

28 JANUARY 2003

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of a Tree Preservation Order Appeals Panel held at the Lymington Town Hall on Tuesday, 28 January 2003.

Councillors:

p Cllr S M Abernethy
e Cllr D S Burdle
p Mrs L C Ford

Councillors:

p Cllr C F Gradidge
p Mrs M Humber

Officers Attending:

J Hearne, Mrs L James, A Rogers and B Wilson.

Also Present:

Cllr Mrs F Wiseman (Lymington & Pennington Town Council)
Mr & Mrs Bonett (Objectors)
D Barnes, I Barnes, E Williams, D Williams, S Gould (Local Residents)

15. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Mrs Humber be elected Chairman for the meeting.

16. MINUTES (REPORT A).

RESOLVED:

That the minutes of the meeting of the Appeals Panel held on 12 November 2002, having been circulated, be signed by the Chairman as a correct record.

17. DECLARATIONS OF INTEREST.

Cllr Mrs Humber declared an interest as a member of the local Town Council, but did not consider she had a personal interest within the meaning of the Code of Conduct.

18. PUBLIC PARTICIPATION.

There were no issues raised during the public participation period.

19. TREE PRESERVATION ORDER 36/02 (REPORT B).

The Panel examined an objection to Tree Preservation Order (TPO) 36/02 relating to Land of Pyrford Gardens and Pyrford Mews, Lymington.

The meeting had been preceded by a site visit 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 tree marked (T4), a Monterey Cypress on the TPO plan, was the subject of the objection.

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 that should be applied in deciding whether or not a tree should be subject to a Tree Preservation Order.

Mr Bonett, the objector, drew members' attention to the correspondence that he had submitted in support of his objection. Mr Bonett had been living at the property for 2½ years. He disagreed with the decision to replace the Area TPO made in 1972 with the new TPO 36/02, as it took no account of the dramatic change of environment surrounding the tree over the past 30 years, i.e. the housing development. Mr Bonett made the point that the Monterey Cypress was a fast growing variety, and that a tree expert at Exbury Gardens had said to him that these trees were 'a total nuisance'. He stated the tree had been the subject of considerable unauthorised pruning, it was unbalanced and had been neglected. Whilst he noted that the safety of the tree was the responsibility of the owner, he pointed out that the owner seemed reluctant to take any action.

He explained that the branches overhanging his property dropped dead material which clogged his gullies and guttering, and deposited a film of green matter on the glass roof of his conservatory. He also pointed out that structural defects in the tree, as well as the coryneum canker disease identified by the tree officer, had resulted in some dead branches. As a result, he felt that the tree was a future danger, but reiterated that the owner was reluctant to take any action. He said that different tree officers had made significantly varying estimates as to the tree's life expectancy, which ranged from 5 to 10 years, to 20 or 30 years. He therefore felt the tree's life expectancy was uncertain and queried its future value.

Mr Bonett referred to the Tree Officer's report. It was stated that he had had his application to prune the tree refused by the District Council in July 2001, under TPO 512. His subsequent appeal to the Secretary of State was dismissed on 31 December 2001. Mr Bonett pointed out that, although these basic facts had been stated in the report, the full details had not been given.

In conclusion Mr Bonett said that the problems with the tree had been a source of anxiety and depression.

The Chairman then invited supporters of the objector to speak. Mr Rochfort, of 8 Vitre Gardens, spoke in support of the objector. He explained that the tree impinged on 4 properties and how its height and spread dominated their gardens. He pointed out that the Council had only consented once to the pruning of the tree and allowed 1 - 1.5 metres of branches to be removed; what he believed to be about 1 year's growth.

Another Vitre Gardens resident spoke in support of the objector and highlighted the potential health and safety impact of the tree, in terms of its branches and roots, and pointed out that it may be unstable.

Another supporter of the objector queried the amenity value of the tree and doubted the extent to which it was purported to be visible from the surrounding area.

The Chairman read out letters from local residents in support of the objector:-

- From Mrs M Cox of 7 Vitre Gardens, who felt the tree was potentially dangerous, and that the considerable overhang of the tree could be a hazard due to the possible fall of branches caused by disease.
- From Mr L J Collings-Wells of Flat 3, Pyrford Gardens, who felt the tree had great amenity value and supported the TPO, but at the same time sympathised with the objector and felt that Mr Bonett should be allowed to prune the tree under the direction of the Council's Tree Officers.

The Chairman invited the Council's arboriculturist to set out the case for preservation.

Mr Hearne stated that the tree was visible from Vitre Gardens, Rookes Lane and other surrounding roads, as well as from the open space known as Woodside Gardens. Mr Hearne also felt that the tree was a valuable screen between the rear of those properties in Vitre Gardens and Pyrford Gardens. He emphasised that the TPO would allow judicious pruning of the tree. He also reiterated that the safety of the tree was the responsibility of the owner. Mr Hearne referred to the decision of the Secretary of State in December 2001 to dismiss the appeal against the Council's decision to refuse an application to prune. He pointed out that the Secretary of State had, in dismissing the appeal, commented that some pruning could be appropriate.

Cllr Mrs F Wiseman, from Lymington & Pennington Town Council, addressed the Panel. Cllr Mrs Wiseman said that the Town Council's planning committee had raised no objection to TPO 36/02. She indicated her support for the amenity value of the tree and pointed out that residents of the flats at Pyrford Gardens may have purchased those properties partly because the trees were there. She did however believe that the diseased parts of the tree should be removed. In summary, she felt that the TPO should be confirmed.

The Chairman read out correspondence from local residents in support of the TPO:-

- A petition from 24 residents of Pyrford Gardens. The covering letter stated that those residents did not believe the occupiers of Vitre Gardens to be in any danger from the tree, and that it contributed noticeably to the wooded character of Pyrford Gardens and the neighbourhood.
- A letter from Ms B Lloyd of 17 Pyrford Gardens, saying she felt the tree was a special tree of great interest, which should remain protected. Its removal would spoil her view.

- The letter previously mentioned, from Mr Collings-Wells, who supported the TPO, but who was in favour of pruning.

Each party was then invited to ask questions and summarise the cases that they had presented. The Chairman then closed the meeting and the Panel made its deliberations. Everyone was invited to remain present.

The Panel concluded that the TPO should be confirmed for the reasons set out in the Tree Officer's report. In particular, members felt the tree's amenity value had a positive impact on the landscape and was visible from the surrounding area.

Accordingly, having carefully considered all the evidence given, the Panel agreed to confirm the Order without amendment.

RESOLVED:

That Tree Preservation Order 36/02 be confirmed without amendment.

CHAIRMAN

(AP280103)