

## NORTH LINCOLNSHIRE COUNCIL

### PLANNING COMMITTEE

## BROUGHTON WOODLANDS

### 1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To report on the expediency of making a Tree Preservation Order covering Broughton Woodlands.

### 2. BACKGROUND INFORMATION

- 2.1 On 01 Apr 10 the Planning Inspectorate issued a decision dismissing an appeal by Q Hotels to change the use of part of Broughton Woods into a golf course. At paragraph 36 of that decision the Planning Inspector states, *“And were the Council to consider the woodlands to be under imminent threat, then a woodland Tree Preservation Order might secure their continued existence.”*
- 2.2 Following that appeal decision the council have received 125 requests for a Tree Preservation Order (TPO) to be made on Broughton Woods. The majority of these requests have come from individuals outside North Lincolnshire and appear to be in response to a campaign organised by the Woodland Trust.
- 2.3 The requests have not been specific regarding the part of Broughton Woods to be the subject of a TPO. Whether that is the 81 ha area of Gadbury and Lundimore Woods considered at appeal, or the 317 ha area including Manby, West, Far and East Woods and Heron Holt recently sold by the Rupert Dixon Trust.
- 2.4 In response to such requests, section 198 (1) of the Town and Country Planning Act 1990 states Local Planning Authorities may make a TPO if it appears to them to be *“expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area”*. The key words for consideration in this extract are **amenity** and **expedient**.

- 2.5 Though amenity is not defined in the act, Government advice states there should be a reasonable degree of public benefit either present or in the future. That public benefit might be from the contribution to the landscape, intrinsic beauty, scarcity, wildlife habitat, screening an eyesore or future development, and other environmental, social and economic benefits. Broughton Woods offers many of these benefits and therefore merits protection on amenity grounds.
- 2.6 However although a woodland may merit protection on amenity grounds, it may not be expedient to make a TPO to protect it. Therefore the key consideration, given that the woodland has an amenity benefit, is whether it is expedient to make a TPO.

### **3. OPTIONS FOR CONSIDERATION**

- 3.1 The council could choose not to make a TPO as this report recommends.
- 3.2 The council could make a woodland TPO covering all or part of Broughton Woods.

### **4. ANALYSIS OF OPTIONS**

- 4.1 The following reasons would suggest it is not appropriate at this stage to make a TPO:
1. Government advice states it is unlikely to be expedient to make a TPO on woodland which is under good management. The woodland appears to be under good management.
  2. Broughton Woods provide both amenity and commercial forestry benefits and sustaining those benefits requires appropriate management, including regular felling, thinning and maintenance. However, whether the woodland is covered by a TPO or not, the council are unable to require owners to carry out appropriate woodland management. Thus rather than using TPOs, councils are advised by government to encourage landowners to engage with the Forestry Commission which has incentives and powers to encourage such management.
  3. Under the Forestry Act 1967, the Forestry Commission is able to protect woodland through a felling licence regime. Licenses being normally required to fell growing trees. Unless covered by an exemption any unlicensed felling is an offence, the main exemption allows the removal of up to 5 cubic metres of timber in any calendar quarter. This is a very small volume that would be unlikely to have a detrimental effect on the amenity of the woodland.

4. Good management is encouraged by the Forestry Commission through the England Woodland Grant Scheme (EWGS). This provides financial support with the aim of creating managed woodlands that provide and sustain public benefits. Those benefits are in accordance with the amenity benefits noted in paragraph 2.5 and landowners of such large areas of woodland would be at a significant financial disadvantage if they did not enter the EWGS
  5. Any significant changes to the woodland will need Forestry Commission approval and will need to demonstrate sustainability within the terms of the United Kingdom Woodland Assurance Scheme (UKWAS). This is a standard for defining and verifying sustainable, appropriate and effective woodland management in the UK. Any application to enter the EWGS or for a simple felling licence would likely be rejected if the requirements of the standard were not met.
  6. A TPO does not prohibit tree felling where a plan of operations is approved by the Forestry Commission.
  7. A TPO may not prevent authorised development (e.g. golf courses). Trees and woodlands, whether protected by a TPO or not, are a material consideration in a development proposal. However where on the balance a decision is made to authorise development, and where this would require works to trees for the purpose of carrying out development, no further consent is required.
- 4.2 A TPO on all or part of the woods may be appropriate if there was a danger that the woodland could be sold off in such small parcels that the legislative controls provided under the Forestry Act were ineffective, such that amenity is diminished by attrition. However it is far from clear that such a threat is present given that the 325ha of woodland is at present for sale in 11 lots. Subdivision would have to be far more extensive for it to be considered expedient to make a TPO.
- 4.3 In conclusion therefore, it is considered on balance that at present the circumstances of the management of the woodland coupled with existing controls exercised by the Forestry Authority indicate that it is **not expedient** to make a TPO in the interests of amenity.

## 5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 If a TPO were to be made there would be a call on administration/officer time in serving the order to all landowners with property bordering woodland. And an unquantifiable one dealing with any subsequent applications for tree work.

6. **OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)**

6.1 There are no other implications.

7. **OUTCOMES OF CONSULTATION**

7.1 The Forestry Commission were consulted and whilst they have no objection to woodland scale TPOs they would hope that any such TPO would not prejudice any future woodland management operations that may be required. They commented that *'Management of any woodland under FC grant or felling licence schemes are carefully considered and conform to the rules applying to relevant legislation and have to be demonstrated to be sustainable within the terms of the UKWAS'*

8. **RECOMMENDATIONS**

8.1 The council choose not to make a TPO on Broughton Woodlands at the present time.

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**Background Papers used in the preparation of this report:**

- DCLG - Tree Preservation Orders: a guide to the law and good practice (2009)
- Forestry Commission -Tree Felling: getting permission (1967)
- Forestry Commission - England Woodland Grant Scheme (2010)
- United Kingdom Woodland Assurance Scheme (2008)
- Planning Inspectorate – appeal decision re Q Hotels and Forest Pines (2010)