



8 AUGUST 2003

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of Appeals Panel held at Town Hall, Lymington on Friday, 8 August 2003.

**Councillors:**

p Mrs L C Ford  
p Mrs M Humber  
p Mrs B Maynard

**Councillors:**

p L R Puttock  
p M H Thierry

**In Attendance:**

**Councillors:**

K F Ault (Local Member)  
Dr M N Whitehead

**Officers Attending:**

Miss J Debnam, Miss J Mutlow and B Wilson.

**Also Present:**

Mr J B & Mrs J M Mucklow, Mr N R & Mrs B S Walton, Mrs C Hansol (Local Residents).

**1. ELECTION OF CHAIRMAN.**

**RESOLVED:**

That Cllr Mrs Ford be elected Chairman for the meeting.

**2. MINUTES (REPORT A).**

**RESOLVED:**

That the minutes of the meeting of the Appeals Panel held on 25 April 2003, having been circulated, be signed by the Chairman as a correct record.

**3. DECLARATIONS OF INTEREST.**

Cllr Humber disclosed a personal interest on the basis that she knew one of the objectors to the Order. She did not however consider that such interest was prejudicial and remained in the meeting to take part and to vote.

**4. TREE PRESERVATION ORDER 23/03 (REPORT B).**

The Panel considered objections to the making of Tree Preservation Order 23/03 which related to land of 48 Ambleside Road, Lyminster.

The meeting had been preceded by a visit to the site to allow members of the Panel to establish the geographical context of the protected tree, and to form an opinion about the tree's health and its amenity value. The tree in question was a monterey cyprus of substantial size.

The Council's Solicitor explained the role of the Panel in considering whether a tree should be subject to a Tree Preservation Order. The issues that might be taken into account were strictly limited by statute and related to the amenity value of the tree. Guidance was given on what should be taken into account in considering amenity value.

Mr Walton, an objector to the Order, who was the owner of the tree, reminded members that the monterey cyprus was very large and was in close proximity to his house and those in Daniel's Close and Daniel's Walk. The tree was diseased, and was believed to suffer from cyprus canker fungus. It had been omitted from a previous Tree Preservation Order, made in 1992, for this reason. Mr Walton was becoming increasingly concerned about the tree's deterioration. He felt that maintenance pruning would be essential and more frequently than with a healthy tree, in order to keep the tree in a safe condition. This would merely postpone the inevitable decline and death of the tree and involve inordinate expense as a result. The arboriculturist had agreed that the crown of the tree could be lifted to 4 metres but this would have a limited benefit as many of the lower branches had already been removed. Raising the crown to 6 metres would at least reduce the problems that the nearby residents experienced with the tree.

Mr Walton felt that the tree had limited amenity value when viewed from public places, outside the immediately neighbouring gardens.

Mr Mucklow, a neighbour and fellow objector, had lived at his property for 25 years and had witnessed both the growth of the tree and its deterioration in health, which had been particularly dramatic over the last year. The tree shed branches of significant size, including one during the last winter which was 12ft long. He felt this represented a significant danger in such close proximity to the houses. He concluded that the tree was becoming ugly as its health deteriorated and its amenity value was being eroded.

Both Mr Walton and Mr Mucklow reported that other immediate neighbours felt the tree should be felled.

The Council's Arboriculturist had no questions for the objectors.

Members of the Panel questioned Mr Walton and Mr Mucklow to clarify the grounds of their objection.

The Council's Arboriculturist put the case for retaining the tree through the confirmation of the Tree Preservation Order. While there was no indication from the files why this monterey cyprus had been excluded from the 1992 Tree Preservation Order it was reasonable to conclude that the Tree Officer had formed the view that the infection with canker fungus would significantly shorten the life of the tree. It was custom and practice not to impose a Tree Preservation Order where the tree was unlikely to live for more than 10 years. In this case, the tree was still alive and doing well. Inspection of the tree during the site visit had demonstrated that, while there was die back on some branches, there were vigorous growing tips on the leaves on most of the tree. It was not unusual for a tree to contain dead wood. This did not indicate that its decline was imminent or unduly reduce its amenity value. Agreed pruning (lifting the crown to 4 metres and 20% thinning of the crown) would remove the deadwood, maintain safety; and reduce any oppressive effect of the tree. The Arboriculturist drew members attention to the visual prominence of the tree when viewed from Daniel's Walk and Daniel's Close.

In answer to questions, the Council's Arboriculturist confirmed that the tree was in the region of 70 years old and had a life expectancy in excess of 30 years. He also confirmed that this species of tree could not be pollarded.

Neither the local ward Members nor the Town Council had expressed a view on this matter.

In summing up, the Council's Arboriculturist emphasised the visual prominence of the tree and its relatively good health and life expectancy, which he considered created considerable amenity value.

In summing up, Mr Mucklow and Mr Walton re-emphasised their concerns about the safety of this tree in proximity to their homes. They did not consider it had a significant amenity value when viewed from a wider area.

The Chairman then closed the hearing. All those present were invited to remain while the Panel determined the objections.

While some members felt that the tree retained significant amenity value, the majority considered that the tree was of limited amenity value from viewpoints outside the immediately adjoining gardens, and they were also concerned about the long term viability of the tree in view of its infection with cyprus canker fungus. Accordingly it was

**RESOLVED:**

That Tree Preservation Order 23/03 be not confirmed.

CHAIRMAN