

<b>Reference</b>	TPO/18/00016
<b>Report Title</b>	Confirmation of Tree Preservation Order No.16, 2019
<b>Location</b>	High Snoad Wood, Green Lane, Challock
<b>Parish Council</b>	Challock
<b>Ward</b>	Downs West

## Introduction

1. The Joint Development Control Manager and the Head of Development Management and Strategic Sites have delegated authority to deal with all matters relating to Tree Preservation Orders. However, in order to comply with Human Rights Legislation, it is considered inappropriate for the same officer to make and then confirm Orders under delegated powers where an objection has been received. For this reason the following Tree Preservation Order, which is subject to an objection, is being reported to this Committee with a view to seeking authority for confirmation.

## The Order

2. The Order was made on 12<sup>th</sup> December 2018 to protect a significant proportion of the ancient woodland known as High Snoad Wood. The woodland is comprised of sweet chestnut coppice with mature oak, ash and in one section, some exceptional cherry.
3. The woodland has seen its overall area reduced from 29ha to the present 7ha by agricultural clearance and housing development leaving a remnant block on the western end.
4. The serving of the Order was considered expedient owing to planning application 18/00523/AS (now subject to an appeal for non-determination) which seeks to construct a four bedroom detached dwelling within the 15 metre ancient woodland buffer contrary to Natural England and the Forestry Commission Standing Advice. A copy of the order is provided in Annex 1-a.
5. The woodland meets the TEMPO criteria for the consideration of a TPO. The industry-adopted standard TEMPO (Forbes-Laird – Tree Evaluation Method for Preservation Orders) Assessment, which acts as a decision guide aid for the serving of a TPO, a score of 20 was derived – any score of 16 or more

qualifies as 'Definitely Merits a TPO'. A copy of the assessment is provided within annex 1-b.

6. The important considerations as defined by the Planning Guidance (Tree Preservation Orders and trees in conservation areas) when making and serving a TPO are listed below and it is considered that they have been satisfactorily met;
  - Expediency;
  - Visibility;
  - Amenity;
  - Individual, collective and wider impact.
7. The purpose of the Order is to ensure that further incursions within the boundary of the ancient woodland are not made and that the protection for the woodland informs planning decisions.

## **Representations**

8. Following the serving of the order three objections were received. The first two of these were submitted via a planning consultant on behalf of the respective owners of part of the land known as Pony Park and an adjacent strip to the east bordering 'Woodlands'. They related to the following:
  - These particular parts of the land in question were not considered to be worthy of a TPO;
  - That the TPO relied only on the Ancient Woodland Classification;
  - The documentation had been served without the requisite 28 days consultation period having been observed.
9. A site visit revealed that some of the land was degraded from historic activities on the site as an equestrian centre and some land had been garden for many years, thus not meriting the woodland TPO classification. A review of the ancient woodland classification is being re-visited with Natural England and pending the outcome of the exercise the extent of the protected woodland will be re-assessed. The TPO documentation was re-served on 3<sup>rd</sup> January 2019 to address the full 28 day consultation period being observed. A re-drafting of the TPO as recommended in the modified order has addressed these two objections. They have now been formally withdrawn. Individual trees may require protection in this area if felling or the threat of felling alters the character. The proposed modified order boundary is shown in Annex 1-c.
10. The third objection was received from a Solicitor on behalf of the owner of a substantial part of the wood and the salient points are listed below:

- The wood is a productive environment which should not be condemned to decay and neglect by restrictive bureaucracy;
- The TPO has been used as a device to control development without due concern for the detrimental effect it has on the woodland owner;
- There is an extant Forestry Commission (FC) Felling Licence that will be impossible to enact owing to the serving of the TPO;

(JDCM comment: The above 3 matters are not material to the consideration of the application but are addressed below).

- The TPO is a blanket order to protect only a small area adjacent to the proposed development;
- The order will have a detrimental effect on the owner's future Felling Licence applications;
- Only a small part of the wood is visible to the public and this makes the serving of the order excessive;
- The Kent Wildlife Trust's Land Management Consultant considers that the woodland is under good silvicultural management and that under the Planning Guidance an order is deemed unlikely to be necessary for that reason, thus the 'expediency' test is not met;
- The Area of Outstanding Beauty (AONB) and Ancient Woodland classifications offer sufficient protection from development.

11. The serving of a TPO is not bureaucratic. Following the serving of the TPO an application for works that were granted under a Forestry Commission Licence was received by the Council from one of the wood owners. Owing to the time-dependent nature of the works and the overview of the Forestry Commission, the application was processed in the minimum possible time allowing the FC Licence to be implemented. The TPO application process is free and an officer is available to give free pre-application advice.
12. It cannot be shown that there is a detrimental effect on the woodland owner with the serving of a TPO. With particular regard to the relationship between Forestry Commission Licence applications and TPOs, once FC receive the application it is forwarded to the Local Planning Authority (LPA) as a *consultee*. Owing to the FC oversight in terms of forestry and silviculture the LPA role is more focussed on amenity and landscape impact. This would only very rarely have any bearing on the FC Licence application.
13. The following is a response to the points made in the objection that are material to the consideration of this application.
14. In terms of the visibility of the wood the argument that only a small part is visible could be held for many woods by just taking account of their visible

perimeter. The perimeter of the wood is driven and walked along by many people this attaches a good degree of public visibility. Furthermore, public footpath AE88 bisects the north-east corner of the wood for approximately 200 metres providing the public with recreational access and tangible amenity value to a section of the woodland – annex 1-d shows the location of the public footpath.

15. The expediency test has been met with the serving of the order in relation to the application adjacent to the western boundary. The location of the dwelling would cause deterioration to the ancient woodland by being substantially within the 15 metre buffer as per the standing advice and contrary to Paragraph 175 (c) of the NPPF.
16. Expediency in the wider context of the wood translates to a historical reference. High Snoad Wood was approximately 29 ha in size before development during the 20<sup>th</sup> and 21<sup>st</sup> century reduced it to 7 ha – annex 1-e shows two maps charting the loss of the woodland from 1913 to 1961. Continued developmental pressure is likely at the southern boundaries as there is an established residential use. It is also pertinent that agricultural policy encouraged the loss of approximately 3.6 ha from the northern section of the wood during the middle part of the 20<sup>th</sup> century. It is demonstrable that despite a wood being under good general silvicultural management, the pressures on woodlands exist from more than one source and aggregate over time. Importantly, the serving of the order halts the denudation of the wood and ensures that the rural character of the Green Lane area is retained in the face of significant development within Challock concentrated along the primary roads.
17. Expediency is also demonstrated by the need for a second order to be served on the woodland in the last thirteen years. TPO No.12, 2006, was served on a plot in the south western section of the ancient woodland following the refusal of outline permission 05/01268/AS, which was subsequently the subject of an appeal. In view of this background, further piecemeal TPO orders to protect the core of the woodland as development pressures unfold would not appear to be the most rational approach.
18. It is advised in the objection that the designations of AONB and Ancient Woodland classifications offer sufficient protection from development. Whilst AONBs are afforded the highest status of protection under the advice in the NPPF this is in relation to the consideration of the acceptability of new development. It would not preclude the removal of trees in an ad hoc fashion. A served TPO assists in giving weight and emphasis to the variables at play.

## **Conclusion**

19. In conclusion, the serving of the order was expedient owing to the cumulative effect of development pressure over time to High Snoad Wood resulting in only a quarter of the ancient woodland remaining. The serving of the order will result in the support of the Forestry Commission Felling Licence system and its principles of regulating private forestry and silviculture whilst ensuring that the protected woodland is a further material consideration in any future planning decisions. The Order will not prevent the owner of the land carrying out appropriate woodland management in the future it is therefore considered to be proportionate.

## **Recommendation**

That the order is confirmed notwithstanding the objection, subject to modifications as follows:

- Modified boundary as shown in Annex 1 – c.

**Contact Name:** Phillip Cook

**Telephone:** (01233) 330206

**Email:** phil.cook@ashford.gov.uk

Annex 1a Copy of TPO no.16, 2018

**TOWN AND COUNTRY PLANNING ACT 1990**

**ASHFORD BOROUGH COUNCIL**  
**TREE PRESERVATION ORDER NO. 16,2018**  
**High Snoad Wood, Green Lane, Challock, Kent**

Ashford Borough 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 Ashford Borough Council Tree Preservation Order No 16,2018 - High Snoad Wood, Green Lane, Challock, Kent

**Interpretation**

2. (1) In this Order "the authority" means Ashford Borough 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 regulation 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, uprooting, 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 12 December 2018**

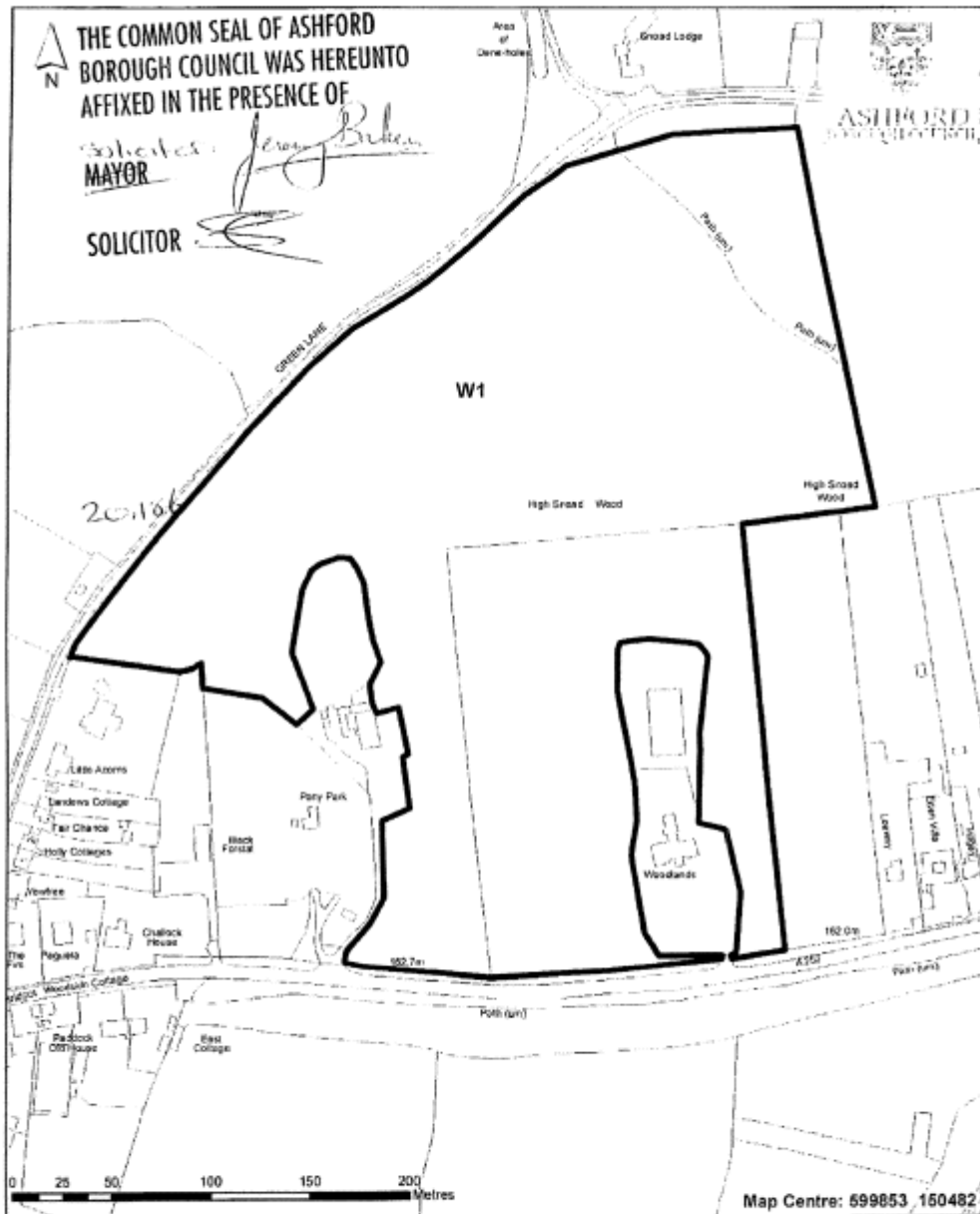
**THE COMMON SEAL OF ASHFORD BOROUGH COUNCIL**

was affixed to this Order in the presence of -

  
Solicitor

  
Solicitor

  
28.186.



**ASHFORD BOROUGH COUNCIL**  
**TREE PRESERVATION ORDER NO 16, 2018**  
High Snoad Woodland, Green Lane, Challock

December 2018 Scale: 1:2500

**Planning and Development**  
**Civic Centre**  
**Tannery Lane**  
**Ashford**  
**Kent**  
**TN23 1PL**

Annex 1-b Tempo Assessment

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 14 Dec 18			Surveyor: P Cook		
Tree details		Tree/Group No:		Species: Chestnut coppice	
TPO Ref (if applicable):		Location:		with oak, ash & cherry	
Owner (if known):					

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

**Part 1: Amenity assessment**

**a) Condition & suitability for TPO**

- |                          |                         |
|--------------------------|-------------------------|
| 5) Good                  | Highly suitable         |
| 3) Fair/satisfactory     | Suitable                |
| 1) Poor                  | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable              |

\* Refers to existing context and is intended to apply to severe irremediable defects only

Score & Notes	5
---------------	---

**b) Retention span (in years) & suitability for TPO**

- |           |                 |
|-----------|-----------------|
| 5) 100+   | Highly suitable |
| 4) 40-100 | Very suitable   |
| 2) 20-40  | Suitable        |
| 1) 10-20  | Just suitable   |
| 0) <10*   | Unsuitable      |

\* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

Score & Notes	5
---------------	---

**c) Relative public visibility & suitability for TPO**

Consider realistic potential for future visibility with changed land use

- |   |                     |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees  | Highly suitable     |
| 4) Large trees, or medium trees clearly visible to the public       | Suitable            |
| 3) Medium trees, or large trees with limited view only              | Suitable            |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable     |
| 1) Trees not visible to the public, regardless of size              | Probably unsuitable |

Score & Notes	4
---------------	---

**d) Other factors**

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

Score & Notes	3
---------------	---

**Part 2: Expediency assessment**

Trees must have accrued 10 or more points to qualify

- 5) Immediate threat to tree inc. s.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes	3
---------------	---

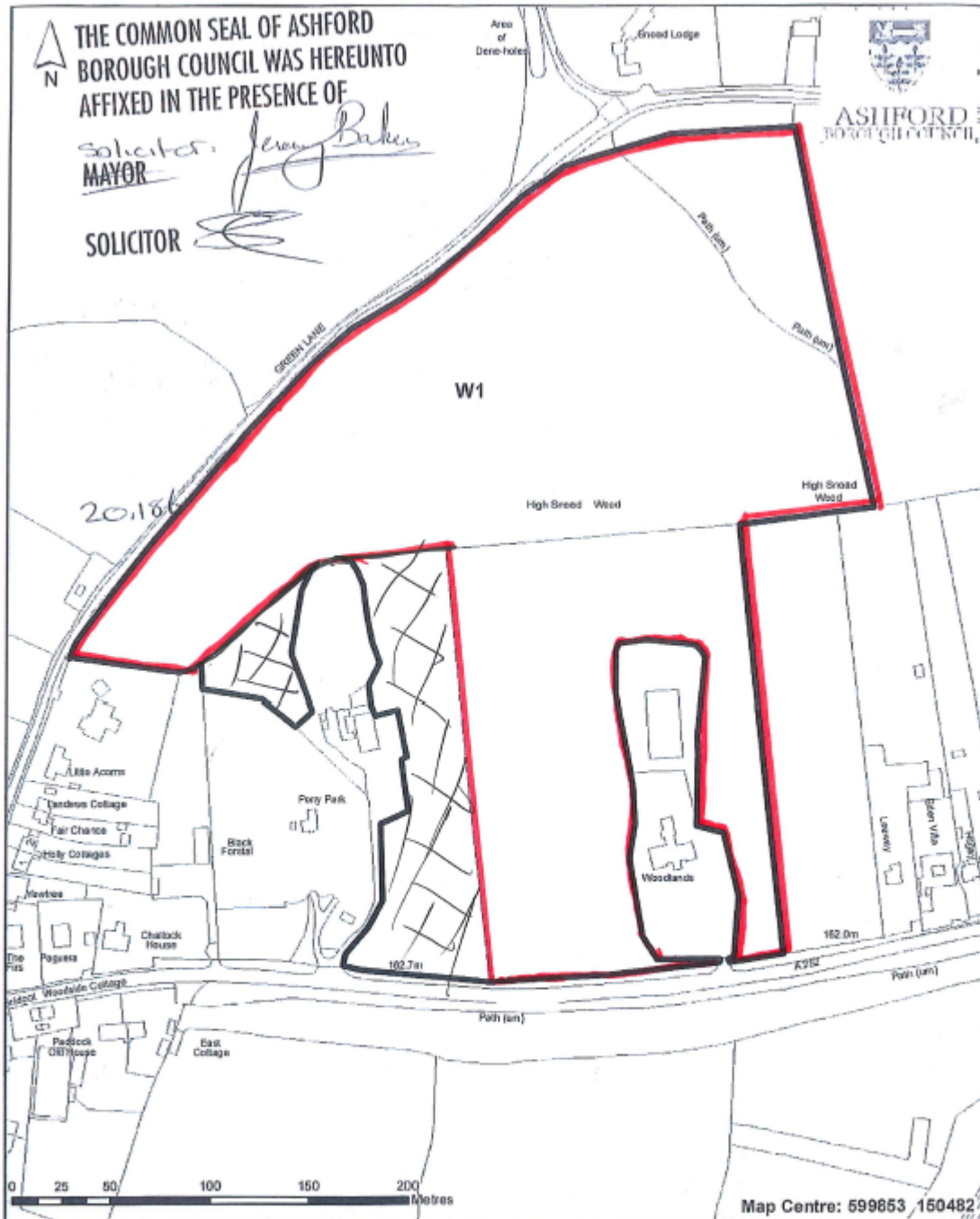
**Part 3: Decision guide**

- |       |                       |
|-------|-----------------------|
| Any 0 | Do not apply TPO      |
| 1-6   | TPO indefensible      |
| 7-11  | Does not merit TPO    |
| 12-15 | TPO defensible        |
| 16+   | Definitely merits TPO |

Add Scores for Total:	20
-----------------------	----

Decision:	Yes.
-----------	------

Annex 1-c Modified Order Map (boundary in Red)



**ASHFORD BOROUGH COUNCIL**  
TREE PRESERVATION ORDER NO 16, 2018  
High Snood Woodland, Green Lane, Challock

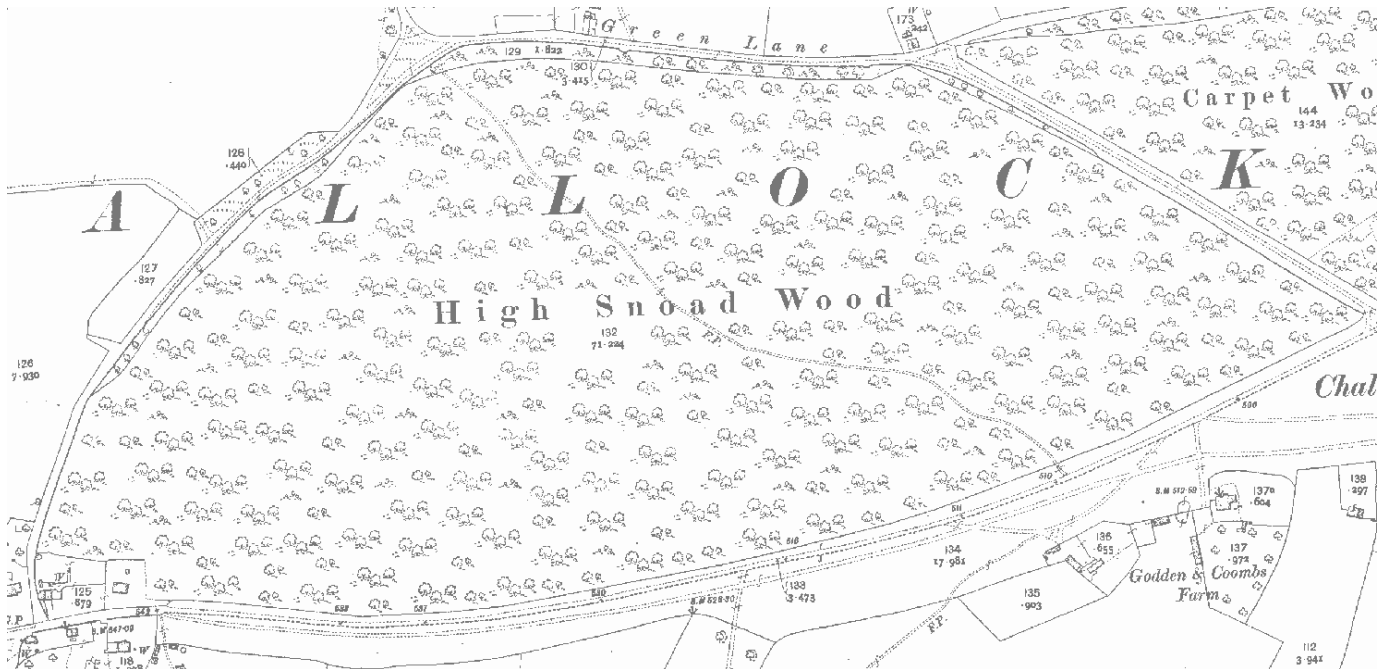
December 2018 Scale: 1:2500

**Planning and Development**  
Civic Centre  
Tannery Lane  
Ashford  
Kent  
TN23 1PL

Annex 1-d Public Footpath AE88



Annex 1-e Historic Maps showing the loss of High Snoad Wood 1904 - 1961



1904-1939 – Woodland almost entirely intact



OS 1952-1961 Significant clearance including field to NE corner and ribbon development along A252