

Appeals Panel

Agenda

Members of the Appeals Panel

The Panel will comprise the following 3 Members:

Miss S Lawn (Chairman)
Mr A Adams
Mrs J Copplestone

The following District Councillors representing the area, and the Parish Council, have been invited to attend to present their views, if they wish
Mr C Harrison / Mr F O'Neill – Blofield Ward
Blofield Parish Council

If any member wishes to clarify details relating to any matter on the agenda they are requested to contact the relevant Head of Service.

Date

Wednesday 21 November 2018

Times

9:30 am on site
10:30 am formal hearing

Place

On site at: Clarkes Wood, Shack Lane, Blofield for site visit,

followed by formal hearing in:
John Mack Room
Thorpe Lodge, 1 Yarmouth Road
Thorpe St Andrew, Norwich

Contact

Dawn Matthews tel (01603) 430404

Broadland District Council
Thorpe Lodge
1 Yarmouth Road
Thorpe St Andrew
Norwich NR7 0DU

E-mail: dawn.matthews@broadland.gov.uk



@BDCDemServices

The Openness of Local Government Bodies Regulations 2014

Under the above Regulations, any person may take photographs, film and audio-record the proceedings and report on all public meetings. If you do not wish to be filmed / recorded, please notify an officer prior to the start of the meeting. The Council has a protocol, a copy of which will be displayed outside of each meeting room and is available on request.

**The Chairman will ask if anyone wishes to
film / record this meeting**

A G E N D A

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Clarke's Wood, Shack Lane, Blofield</u> | 13 – 64 |
| | To hear and determine objections to the making of the Order | |
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P C Kirby
Chief Executive

	Schedule – 21 November 2018
09:30 am	Meet on site at Clarke's Wood, Shack Lane, Blofield to view the Woodland.
10:30 am	Convene in the John Mack Room at Broadland District Council Offices, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 0DU to determine the Order

Minutes of a meeting of the **Appeals Panel** held at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew on **Wednesday 19 September 2018** at **10:15am** when there were present:

Miss S Lawn– Chairman

Mrs C Bannock

Mr J Emsell

Also in attendance were:

- (1) Mr and Mrs Kavanagh-Reed – 16 Keys Drive, Wroxham, Norfolk, NR12 8SS – objecting
- (2) Mr C Hall – Wroxham Parish Council
- (3) The Tree Officer – presenting the case for the Order
- (4) The Committee Officer (DM) – advisor to the Panel

1 MINUTES

The Minutes of the meeting held on 5 April 2018 were confirmed as a correct record and signed by the Chairman.

2 THE BROADLAND DISTRICT TREE PRESERVATION ORDER 2018 (NO: 4) 16 KEYS DRIVE, WROXHAM, NR12 8SS

The Panel had previously visited the site at 9:30am to inspect the Oak tree shown as T1 on the map attached to the Tree Preservation Order (TPO). Following introductions, those present (as listed above) were invited to point out anything they wished the Panel to observe whilst on site but not to discuss the merits or otherwise of the making of the Order as this would take place at the hearing.

Members viewed the tree from within the garden of 16 Keys Drive. They noted the location of the tree on the boundary and its distance from the house. They viewed the boundary along the rear of the property and along the adjoining properties. It was not clear where the exact boundary was. Members' attention was drawn to the pile of dead sticks collected in recent days which had fallen from the tree, the roots pushing out of the ground, the cavity in the tree and the areas of alleged damage rising up the trunk of the tree. They were also asked to note the height of the tree's canopy and the degree of light entering the garden. They noted a similar aged tree in the adjacent garden which also shed debris and were asked to note the scope for boundary treatment works. Members' attention was also drawn to the existing patio area of the garden which it was claimed was the only area to receive sunlight throughout the day; the rest of the garden was in shade for most of the day. Members then left the garden and viewed the tree from along Keys Drive and from along Salhouse Road.

The Panel then convened at 10.15am to consider the objection to the TPO. Those listed above were present. The Chairman invited those present to introduce themselves and then outlined the procedure to be followed.

The Committee Officer invited all present to confirm they had received all the documents in relation to the hearing and they confirmed they had. She referred to an email received outside of the consultation period which would be read out to the Panel later in the meeting and appropriate weight given to it by the Panel. The Committee Officer then advised all present of the 3 measurements missing from the Tree Officer's report as he had not been able to access the property to take the measurements at the time of preparing the report. These were as follows:

Page 16 – Xcm should read 1.27m which equated to an approximate age of around 200 years.

Page 18 – 4th paragraph – the first Xm should read 15m and the second Xm should read 8m.

The Committee Officer also reported a request from the representative of Wroxham Parish Council to present his views early in the hearing as he needed to leave early for another appointment. Those present agreed to this.

The Panel were aware that the Council had made the decision to safeguard the tree following receipt of a planning application proposing a single storey extension to 16 Keys Drive and showing that the tree was to be removed. The Council felt the tree was an important mature Oak which formed part of an old field boundary to the south of Keys Drive and as such had significant amenity value. The Council decided to make the TPO to safeguard the significant visual amenity and biodiversity value of the tree to the immediate area and the wider environment.

One objection to the Order had been received from Mr and Mrs R Kavanagh-Read of 16 Keys Drive, Wroxham.

The Panel then heard from Mr and Mrs Kavanagh-Read. Mrs Kavanagh-Read stated that they had commissioned a tree condition report by Target Trees to provide independent advice on the condition of the tree and to confirm if their concerns had any validity before they appealed against the TPO. They had chosen Target Trees as they had undertaken work for the Council as well as others and hoped their report would be taken into account. Mrs Kavanagh-Read then outlined the history of their purchase of the property and the making of the TPO. She had contacted the Council prior to the purchase of the property and again after purchase and had been advised that there was no TPO on the tree. She felt the guidance for the making of a TPO had not been complied with as a visual assessment of the tree had been undertaken from Salhouse Road only and not from within the property to fully assess the merits of the tree. However,

at the hearing today, a full assessment from within the garden had taken place.

With regard to the financial implications of managing the tree, Mrs Kavanagh-Read said she felt they had been misled as the tree had been a major factor in deciding whether to purchase the property. They had not budgeted for having to undertake ongoing work to the tree. They had carried out research before proceeding with the purchase and had been advised there was no TPO on the tree. On that basis, they had proceeded to purchase the house. They had not been informed of what might happen if they wanted to remove the tree and now felt trapped in a property that they could not make safe. This had had a significant impact on her mental health. Mrs Kavanagh-Read stated she had been advised at a later date by Mr Lowe that the Council only served a TPO when there was a threat to a tree. She had not been advised of this when contacting the Council and felt she should have been made aware of this.

With regard to the visual amenity of the tree, Mrs Kavanagh-Read stated the tree could not be seen without difficulty from Keys Drive, Salhouse Road and the Avenues. There was potential for development on the land at the rear of Keys Drive which would further obscure the view of the tree. References to the limited degrees of visibility had been detailed in the tree condition report.

With regard to the condition of the tree, Mrs Kavanagh-Read stated the tree was in poor condition; it was leaning into the field, had a sparse canopy, had been heavily pruned and had areas of little growth. There was also an increased chance of crown failure and decline. The tree roots could not expand into the field because of cultivation of the field.

With regard to safety, Mrs Kavanagh-Read expressed concerns about the difficulties of making her property safe. A fencing company had raised concerns about the installation of fencing, particularly because of the mound around the tree. It was difficult to secure the fence around the tree and the fence would be more vulnerable to damage from wind. She was also concerned about falling debris from the tree and that it was not safe for children to play in the garden.

With regard to the proposed extension to their property, Mrs Kavanagh-Read stated that the roots of the tree would cause ongoing problems for the extension. If they could not remove the tree, they would not be able to proceed with the extension, as the tree would shade the whole of the remaining garden. If they had known they could not go ahead with the extension, they would not have purchased the property. Mrs Kavanagh-Read stated that she had been suffering with her mental health since this matter had arisen. She was taking medication from the doctor for anxiety caused by the way in which this matter had been handled. She felt unsafe and trapped in her home and would not be able to maintain or update her property or make it safe. If they had been properly informed, she would not have brought the property. They had offered to plant a tree in an alternative location.

With regard to the objector's comments in the report that "confirming the order would be taken as confirmation that the district council accepted financial responsibility for the tree, provide compensation for loss of land and accept the risk of legal action", the Chairman commented that this was not the case.

The Panel then heard from Mr C Hall of Wroxham Parish Council. He stated that three representatives of the Parish Council had looked at the tree including the tree warden. Their observations were that the tree played an important role in the landscape. It screened the houses on Keys Drive and their appearance would be more stark without it. He noted the conflict between the tree condition survey assessment commissioned by the objectors and the assessment of the District Council's Tree Officer with regard to the potential for failure of the tree. He raised the question, would the tree be missed if removed – probably not. Was the serving of the TPO a good decision – yes in terms of the conservation value. He said there was some sympathy with the objectors but it was difficult to argue against the case put forward by the Tree Officer in support of the Order. Did the independent report outweigh the views of the Tree Officer – probably not. He concluded, however, that safety should be paramount. When asked by the objectors to expand on this comment, Mr Hall stated that safety considerations should come before anything else – he was aware of trees falling and that some trees in the local wood were being removed. An Oak tree had fallen in the area 2 months ago.

The Committee Officer then read out an email which had been received after the end of the consultation period, as follows, to which members would give due weight:

"I am writing concerning an appeal against an oak tree in the rear garden of 16 Keys Drive Wroxham. I live at number 20 and I would object to this tree being removed as we have already lost a lot of mature trees in this area. The oak is one of the most important trees in our country and supports an enormous amount of native species from the smallest insects to bats and owls etc. This property has recently changed owners. I don't want to cause trouble but if a tree preservation order can be broken it would set a precedent obviously if the tree is diseased then that is another matter. I don't even know if it is in order for me to object."

The Tree Officer then presented the case for making the Order and explained the procedure followed. In accordance with normal practice, the Tree Officer had been consulted by planning officers in response to receipt of proposal for an extension to the property which indicated the removal of trees. A range of desk top research had been undertaken to assess the value of the tree, including historical maps / google maps and 1st edition 1880 O.S. maps. Records confirmed that a number of other trees in the area had been protected. A site visit had then taken place from Salhouse Road, Keys Drive and the adjoining field and the tree was wholly and partially visible from these locations. Access to the rear garden of no:16 had not been possible and a close inspection had not been undertaken at this time. It had been decided, having regard to the age,

historical and amenity value of the tree and the fact that the extension could proceed without removal of the tree, that the Order should be made. With regard to the amenity value of the tree, amenity value covered a wide range of criteria including visibility, size and form, future potential as an amenity, rarity, cultural or historical value and contribution to the landscape. Not all of the criteria needed to be met to justify the decision to make an Order. The Oak tree had met a number if not all of the criteria. The tree was visible, it was over 200 years old so it had historical value and it was of a significant size and age. It was in place before the development and had been retained as part of the development and now formed a historical link to the previous agricultural landscape.

The Tree Officer confirmed that the information given at the time of the initial enquiry about whether a TPO existed on the tree had been correct. With regard to Government guidelines for the making of an Order, these advised that a site visit was desirable but acknowledged this might not always be possible. Indeed some orders were made using desk-based resources if the circumstances warranted it.

[Mr Hall left the meeting at this point.]

Mrs Kavanagh-Read asked the Tree Officer why she had not been advised of what might happen when she had first contacted the Council and that they would not have brought the house if they had known that a TPO might be served. The Tree Officer stated that it was difficult to assess a case on the telephone and determine whether an Order might be made or if a tree was under threat. Mrs Kavanagh-Read responded that she had told the Council she wanted to remove the tree and nothing had been done from January to March during which time she had purchased the house.

Mr Kavanagh-Read questioned the statement that a number of trees in the area had been protected by TPOs when only one Order was included in the agenda papers. It was noted that the one Order included a number of trees. Mrs Kavanagh-Read questioned how the Oak tree could be described as having rarity value as per the amenity value test and the Tree Officer commented that it was not essential for all elements of the amenity criteria to be met before an Order could be made and that the tree did meet the historical value criteria.

In response to Members' questions, the Tree Officer confirmed that it would be possible to erect some form of boundary treatment with the tree in place. He also confirmed that it was not clear why the earlier TPO for a number of trees in the vicinity had not included this Oak tree. With regard to concerns that the initial contact with Mrs Kavanagh-Read had not generated the making of the TPO, the Tree Officer commented that a number of calls were made to the office almost daily enquiring about the status of trees. TPOs were not served without due consideration and it was not always possible to assess immediately, without further investigation, which calls might result in the need to serve a TPO. Members questioned if more information should be taken at the time of the call to gain a better understanding of the situation.

A question was raised as to whether regular maintenance of the tree would help prevent falling debris and the Tree Officer confirmed that Oaks were prone to shedding dead wood but regular maintenance would help to alleviate this. Mrs Kavanagh-Read commented that this was however unlikely to completely remove the risk of dead wood falling. The Tree Officer also confirmed that the majority of the roots for this tree were likely to be in the direction of the house but it was not possible to tell this for certain without a proper assessment.

Mr Kavanagh-Read commented that he could not see how it would be possible to erect fencing around the tree in such a way as to secure it on the existing mounding and any such fencing would be weakened. He did not want to erect a hedge. The Tree Officer commented that this could be achieved by the use of close boarded fencing where posts could be erected at intervals to work round existing roots. Mr Kavanagh-Read said he felt it was very unfair that, should the tree fall, despite all their concerns, their efforts to do the right thing and any attempts to maintain the tree, they would be liable for any damage with no financial liability on the Council who made the Order.

The Tree Officer then made reference to the Tree Condition Survey commissioned by Mr and Mrs Kavanagh-Read. The report highlighted the characteristics of the tree including decay pockets and root damage which he believed were all characteristics of a tree of this age and were not significant issues which warranted the removal of the tree. The key issue in regard to the identified cavity was the residual wall thickness of the affected branch and this could not be ascertained without more detailed investigation. The report did not appear to arrive at a clear conclusion about the tree instead referring to its increased potential for significant crown failure or decline dependent on other factors. The Tree Officer commented that 1 in 10 million trees caused a fatal incident and, in this context, a statement about an increased potential for failure was particularly vague.

The Tree Officer, together with Mr and Mrs Kavanagh-Read, then left the room whilst the Panel considered the objections and made its decision. They subsequently re-joined the meeting and were advised that, having listened carefully to all the evidence put before it and having regard to the criteria for making the Order, the Panel had agreed that the Order should not be confirmed.

The reasons for the decision were that the tree did not make a significant enough contribution to the local environment to warrant its protection and the degree of nuisance caused by the tree was unacceptable and impractical. Accordingly, it was

RESOLVED:

to not confirm the Broadland District Tree Preservation Order 2018 (No: 4).

The meeting closed at 11:50am

Quasi-judicial procedure rules

Appeals lodged against the making of tree preservation orders (TPOs)

The panel comprises three district councillors. At least two members of the panel must be present at each hearing.

Notes on procedure

1. Site Visit

- 1.1 On the day of the hearing, members of the appeals panel visit the site to inspect the trees subject of the appeal.
- 1.2 Members of the public, local parish council/district council ward representatives, council officers directly involved in the preparation of the TPO, and the objector may attend this site inspection, but may not make representations to members of the panel.

2. The Hearing

- 2.1 The hearing itself is informal and the order for proceedings is as follows:
 - (1) All parties assemble at the council offices.
 - (2) The chairman of the panel formally opens the hearing.
 - (3) The objector is asked to put his case for appealing against the making of the order and to call any witnesses in support of his case.
 - (4) The objector (if he gives evidence as opposed to an opening address) and/or any witnesses called, are then questioned on their statements by the officer representing the council as an advocate.
 - (5) The chairman of the panel invites members of the panel to ask the objector or his witness any questions which they consider relevant to the appeal, having heard the objector's case for appealing against the order.
 - (6) The council's advocate introduces the council's case for the making of the order and then calls other officers as witnesses, who can then be questioned by the objector.
 - (7) The chairman of the panel invites members of the panel to ask the council's witnesses any questions they consider relevant to assist them in deciding whether or not the order should be confirmed, modified or not confirmed.
 - (8) The chairman then asks if any parish council representative, or any district councillor (who is not a member of the panel) or member of the public present, wishes to say anything to the panel. If a parish council representative, district councillor (who is not a member of the panel) or member of the public does make a statement then he can be questioned by the representative of the party to whom that statement is adverse and then by members of the panel. Each statement will be fully dealt with, including questioning of its maker, before the next statement is dealt with.
 - (9) The council's advocate and then the objector are requested to make their respective closing statements.
 - (10) The panel then deliberates in private.

- (11) During its deliberations the panel will be advised on procedural matters by the chief executive or his appointed representative.
- (12) Once the deliberations are concluded the panel's decision is formally announced to interested parties.
- (13) The chairman will advise the objector of rights of appeal, as follows:

If any person is aggrieved by a local authority's confirmation of a Tree Preservation Order, they may, within 6 weeks of that confirmation, apply to the high court under section 288 of the Town and Country Planning Act 1990, for an order quashing or (where applicable) suspending the order, either in whole or in part. The grounds upon which such an application may be made are that the order is not within the powers of that Act or that any relevant requirements have not been complied with in relation to that order.

STATEMENT OF CASE

Tree Preservation Order (TPO 2018 No 5)

Address: Clarkes Wood, Shack Lane, Blofield, Norwich, Norfolk

BACKGROUND TO THE MAKING OF TPO (2018 No.5)

The Tree Preservation Order was made on 3 June 2018 after the Council received a TPO Suggestion Form from Blofield & District Conservation Group (BADCOG) who were concerned that the woodland's future was uncertain as the land was about to change ownership.

The area of established woodland is located on land north of the A47 Yarmouth Road and south of Shack Lane.

The Council decided to make the above TPO in order to protect the established mixed native woodland which contains the following species, Oak, Hazel, Scots Pine, Wild Service tree, Spindle, Hawthorn, Blackthorn, Rowan, Silver Birch, Lime, Field Maple, Willow, Poplar and Cherry, which are considered to provide significant visual amenity, for the reasons stated within the Regulation 5 Notice shown below:

The Council has made the order to safeguard the significant visual amenity and biodiversity value offered by the trees, to the immediate area and the wider environment.

The woodland area as a whole is to be considered for this objection.

THE CASE FOR MAKING TPO (2018 No 5)

Taking the above points into consideration, please note the following:

How does the woodland, subject of this report, make a significant contribution to the local environment?

The woodland was planted in 1984 on an area of earthworks created at the time the Blofield Bypass was under construction.

Following the successful establishment, it now provides significant wildlife habitat and ecological value to the site due to the woodland eco system it now supports.

It also forms part of the planted green space on the edge of the A47, contributing to the established habitat networks and flora which allows species to move and disperse and also helps filter the noise and emissions from the passing vehicles.

Is there a reason to fear that any of the trees may be dangerous?

No evidence has been provided to establish the trees within the woodland are in a poor structural or physiological condition and that they would be considered dangerous.

What is the expected lifespan of the trees, barring unforeseen circumstances?

At the present time the woodland would be considered semi-mature and has the potential to flourish indefinitely if it is managed correctly and natural succession is encouraged; allowing natural regeneration to occur.

Does the woodland, in its present location, show signs of causing a nuisance in the future which is unacceptable or impractical?

The woodland is located adjacent to both an 'A Trunk & C unclassified' road and also to an area of land to the west, which is used by a local Gun Club as an air rifle range.

I would predict the woodland would not cause a nuisance to users of the Public Highway or adjacent Gun Club which would be considered unacceptable or impractical to resolve by implementing targeted remedial works when necessary.

How does the woodland contribute to the biodiversity of the immediate area and / or offer a habitat for wildlife?

Woodland is an important component of the British Isles and UK's biodiversity.

Mixed Native Woodland provides habitat for hundreds of insect species due to the varied plant communities it supports, it also provides a food source and nesting sites for many birds and mammals of different species.

OBJECTIONS AND SUPPORT TO THE MAKING OF THE TPO AND TREE OFFICER'S RESPONSE:

The Council has received one formal objection on 31 July 2018 to **TPO (2018 No 5)** which was made by Mr John Cole the owner of Clarkes Wood.

Tree Officer Responses to these objections are:

Objections of Mr John Cole

“I am writing to object to the tree preservation order placed on woodland at Shack Lane, Blofield on the 3rd July 2018”

The reasons for my objections are:

“The land has sat there for approximately 30 years with no restrictions but within 1 week of me purchasing the land, the order was placed upon every tree on the land. This in turn makes me feel like my family and I are being targeted and pushed out of the village”

The Council has a duty under the Town & Country Planning Act to ensure that significant trees and woodlands are protected and we use the methodology within the act to serve the TPO.

The government's current Planning Practice Guidance states 'The risk of felling need not necessarily be imminent before an Order is made. Trees may be considered at risk generally from development pressures or changes in property ownership, even if intentions to fell are not often known in advance, therefore precautionary Orders may be considered to be expedient.'

The order was served as the woodland was changing ownership and its future use was unknown.

At the time the order was made and with the land having been recently sold and in the process of being transferred, it was still uncertain who owned the site on the date the order was served.

The TPO was made following the Council's usual process and was not a targeted approach relating to Mr Cole being the purchaser of the land.

All surrounding landowners also received a copy of the TPO documents as required by the legislation.

“Why had no restrictions been put in place with the previous owner? Have there been any TPOs put on the land further down used for the air rifle club?”

Previously it was not considered necessary to protect the woodland as it was tended by the Blofield & District Conservation Group, who had always undertaken minimal intervention management of the site for the benefit of the local fauna and flora.

The trees on the land used by the air rifle club have not been protected with a TPO. This is because the land has not recently changed ownership and the trees are not thought to be at risk of removal.

CONCLUSION

The woodland identified within the Provisional Tree Preservation Order (PTPO) adds significantly to both the biodiversity and visual amenity value of the local area.

The trees are not considered to be in an unsafe condition at this time.

I do not believe the trees will cause an increase in nuisance which would be considered unreasonable or impractical to abate in the future.

This PTPO has been implemented and served in a just and appropriate manner. Therefore, I request that the Order is confirmed as it stands.

Considerations may also be made that the woodland is not worthy of protection and the Appeals Panel may decide not to confirm the order.

Date: 1 November 2018

Mark Symonds
Conservation Officer (Arboriculture & Landscape)

THE CASE FOR MAKING A TREE PRESERVATION ORDER (TPO)

Within Chapter 8, Part VIII, Special Controls, Chapter I under Sections 197, 198 & 201 of the Town and Country Planning Act 1990 the Council has powers to protect and plant trees where it appears 'expedient in the interest of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order'.

'Amenity' is not defined in law, so authorities need to exercise judgement when deciding whether it is within their powers to make an order.

However, in March of 2014 the Department for Communities and Local Government (DCLG) issued a guide to all LPAs on TPOs entitled – Tree Preservation Orders and trees in conservation areas. This guide indicates that:

- A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interest of amenity.
- An order can be used to protect individual trees, trees within an area, groups of trees or whole woodlands. Protected trees can be of any size or species.
- Local Planning Authorities (LPAs) should be able to show that a reasonable degree of public benefit in the present or future would accrue before TPOs are made or confirmed. The trees, or at least part of them, should normally be visible from a public place such as a road or footpath.
- The risk of felling need not necessarily be imminent before an Order is made. Trees may be considered at risk generally from development pressures or changes in property ownership, even intentions to fell are not often known in advance, therefore precautionary Orders may be considered to be expedient.
- The guidance also indicates that LPAs are advised to develop ways of assessing the 'amenity value' of trees in a structured way, taking into account the following criteria:
 - Visibility
 - Individual and collective impact
 - Wider impact
 - Other Factors
 - Size and form
 - Future potential as an amenity
 - Rarity, cultural or historic value
 - Contribution to, and relationship with, the landscape and
 - Contribution to the character or appearance of a Conservation Area.

- Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change.
- The guidance further indicates that it is important to establish a consistent approach, therefore the following points are considered before recommending a TPO:
 - Does the tree that is the subject of this report make a significant contribution to the local environment?
 - Is there a reason to fear that any of the trees may be dangerous?
 - Can the trees be expected to live for longer than 10 years, barring unforeseen circumstances?
 - Do the trees in their present locations show signs of causing a nuisance in the future which is unacceptable or impractical?
 - Do the trees contribute to the biodiversity of the immediate area and/or offer a habitat for wildlife?



TOWN AND COUNTRY PLANNING (Tree Preservation) (England) REGULATIONS 2012

Town and Country Planning Act 1990 The Broadland District Council Tree Preservation Order 2018 (No.5)

The Broadland District 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 the Broadland District Tree Preservation Order 2018 (No.5)

Interpretation

2. (1) In this Order “the authority” means the Broadland District 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, 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 July 2018

The Common Seal of the Broadland District Council
was affixed to this Order in the presence of—

Head of Democratic Services and
Monitoring Officer:



SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
NONE	NONE	NONE

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

Reference on map	Description	Situation
NONE	NONE	NONE

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

Reference on map	Description (including number of trees in group)	Situation
NONE	NONE	NONE

Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
W1	Woodlands containing Oak, Hazel, Scots Pine, Wild Service-tree, Spindle, Hawthorn, Blackthorn, Rowan, Silver Birch, Lime, Field Maple, Willow, Poplar and Cherry	TG 325 096

BROADLAND DISTRICT

Tree Preservation Order

2018 No.5

Key

Woodlands W1



All trees of whatever species.



Scale as shown



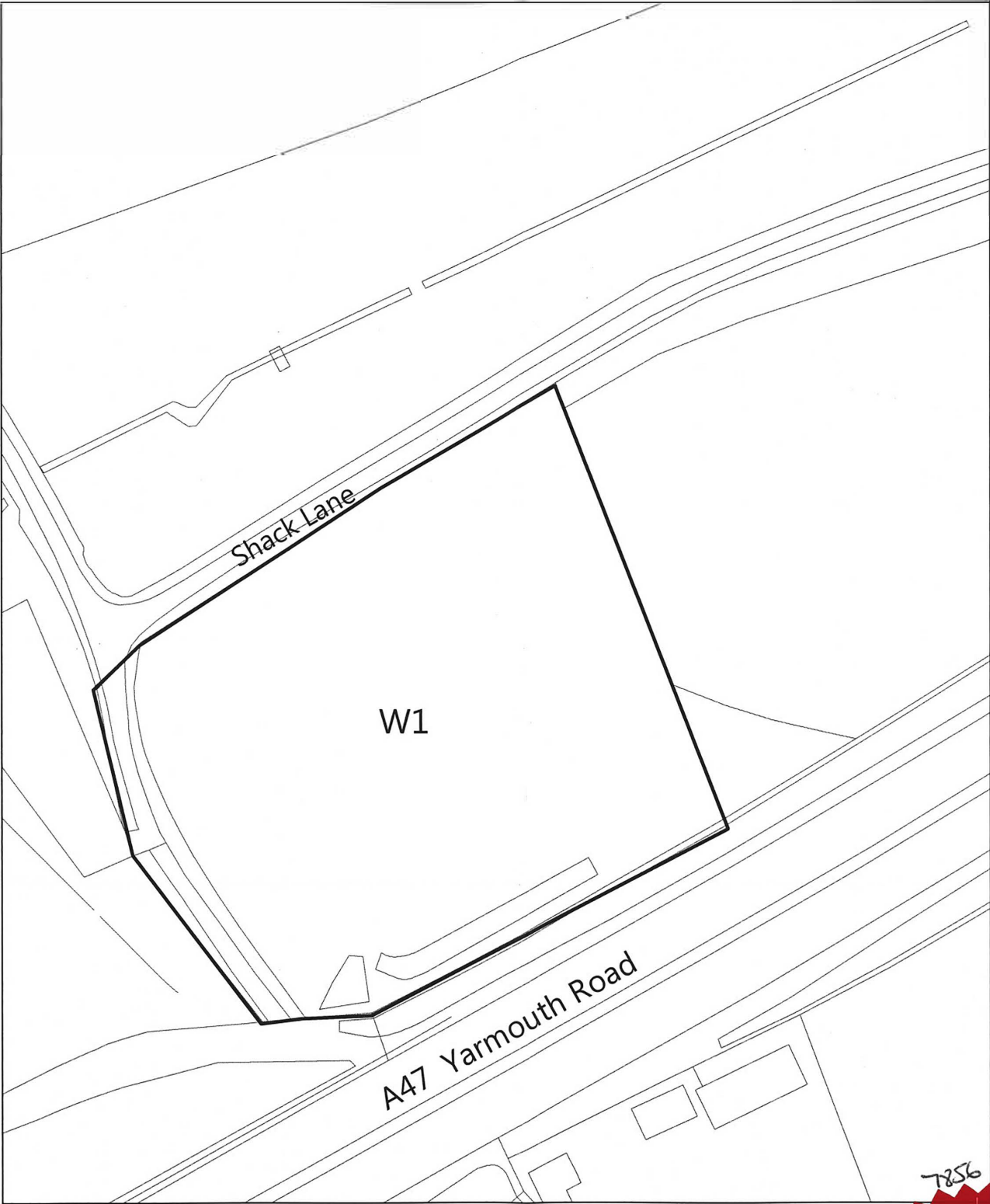
Thorpe Lodge, 1 Yarmouth Road
Thorpe St Andrew, Norwich, NR7 0DU.
Tel (01603) 431133
E-mail conservation@broadland.gov.uk

**Tree Preservation
Order**

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Blofield



Tree Preservation Order 2018 No. 5

Clarke's Wood, Shack Lane, Blofield.

Scale 1:1000

Head of Democratic Services and
Monitoring Officer

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING ACT (Tree Preservation) (England) Regulations 2012

The Broadland District Tree Preservation Order 2018 (No. 5)
Broadland District Council

To: Mr J.B. Clarke, 6 Bramble Villa, Long Lane, Strumpshaw, NR13 4HY.

THIS IS A FORMAL NOTICE to let you know that on 3RD July 2018 the Council made the above tree preservation order.

A copy of the order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the First Schedule and shown on the map without the Council's consent.

Some explanatory guidance on tree preservation orders is given in the enclosed leaflet, *Protected Trees: A Guide to Tree Preservation Procedures*, produced by the Department of Transport, Local Government and the Regions.

The Council has made the order to safeguard the significant visual amenity and biodiversity value offered by the trees to the immediate area and the wider environment.

The Order took effect, on a provisional basis, on 3rd July 2018. It will continue in force on this basis for a maximum of 6 months or until the order is confirmed by the Council, whichever first occurs.

The Council will consider whether the order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the order have a right to make objections or other representations (*including your support*) about any of the trees, groups of trees or woodlands covered by the order.

If you would like to make any objections or other comments, please make sure we receive them in writing by 01st August 2018. Your comments must comply with regulation 6 of the Town and Country Planning Act (Tree Preservation) (England) Regulations 2012, a copy of which is provided overleaf. Send your comments to Mr P Courtier (Head of Planning) at the address given below. All valid objections or representations are carefully considered before a decision on whether to confirm an order is made. Any comments you make will be available for public inspection. Therefore please be advised that any letter received could not be treated in confidence.

The Council will write to you again when that decision has been made. In the meantime, if you would like any further information or have any questions about this letter, please contact Mark Symonds at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 0DU. Telephone (01603) 430560.

Dated this 3rd day of July 2018

Mr P Courtier
Head of Planning

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING ACT (Tree Preservation) (England) Regulations 2012

The Broadland District Tree Preservation Order 2018 (No. 5)
Broadland District Council

To: Mr R & Mrs L Sawyer, Dawlings Farm House, Blofield, Norwich, Norfolk, NR13 4DR.

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Dated this 3rd day of July 2018

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TOWN AND COUNTRY PLANNING ACT (Tree Preservation) (England) Regulations 2012

The Broadland District Tree Preservation Order 2018 (No. 5)
Broadland District Council

To: Mr David Snowling, Lone Cottage, Shack Lane, Blofield, Norwich, NR13 4DP.

THIS IS A FORMAL NOTICE to let you know that on 3RD July 2018 the Council made the above tree preservation order.

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Dated this 3rd day of July 2018

Mr P Courtier
Head of Planning

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TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING ACT (Tree Preservation) (England) Regulations 2012

The Broadland District Tree Preservation Order 2018 (No. 5)
Broadland District Council

To: Mr John Cole, Woodlands Manor, Shack Lane, Blofield, Norwich, Norfolk, NR13 4DP.

THIS IS A FORMAL NOTICE to let you know that on 3RD July 2018 the Council made the above tree preservation order.

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Dated this 3rd day of July 2018

Mr P Courtier
Head of Planning

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TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING ACT (Tree Preservation) (England) Regulations 2012

The Broadland District Tree Preservation Order 2018 (No. 5)
Broadland District Council

To: Highways England Company Ltd, C/o The Company Secretary, Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ.

THIS IS A FORMAL NOTICE to let you know that on 3RD July 2018 the Council made the above tree preservation order.

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Dated this 3rd day of July 2018

Mr P Courtier
Head of Planning

**COPY OF REGULATION 6 OF THE TOWN AND COUNTRY PLANNING ACT
(Tree Preservation) (England) REGULATIONS 2012**

Objections and representations

6(1) Subject to paragraph (2), objections and representations –

- (a) shall be made in writing and –
 - (i) delivered to the authority not later than the date specified by them under regulation 3(2)(c); or
 - (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;
- (b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and
- (c) in the case of an objection, shall state the reasons for the objection.

6(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected

From: john cole
Sent: 31 July 2018 21:53
To: Conservation
Subject: for the attention of Phil Courtier ref: TPO 2018 No.5 [ME-180731-847480]

Dear Phil Courtier,

I am writing to object to the tree preservation order placed on woodland at shack lane, Blofield on 3rd July 2018.

The reasons for my objections are:

The land has sat there for approximately 30 years with no restrictions but within 1 week of me purchasing the land, the order was placed upon every tree on the land! this in turn makes me feel like my family and I are being targeted and pushed out of the village.

Why had no restrictions been put in place with the previous owner? has there been any TPO's put on the land further down used for the air rifle club?

I think i am being unfairly treated and will take this matter further if need be.

Kind Regards

John Cole



www.broadland.gov.uk

Ask for : Mark Symonds
Ext : 2452
Direct Dial : 01603 430452
Email : mark.symonds@broadland.gov.uk
Fax : 01603 430591
Our ref : TPO 2018 No.5 (1288)
Your ref :
Date : 13/08/2018

Mr John Cole
Woodlands Manor
Shack Lane
Blofield
Norwich
NR13 4DP.

Dear Mr Cole

Re: Tree Preservation Order No.2018 no.5 (1288)

Thank you for your e-mail addressed to Mr Courtier dated 31st July 2018.

I have had the opportunity to discuss the points you have raised with Mr Courtier and he has now considered them and I have been asked to reply to you on this matter as I was the Council Officer that made the Provisional Tree Preservation Order (PTPO) on behalf of the Council.

The Council has a duty under the Town & Country Planning Act to ensure that significant trees and woodlands are protected and we use the methodology within the act to serve the TPO.

Prior to the PTPO being served I did try to contact Mr John Clarke the previous owner by phone to discuss the matter and left a voice mail with my contact details and a brief message, unfortunately he didn't contact me and we were unable to discuss the details before the order was in place.

The order was served as the woodland was changing ownership and its future was uncertain.

Unfortunately the Council doesn't always have the full details regarding ownership at the time an order is made, especially when land has been recently sold or is in the process of being transferred and it was still uncertain who owned the site when the order was made.

I can re-assure you that the TPO was made following the Councils usual process and was not a targeted approach relating to your purchase of the land.

All surrounding landowners also receive a copy of the TPO documents as required by the legislation.

Previously it was not considered necessary to protect the woodland as it was tended by the Blofield & District Conservation Group, who had always undertaken minimal intervention management of the site for the benefit of the local fauna and flora.

Hopefully this has clarified the situation and any concerns you have regarding the process that was followed.

If you still feel aggrieved by the process the Council used to make the TPO you can make a complaint using the on line e-form below.

https://www.broadland.gov.uk/info/200129/your_council/391/make_a_complaint

Your original e-mail has been taken as a formal objection to the Provisional TPO and a formal Appeals Panel Hearing will be held within six months of the making of the PTPO, the Councils Committee Officer will contact you regarding this process.

<https://www.broadland.gov.uk/appealspanel>

Please don't hesitate to contact me if you would like a site meeting to discuss the PTPO prior to the convening of the Appeals Panel Hearing.

Yours sincerely

Mark Symonds
Conservation Officer (Arboriculture and Landscape)



Ask for : Mark Symonds
Ext : 2452
Direct Dial : 01603 430452
Email : mark.symonds@broadland.gov.uk
Fax : 01603 430591
Our ref : TPO 2018 No.5 (1288)
Your ref :
Date : 31/07/2018

Mr John Clarke
Bramble Villa
6 Long Lane
Strumpshaw
Norfolk
NR13 4HY

Dear Mr Clarke

Re: Woodland at Shack Lane, Blofield.

Thank you for your letter addressed to Mr Courtier and dated 28th July 2018 which was received on 31st July 2018.

I have been asked to reply to you on this matter as I was the Council Officer that made the Tree Preservation Order (TPO) on behalf of the Council.

The Council has a duty under the Town & Country Planning Act to ensure that significant trees and woodlands are protected and we have to use the methodology within the act to serve the TPO.

Unfortunately the Council doesn't always have the full details regarding ownership at the time an order is made, especially when land has been recently sold or is in the process of being transferred.

Before the TPO was served I did try to contact you by phone to discuss the matter and left a voice mail with my contact details and a brief message, unfortunately we didn't have the opportunity to discuss the details before the order was in place.

Mr Cole did receive a copy of the documents as an adjacent landowner and I have since discussed with him the making of the order and the appeals process, if he has any strong objections to the provisional TPO.

Hopefully this has clarified the situation and any concerns you have regarding the process that was followed.

Yours sincerely

Mark Symonds
Conservation Officer (Arboriculture and Landscape)



**Bramble Villa
6, Long Lane
Strumpshaw
Norfolk, NR13 4HY**

28th. July 2018

**Mr. P Courtier,
Head of Planning,
Broadland District Council,
Thorpe Lodge,
1, Yarmouth Road,
Norwich, NR7 0DU.**

Dear Sir,

Re: Woodland at Shack Lane, Blofield.

You wrote to me recently regarding a Preservation Order which had been placed on the trees on the above property as from the 3rd. July 2018.

You were obviously not aware that I had sold the land on the 26th. June 2018 and suggest the notification should have been sent to the new owner, Mr. J. Cole, at Woodland Manor, Shack Lane, Blofield, NR13 4DP.

Had someone in your Conservation Department had the courtesy to inform me of the request for a preservation order, prior to my receiving a formal notice, I could have warned the purchaser, who may have had a different opinion regarding the purchase.

I suggest an apology to Mr. Cole might be appropriate.

Yours sincerely,

John Clarke.

Mr J.B. Clarke
6 Bramble Villa
Long Lane
Strumpshaw
NR13 4HY.

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Dear Mr Clarke

Town and Country Planning Act, 1990
Town and Country Planning (Tree Preservation) (England) Regulations 2012
The Broadland District Tree Preservation Order 2018 (No.18)
Woodland at Shack Lane, Blofield.

The Council, as Local Planning Authority, has decided that it is expedient in the interests of amenity to ensure the preservation of certain trees on land of which you are the owner and/or occupier, or an owner and/or occupier of adjoining land on which the trees stand.

It is deemed necessary to serve a Preservation Order to cover trees as set out in the First Schedule and Map of the attached Order, to ensure their protection.

The trees in question have been made the subject of a Tree Preservation Order under Section 198 of the Town and Country Planning Act, 1990. A copy of the Order is enclosed, together with a formal Notice of its making.

The Order is of immediate effect. You have the right to object or endorse the Council's actions in protecting trees within your Parish. Particulars are given in the formal Notice.

Yours sincerely

Mr P Courtier
Head of Planning

Mr R & Mrs L.Sawyer
Dawlings Farm House
Blofield
Norwich
Norfolk
NR13 4DR.

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Dear Mr & Mrs Sawyer

Town and Country Planning Act, 1990
Town and Country Planning (Tree Preservation) (England) Regulations 2012
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Yours sincerely

Mr P Courtier
Head of Planning

Mr David Snowling
Lone Cottage
Shack Lane
Blofield
Norwich
NR13 4DP.

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Dear Mr Snowling

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Yours sincerely

Mr P Courtier
Head of Planning

Mr John Cole
Woodlands Manor
Shack Lane
Blofield
Norwich
Norfolk
NR13 4DP.

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Dear Mr Cole

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Town and Country Planning (Tree Preservation) (England) Regulations 2012
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Yours sincerely

Mr P Courtier
Head of Planning

Highways England Company Ltd
C/o The Company Secretary
Bridge House
1 Walnut Tree Close
Guildford
Surrey
GU1 4LZ.

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Dear Sir/Madam

Town and Country Planning Act, 1990
Town and Country Planning (Tree Preservation) (England) Regulations 2012
The Broadland District Tree Preservation Order 2018 (No.18)
Woodland at Shack Lane, Blofield.

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Yours sincerely

Mr P Courtier
Head of Planning

From: Ernest Hoyos]
Sent: 07 October 2018 21:31
To: Mark Symonds
Cc:
Subject: Clarkes Wood TPO

Dear Mark,

Regarding the proposed Group TPO on Clarkes Wood,in Shack Lane, Blofield.

Why we feel strongly that this TPO should go ahead :-

1) Back in 1984 Clarkes Wood was planted by ,the then newly formed Blofield and District Conservation Group, BADCOG.

The native trees and shrubs were supplied by a former BDC Forestry Officer, Ian Macleod.

2) Over the years Clarkes Wood has flourished, and as it is on higher ground above Shack lane, it is now a visual local amenity.

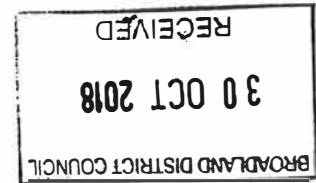
3) As we understand the strip of land along the top and to the South of Shack lane has recently changed hands, and with the pressures for development in the Blofield area, we want to ensure this piece of woodland is protected for the future.

Yours Sincerely,
Ernest Hoyos, BADCOG Chairman.

BARN END DAWLINGS FARM BLOFIELD NORWICH NR13 4DR

28 October 2018

Mr Courtier
Broadland District Council
1 Yarmouth Road
Norwich
NR7 0DU



Dear Mr Courtier

TPO 2018 5 Woodland Order

I understand that the new owner of Clarkes Wood is appealing against the above order. I give below my reasons as to why this order should be upheld.

1. The wood was planted over 30 years ago by the local conservation group (BADCOG)
2. The plants were supplied by the said conservation group
3. It is now an established wood and as such helps provide a barrier to the Blofield Bypass noise.
4. Over the 30 years the area has developed its own eco system with the trees being of vital importance to this.
5. Upholding the TPO will ensure that any thinning and other management activities will be carried out with the agreement and oversight of the council to maintain the value and noise reduction from the bypass that it currently achieves.

Yours sincerely

Glenna Butler



Blofield Parish Council

Chair – Rob Christie Clerk to the Council – Sarah Osbaldeston
Blofield Parish Council, The Lodge, 48 Panxworth Road, South Walsham, Norwich,
Norfolk, NR13 6DX Tel: 01603 270819 e-mail: blofieldpc2@gmail.com



29 October 2018

SENT BY EMAIL

Dawn Matthews
Broadland District Council

Dear Ms Matthews

Clarke's Wood, Shack Lane: Appeal against removal of group tree protection order

Blofield Parish Council support protection of the Clarke's Wood which lies within the parish.

History of Clarke's Wood taken from the BADCOG archive/site handbook

Blofield and District Conservation Group (BADCOG) planted this woodland which lies opposite Howes Meadow another BADCOG County Wildlife site (2071) in 1984. The saplings were given by a former Broadland District Council tree Officer Ian Mcleod at that time and planted by the newly formed BADCOG volunteers. In size it is roughly 0.5 hectares (1.3 acres).

Clarke's Wood was established on the raised landscaped earthworks created during the construction of the Blofield Bypass. Compared to Howes Meadow the elevated position and nutrient poor sandy soil give this site very different characteristics. The main management aim is to create a small wood and has been planted with native trees and shrubs using a diverse range of species including oak, hazel, Scots pine, the rare wild service tree, spindle, dog rose and gorse. The site is covered by coarse grasses with an area of blackthorn and hawthorn scrub at the western end. The scrub is an important asset providing a source from which invertebrates and plants may colonise other parts of the site.

Current Situation

Over the years Clarke's Wood has flourished being managed throughout by BADCOG volunteers and is a visual local amenity as it is on high ground above Shack Lane. This wood helps soak up pollutants like carbon dioxide that are emitted by vehicles travelling along the bypass, and helps to replace woodland which was lost to road-building. It forms a natural barrier between Howes meadow and the A47. This ties in with the Blofield Parish Neighbourhood plan ENV 1 'green space' where there is a desire to maintain and enhance the connectivity of all green corridors wherever possible. It also reflects with Blofield Parish Neighbourhood Plan



Blofield Parish Council

Chair – Rob Christie Clerk to the Council – Sarah Osbaldeston
Blofield Parish Council, The Lodge, 48 Panxworth Road, South Walsham, Norwich,
Norfolk, NR13 6DX Tel: 01603 270819 e-mail: blofieldpc2@gmail.com



ENV 8 'important views and vistas' which seeks to protect views across the parish. Given that it is a young wood as it matures it has been suggested that it could either be managed to maintain the open nature or left to mature and develop. Current wildlife has consisted of butterflies such as comma, gatekeeper, meadow brown, ringlet and small skipper. Of greater importance is the inclusion of the migrant Norfolk Hawker (a protected species) and common darter dragonflies

Additional Information

Norfolk Wildlife Trust states that 'Today, nature conservation organisations and private landowners better understand the value of traditionally managed woods, for people and for wildlife'. Blofield Parish Neighbourhood Plan aims to retain significant green spaces that contribute to the rural character of the villages for future generations in spite of significant development during the second half of the twentieth century.

Conclusion

The Blofield Neighbourhood Plan recognises the importance of green spaces to the community and Clarke's Wood plays a very important part in maintaining environmental diversity within the parish. Blofield has very limited areas of woodland, so Clarke's Wood has an important place in environmental, conservation and landscape value to the parish.

Yours sincerely

Sarah Osbaldeston
Blofield Parish Clerk