



21 NOVEMBER 2003

**NEW FOREST DISTRICT COUNCIL**

**APPEALS PANEL**

Minutes of a meeting of Appeals Panel held in the Council Chamber, Public Offices, Ringwood on Friday, 21 November 2003.

**Councillors:**

p K F Ault  
p Ms L C Ford  
p F R Harrison

**Councillors:**

p Mrs S I Snowden  
p Mrs B Vincent

**In Attendance:**

**Councillor:**

J Penwarden

**Officers Attending:**

Miss J Debnam, M Hines, Miss J Mutlow and B Wilson.

**Also Present:**

Mr Browning (Objector).

**22. ELECTION OF CHAIRMAN.**

**RESOLVED:**

That Cllr Ault be elected Chairman for the meeting.

**23. MINUTES (REPORTS A, B AND C).**

**RESOLVED:**

That the minutes of the meetings held on 23 October and 24 October 2003, having been circulated, be signed by the Chairman as correct records subject to the deletion of Cllr Ault from those shown to be in attendance at the meeting of 23 October 2003 designated Report B.

**24. DECLARATIONS OF INTEREST.**

There were no declarations of interest made by members in connection with an agenda item.

**25. OBJECTIONS TO TREE PRESERVATION ORDER 93/03 – LAND OF 32 GARDEN ROAD, BURLEY (REPORT D).**

The Panel considered an objection to the making of Tree Preservation Order 93/03 which protects one birch tree (T1) in the front garden of 32 Garden Road, Burley.

The meeting had been preceded by a site visit to allow Members of the Panel to establish the geographical context of the protected tree, and to form an opinion about its health and amenity value.

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 and whether it was expedient to confirm the Order. Guidance was given on what should be taken into account in considering amenity value.

Mr Browning considered that the silver birch tree completely over-shadowed each of the rooms at the front of the house and the front garden. It had a completely dominating effect, and would continue to be overly intrusive even after works, which had been given consent, had been carried out. The consent was to trim all branches back to give 2m separation between the trees and the structure of the house, and to further thin the crown by 20%. Its central location within the small front garden meant that it was unduly intrusive. Mr Browning considered the tree had limited public amenity value as views of it were restricted and it was always seen within the context of other trees and it was therefore, on its own, not a significant feature.

In answer to a question from the Council's Arboriculturist, Mr Browning confirmed that the effect of the proposed pruning and thinning works had been discussed between Mr Browning and the Council's Arboriculturist.

In answer to questions from Members of the Panel Mr Browning indicated that he did not feel that he would be reasonably content with the situation even after the tree had been trimmed and thinned; the tree was in good health and was covered in a cascade of leaves in the summer months; and the tree was on the south easterly aspect of the house.

The Council's Arboriculturist reminded members that they had seen the tree within its surroundings and he invited them to form a view as to whether it had sufficient public amenity value to warrant protection. The tree lay within the Conservation Area where it was recognised that significant trees should be retained. There was therefore a notification system with six weeks for the Council to respond in respect of any proposed works to a tree in a Conservation Area. The Tree Preservation Order had been made in response to an application to do works to the tree on the basis that it was a significant feature, could be seen from public viewpoints and was acceptable in shape and form. The proximity of the tree to the house did not necessarily mean that the roots would cause any structural problems. Silver birch was classified as one of a lower water requiring species and there was therefore no reason to feel that it would cause damage provided nothing was obviously amiss now.

In answer to questions from Members of the Panel Mr Wilson confirmed that the tree was probably in the region of 30 years old and would have a life expectancy in excess of 80 years. The tree, if left unmanaged, could grow to 60ft tall with considerably increased girth. But with suitable pruning could be kept to a reasonable size and should have a useful life expectancy well in excess of 10 years. When the tree became taller the crown could also be lifted which would allow more light to reach windows within the house. He also confirmed that the issue of daylight reaching the property was a legitimate consideration to be taken into account and indeed was recognised by the Council in giving consent to do works to the tree. The management of the tree remained the responsibility of the owner, and there were no powers available to the Council to require the tree should be managed in this way.

As one of the local ward members, Cllr Penwarden did not wish to express any views on this issue. No representatives of the Parish Council were present.

In summing up, the Council's Arboriculturist emphasised the amenity value of the tree and that it could be adequately managed within its environment.

In summing up Mr Browning emphasised that the tree was overly dominant in the front garden and its removal had the support of neighbours. It had limited public amenity value and did not warrant retention.

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

The Panel concluded that, on balance, the silver birch tree did not provide sufficient public amenity value to outweigh the adverse effects that it had on the property of 32 Garden Road.

**RESOLVED:**

That Tree Preservation Order 93/03 be not confirmed.

CHAIRMAN

(AP211103)  
(TPO93/03)