

# **Barnet Estates & Barnet Recreational Trust**

## **Woodland at Land Opposite 15 Sunset View; Objection to Tree Preservation Order 26/TPO/001**

### **Introduction**

This is an objection to the Notice served by the London Borough of Barnet in relation to the above Tree Preservation Order (TPO) issued on the 29<sup>th</sup> January 2026. It is made on behalf of the London Borough Barnet (Estates) and Barnet Recreational Trust, the two freeholders of the land on the area denoted as W1 in the accompanying plan to this order.

The land concerns two former gardens which have been left abandoned for decades with the consequence that trees and foliage have an unkempt appearance which contrasts with the cultivated and well managed surrounding gardens and golf course.

The land is currently subject to an outstanding planning application, made by the Christchurchgrove Ltd., acting on behalf of Barnet Recreational Trust (a registered charity) in association with the London Borough of Barnet as joint landowners. The application submitted on 13<sup>th</sup> January 2026 proposes the demolition of the existing garage and erection of a two storey dwelling, associated landscaping, off street parking and refuse/recycling storage ( LBB ref;26/0116/FUL). As part of the proposals is a woodland management plan for the site marked W1, which do not form part of the new dwelling, garden or ancillary development.

This land is already subject to eight separate Tree Preservation Orders made some time ago and the proposals have been carefully drawn up to avoid any detrimental effects on these trees. Indeed, the applicant has indicated that they would be included in the woodland management plan as an integral part of their proposals to protect these trees as well as the area defined as a “priority woodland habitat” in the DEFRA ‘Magic’ map.

Notwithstanding this proposal, the Council’s case officer for the planning authority has already indicated that they intend to refuse the planning application. Given the proposals to protect the woodland and existing covered by existing TPO and it seems that this extended ‘blanket’ order has been issued as a tactic to help thwart the application’s progress should it be referred to the Council’s Planning Committee or become the subject of an appeal.

The following sets out the case as why this recently issued TPO is not only unnecessary but will totally contravene the sole intended purpose of the preserving the woodland on this site. In fact, it is clear that the TPO will only serve to accelerate its degradation as well as the land’s soil quality by perpetuating it’s lack of management.

## **Current Protection and Proposals.**

Firstly, it should be borne in mind, that the area marked as W1 on the plan attached to the TPO by far the larger of the two areas, is already subjected to adequate protection by means of its location in the Monken Hadley Conservation Area. The site's inclusion in this area means that any tree over 75mm in diameter has full protection as if it is already covered by a TPO. The extended area afforded by the W1 to the south and east, only extends protection to areas which have the poorest quality habitat and most in need of attention.

Secondly, the designation of the western boundary of the site as "Priority Woodland Habitat" on the DEFA (Department for Environment, Food and Rural Affairs) MAGIC map, means that the woodland of appropriate quality has already been identified as a habitat of "principal importance" for biodiversity conservation. This counts as a "material consideration" in assessing the proposals which are subject of a planning application.

Thirdly, as mentioned above, there are in addition, eight TPO's which cover an extensive area of the land denoted as W1 and these include all of the trees of importance as confirmed by Christchurchgrove's arboricultural report (Annex 1).

If these three designations were not enough, Christchurchgrove have made it abundantly clear that as part of their proposals for land denoted as W1, they intend to enter into a planning agreement (under s106) whereby the land currently designated as "Priority Woodland Habitat" including all of those trees identified as being important in their arboricultural report (which includes those identified in the eight existing TPO's) will be subject to a woodland management scheme. This will be fully funded by the developer of the current planning application or whoever else implements it.

This proposed management scheme is significant because, the biodiversity report, carried out by Brown & Co for Christchurchgrove, (see Annex 2) noted an abundance of Cherry Laurel on this site. Brown & Co state that this is a non-indigenous, invasive, evergreen shrub which is known to have a number of negative biodiversity impacts on woodland habitats. These include altering of light regimes, suppression of regeneration and ground flora, simplification of woodland structure, and soil pH disbalancing. Furthermore, Brown & Co quote from third party experts that this plant is generally associated with low invertebrate abundance and diversity. Indeed, in their survey, Brown & Co, observed a low level of biodiversity with no mammals resident on site and no protected species.

Brown & Co also point out that the presence of cherry laurel, one of only two woodland invasives, denotes a 'poor' condition score on the assessment criteria in the Statutory Biodiversity Metric.

The extensive presence of this species leads to the unavoidable conclusion that if the W1 site is left without any form of woodland management, which has been the case for decades, the site, the low level of biodiversity, will continue to degrade and become a liability to its owners who have no resources to otherwise care for the site.

Brown & Co in their survey concluded that the quality of the existing 'Priority Woodland Habitat' did not meet the criteria normally employed for such a classification let alone warranted an extension into other parts of W1, notably to the south and east where the quality of the foliage was even worse. The level of wildlife was also noted as being low, as previously mentioned. Apart from the possibility of some moths being present, there was also no evidence of any notable invertebrate species on the site. Indeed, the habitats were deemed no longer suitable to support other notable and protected invertebrates.

## **Barnet Planners approach**

Prior to the submission of the current planning application, the applicant has twice sought the views of the planning authority through the Council's pre-app procedure. The conclusion of the first submission was that the site was suitable for development in principle for one dwelling, subject to the siting of dwelling respecting the current TPO's. As a result, in the second pre-app the proposal was to site the dwelling in the south-east corner of the site, away from the protected trees and the 'Priority Woodland Habitat' (as is the case with the current planning application).

However, the response from the planners on the second pre-app totally contradicted the initial pre-app and suggested that the entire site was unsuitable for any development. The change in their opinion was not on the basis that there was any alteration in the Council's policies (although the National Planning Policy Framework had since become distinctly more supportive of a residential development) but based on the advice of the authority's ecologist that the habitat on the site as a whole was worthy of preservation in its entirety.

Significantly although the ecologist report was presented as uncompromising in its views, the officer concerned totally failed to notice the extensive amount of cherry laurel which forms a major floristic component of the woodland. This has led to the conclusion by Brown & Co that the failure to identify the abundance of this invasive was "a severe oversight" and "not commensurate with a robust and complete woodland habitat assessment."

Despite the submission of the Brown & Co report underpinning the criticism above, the landowners have yet to see any evidence that the Council's planners have taken into account the former's findings. It seems totally perverse for the Council's planners on hand to make the case for preserving the trees and woodland on the site and then waive away the only proposal available to protect and care for them. Indeed, the Council's planners have not even shown any concern regarding the expert ecologist's findings concerning the threats caused by the invasive nor have they shown any interest in negotiating a scheme for the site's management.

## **The importance of woodland management**

Management is critical to maintaining a woodland habitat. This is the view of Government, the Forestry Commission as well as the Royal Forestry Society, Wildlife Trusts and numerous other research and advisory bodies. This is because active, intentional stewardship mimics natural, chaotic processes that are often absent in modern, fragmented landscapes.

Without management, woodlands can become overgrown, dark, and vulnerable, resulting in reduced biodiversity and decreased ecological resilience.

Indeed this area already displays the symptoms of an unkempt woodland and despite having eight TPO's on its own portion of W1 the Council has totally neglected this woodland, providing no management whatsoever in the decades it has been in their ownership. Nor are there, it seems any plans or resources allocated for this to change. On the other hand the planning application proposals include a resourced management plan. Even the part of the site proposed to be used as a garden will, according to RHS research (backed by two University studies) provide a level of biodiversity higher than currently exists.

The TPO legislation states that ;

*“The woodland category should not hinder beneficial woodland management. Whether or not they make an Order, authorities can consider encouraging landowners to bring their woodlands into proper management under the grant schemes run by the Forestry Commission. If a woodland subject to an Order is not brought into such a scheme, authorities can still encourage applications to manage the trees in ways that would benefit the woodland without making a serious impact’.*

As mentioned previously without the proposed development of the site then there will be no management regime and despite there being an imminent threat to the woodland the LPA has never contacted the landowners us to encourage them to bring the woodland into 'proper management' The proposed management plan will not only implement measures which will remedy the harmful effects of invasive plants on site but will also include measures which help allow wildlife to reside and flourish on site. The level of biodiversity is expected to be raised by over 60% (see Annex 2). As for the garden itself, this will also contribute positively to the biodiversity of the site as evidenced by RHS and academic research studies as mentioned in Brown & Co's report.

Indeed, with the restrictions imposed by this TPO there may not be any enabling development and as a consequence there will be no woodland management plan to maintain (or improve) the quality of the woodland. There is a distinct possibility that the structure and regeneration of the area could suffer because of this.

The TPO legislation states that;

*‘Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future’.*

It is clear from the above that the Council have failed to discharge that obligation of the legalisation. As it stands the TPO may well thwart the opportunity of a new dwelling on the site and the public benefits which will flow from the woodland management scheme. If the development does not go ahead then the woodland will continue to degrade. This situation therefore does not meet the legislation premise that LPAs can 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 woodlands in their area*'.

Both the existing TPOs together with the Conservation Area status of the site (which affords protection to trees present over 75 mm diameter at 1.5m above ground level) are sufficient safeguard in the view of the applicant's arboriculturist (see Annex 1 ) As the trees are not being removed as part of the planning application then there is no legal basis to serve this TPO as the LPA cannot show that the serving of the TPO '*...would bring a reasonable degree of public benefit in the present or future*'.

The LPA restrictions imposed by the TPO will possibly prevent the proposed development of the site, which leave no management of the woodland and any public benefit will continue to decrease due to the decline of the woodland, the converse of what the TPO should be attempting to achieve.

### **Other reasons for objection**

The area on the western and northern boundary proposed to be independently managed under the proposed planning application is the sole area that can be viewed for the public realm. The other areas where the TPO proposes to extend control are not visible to the public nor do they make any contribution to the local landscape.

They also have a distinctly poorer quality level of woodland as demonstrated in the reports on trees and biodiversity annexed to this objection. The extended area includes dead, dying, are dangerous trees which are not worthy of protection and some of the trees are structurally unsound (see Annex 1 & 2).

This area to the east and south-east of the site, which come under more protection as result of the TPO, is part of a former garden (as acknowledged by the response to the second pre-app). The TPO legislation states that '*It is unlikely to be appropriate to use the woodland clarification in gardens.*' In fact, as mentioned above, the planning application proposes this area for the re-establishment of a garden for the new dwelling.

The current planning application proposes a large house on a sizable plot with a cultivated garden surrounded by a dense band formed by existing protected trees. This is a form of development which typifies the character of the Monken Hadley Conservation Area in which the site sits. By contrast a large area of untended, neglected woodland is an alien feature in this Conservation Area.

There is no threat to the trees from the owners as there is no current management of the area. The threat comes from lack of management, and this will not be helped by the serving of this TPO. The current TPO on the site protects the better quality trees and the Monken Hadley Conservation Area status offers a level of security to the remaining trees. This is sufficient to ensure the retention of this area without another layer of protection being introduced.

The LPA has failed to consider relevant evidence and impact of the lack of a management regime needed to protect the trees affected. The proposed order begs the question, what is

the point of issuing a Tree Protection Order when its very existence will threaten the very protection of the trees it now considers important?

When considering whether trees should be protected by an Order, the Government advises authorities to develop ways of assessing the amenity value of trees in *a structured and consistent way, taking into account visibility as well as individual, collective and wider impact. Public visibility alone will not be sufficient to warrant an Order.*

The authority is further advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- 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.

There is no evidence that the LPA has developed a structured and consistent methodology for the serving of this TPOs. Has this TPO been served in order to simply support their refusal of the Planning Application? If the Council wishes to proceed we hereby ask to see the justification for serving this TPO particularly in light of the Council's inability to note the current symptoms of decline. Failure to supply such evidence may well render this Order unlawful particularly in light of the other legal defects identified above.

## **Conclusion**

The landowners consider that this TPO is flawed on several counts.

Firstly the instigators of this Order have failed to carry out a adequate survey of this site concerned. They appear to be relying on the work that they carried out in relation to the pre-app submitted last year. This work was, in the opinion of landowners' consultants to be deeply flawed. Most critically, they failed to notice the abundance of non-indigenous and invasive species which, in their opinion was "a severe oversight" and "not commensurate with a robust and complete woodland habitat assessment."

The widespread occurrence of this invasive has already started to denude the quality of the habitat and indeed it is known to have a number of negative biodiversity impacts on woodland habitats. These include altering of light regimes, suppression of regeneration and ground flora, simplification of woodland structure, and soil pH disbalancing. Furthermore, this plant is associated with low invertebrate abundance and diversity. Indeed, an experts survey has already observed a low level of biodiversity and incidence of wildlife residing on the site.

The proposals subject to the planning application currently before the Council includes a management plan for the western and northern boundaries of the site which includes the area designated as 'Priority Woodland Habitat' as well as the eight existing TPO's. The

Arboricultural Report which accompanies the planning application confirms that the only trees directly affected by the construction of the new dwelling and associated garden are of low quality.

The proposed management plan will not only implement measures which will remedy the harmful effects of invasive plants on site but will also include measures which help allow wildlife to reside and flourish on site. The level of biodiversity is expected to be raised by over 60%. As for the garden itself, this will also contribute positively to the biodiversity of the site as evidenced by RHS and academic research studies.

Its patently clear that the TPO has been served to impose an additional constraint on the development proposed here but perversely by doing so it will thwart the only available means of preservation given that there are no alternative proposals to manage the area.

Finally, it is clear that there are a number of procedural and legal deficiencies in the Order both of which may well render it open to a judicial challenge.

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**Brown & Co**

6<sup>th</sup> March 2026

**Annex 1 Arboricultural Report by DCCLA**

**Annex 2 Ecological Appraisal**

**Biodiversity Net Gain Assessment**

**Biodiversity Enhancement Plan**

**By Brown & Co**