



CPRE Sussex Policy Position Statement

SUSSEX'S ANCIENT WOODLAND AT RISK: POLICIES AND ACTIONS TO ENSURE PROTECTION

The Importance of Ancient Woodland in Sussex

Woodland is a defining feature of major significance in Sussex's landscape. Much of this woodland is 'ancient', as evidenced by characteristic flora and in some instances documentary sources. 'Ancient' woodland occurs in Sussex as discrete islands of varying size and as small copses, shaws, wooded ghylls, and often as narrow strips on the margins of plantations and former plantations, where the original wood was cleared to make way for commercial planting.

Visually pleasing and of considerable amenity value, areas of 'ancient' woodland in the county are accessible to the public through the extensive network of public footpaths and bridleways.

Ancient woodland provides habitats and havens where a wide variety of plant and animal species are able to survive, including nationally rare and endangered species such as the dormouse, Barbastelle and Bechstein's bat, slow worm and the increasingly rare common toad. Like hedges, the county's wooded ghylls and shaws provide critical corridors essential for the movement, dispersal and genetic exchange of fauna and flora. In many of the county's old woods, woodland flowers of spring and early summer that are in decline elsewhere in Britain are abundant, notably bluebell, wild daffodil, primrose, ransom and early purple orchid.

As well as contributing significantly to the beauty and character of Sussex, woodland slows the run-off of rainwater into rivers and their tributaries, thereby reducing soil erosion and the risk of flooding within the county.

Sussex's centuries old woodland with its rich diversity of flora and fauna is irreplaceable; once lost it cannot be recreated.

The Threat

Many thousands of new homes are to be built in Sussex, the great majority in the county's countryside, seemingly with little recognition of environmental consequences. Woodland is therefore at risk. Significant threats include clearance to make way for new homes, industrial estates and roads, and quarries for clay and aggregates, and clearance to create parkland and horse paddocks.

Losses also occur in more subtle ways as when people convert parts of a well structured ancient wood into a garden with trees.

Exploitation of woodland for bio-fuels may also result in the loss of ancient woodland, should existing woods be cleared and replanted to provide renewable energy sources. In addition, climate change with prolonged drought, lowering water table levels and rising temperatures are likely to be harmful to woodland habitats and ecology.

Woodland habitats and ecology are at risk, too, because of inappropriate woodland management and 'conservation' activity. For example, the current vogue for clearing the margins of woods in order to open up the interior to light, supposedly for the benefit of herbaceous plants within. Not only is this clearance harmful to birds that nest, shelter and forage in woodland margins but it also exposes previously protected woodland interiors to wind blown herbicides and fertiliser applied to adjoining fields, to the detriment of woodland flora and fauna. Similarly, 'thinning' practiced by some woodland managers as an alternative to coppicing, favours grasses and sedges over more specialised coppicing plants, with consequent loss of habitats. This is because management plans are often produced with inadequate knowledge of the wood in question and felling and clearance undertaken without due regard to long-term consequences for the wood's habitats and

ecology. Regrettably, too, there have been incidents in Sussex when standard trees have been 'thinned' and understorey and margins cleared during spring and summer with catastrophic consequences for nesting birds and other woodland wildlife.

Planning Policies and the lack of Statutory Protection

The importance of ancient woodland is recognised by Government. According to Planning Policy Statement (PPS) 9, '**ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland. Once lost it cannot be recreated**'. This view is amplified and re-emphasised in the joint Forestry Commission and DEFRA publication - '*Keepers of time A Statement of Policy for England's Ancient and Native Woodland*'. This document updates the Government's policy towards woodlands and trees, and sets out a range of actions and objectives to improve their protection and quality. The Forestry Commission and the newly formed Natural England Partners are responsible for delivering the policy. Unfortunately, the target date by which these admirable objectives are to be achieved is 2020.

PPS 9 and the combined ODPM Circular 06/75 and DEFRA Circular 01/2005 '*Biodiversity and Geological Conservation-Statutory Obligations and their Impact within the Planning System*' clearly place responsibility on local planning authorities for the protection of ancient woodland. PPS 9 also tasks local planning authorities with the conservation of the 'habitat types of principal importance', including 'lowland mixed deciduous woodland', listed in the Countryside Rights of Way Act 2000, Section 74. Sussex is in lowland Britain and the county's ancient woodland is mixed deciduous woodland.

Critically, policies in PPS 9 do not provide statutory protection for ancient woodland. Moreover, their implementation is subject to the following limitations:

- a. Except where woodland is located in an Area of Outstanding Natural Beauty (AONB) or designated a Site of Special Scientific Interest (SSSI), the fate of woodland subject to a planning application is dependent on the whim of councillors, political expediency and the degree of influence exerted by

developers. This is because PPS 9, paragraph 10, states that: '**Local planning authorities should identify any areas of ancient woodland in their areas that do not have statutory protection. They should not grant planning permission for any development that would result in its loss or deterioration unless the need for, and benefits of, the development in that location outweigh the loss of the wood**'.

PPS 9 therefore enables local planning authorities to permit development on woodland sites where the need for and benefits of development are perceived to outweigh the loss of the wood.

- b. At least two local authorities in Sussex consider that policies in PPS 9 relating to woodland protection and conservation are for guidance only and that compliance is optional.

They also understand that PPS 9 policies relate to development and that where development is not intended there is no requirement for an owner to seek the planning authority's approval before commencing felling operations.
- c. Depending on the volume of timber to be felled, woodland owners are required by the Forestry Act 1967 to obtain the approval of the Forestry Commission by applying for a felling licence. The Forestry Commission, formed in 1919 to meet the nation's strategic need for timber, considers itself exempt the provisions of PPS 9, because in their view the policies relate to 'development' and do not apply to 'forestry'. The inadequacies of the Forestry Act 1967 are explained at paragraph 4 below.
- d. Whilst SSSI status does afford the protection of statute law, the lesser status of 'Site of Nature Conservation Interest' (SNCI) does not; though before issuing a Felling Licence to sanction felling in a designated SNCI the Forestry Commission would normally consult with the local planning authority. However, as consultee, planning authorities are apparently unable to directly apply conditions to protect and conserve woodland. In consequence, policies in PPS 9 relating to ancient woodland are rendered ineffective.
- e. Where woodland, notably wooded ghylls,

shaws and small copses, has no designated status, there appears to be no requirement for the Forestry Commission to consult with the local planning authority before issuing a Felling Licence. In practice, owners often clear such woodland without first seeking the Commission's approval. Again, policies relating to ancient woodland in PPS 9 are rendered ineffective and irreplaceable woodland put at risk.

Local planning authorities are empowered by The Town and Country Planning (Trees) Regulations 1999 to apply Tree Preservation Orders (TPO), not only to single trees, but also to a whole wood, or a part of a wood, to ensure that it is managed in ways beneficial to it and the wildlife within. Moreover, Section 39 of the Wildlife and Countryside Act 1981 enables local planning authorities to enter into management agreements with woodland owners. Local planning authorities in Sussex, however, are reluctant to use these powers to protect and further the conservation of woodland but prefer instead to hand over responsibility to the Forestry Commission, which considers itself exempt the policies of PPS 9.

Disturbingly, at least two local authorities in Sussex were unaware of Section 39 of the Wildlife and Countryside Act 1981.

The Forestry Act 1967

The Forestry Act 1967 gives little or no protection to ancient woodland for the following reasons:

- a. 'Ancient Woodland' did not exist as a term or concept until the mid 1970s.
- b. The Forestry Act 1967 is a tool to regulate the commercial felling of timber that takes no account of woodland ecology or habitats.
- c. A Felling Licence does not require the owner to manage woodland in ways that would benefit wildlife and flora.
- d. Once the Forestry Commission has issued a Felling Licence, it has little or no legal control over the timing or quality of the work.
- e. Although the Forestry Commission can attach a management plan incorporating conservation requirements to a Felling

Licence, the owner need not adhere to it. Even when an owner is in receipt of a grant from the commission, and conditions including conservation requirements apply, monitoring during felling operations to ensure adherence is often perfunctory.

- f. The Forestry Commission denies that it has any responsibility for ensuring that woodland owners, to whom Felling Licences have been issued, comply with the Wildlife and Countryside Act 1981 and the Conservation (Natural Habitats &c.) Regulations 1994. Compliance is therefore at the discretion of the owner. Not only is PPS 9 and CROW Act 2000, Section 74 nullified but statute laws and regulations that should protect listed woodland flora and fauna are rendered ineffective.
- g. Disturbingly, planning staff and councillors of a local authority in Sussex were unaware of the limitations of the Forestry Act 1967.

Policies and Actions to protect Ancient Woodland in Sussex

To protect Sussex's ancient woodland CPRE Sussex should at national level:

- a. Seek to obtain statutory protection for ancient/ancient semi-natural woodland by means of an Act of Parliament.
- b. Engage with the newly formed Natural England Partners to repeal the Forestry Act 1967.

At county and district level CPRE Sussex will:

- a. Raise public awareness of the importance of ancient woodland in Sussex and encourage them to actively campaign for its protection.
- b. Encourage and support local campaigns to save woodland from development, by submitting reasoned objections and advising campaigners on policies relating to woodland in PPS 9, the CROW Act 2000, Section 74, the use of TPOs to protect whole woods and the limitations of the Forestry Act 1967.
- c. Encourage local planning authorities and councillors to comply fully with PPS 9.
- d. Challenge local planning authorities when

they claim that policies in PPS 9 are for guidance and their implementation optional.

- e. Ensure that planning staff and councillors are aware that:
 - PPS 9 places responsibility for the protection and conservation of ancient woodland on local planning authorities.
 - Section 39 of the Countryside and Wildlife Act 1981 empowers local planning authorities to enter into management agreements with woodland owners.
 - Local planning authorities are empowered by The Town and Country Planning (Trees) Regulations 1999 to apply a TPO to a whole wood, or a part of a wood, to ensure that it is managed in ways beneficial to it and the wildlife within.
 - That the Forestry Commission considers itself to be exempt the provisions of PPS 9 on the grounds that the policies relate to 'development' and do not apply to 'forestry'.
 - That the Forestry Act 1967 does not protect ancient woodland.
 - The Forestry Act 1967 is essentially a tool to regulate the commercial felling of timber that takes no account of woodland ecology and habitats.
 - A Felling Licence does not require the owner of woodland to manage it in ways that would benefit wildlife and flora.
 - Once the Forestry Commission has issued a Felling Licence, it has little or no legal control over the timing or quality of the work.

SOURCES OF INFORMATION

Information relating to the Forestry Act 1967 and the Forestry Commission's view of PPS 9

Researched and prepared by Dr Roger F Smith

For further information about CPRE Sussex's campaigns and other policy position statements, please visit our website www.cpresussex.org.uk. Alternatively, please contact CPRE Sussex by email at info@cpresussex.org.uk or telephone/fax 01825 890975 or write to CPRE Sussex, Brownings Farm, Blackboys, Uckfield, East Sussex TN22 5HG.

was obtained from the Forestry Commission by means of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

Local Planning Authorities' understanding of the Forestry Act 1967 was obtained from Horsham District Council and West Sussex County Council.

Local Planning Authorities' view of PPS9 was obtained from Horsham District Council and West Sussex County Council.

NATIONAL POLICIES, REGULATIONS AND ACTS

DEFRA (2002): *'Working with the Grain of Nature: A Biodiversity Strategy for England'*

DEFRA and Forestry Commission (England) (2005): *'Keepers of Time: A Statement of Policy for England's Ancient and Native Woodland'*

Office of the Deputy Prime Minister (ODPM) (2005): *Planning Policy Statement 9: Biodiversity and Geological Conservation*

ODPM Circular 06/75 and DEFRA Circular 01/2005 (2005). *'Biodiversity and Geological Conservation-Statutory Obligations and their Impact within the Planning System'*

The Forestry Act 1967

The Wildlife and Countryside Act 1981 (Section 39 agreements)

The Conservation (Natural Habitats &c.) Regulations 1994

The Town and Country Planning (Trees) Regulations 1999

The Countryside Rights of Way (CROW) Act 2000, Section 74