

<b>REPORT OF:</b>	<b>STRATEGIC DIRECTOR OF GROWTH &amp; DEVELOPMENT</b>
<b>TO:</b>	<b>PLANNING AND HIGHWAYS COMMITTEE</b>
<b>ON:</b>	<b>15<sup>th</sup> SEPTEMBER 2022</b>
<b>ORIGINATING SECTION:</b>	<b>PLANNING (DEVELOPMENT MANAGEMENT SERVICE)</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>
<b>COUNCILLORS:</b>	<b>ALL</b>

---

**TITLE OF REPORT:**

**FORESTRY COMMISSION – AMENDED RESTOCKING NOTICE, LAND TO THE SOUTH WEST OF MANOR ROAD, DARWEN**

---

**1. PURPOSE OF THE REPORT**

- 1.1 To present Members with an update on the latest action taken by the Forestry Commission (FC) with regards to the unauthorised felling of trees within a woodland on land to the south west of Manor Road, Darwen.

**2. BACKGROUND**

- 2.1 Restocking Notices are served under Section 17A of the Forestry Act 1967 when the Forestry Commission believes that trees have been felled illegally (without the authority of a felling licence where one was required) by someone with an interest in the land – typically the freeholder or tenant. The Restocking Notice places a duty on that individual to restock the land with trees. Failure to comply with a Restocking Notice allows the Forestry Commission to serve an Enforcement Notice, which places a similar duty on the individual. Failure to comply with an Enforcement Notice is an offence carrying an unlimited value fine upon conviction in a magistrates court.
- 2.2 Members will recall in May 2018, the landowner felled around 70 trees without permission, and the FC were informed, who confirmed the landowner had breached national guidelines requiring a licence to fell more than five cubic metres of timber. As such, the FC issued a Restocking Notice on the 27<sup>th</sup> September 2018, under the said Act, requiring the affected area to be restocked with broadleaf species to achieve no less than 1,100 equally spaced stems per hectare. In this particular case, this equates to 957 trees at the site [ref: RN11/18-19]. The FC at the time declined to name the landowner.

### 3. RATIONALE

3.1 On the 22<sup>nd</sup> August 2022, the FC informed the Council that they have served an amended Restocking Notice after the Minister considered a report submitted to the Reference Committee to modify the Notice RN11/18-19. The amended notice now incorporates natural regeneration and excludes a small area on the eastern edge of the site. The open space element has increased from 10% to 20%, and the FC expects a portion of this to facilitate the path that runs through the site. Figure 1 is an extract from the map originally served on the landowner in September 2018, and Figure 2 is an extract from the map attached to the amended notice.

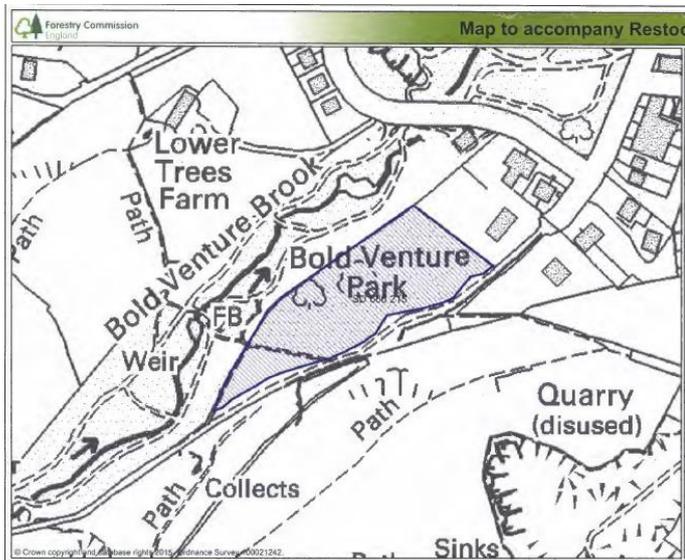


Figure 1 – map from 2018 Notice

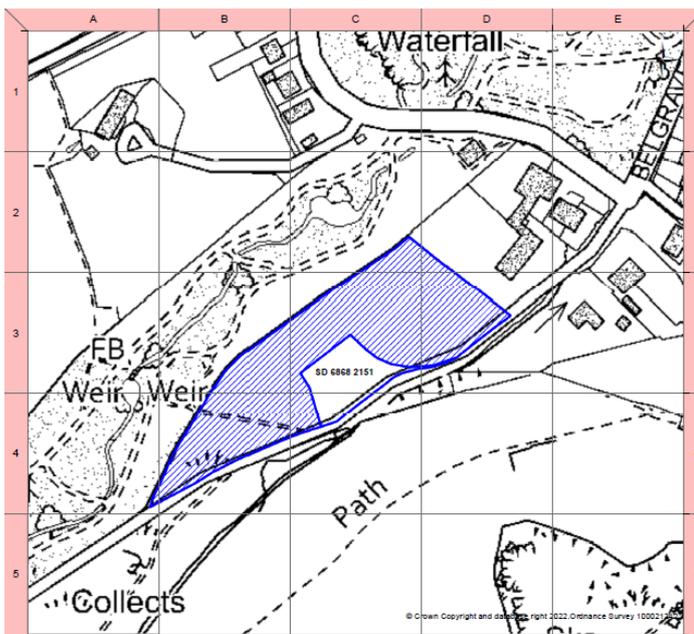


Figure 2 – map from 2022 Notice

3.2 The Restocking Notice is dated 5<sup>th</sup> September 2022, and requires that the restocking specified in the Notice, is carried out by the 30<sup>th</sup> June 2023, and the

trees maintained for a period of 10 years from the tree planting or regeneration having occurred. The revised Restocking Notice now requires in relation to the land edged in blue (see Figure 2), the area to be restocked with broadleaf species to achieve no less than 1,100 equally spaced stems per hectare, which equates to 894 trees at this site. If natural restocking fails to provide restocking, planting will be necessary to secure the restocking. The FC will not accept Ash trees as a species in the restocking mixture, due to the threat Chalara Fraxinea (ash dieback) poses to the long term viability of the species. Any trees which fail, die or are otherwise lost during the 10 year period, must be replaced by the 30<sup>th</sup> June the following year.



Photographs of the site taken from Lancashire Evening Telegraph article 3<sup>rd</sup> October 2018.

#### 4. POLICY IMPLICATIONS

- 4.1 The land the subject of the Restocking Notice, is identified as Green Infrastructure under Policy 38 of the adopted Blackburn With Darwen Borough Local Plan Part 2 (LPP2) (December 2015), and also Countryside Area as defined as Policy 5 – refer to Figure 3.



Figure 3 – extract from BwD LPP2 (December 2015).

- 4.2 The FC increases the value of woodlands to society and the environment, and is the government department responsible for protecting, expanding and promoting the sustainable management of woodlands. A felling licence from the FC is required to fell most trees, with exceptions being small scale felling works, such as, less than 5m<sup>3</sup> of timber in any “calendar quarter (Jan- March etc).
- 4.3. The importance of the site is recognised with the local plan policies and its listing with English Heritage as a Grade II Park and Garden i.e. Bold Venture Park. The site, the subject of the Restocking Notice, lies to the south of the main body of the Park. The trees and woodland are one of the main components to the historical character of the park. Pursuant to the restocking of the land with trees, the FC Notice specifies the requirements for establishment of the trees for a 10 year period i.e June 2033. Before the end of this period, the Council may wish to consider if it would be expedient to make the trees subject of a Tree Preservation Order (TPO), if there is known, potential, or perceived threat to the tree cover.
- 4.4. The amended Restocking Notice may be considered by the local planning authority to be a material consideration in any deliberation of planning permission, in relation to the land specified in the Notice, that may be submitted in the future.

The FC, as a government department, is entirely neutral on the desirability and appropriateness of any particular planning application. Planning decisions are entirely a matter for the local planning authority. The Restocking Notice simply sets out the Forestry Commission's position in relation to Restocking and Enforcement Notices issued under the Forestry Act 1967.

- 4.5 With due regard to the above designations, policies and felling licence controls, the Council's Arboricultural Officer considers there are no compelling reasons at the present time, to consider a TPO and it may be appropriate to keep a "watching brief" on the site. Should circumstances change the Council can consider making the trees subject to a TPO.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 None.

## **6. LEGAL IMPLICATIONS**

- 6.1 The Restocking Notice simply sets out the Forestry Commission's position in relation to Restocking and Enforcement Notices issued under the Forestry Act 1967.

## **7. RESOURCE IMPLICATIONS**

- 7.1 None

## **8. EQUALITY IMPLICATIONS**

- 8.1 The report is for information purposes only and does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

## **9. CONSULTATIONS**

- 9.1. None.

## **10. RECOMMENDATION**

- 10.1 That the Committee note the content of the report

**Contact Officer:** Gavin Prescott, Planning Manager (Development Management)

**Date:** 31<sup>st</sup> August 2022

Background Papers: Amended Restocking Notice (ref: RN11/18-19), Land to the south west of Manor Road, Darwen dated 5<sup>th</sup> September 2022.