

Subject:	RBC Tree Preservation Order No.4 (Land at Melba Swintex, Stubbins Vale Mill, Stubbins Road, Ramsbottom, Bury. BL0 0NT) 2020	Status:	For Publication	
Report to:	Development Control	Date:	1 st September 2020	
Report of:	Planning Manager	Portfolio Holder:	Planning	
Key Decision:	N/A	Forward Plan N/A	General Exception N/A	Special Urgency N/A
Equality Impact Assessment:	Required:	No	Attached:	No
Biodiversity Impact Assessment	Required:	No	Attached:	No
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Email:	planning@rossendalebc.gov.uk			

1. RECOMMENDATION

1.1 To confirm the Order as detailed in the report.

2. PURPOSE OF REPORT

2.1 To confirm a proposed Tree Preservation Order (TPO) to which objections have been received.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **People:** A Proud, Healthy & Vibrant Rossendale.
 - **Prosperity:** A connected, growing and successful Rossendale that welcomes sustainable growth.
 - **Place:** The priority is about place, a clean and green Rossendale.

4. RISK ASSESSMENT IMPLICATIONS

4.1 There are no specific risk issues for members to consider arising from this report.

5. BACKGROUND

5.1 Officers learned that trees of substantial size within the grounds of premises now occupied by a company called Melba Swintex at Stubbins Vale Mill had been felled. To ensure further trees of particular visual amenity value in the area were not removed a Tree Preservation Order was made in respect of them. Attached is a Plan showing the position of a group of trees and two Woodlands, together with the Schedule identifying their species.

5.2 Two objections to the proposed TPO has been received and this is why a decision to confirm the order needs to be made by the Committee.

5.3 The first objection has been submitted on behalf of the business occupying the premises, Melba Swintex. Their grounds for objection can be summarised as:

“The land within the area shown as Woodland 1 is within the planning unit of the mill and is shown as such on the location plan for planning approval no 2009/0326. As such it is part of the land required for operational purposes and for which there are currently applications before the Council for a lawful development certificate and for a separate planning application which directly includes part of the area within W1.

Furthermore, there are no trees within a very large part of the area shown as W1, as illustrated in the enclosed plan. We consider therefore that the area shown to be within W1 is both excessive and unreasonable.”

- 5.4 The second objection is from East Lancashire Railway Company Limited whose track runs to the east of the proposed TPO. They state, *‘the area contains dangerous, unstable trees. The land has never been woodland or managed land. It is a derelict railway that has been neglected, by the owner or occupier, to allow self-seeded scrub to develop into over-grown trees that are too close together and too shallow rooted to be healthy and stable and that One or more of the trees at the south end of area W1 has actually fallen down during the consultation period despite the mild and calm weather.’*
- 5.5 Since receipt of the objections, the Council’s Consultant Arboriculturalist has been re-consulted with regard to their physical condition of the trees and their visual amenity value. The Consultant has advised with regard to the objection submitted from Melba Swintex, *“Given that the objection only refers to W1, the only matter for consideration is the extent of W1 as there is no objection argument raised to the other designations of the TPO which can therefore be confirmed as made without modification.”*
- 5.6 The Consultant continues, *“Firstly, the area of W1 where there are stated to be no trees. A plan has been submitted which is marked with two red lines which allege to show the extent of no trees. However, the lines are incorrectly marked and show an area larger than exists on the ground.*
- 5.7 *At the time of making the TPO the stumps of the trees which were cut down were still present and further inspection with consent from Melba Swintex shows that the majority of the stumps are still there and are regenerating to form coppice trees which could successfully grow on and would not be out of keeping in the situation. There is also a significant amount of natural regeneration with a range of young seedling trees over the area which would have been present but I would not have seen during my initial assessment. The woodland designation of a TPO will automatically protect such regrowth and regeneration along with any replanting that the Forestry Commission may require if they have prosecuted the matter.*
- 5.8 *Whilst the original more mature trees had been removed before the TPO was made, it is still valid to make a TPO on the basis of ensuring future amenity value. For example, a TPO can be made on trees which are required to be planted by condition on a planning consent and the TPO takes effect from the time when the trees are planted and ensures future amenity. The regrowth and regeneration observed on site will create and provide such future amenity by screening the factory and will also ensure the continuity of the wildlife corridor along the railway line.*

- 5.9 *The first element of objection refers to a planning application 2009/0326. I do not know the detail of this application, whether it was time limited, whether the work has commenced in any way on site etc. Given the facts of that application it may show that it is not relevant to the confirmation of W1 as made.*
- 5.10 *Regards the Lawful Development Certificate, Government guidance states that 'Where an application has been made under section 191, the statement in a lawful development certificate of what is lawful relates only to the state of affairs on the land at the date of the certificate application'. The application for a lawful development certificate may have been submitted after the making of the TPO and, if so, the TPO would therefore surely be a material consideration.*
- 5.11 *The separate planning application I anticipate to be that for the construction of a bay/car park extension upon which I was consulted and which would not affect or be affected by the most part of W1."*
- 5.12 With regard to the objection from East Lancashire railway, the Council's Arboriculturalist has commented, *'The objection refers to the trees being self-seeded and unstable and states that 'one or more' trees have recently fallen. During inspection I could only find one small tree which had fallen which was in poor condition and smothered in Ivy which would have increased its wind resistance and therefore, its likelihood of failure.*
- 5.13 *The fact that the trees are self-seeded does not mean that they will be less stable. In fact, it is likely that because they have grown in situ, undisturbed by transplanting, they will have rooted more satisfactorily and therefore be more stable than if they were planted. The existence of a TPO will not prevent any necessary management to be undertaken only that consent will have to be sought.'*
- 5.14 The Council's Arboriculturalist concludes, *'I would support the retention of the whole of W1 as per the made TPO and recommend that the TPO be confirmed without modification with the caveat that the final decision turns on the detail and sequence of events of the aforementioned planning application 2009/0326 and the Lawful Development Certificate.'*
- 5.15 Planning permission 2009/0326 for an office block on the site has been implemented, therefore, the trees proposed to be subject of this TPO would not prejudice that permission as the building has been constructed. Also, the objection refers to a current Lawful Development Certificate and a current planning application at the site. The application for the Lawful Development Certificate was subsequently refused on 28/04/2020 and is therefore, no longer a live application which would carry significant weight against the making of an Order. The original TPO for this site was made on the 1st of April 2020 and the current planning application was received by the Council on the 15/04/2020. Consequently, the Applicant had the opportunity to be cognisant of the Order when the planning application was submitted.
- 5.16 Therefore, your officers do not consider there are any sound reasons for not confirming the TPO.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 No material financial implications.

7. MONITORING OFFICER

7.1 No comments

8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

8.1 None.

9. CONCLUSION

9.1 It is clear from the comments of the Council's qualified Arboriculturalist that the trees are of sufficient value to justify the making of a TPO & it is recommended that the order is made. The objections to the Order have been considered and are not considered to carry sufficient weight to prevent the making of the Order.

Background Papers

Documents :

RBC TPO No4/2020 (Land at Melba Swintex, Stubbins Vale Mill, Stubbins Vale Road, Ramsbottom).

Letter of objections on behalf of the occupier and the ELR.

Place of Inspection :

Rossendale Borough Council
The Business Centre
Futures Park
Newchurch Road
Bacup
OL13 0BB

SCHEDULE
Specification of trees

Trees specified individually
(encircled in black on the map)

NONE

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

NONE

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

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
G1	One Beech and Two Lime.	On a strip of land between Stubbins Vale Road and the north west corner of the Mill.

Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Mixed broadleaves with occasional conifers	On old railway land to east of Mill between Strongsty bridge in the north and the subway to Pin Meadow in the south.
W2	Mixed broadleaves with occasional conifers	On sloping land between the Mill to the east, a small reservoir to the west, a stream clough and farmland to the north and allotments to the south.

TPO Plan



Rossendale
BOROUGH COUNCIL

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Date 11/3/2020

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