

2 APRIL 2004

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of the Appeals Panel held at Town Hall, Lymington on 2 April 2004.

Councillors:

p K F Ault
p B M F Pemberton
p J Penwarden

Councillors:

p Mrs S I Snowden
p A Weeks

In Attendance:

Councillor:

J M Hoy

Officers Attending:

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

Also Attending:

Mrs Jenkins - objector and Mrs Bowen - supporter of objector.

33. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Ault be elected Chairman of the meeting.

34. MINUTES (REPORT A).

RESOLVED:

That the minutes of the meeting held on 12 February 2004, having been circulated, be signed by the Chairman as a correct record.

35. DECLARATIONS OF INTEREST.

Members noted that Cllr Mrs Humber had been selected to serve on this Appeal Panel but that when she had attended the site visit she had discovered that she knew the objector. She declared a personal interest and concluded that such interest was prejudicial and withdrew from the remainder of the proceedings. None of the Councillors present at the formal hearing declared any interest in any item on the agenda.

36. OBJECTION TO TREE PRESERVATION ORDER 121/03 - LAND OF GLENFOLLY, HARE LANE, HORDLE (REPORT B).

The Panel considered an objection to the protection of 2 oak trees (designated T1 and T2) through the imposition of Tree Preservation Order 121/03.

The meeting had been preceded by a site visit to allow members of the Panel to establish the geographical context of the protected trees and to form an opinion about their health and amenity value. The trees had been viewed from within the objector's garden and also from a number of vantage points in the surrounding roads, as indicated on the plan attached as Appendix 4 to Report B. 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.

Mrs Jenkins emphasised that she had owned and managed the trees at Glenfolly for 24 years in a caring and responsible manner. There had never been any suggestion that the trees were under immediate threat of removal and she was disappointed that her trees had been subjected to controls merely because a neighbour had felled a large oak tree on their property. She did not feel that it was necessary to make the Order. While she did not intend to remove the trees imminently, she was concerned about their stability in the longer term as the trees were growing very closely together, and she also felt that the trees would become overly imposing within a domestic garden. She wished to retain the right and freedom to manage the trees, as she wished, unfettered by any controls.

Mrs Bowen, who was a neighbour of Mrs Jenkins, supported the objection to the protection of the 2 oak trees through a Tree Preservation Order. She had removed a large oak tree from her property because it caused significant shading and restricted the use of a significant proportion of her garden. She felt that, in the longer term, Mrs Jenkins would suffer similar inconvenience from the trees that it was proposed to protect. There were a number of oak trees in the vicinity and she did not consider that these trees made any unusual or significant contribution to the amenity of the area.

It was reported that, during the site visit, another neighbour, who had been unable to attend the hearing, had indicated that they would wish to see the trees properly maintained and pruned so that they did not constitute any hazard to the surrounding properties, through falling branches, and also to prevent undue shading.

The Council's arboriculturist, Mr Hines, advised the Panel that the Tree Preservation Order had been imposed on these trees following the felling of a very significant oak tree in the front garden of the neighbouring property. These 2 oak trees then became the most significant trees on the skyline, when viewed from a number of surrounding viewpoints. As such they made a significant contribution to the landscape of the area, softening the built environment and creating a pleasantly treed aspect. He had been concerned that the trees may ultimately be under threat as a result of the shading they would provide and, as a consequence, some controls were necessary to ensure their retention and management in the longer term. It was accepted that Mrs Jenkins had been a responsible owner and had not indicated that the trees were under imminent threat. The trees had a significant life span, with a residual life of some 200-300 years, and their care beyond the ownership of Mrs Jenkins was therefore an issue. It was emphasised that the imposition of a Tree Preservation Order did not remove the obligation of the land owner to manage the trees responsibly. The Order did not however sterilise any future works to the trees that were necessary for their management. The main issue was that consent would have to be sought for any such works. The positive benefit to the landowner was that the Council's arboriculturists would advise them of their professional opinion on the best management options.

Mr Hines emphasised that the trees were healthy and sound. He reassured the Panel and Mrs Jenkins that the proximity of the trees, in growth, did not prejudice their stability or survival. Indeed, removing one tree might weaken the root system and support of the remaining tree. The trees should be considered as an integrated pair. He drew the Panel's attention to the significant visual impact of these trees when viewed from outside the site.

As one of the local ward councillors, Cllr Hoy, advised the Panel that he considered that the trees did contribute significantly to the amenity value of the area. The neighbours did not appear to have any objection to the trees provided they were properly maintained.

In summing up, Mr Hines emphasised the amenity value, health, and longevity of the two oak trees.

In summing up, Mrs Jenkins emphasised her concerns about the longer term impact and stability of the trees within a small domestic garden and in close proximity to dwellings. She wished to maintain the freedom to manage her trees as she had always done.

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

The Panel were satisfied that the trees were healthy, stable and had significant amenity value when viewed from the wider area. They accepted that the current owner had always acted responsibly in her management of the trees but were mindful of the significant longevity of this species, beyond her stewardship.

RESOLVED:

That Tree Preservation Order 121/03 relating to land of Glenfolly, Hare Lane, Hordle be confirmed without amendment.