

MID SUSSEX DISTRICT COUNCIL

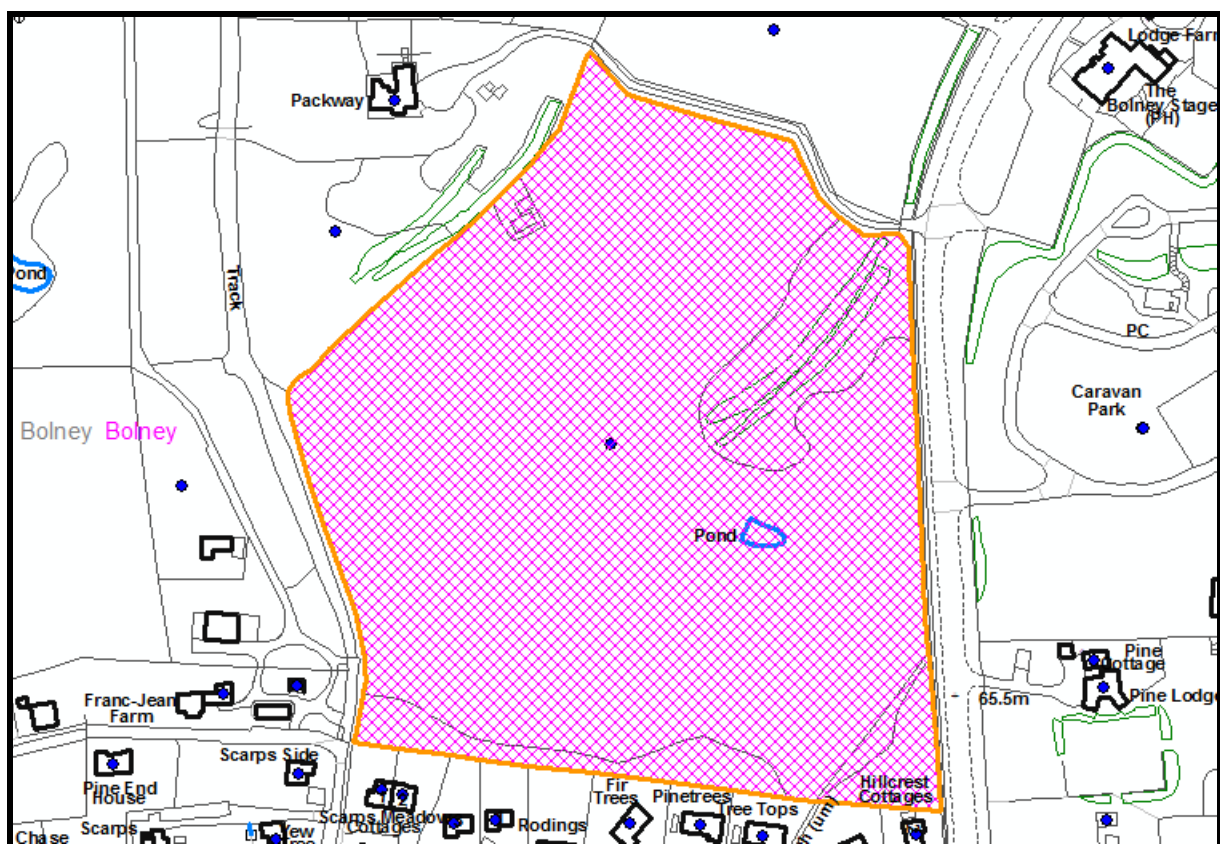
Planning Committee

5 SEP 2019

OTHER MATTERS

BOLNEY

TP/19/0009



REPORT

Members are being requested to consider whether or not to confirm a new Tree Preservation Order (TPO), TP/19/0009 refers, on an area of woodland north of Bolney, London Road, Bolney.

The land has been the subject of two planning applications for development; DM/18/0953 and DM/18/0954 refer.

The site fronts London Road and a public footpath runs adjacent to the western perimeter of the land and traverses the south eastern corner of the site.

BACKGROUND

The trees are considered to be under threat due to the planning applications, above, which would result in the loss of trees and woodland. A request to make a Tree Preservation Order was received from the case officer.

The trees scored an average of 21 on the TEMPO assessment, definitely meriting protection by TPO.

THE OBJECTION

An objection has been received on behalf of the owners of the site on the following grounds :

- the authority has taken 10 months to contemplate the trees on the site, and it is remarkable that they have only now, thought to apply a TPO 5 months after the applications were refused. Where is the expediency and public interest? The TPO is a shabby gambit to resist development by any means.
- the Order seeks to designate the whole site as woodland, despite its composition being a mosaic of pasture, scrub, emergent woodland and individual, as well as groups of trees. The TPO does not reflect the reality of vegetation on the ground. The consultation response to the application describes the site as a mix of wooded and pastoral parkland. The council cannot have it both ways .
- lack of expediency. The power to make TPOs is only available where both expediency and amenity are present. The trees are protected from unlawful felling by the Forestry Act 1967 which prevents significant tree removal and the applicant has consistently demonstrated its responsibility in its management of trees on the site. The lack of any material driver for the TPO, renders it ultra vires.
- the TPO compels a change in land use. Woodland TPOs protect current and future trees and plants of these young ages are vulnerable to browsing by mammals, for this reason, woodland regeneration and grazing are frequently incompatible. It follows that for the owners to allow grazing on the land, would put them at risk of criminal prosecution.

EVALUATION OF COMMENTS

The applicant advises that the timescale by the local authority demonstrates a lack of expediency and public interest.

Numerous letters of objection were received relating to the loss of woodland during the consideration of both planning applications. The edge of the woodland is publicly visible and expediency is clearly demonstrated by the refusal of the planning applications and the resultant threat to the woodland as demonstrated by the objection of the assistant tree officer to the applications and the subsequent reasons for refusal relating to trees.

It was considered, that as the nesting season was shortly due to commence, following the issue of the decision notice, that the trees were 'safe' in the short term. The TPO was issued as soon as possible.

The applicant advises that he does not consider the site to comprise 'woodland'. This is despite the tree reports, submitted with both applications, and prepared by the same agents as above, describing the site as woodland and carrying out a 'woodland area assessment', describing the total area of woodland on site as 40900 sqm. *"Bolney Glades -Scheme 2 refers to the fact that it is not possible to count every tree in a woodland, especially where this is extensive. For this reason, woodlands are assessed as an area "*

It is considered that there is clear public interest and expediency in issuing the Order. The applicant contends that the site is already protected by The Forestry Act, 1967. However, the Forestry Act can only protect woodlands. The Forestry Act is also intended to promote beneficial woodland management. There is clearly no intent on behalf of the owner to carry out such management, as a large amount of clear felling is proposed.

Government advice, *'Tree Preservation Orders and trees in conservation Areas'* states in relation to the making of Orders that LPAs can make an Order ..."if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area."

With regard to visual amenity, the site is traversed by a public footpath and is bounded on one side by a road and the other by a public footpath. The site is commonly used by dog walkers and local people.

In relation to woodland orders, it states *"Orders covering a woodland protect the trees and saplings of whatever size, including those growing naturally after the Order was made. This is because the purpose of the Order is to safeguard the woodland as a whole, which depends on regeneration of new planting"*. It is accepted that not

all of the site is mature woodland, although it contains a number of mature trees, but, as described above, there are a number of understorey plants which indicate it is a developing woodland. It contains mature trees, understorey and typical fringe trees, as well as herbaceous woodland floor plants. Although some open areas are visible within the woodland, again, this is not an unusual feature.

It should be noted that the authorisation of a TPO by MSDC officers was agreed by the Chair and Vice Chair of the planning committee on the primary grounds of 'expediency' and 'significant public amenity value'.

ASSESSMENT

It is considered that a number of trees have significant public amenity value and value as a woodland in their own right and that it was expedient to issue an Order in accordance with government advice.

Officers are content that the trees meet the relevant criteria for inclusion in the Order and that their protection is justified, and it is considered that the Order should be confirmed.

RECOMMENDATION

It is recommended that the Order is confirmed.