 201 of the Town and Country Planning Act 1990.

Background

Outline planning permission for the erection of residential development on land off Blue Man's Way at Catcliffe was refused by the Council on 22/02/16 (RB2013/1342). After the application was refused works started on site to fell some of the trees and a Tree Preservation Order (TPO) was served on 15/03/16. Any objections to the TPO had to be submitted by 22/04/16 and an objection was subsequently received from agents acting on behalf of Network Space on 20/04/16.

An appeal against the refusal of the planning permission (RB2013/1342) was submitted on 16/05/16 and will be determined by way of a public inquiry in due course.

Council's Tree Service Manager comments

The Tree Service Manager has considered the objections raised and has commented as follows:

The main parts of the objection appear to be as follows:

1. The site does not contain rare or endangered wildlife or vegetation and does not contain any veteran, ancient or even mature trees.
2. The scrub growth on the site does not especially have a good amenity value and is not important in the wider landscape context.
3. The trees and shrubs growing on the site are very young (less than 15 years old) self-set specimens which are of poor form and are unlikely to grow into large well-formed specimens making up a woodland of importance.
4. The use of Tree Preservation Order to protect common scrub growth is not an appropriate use of a TPO
5. There is a lot of woodland and scrub cover within 500 metres of the site, totalling at least 18 hectares. This includes the publically assessable Catcliffe Flash Local Nature Reserve. Therefore, it is not expedient to protect the scrub growth on the site as there is plenty of publically accessible scrub and woodland close by.
6. The Council's reasons and TEMPO assessment of the amenity and expediency of protecting the scrub growth with a Tree Preservation Order is fundamentally flawed.
7. The site is not important under the Council's Core Strategy policy CS20

1.The site does not contain rare or endangered wildlife or vegetation and does not contain any veteran, ancient or even mature trees.

It is accepted that the protected woodland area concerned consists of young dense self-set trees and shrubs that generally may be described as 'scrub'. The Joint Nature Conservancy Council classifies scrub as scattered bushes to closed canopy vegetation, dominated by locally native or non-native shrubs and tree saplings, usually less than 5m tall, occasionally with a few scattered trees.

Some of the trees, mostly Silver Birch and some Willows, appear to be over 5m tall but there are no mature, veteran or ancient trees. As far as I am aware a detailed study of the wildlife on the site has not been carried out to confirm the site does not contain or support rare or endangered wildlife. I am aware the Council's Ecologist has reported reservations regarding the Phase 1 Ecological Report and the Ecological Compensation and Enhancement Plan submitted as part of the application to develop the site in his memorandum to Planning Services dated, 1 June 2015. For this reason, unless any further evidence is provided, it is not possible to comment further on this part of the objection at this stage.

2.The scrub growth on the site does not especially have a good amenity value and is not important in the wider landscape context.

The wooded area is visible from the Public Rights of Way, Catcliffe Footpaths No 2 positioned along the north and west boundaries, and No 3 positioned along the southern boundary of the site respectively. Therefore, whilst the trees are generally small in size they are clearly visible to the public although they are not prominent in the wider landscape. Views into the site are limited from the public footpaths particularly where there is dense scrub growth. However, this is not unusual where public footpaths are adjacent to woodlands in private ownership in more secluded areas.

Due to the smaller size of the trees and the position of the wooded area it is accepted it does not provide wider visual amenity and there are other areas of woodland and scrub nearby. However, it will no doubt provide associated wildlife benefits, even if not rare or endangered, and a positive impact in reducing air pollution and noise from the A630 which may not alone justify an Order. In addition its importance for these reasons may increase with suitable management to encourage its development to natural woodland.

3.The trees and shrubs growing on the site are very young (less than 15 years old) self-set specimens which are of poor form and are unlikely to grow into large well-formed specimens making up a woodland of importance.

Most of the trees are young in age and some are of poor form that is likely to limit their future prospects. However, with suitable management, including thinning the densest areas to favour the better trees and possibly the introduction of other forest type species, it may be possible to develop the woodland to increase its importance and associated environmental benefits. Indeed, this view appears to be in accordance with the objectives within the Ecological Compensation and Enhancement Plan submitted as part of the Planning Application to develop the land (Ref RB2014/1342). Section 2.3.3 recognises the potential of the scrub to develop

into broadleaved woodland and that this could be important for wildlife. Supplementary planting with new trees was also proposed within the area shown to be retained to encourage the development to 'natural woodland'.

4. The use of Tree Preservation Order to protect common scrub growth is not an appropriate use of a TPO

The Order was made following the refusal to the above planning application to develop it for housing. The Order is provisional and acts as a holding measure to prevent the trees being removed until any evidence is submitted to show the Order should not be confirmed. Some of the original trees on the site were removed prior to the Order being served and this suggests it is the owner's intention to clear the site if possible. I am not aware of anything in the government's advice to prevent areas of young self-set trees such as those concerned being protected in this way, particularly if they have the potential to provide an increased level of amenity and associated environmental benefits in the future.

5. There is a lot of woodland and scrub cover within 500 metres of the site, totalling at least 18 hectares. This includes the publicly assessable Catcliffe Flash Local Nature Reserve. Therefore, it is not expedient to protect the scrub growth on the site as there is plenty of publically accessible scrub and woodland close by.

There are other areas of scrub and woodland within 500m of the centre of Catcliffe as indicated on the submitted aerial photograph. However, there is no public access to these areas including Catcliffe Flash Local Nature Reserve which can only be viewed from Treeton Lane. Treeton Footpath No 1 is positioned along the northern boundary of the 5.19ha of land to the east but this land is also in private ownership. The low density scrub land to the south of the land concerned also has planning consent for 89 houses, (Ref No RB2014/1461). Indeed, the development of this area may increase the number of people using the nearby Public Rights of Way for recreational purposes. Therefore, whilst the amount of woodland and scrub habit does not appear to be rare in Catcliffe, most of it appears to be in private ownership and / or has limited public access.

6. The Council's reasons and TEMPO assessment of the amenity and expediency of protecting the scrub growth with a Tree Preservation Order is fundamentally flawed.

A score of 4 was awarded for part 1d of the TEMPO evaluation as the trees are considered to be collectively important visually as developing woodland. This is believed to be in accordance with the TEMPO Guidance notes as follows:

"Members of groups of trees that are important for their cohesion" – This should also be self-explanatory, though it is stressed that 'cohesion' may equally refer either to visual or to aerodynamic contribution. Included within this definition are informal screens. In all relevant cases, trees may be assessed either as individuals or as groups.

It is not understood how the objector has arrived at a score of 'minus one' as the Guidance notes state:

"Where none of the (4 criteria) above apply, the tree still scores one point, in order to avoid a zero score disqualification (under part 3)."

The reduction of one point for trees of poor form only applies to Part 1a of the TEMPO assessment where, in this instance, a score of 2 points was awarded to take into account the poor form of some of the trees on the site.

7. The site is not important under the Council's Core Strategy Policy CS20 'Biodiversity and Geodiversity'

It is accepted that there is no evidence to demonstrate that the area has a significant biodiversity value. However, reservations have been raised about the Extended Phase 1 Habitat Survey and the Ecological Compensation and Enhancement Plan submitted as part of the application to develop the site. Also, there are trees within the area that are more visually prominent and have the potential to develop into important trees. The Phase 1 habitat survey stated that within the scrub;

"young trees and shrubs are also present with dominant Hawthorn, Goat Willow, Ash, frequent Willow spp, occasional Cherry spp. Silver Birch, Hazel and rare Grey Willow."

For this reason it is felt that given suitable management the area has the potential to provide valuable and important amenity and associated benefits to the area."

Conclusion

In view of the above the Tree Service Manager concludes that the loss of all the trees from the site will result in a significant loss of amenity and any associated environmental benefits, albeit at present mainly limited to local residents and members of the public who use the adjacent Public Rights of Way for recreational purposes. Also the trees appear to be at risk of removal if the Order is not confirmed.

If the Order is confirmed and the planning appeal against the refusal to develop the site is upheld, it will override the Order and allow any affected trees to be removed to accommodate the development in accordance with the approved plans. Any remaining areas will continue to be protected and this may help to safeguard their future prospects throughout any approved development.

It is considered that the objection to the Order has been carefully considered and the Order has been made in accordance with Government guidelines. In this instance, it is recommended that the Order is confirmed without modification to take into account regrowth from the stumps of the trees that have been removed.