

PE1812/K

John and Sharon Wellwood submission of 20 November 2020

Ancient Woodland is a status with no current legislation behind it and therefore various authorities dealing with threats to these areas simply have no 'teeth' to deal with the damage & destruction caused.

Having experienced this first hand it absolutely needs highlighting that whilst these locations might be getting smaller in size as more and areas get developed they are no less important and if anything the rarity of these sites mean that there is even more urgency to give Ancient Woodland recognition and full legal protection.

Scottish Natural Heritage (SNH) themselves state that these 'pockets' of newly identified woodland are shrinking in both size and number.

Once the relevant age & mapping of an area has been identified this is presented to SNH for consideration (who don't have the time or funding to research or evidence this themselves). In the current climate crisis this is incredulous and part of this petition needs to investigate the negative impact that this lack of funding is having on identifying these critical and rapidly declining areas.

If an area is considered to be of Ancient Woodland merit than a formal letter is provided by SNH confirming this however they state that there is no funding for these areas to be added to the formal register and it is 'closed off' with no plans to re-open again due to lack of funding.

There should be no size limit on Ancient Woodland 'pockets' being identified and added to a open register and this needs addressing urgently via this petition.

Whilst there are Local Planning & Development Policies within individual Councils very little attention is paid to this and there should be a legal requirement that any party making an planning application directly or via an agent (architect) relating to Ancient Woodland is legally required to notify the Council of this designation being in existence.

We have seen such applications made with no reference to this designation whatsoever.

Not only should there be legislation to recognise the irreplaceable woodland floor and biodiversity within including flora, fauna, fungi and bacteria but there should also be a policy for a biodiversity officer to physically visit the site in these instances.

Again our experience is that either planning departments within the council do not consult these internal departments or funding is not available for these site visits to take place. Why do local authorities have biodiversity officers in place if their expertise or consultation is not sought or funded?

Whilst the felling of trees within an Ancient Woodland designation is the primary threat other threats also need to be considered as part of this petition.

Ancient Woodland owned privately are repeatedly under threat which we have also confirmed by speaking to various authorities such as Scottish Forestry. Developers fence off these areas with or without a planning application and then make an application for change of use from Woodland to garden use.

This then negates any limited protection there currently is to the Woodland area and allows developers to 'side step' any planning policy consideration for this space with a view to developing & removing trees etc.

Any Ancient Woodland should therefore be protected legally from any felling but also ANY interference in terms of impact within the woodland floor, soil and tree roots that any type of fencing would incur.

This should be clearly defined within any new Ancient Woodland legislation and explicitly state that Change of Use applications are NOT permitted given the scope for abuse by developers who are exploiting this loophole on a daily basis.

The current sanctions for breaching a Tree Preservation Order (TPO) have been called under review as it is not a deterrent for developer who faces the same fine (capped at £20,000) irrespective of the number of trees removed.

Therefore penalties for breaching any Ancient Woodland legislation must be significant to act as a full deterrent not just a mild inconvenience when compared to a lucrative development. Currently a Woodland TPO is the maximum legal protection for an ancient woodland and therefore an Ancient Woodland should be reviewed as superior to this both in terms of protection and sanctions. Currently financial sanctions for TPO or Woodland TPO breaches are regarded as an 'inconvenience' on a balance sheet and do not this offer protection.

Indeed we have been advised that the number of TPO breaches taken to Court is a staggering 3-5% of all breaches and the actual prosecution rate is lower than this.

Developers are aware of this and therefore the 'risk' of any financial ramifications are minimal if both the penalty is low and chances of prosecution negligible.

Again as part of any new legislation there needs to be a review of how the process would work in practice and funding and encouragement for councils to pursue all breaches of Ancient Woodland protection very seriously indeed so that everyone sits up and takes note and it is not merely a token gesture.