

18 JULY 2001

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of an Appeals Panel held at The Memorial Centre, New Milton, on Wednesday, 18 July 2001.

Councillors:

p K F Ault (Chairman)
p P H Cummings

Councillors:

p C F Gradidge
p Mrs M Humber

Officers Attending:

N Gruber, Mrs L James, A Rogers, N Yeats.

15. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr K F Ault be elected Chairman for the meeting.

16. MINUTES (REPORT A).

RESOLVED:

That the minutes of the Appeals Panel meeting held on 10 May 2001, having been circulated, be signed by the Chairman as a correct record.

17. DECLARATIONS OF INTEREST.

There were no declarations of interest in connection with any agenda item.

18. AN OBJECTION TO TREE PRESERVATION ORDER NUMBER 23/01 (REPORT B). LAND OFF CULL LANE, NEW MILTON.

The Panel examined an objection to the Tree Preservation Order 23/01 relating to land at Cull Lane, New Milton, and considered whether to confirm the Order.

Members had met prior to the meeting in order to view the trees covered by the Order.

The TPO was made on 7 March 2001, and protects 14 individual trees and three groups along the frontage of properties to the south east end of Cull

Lane, New Milton. The TPO had been made following notification from a local resident in respect of trees to the rear of 12 Marston Road.

Following service of the TPO, a letter of objection dated 27 March 2001 had been received from a Mr PJ Young of 8 Cull Lane, New Milton.

Mr Young explained that his main objection related to the trees T5 and T6, which were situated in 7 Cull Lane, a house opposite his property. Although the two trees were small and immature, Mr Young pointed out that, in time, the trees could grow and cast shadows across his property.

Mr Young also referred to a tree in the group marked G2, and felt that one tree was dangerously overhanging both the road and the overhead power cables. A neighbour, Mrs Blundy, also had concerns over this tree and said that a bow from the same tree had fallen on her roof during the storm of 1987.

Mr Newell, of 13 Cull Lane, spoke in support of the Order.

The Chairman read out a note from a Mr P Turner of 12 Cull Lane, who supported the Order.

Mr Gruber set out the case for preserving the trees. He felt they could readily be seen from Cull Lane and there was no dispute about the amenity value of the trees. He explained that the TPO did not prevent owners from pruning their trees and applications for such work would be likely to be received favourably.

In respect of the overhanging branch in G2, he could not see any defects in the part of the tree highlighted, though he had only been able to make an inspection from ground level. In any case, this was a matter for the owner of the trees to take any necessary action, although there was a procedure which could be followed if a Local Authority judged a tree to be a danger and the owner failed to take necessary action.

Having considered carefully the evidence given, members agreed to confirm the Order without amendment.

RESOLVED:

That Tree Preservation Order 23/01 be confirmed without amendment.

19. OBJECTION TO TREE PRESERVATION ORDER 73/00 – LAND OFF DURLSTON COURT SCHOOL, BARTON ON SEA.

The Panel considered objections to Tree Preservation Order 73/00 relating to land of Durlston Court School, Barton on Sea.

Consideration of this item was proceeded by a site visit to inspect the trees covered by the TPO.

Tree Preservation Order (TPO) 73/00 had been made following a survey carried out as part of a review undertaken to update all TPO's with area designations. TPO 520 was the existing Order when the review was carried out, and this was revoked and made into 5 new Orders, including TPO 73/00,

which was made on 26 January 2001. The TPO protects 22 individual trees, 11 groups of trees and two woodland groups of trees.

Following service of the TPO a letter objecting to the protection of some of the trees was received from Mr DA Farrant (the Agent for the Freehold Owners) dated 30 April 2001. The basis of the objection put forward by Mr Farrant was that "the amenity value of the trees has been overstated and a number of them are in poorer condition than seems to be understood". Officers then met with Mr Farrant and Mr J Barrell of Barrell Tree Care, to discuss the objection and try to reach agreement.

Although the Officers agreed with Mr Barrell on a number of points, the objection to the TPO was still upheld, thus requiring an Appeal Panel hearing. The Officers agreed to recommend to the Panel that a number of trees be excluded from the Order and these were detailed in the Report. The Officers advised members that they did not agree on the further trees identified by Mr Barrell in his objection.

Mr Barrell addressed the Panel. He felt the procedures operated by New Forest District Council were very fair and he had found the Tree Officers extremely proactive in trying to resolve differences of opinion on the trees covered by the TPO. Unfortunately, it had not been possible to resolve all the issues involved.

Mr Barrell referred to his submission in Appendix 3 to Report C, where he listed the trees that he felt for various reasons were not suitable for inclusion in the TPO. His reasons included:-

- Certain trees' proximity to others, giving no realistic potential of becoming individual trees (he referred to G3)
- Dead, dying or dangerous trees (he referred to Cypresses in G4 and G5)
- Trees that presented a hazard, or destructively interfered with better trees, or resulted in unreasonable inconvenience (he referred to the Cypress in W2, G6, one Pine in G9, and individual trees 5, 8, 9, 11, 14 and 15).

Additionally, Mr Barrell felt Tree Groups G7 and G8 had large numbers of individual trees which made it difficult to identify them, some of which he felt were unsuitable due to poor condition or structural defects. Mr Barrell felt this made the Order unenforceable and that suitable trees should be redesignated, either as individual trees, or smaller groups.

The Officers had met on site with Mr Barrell to review a number of trees which had for various reasons deteriorated since the original TPO was made. Mr Yeats, the Tree Officer, was satisfied that none of the trees mentioned were a serious danger on the school grounds. Any such trees suspected of being potentially dangerous should be monitored and managed in the normal way, and if necessary, works could be carried out without applying to NFDC to do so. He emphasised that if part of a tree was considered dangerous, this did not make the entire tree so. Mr Yeats re-emphasised that a Tree Preservation Order did not prevent pruning and management of trees and any applications for such works would always be given careful consideration.

In summing up, Mr Yeats felt he had dealt with Mr Barrell's objections fairly and reasonably, and had tried to make the administration in respect of tree work applications less onerous.

The Head Teacher of the School commented that he had no concerns regarding any of the trees and he supported the Order.

Members discussed the matter in detail, and took all the evidence into consideration.

The Panel felt that tree T11 (which was not recommended for exclusion from the Order) should be excluded, due to the fact it was recumbent, and its general condition.

Having carefully weighed all the arguments and inspected the trees, members agreed to confirm the amendments to the Order as set out in the officers Report, with the exception of Tree T11, which they felt should also be removed from the TPO.

RESOLVED:

That Tree Preservation Order 73/00 be confirmed with the following amendment: –

- (a) That the description of W2 be changed from "mixed deciduous and coniferous species"

to

"mixed deciduous species"

- (b) That the description of G5 be changed from

"15 x Cypress, 1 x Pine"

to

10 x Leyland Cypress, 1 x Pine"

- (c) That the description of G9 be changed from

"2 x Holm Oak, 2 x Pine "

to

"2 x Holm Oak, 1 x Pine"

- (d) That the following trees be removed from the Order:

T5, G4 and T11

(e) That G3 is changed from

19 x Cypress

to

18 x Cypress and end tree is shown as "Trees noted but not worthy of preservation" on plan.

20. OBJECTION TO TREE PRESERVATION ORDER 76/00: LAND ADJACENT TO DURLSTON COURT SCHOOL, TO SOUTH OF HIGHLAND ROAD AND SPINACRE, BOUNDED TO THE EAST OF BECTON LANE, NEW MILTON IN HAMPSHIRE.

The Council considered objections to Tree Preservation Order 76/00 and adjacent to Durlston School, to South of Highlands Road and Spinacre, bounded to the east of Becton Lane, New Milton.

The Order was made following a survey carried out as part of a review being undertaken to update all TPO's with area designations. TPO 520 was the existing Order when the review was carried out and this was revoked and made into 5 new Orders (73/00 and 76-79/00 inclusive).

Tree Preservation Order 76/00 was made on 26 January 2001. The TPO protected a group of 31 Pines, denoted G1, growing on the east boundary of the site adjacent to Becton Lane; a group of two Pines, denoted G2, growing near to the south boundary of the site adjacent to Durlston Court Kindergarten; three individual Oaks, denoted T1, T2 and T3, one growing adjacent to G2, and the others growing near the north boundary of the site.

The basis of the objection put forward by Barrell Tree Care (acting on behalf of Pennyfarthing Construction Ltd) was that there were five Pine trees within G1 and one Pine tree within G2 that they considered to be structurally unsafe and therefore should not be included within a new TPO. Barrell Tree Care also claimed that there was a discrepancy with regard the number of trees within G1 – Mr Barrell claimed there were only 25 trees in the group.

The Officers surveyed the site on 14 November 2000 and stated at that time that all the trees appeared to be in good health with minimal wind damage. None appeared imminently dangerous or in a condition that could not easily be rectified with remedial tree surgery. It was the Officers' view that the trees formed a prominent feature and were considered worthy of protection, whilst other trees had the potential to become very prominent landscape features in the future.

Mr Yeats, Tree Officer, felt the land plot survey provided by Barrell Tree Care did not show all the trees on site, and he maintained that there were 31 trees worthy of protection in G1, as opposed to Mr Barrell's claim that there were 25. Mr Yeats suggested that adding the word "larger" to the Schedule 1 of the TPO would help to clarify which of the group were covered.

Having listened to all the evidence and inspected the trees, Members accepted that the trees under G1 should be treated as a group, and that the trees under G2 should be retained in the Order.

Accordingly it was

RESOLVED:

That TPO 76/00 be confirmed, with an amendment to Schedule 1 and of the TPO Under G1 as follows:-

31 x Pine

be amended to read

30 x Pine and one tree to be shown as “trees noted but not worthy of preservation” on the plan.

(AP1800701)

CHAIRMAN