23 OCTOBER 2002

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of the Appeals Panel held at the Hythe and Dibden Parish Council Offices, St Johns Street, Hythe on Wednesday, 23 October 2002.

	Councillors:		**Councillors:**
p	Cllr K F Ault	p	Mrs M Humber
p	Mrs L C Ford		

In Attendance:

Cllr Mrs M Robinson

Officers Attending:

Miss J Debnam, Mrs L James and B Wilson.

Also Present:

Mr E M Payne (Objector)
Mr T George (Interested Neighbour)
Mr B Beaven (Hythe and Dibden Parish Council)

5. ELECTION OF CHAIRMAN.

RESOLVED:

Cllr Ault be elected Chairman for the meeting.

6. MINUTES (REPORT A).

RESOLVED:

That the minutes of the meeting of the Appeals Panel held on 22 July 2002, having been circulated, be signed by the Chairman as a correct record.

7. DECLARATIONS OF INTEREST.

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

8. PUBLIC PARTICIPATION.

There were no issues raised during the public participation period.

9. TREE PRESERVATION ORDER 37/02 (REPORT B).

The meeting had been preceded by a visit to the site to allow members of the Panel to establish the geographical context, their perceptions of the health of the tree, and to gain an impression of its amenity value within the street scene.

During the site visit members had noted that the preserved tree (T1) was close to a second oak tree that had not been considered worthy of protection and had not been noted on the plan in the Tree Preservation Order (TPO).

The Council's Solicitor drew the Panel's attention to the local Authority's duties and responsibilities in protecting trees as set out in the relevant legislation. She reminded them of the tests which should be applied in deciding whether or not a tree should be subject to a Tree Preservation Order.

Mr Payne, the objector, drew members' attention to the correspondence that he had submitted in support of his objection. In answer to concerns that he raised, the Panel reassured him that they had understood that part of the terms of his objection related to the tree harbouring crows and magpies specifically, but not other birds species.

Mr Payne explained that his objection related mainly to the potential for the tree's roots to damage a major drain that ran through the rear of his garden. He did not agree that the tree had significant amenity value as it was situated in a depression, and what amenity value it had would not be significantly prejudiced if the tree was cut back by 50% to reduce the likelihood of its seeking additional water and consequently damaging the drain. He also considered that the tree was over-bearing and intrusive on neighbouring properties. He pointed out that, should such a tree be now planted, it would not be placed so close to residential properties.

In answer to his questions, Mr Payne was reassured that the procedure through which the tree had come to the Council's attention, and made the subject of a Tree Preservation Order, were entirely normal.

Mr Wilson, the Council's Tree Team Leader, referred to the fine quality of the oak tree, which was subject to Tree Preservation Order 37/02. It was a healthy tree, probably now at its maximum size, which was a significant feature in the landscape when viewed from a number of surrounding viewpoints. The tree had come to the Council's attention when a tree surgeon, who had been commissioned by the owners of the tree to prune it, had made a routine enquiry about whether the tree was subject to protection either by a Tree Preservation Order or through being within a Conservation Area. The Council's Tree Team had confirmed that the tree was not then protected but, as a precaution, had visited the site to establish the value of the tree. The Council's Tree Officer had concluded that this was a fine tree which was worthy of protection and subsequently served the Order. Some pruning works had taken place to the tree but these were entirely consistent with its good management. The works had been done before the Order had been served, but in any event were of the type which would have been given consent had application been made to do works to a protected tree.

In answer to questions, Mr Wilson advised the Panel that the tree was now likely to be at its maximum size. The roots were not therefore likely to grow to a significant degree and the potential for additional threat to the drains was therefore limited. In addition, even if the tree was protected by a Tree Preservation Order, this would not prohibit any management works that might be necessary. This would include any pruning to the roots that might be needed should complaints about damage to the drain be found to be justified following inspection by a drainage engineer. The effect on local soil conditions, should the oak tree be not present, was difficult to evaluate as it would depend on a wide range of factors including the soil type and other ground conditions.

Cllr Robinson, as one of the local ward members, considered that the oak tree was beautiful and had a great deal of amenity value. She nonetheless recognised that there were legitimate concerns about drains in this area.

Mr Beaven the Clerk to Hythe and Dibden Parish Council reported that the Parish considered that this was a significant landmark tree which made an important contribution to the pleasant green, wooded character of the area. They considered that it should be retained for as long as possible.

Mr Payne the Objector and Mr Wilson the Council's Tree Team Leader were asked to summarise the cases that they had presented.

The Chairman closed the hearing and adjourned the meeting for 5 minutes to allow the members of the Panel to consider their views on an individual basis.

The meeting was reconvened to allow the Panel to determine whether the Tree Preservation Order should be confirmed, with or without modification.

The Panel concluded that the tree was a significant feature in the local landscape and had a high amenity value. Not only was it a significant landscape feature in its own right, it also screened views across to the port of Southampton. The tree was healthy and in a safe condition. The imposition of a Tree Preservation Order would not prevent reasonable and essential maintenance and management work being done.

For clarity, the Panel considered that the plan attached to the Tree Preservation Order should be annotated to refer to the second tree which was not considered worthy of protection.

RESOLVED:

That Tree Preservation Order 37/02 be confirmed subject to the Plan being modified to indicate the second oak tree which is not considered worthy of retention.

CHAIRMAN

(AP231002)