

MID SUSSEX DISTRICT COUNCIL

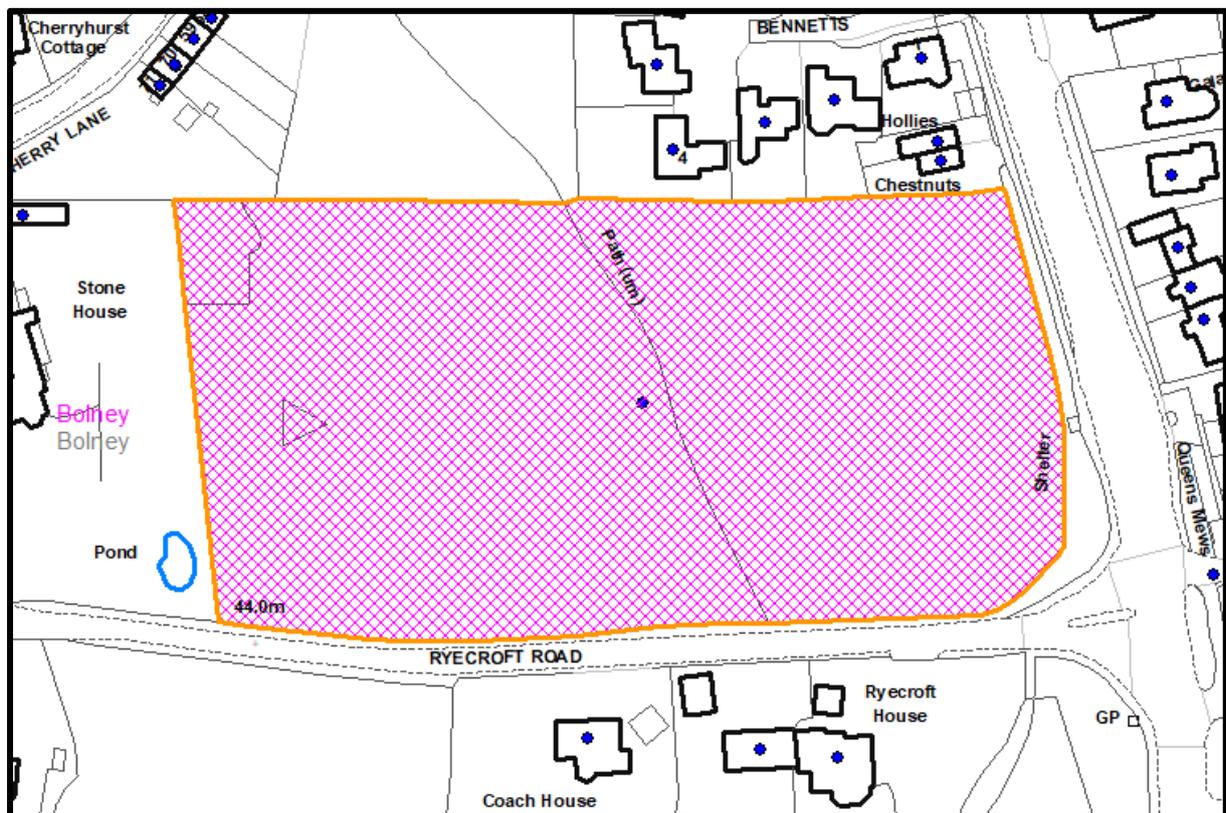
Planning Committee

11 NOV 2021

OTHER MATTERS

Bolney

TP/21/0004



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INTRODUCTION

Members are being requested whether or not to confirm a new Woodland Tree Preservation Order (TPO), TP/21/0004 refers, on an area of woodland east of Stone House, Ryecroft Road, Bolney.

The site has been subject to two previous Orders, TP/19/0001, which was unintentionally not confirmed, and TP/21/0002, which was erroneously confirmed, despite the receipt of an objection. This Order was therefore immediately re-served in order that the area remained legally protected.

It is considered that the Order should be confirmed. This matter is before members as an objection on behalf of the owners of the site has been received.

BACKGROUND

Around half of the site was clear felled over the Christmas 2018 period, which following a request by local residents, resulted in the issuing of the first Order. Several months later, it was evident that significant regeneration of the remaining stumps had taken place, including oak, birch and field maple and a number of tree seedlings were visible.

The remaining fringe trees provide important screening on this part of the site and include hawthorns, poplars, oak and ash. Remaining mature trees include horse chestnuts, many of which have bleeding canker.

The other half of the site, where clear felling did not take place, includes stands of birch and occasional hazel and holly. Again, there are some mature chestnuts and other oaks.

Currently, the cleared area of the site has become overgrown with pioneer species such as birch and bramble.

A public footpath crosses the site, and it is surrounded on two sides by Ryecroft Road and London Road.

The trees scored an average of 17 on the TEMPO assessment that has been undertaken by your tree officer, which indicates that they definitely merit protection by TPO. They are considered to be under threat due to previous felling.

THE OBJECTION

An objection has been received on behalf of the owners of the site on a number of grounds that can be summarised as follows;

- Lack of amenity value - MSDC did not assess the amenity value in a structured and consistent way. Their lack of assessment is in breach of the Town and Country Planning Act (TCPA) 1990, the National Planning Practical Guidance (NPPG) and the Mid Sussex District Plan. Further reference is made to the NPPG and its alleged breaching, and the contention is made that insufficient regard has been given to other considerations apart from the public visibility of the woodland.

The second part of their grounds of objection is that the trees do not have significant value as a woodland and, that their inclusion as such, lacks assessment.

- That MSDC did not carry out a site visit, in making the Order; further reference is made to NPPG.
- That MSDC did not assess if the removal of the trees would have a significant impact on the local environment and its enjoyment by the public. Again, reference is made to the NPPG. Reference is also made to arial views of the area and surrounding woodland, the contention being that the loss of the trees would be insignificant. They also given that Mid Sussex is heavily covered by ancient woodland worthy of protection, MSDC should have given reasons why the impacts on a small area of non-ancient woodland would be considered a significant impact on the local environment.

- The only trees which make a significant contribution to the area are fringe trees and most of the trees fail to have any significant individual impact . Some trees are dead, diseased or structurally hazardous to be included in an Order.
- Himalayan balsam, which is listed as an invasive species, has overtaken the site and the decision to protect the whole area as a woodland is not appropriate.
- A woodland Order is not appropriate and instead a specific trees TPO should be in place.
- Significant imprecisions in the TPO, including the lack of definition of the boundaries to the west and northwest that make it difficult to determine which trees are included in the TPO. In addition, the description used to identify the type of woodland 'mixed broadleaved' is not specific enough.

OTHER REPRESENTATIONS

In addition to the objection set out above, five letters of representations of support, as well a petition submitted on behalf of the Bolney Action Group with 332 signatures supporting the TPO, has been received.

The representations make the following points :

- the land has not been subject to any land management for decades
- submitted photographs show that the land was wooded, although less so on land east of the footpath, however this was disrupted by tree clearance in 2018
- site is outside the built up area and is part of a green corridor
- the land is visible from a well-used public footpath and residents of Bolney value its contribution
- the site has mature trees, fallen trees, self-seeded trees and open clearings and water, all of which indicate an area rich in flora and fauna, including endangered and protected species
- the area is a valid woodland and an important biodiversity green space
- there are some very old trees on the land among the younger trees which were thriving before the clearing/destruction of the land

RESPONSE TO OBJECTION

Legalisation sets out that Local Planning Authorities can make a Tree Preservation Order {i 'if it is expedient in the interest of amenity to make provision of trees or woodlands in their area, they may for that purpose make an Order with respect to such trees, groups of trees or woodlands as may be specified in the Order'.} Officers are satisfied that in making the Order full regard has been given to the legislative requirements set out in the TCPA 1990 and the

published guidance within the NPPG and it is not accepted that there is any discrepancy or conflict with either.

In relation to more specific matters, officers would draw members to attention to the following comments in respect to the objection received.

The objection makes reference to the fact that not enough detailed reasoning has been applied in imposing the Order. It should be noted that the site is in a prominent position at the junction of two roads and is traversed by a public footpath. The trees, therefore, are considered to have high amenity value. There is also clear 'expediency' in that around half of the site has been clear felled, indicating risk to remaining trees. The Council's grounds for the serving the Order is clearly set out in the Notice, and for the members benefit states;

'The trees referred to in the Schedule to the Order, should be preserved because the trees are a prominent feature of the area, contributing to its green and rural character. They also have significant value as a woodland.'

In making the Order, your tree officer has visited the site at least four times, over a period of time including the making of the previous Orders referred to above. It should be noted that when the tree officer first visited the site, around half the trees had been felled, with copious amounts of saw dust surrounding. The remaining trees on the other half of the site, which could be described as more 'mature' woodland had a number of features consistent with a woodland, including typical woodland floor plants, such as stinking iris, and ferns and dogs mercury, all defined as woodland plants. On the felled area, ferns were growing along with a number of other understorey plants which indicated it was a developing woodland, along with seedling trees, although with the now dense bramble cover it is difficult to assess further at the current time.

While it is accepted that around half the site is not 'mature' woodland, on the second visit, your tree officer noted significant regeneration of the stumps. The trees were not saplings, indicating recent growth, but rather trees of semi maturity, on the whole, with a significant stump diameter.

Government advice contained within the NPPG sets out when a Woodland Order should be used and states;

'The woodland category's purpose is to safeguard a woodland as a whole. So it follows that, while some trees may lack individual merit, all trees within a woodland that merits protection are protected and made subject to the same provisions and exemptions. In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made are also protected by the Order.'

This clarifies that woodlands merit protection in their own right, regardless of the quality of individual specimens, and that regeneration of woodlands is an important part of the intention to make a Woodland Order.

In considering the appropriateness of an Order, your tree officer has undertaken a TEMPO Assessment (an established tree evaluation method for preservation orders) and that the score of 17 indicates that an Order is definitely merited.

It is accepted that a number of trees have bleeding canker. However, their condition cannot be fully assessed without further testing. It should be noted also that dead and diseased trees are an intrinsic part of a woodland, however, should the applicant wish to submit a 5 Day Notice for any trees, this may be done in the normal way. The onus is on the applicant in this case to prove that the trees are imminently dangerous as to require immediate safety work, however this doesn't undermine the suitability/credibility of the of the Woodland Order. Furthermore, within the last couple of years, there has been little further deterioration of the trees which the tree officer has observed.

It is fully accepted that the area is not classified as Ancient Woodland, had it been, other action may have been taken by the Forestry Commission at the time of the felling. However, the status of the woodland doesn't impact on the merits of the Order, whereby your tree officer is content that it expedient in the interest of amenity to protect the area in the manner proposed.

While there is an objection to the Order, it should also be noted that there is local support for it, including a petition, which are noted in the above section.

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 the Order in accordance with government advice.

Notwithstanding the objection that has been received, officers are content that the woodland meets the relevant criteria for inclusion in the Order and that its protection is justified.

The presence of an Order on the woodland does not mean future, suitable management works will be restricted. As noted in the government guidance (NPPG);

'The woodland category should not hinder beneficial woodland management. Whether or not they make an Order, authorities can consider encouraging landowners to bring their woodlands into proper management under the grant schemes run by the Forestry Commission. If a woodland subject to an Order is not brought into such a scheme, authorities can still encourage applications to manage the trees in ways that would benefit the woodland without making a serious impact on local amenity, for example by making a single application for regularly repeated operations.'

It is open to the landowner to make an application to the Council with regard to a future management regime for the woodland, that will be beneficial to its long term health, while protecting its local amenity value.

RECOMMENDATION

It is recommended that the Order is confirmed.