

**12 FEBRUARY 2004**  
**NEW FOREST DISTRICT COUNCIL**  
**APPEALS PANEL**



Minutes of a meeting of the Appeals Panel held at the Town Hall, Lymington on Thursday, 12 February 2004.

**Councillors:**

p Ms L C Ford  
p J Penwarden  
p L R Puttock

**Councillors:**

p G M Walmsley  
p Mrs B Vincent

**In Attendance:**

**Councillors:**

B M F Pemberton  
Mrs S I Snowden

**Officers Attending:**

Miss J Debnam, M Hines, Mrs L James and B Wilson.

**Also Present:**

Mrs J England - (Objector)  
Dr T Langford }  
Mrs C Seamer } (Supporters of the Objector)

**29. ELECTION OF CHAIRMAN.**

**RESOLVED:**

That Cllr Ms Ford be elected Chairman for the meeting.

**30. MINUTES (REPORTS A AND B).**

**RESOLVED:**

That the minutes of the two meetings held on 21 November 2003, having been circulated, be signed by the Chairman as correct records.

**31. DECLARATIONS OF INTEREST.**

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

**32. OBJECTION TO TREE PRESERVATION ORDER 130/02 – LAND OF KITWALLS LANE MANOR CLOSE AND 15-25 MANOR ROAD MILFORD-ON-SEA.**

The Panel considered an objection to the inclusion of a Swamp Cypress tree (designated T16), which was located in the front garden of Rosa, Kitwalls Lane, Milford-on-Sea, within Tree Preservation Order 130/02.

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.

Mrs England considered that the Swamp Cypress (T16) was a poor specimen. It had been significantly overcrowded during its growth. When she had bought the property 18 months previously she had removed a lot of vegetation, but had retained the Swamp Cypress to see if it might recover. She considered that the tree had been very disappointing when in leaf. She brought photographs of the tree to the meeting, demonstrating its visual impact in each season throughout the year. Mrs England also believed that, as Kitwalls Lane was a private road, and views of the tree from along Kitwalls Lane were limited, it provided very little public amenity value.

In answer to questions, Mrs England confirmed that she considered the tree had a poor shape and form, which would not be improved as the lower branches, which had died back as a result of overcrowding, would not regenerate. The tree was relatively small and had limited visual impact within the street scene. Mrs England proposed to retain the Copper Beech, immediately adjacent to the Swamp Cypress, but which overhung the hedge and verge, as it was more visually significant. She had also planted other trees within the garden already, including a clump of three Silver Birch trees in the front garden. She did not however intend to replace the Swamp Cypress, directly, with another tree in the same place.

Mrs Seamer and Dr Langford expressed their support for Mrs England's views. The Panel's attention was drawn to an e-mail from Dr Langford which had been made available prior to the meeting. Mrs Seamer and Dr Langford concurred that the tree was a poor specimen and suggested that Mrs England's long term plans for the garden would create better amenity value without the Swamp Cypress. Dr Langford emphasised his support for the remainder of the Tree Preservation Order, and indeed would have wished to see additional trees protected. He did not however feel that the Swamp Cypress had sufficient amenity value to warrant protection.

Mr Wilson, the Council's Arboriculturist, advised the Panel that the Swamp Cypress was a rare specimen, that was in good health, notwithstanding its previous overcrowding. It was a deciduous conifer and ideal for its position within a domestic garden. It had potential to grow to a significantly sized tree, with attractive summer foliage and startling autumn colours. It did not however cause much shading within the garden, particularly in winter. The rarity of the tree and the fact that it was different to other trees along Kitwalls Lane added considerably to its amenity value. He considered the tree made a significant contribution to the treed character of the Lane. The impact of the tree would be much greater in the summer and autumn, and would also increase as the tree matured. It was legitimate, in deciding whether to confirm the tree within the Order, to take account of its amenity value in the longer term. The die back of the lower branches did not detract from its amenity value. Coniferous trees often lost lower branches in this way. Mr Wilson also advised the Panel that the copper beech, which had not been protected by the Order, would in the longer term cause significant problems through over-hanging the hedge, verge and into Kitwalls Lane.

In answer to questions Mr Wilson advised the Panel that the tree had a likely life expectancy in excess of 70 years. He also reminded the Panel that, if the tree was not protected by a Tree Preservation Order, there were no controls over its replacement should the tree be felled. He also emphasised that this was an ideal specimen tree for the location and no alternative, offering equivalent amenity value, but with more desirable features within a domestic garden, could be recommended.

As one of the local members, Cllr Pemberton advised the Panel that on balance, the tree should be retained. He considered that the Copper Beech which was overhanging the hedge detracted from the Swamp Cypress. It was already a reasonable specimen and had the potential to grow to provide significant amenity value.

In summing up Mrs England re-emphasised that the Swamp Cypress was not being obscured by the Copper Beech but was, in itself, an insignificant tree. In her view it was, and would remain, a poor specimen and its removal would have minimal impact within the street scene. Undue value should not be placed on the tree merely because of its rarity value. She also advised the Panel that all the immediate neighbours supported the removal of the tree.

Dr Langford also emphasised that the removal of the tree would not make a significant difference to the treed appearance of Kitwalls Lane. He considered that the lack of lower branches would always detract from its appearance.

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 Swamp Cypress did provide significant amenity value and they were satisfied that this would increase, in the longer term, as the tree matured. It was unfortunate that the tree was being viewed in the winter when it was less significant but they considered that its amenity value had been established.

**RESOLVED:**

That TPO 130/02 be confirmed subject only to the amendment of the description of T16 in Schedule 1 to refer to a Swamp Cypress and also to confirmation that the tree is correctly plotted on the Tree Preservation Order Plan.

CHAIRMAN

(AP120204)