

7 JULY 2004

**NEW FOREST DISTRICT COUNCIL**

**APPEALS PANEL**

Minutes of a meeting of the Appeals Panel held on Wednesday, 7 July 2004 in Meeting Room 1, Town Hall, New Milton.

**Councillors:**

p Miss P A Drake  
p F R Harrison  
p Mrs M Humber

**Councillors:**

p Sqn Ldr B M F Pemberton  
p J Penwarden

**Officers Attending:**

Miss J Debnam, Miss J Mutlow, B Wilson.

**Also Attending:**

Mr Clarke – objector  
Town Cllr Earwicker – New Milton Town Council

**1. ELECTION OF CHAIRMAN.**

**RESOLVED:**

That Cllr Miss Drake be elected Chairman for the meeting.

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

**RESOLVED:**

That the minutes of the meeting held on 2 April 2004, having been circulated, be signed by the Chairman as a correct record.

**3. DECLARATIONS OF INTEREST.**

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

**4. OBJECTION TO TREE PRESERVATION ORDER NO. 10/04 – LAND OF 10 MOUNT AVENUE, NEW MILTON (REPORT B).**

The Panel considered an objection to the protection of a False Acacia (*Robinia pseudoacacia*) designated T1 within Tree Preservation Order No. 10/04.

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 of its health and amenity value. The tree had been viewed from the road and within the general vicinity, from public viewpoints.

Mr Clarke advised the Panel that he objected to the confirmation of the Tree Preservation Order on the grounds that the owners of the tree would construe the Order as a licence not to do essential maintenance. In addition, there were plenty of large mature trees within Mount Avenue which caused problems with street lighting, producing shading and obscuring visibility at night in the winter months. The common name for Acacia was applied to a number of species, some of which were very strong and resistant to disease. This particular species was, however, not. The specimen in question regularly shed significant pieces of wood measuring some 2' long and 1" diameter. He felt the tree should be characterised by the description of brittle, rather than of being strong. He also felt that the officers' conclusion that future potential damage from the roots of the tree could be repaired was erroneous. He felt that property owners should be protected from such damage taking place in the first instance. Another cause for concern was that the False Acacia produced poisonous seeds and he did not wish to be exposed to these within his property.

In answer to questions, Mr Clarke advised the Panel that the False Acacia in question did cause problems with a street light, which was situated outside the neighbouring flats.

Members of the Panel noted that a neighbour, Mrs McDowell, had attended the site visit but had felt unable to attend the hearing itself. The comments she had made during the site visit were that she was concerned about the final potential size of the tree and its consequent suitability within the urban street scene.

Mr Wilson, the Council's Arboriculturalist, advised the Panel that problems with street lighting could be addressed through appropriate pruning. His inspection of the tree confirmed that the tree which was subject of this appeal was in need of routine maintenance and pruning. This was to address problems with the street lighting, overhanging of the pavement and also of the driveway to number 10 Mount Avenue.

Mr Wilson emphasised that all trees had the potential to shed wood. With proper care and maintenance however this should be kept within the bounds of what would be considered reasonable. He emphasised that the imposition of a Tree Preservation Order did not in any way affect the landowner's responsibilities to maintain the tree in a safe and reasonable condition. Indeed the Council processed in excess of 700 tree work applications per annum, all of which sought consent for works to protected trees. Most tree work applications were approved.

With respect to damage from the roots of the tree, there was no way of predicting whether a particular tree would cause problems to a property. Provided the foundations were sound there was no reason to suppose that damage would be caused in future provided the tree was properly maintained.

Although the seeds of the False Acacia were listed as being poisonous, this was the case of many common garden species. It was unlikely to be an issue in this case.

Mr Wilson emphasised that the issue at point was the public amenity of this tree bearing in mind the expediency of confirming the Tree Preservation Order which should be based on issues such as its reasonable, safe, life. Mr Wilson confirmed that this tree could be expected to have a lifespan, offering significant amenity value to the local area, in excess of 10 years which was the normal measure which was applied.

With respect to the size of the tree, he cautioned that many of the sizes quoted in books related to specimens which were growing in the wild, in ideal conditions. Trees in a confined urban environment were often of less significant stature. False Acacias were one of the species which were frequently selected for this kind of location because they offered limited growth and were eminently suitable. This tree could be maintained at its current size through judicious pruning in the longer term.

In answer to questions from members of the Panel, Mr Wilson confirmed that the Council had no authority to require the landowners to prune and maintain the tree. Where there was a highway safety issue involved, the County Council could invoke powers under the Highways Acts. The Highway Authority's attention would indeed be drawn to issues relating to this tree and to further False Acacias further up Mount Avenue which needed attention.

On behalf of New Milton Town Council, Town Cllr Earwicker advised the Panel that they felt strongly that the tree should be retained because of its amenity value. Mount Avenue was a busy through route, providing an important pedestrian and vehicular link. In addition the road contained the local Catholic church. It was therefore a well travelled route and any trees would be seen by a large number of people. False Acacias were eminently suitable for an urban situation and a number had been deliberately planted within the Town Centre as they were ideal for that kind of situation. The seeds were not particularly poisonous.

Mount Avenue had lost many of the original trees so those which remained were of greater importance. This particular tree was not on the highway verge, but was set back, so it would cause less of a problem than the other False Acacias along the road. The roots of the tree should not be causing a problem. It should also be remembered that this a deciduous tree and shading would therefore be less of a problem in the winter months. Cllr Earwicker did not believe that this particular tree caused problems with any street lights within Mount Avenue. He emphasised that the Town Council would be happy to see necessary maintenance pruning of the tree.

In summing up, Mr Wilson emphasised the significant amenity value provided by the tree from a number of local viewpoints. He confirmed that the tree was appropriate to its setting and could be expected to have a life in excess of 10 years.

In summing up, Mr Clarke emphasised that there were ample trees in Mount Avenue but there was no longer the unbroken lines of trees down both sides of the road which had led to The 'Avenue' title. He did not consider that the loss of this particular tree would make any difference to the amenity value of the street scene.

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

The Panel was satisfied that the tree provided significant amenity value in the locality. Any problems which were being encountered with the tree could be overcome by judicious pruning.

**RESOLVED:**

That Tree Preservation Order No. 10/04 relating to land of 10 Mount Avenue, New Milton be confirmed without amendment.

CHAIRMAN