

6 OCTOBER 2004

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of Appeals Panel held at the Public Offices, Ringwood on Wednesday, 6 October 2004.

Councillors:

p K F Ault
p Ms L C Ford
p J Penwarden

Councillors:

p D J Russell
p Mrs S I Snowden

Officers Attending:

Miss J Debnam, A Kinghorn, Miss J Mutlow and B Wilson.

Also Attending:

Mr K Pierson and Mr K Green – Objectors
Mrs P Pipe, Mrs A Ambrose-Hunt, Mrs D Groves, Mr R Noakes, Mr & Mrs Walker –
Supporters of the Order.

9. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Ault be elected Chairman of the meeting.

10. MINUTES (REPORT A).

RESOLVED:

That the minutes of the meeting held on 10 September 2004, having been circulated, be signed by the Chairman as a correct record.

11. DECLARATIONS OF INTEREST.

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

12. OBJECTION TO TREE PRESERVATION ORDER 57/04 – PART OF LAND OF AVON VALLEY (BICKTON TO CHRISTCHURCH) SITE OF SPECIAL SCIENTIFIC INTEREST ADJACENT TO 248 CHRISTCHURCH ROAD RINGWOOD (REPORT B).

The Panel considered objections from Mr Green and Mr Pierson to the inclusion of parts of land, adjacent to 248 Christchurch Road, Ringwood, within Tree Preservation Order (TPO) 57/04. This was a Woodland Order which had been imposed over a wider area than that which was the subject of the objection.

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 of the health and amenity value of the woodland in general and, particularly, the area which was subject to objection. The Panel was reminded that their remit in considering the objection to the Order was narrow. They must only consider the amenity value of the woodland and the expediency of confirming the Order. The guidance from Office of the Deputy Prime Minister, on amenity value and expediency, was submitted to the meeting. The Panel was further advised that, while their power to modify the Order was not strictly fettered, they must have regard to due fairness to all parties involved. A significant variation in the terms of the Order should be addressed through confirming the Order, then requesting the Officers to follow the defined procedures for its variation, which included consultation arrangements.

Mr Pierson, as the main objector, advised the Panel that he had owned and managed this woodland since the mid 1970's. Some 15 years ago the area adjacent to the road had been levelled and surfaced to allow vehicles to gain access, to aid that management. He had regularly discussed management of the land with English Nature and was happy to give an undertaking to continue to do so in the future. There had, unfortunately, been an error made by English Nature in the service of documents on land owners when they had designated a wider area of land, within the Avon Valley, as a Site of Special Scientific Interest (SSSI). Mr Pierson's brother, an adjacent land owner, had been served but Mr Pierson himself had not. As a result the designation of this land as an SSSI was weakened. He nonetheless felt that the SSSI controls, alone, were sufficient to protect the woodland and define future operations on this land, by agreement, without the imposition of a further layer of bureaucracy through the TPO. Mr Pierson had sought advice before carrying out any works on the site, in August. These works had triggered the local concerns and subsequent imposition of the TPO. He had however always acted within the terms of any advice given to him by English Nature, New Forest District Council or Hampshire County Council Officers.

If the TPO was, in the event, confirmed he asked that the boundary should be reviewed. He was quite happy that the area enclosed within the TPO, away from the road should be extended but land adjacent to a road, which had now been cleared and had no trees within it should be excluded.

Mr Green reiterated the objection on the basis that the TPO was not needed. Consent had always been sought for any work that was being done to the trees. The problem with the SSSI designation had been caused by a mistake by English Nature in the notification. Doubling the number of consents needed in order to carry out any works would slow the process and create more paperwork, without any benefit.

Mr Wilson, the Council's Arboriculturist reminded members of the amenity value of the woodland covered by the TPO, which was visible from public viewpoints both along Christchurch Road and the public footpath. The TPO had been made in response to local concerns about trees being felled and damaged. It had therefore been expedient to make the Order. TPO's had a role in locations such as this, on the edge of the urban area, and should not be seen as conflicting with the SSSI designation, but rather complementing it. English Nature had supported the confirmation of the TPO. He also advised the Panel that, when the TPO was made, based on aerial photography, the area to the front of the site had been covered in vegetation.

In the ensuing questions and answers it emerged that both Mr Pierson and Mr Wilson would support further negotiations on the correct boundary of the area that should be included within this Tree Preservation Order.

In answer to questions, the Panel was advised that the imposition of the TPO, with the SSSI, would not slow decision making as consultations with the two bodies would be carried out concurrently. It was also custom and practice for the statutory organisations to discuss such applications, and the involvement of more than one agency was common place.

With respect to tree stumps that had been removed from the front of the site, this was possibly contrary to the TPO designation, but enforcement through the Magistrates' Court may be problematical, based on previous experience.

The Panel was also advised that the imposition of the TPO did not alter the land owners' responsibility to manage the trees. It merely gave the local Authority some control over what was done.

On behalf of the supporters of the Order, Mrs Pipe spoke of the clear amenity value of the woodland covered by the TPO, which was part of a larger area following the public footpath. It was the tip of a heavily protected area, which included Special Protection Area and RAMSAR designations. A fence had been erected along the frontage of the site, some months previously. Local residents had raised concerns when work had commenced on site over the August bank holiday, particularly when two trees were felled following earlier assurances that there would be no felling. Problems with the SSSI designation meant that protection through English Nature was not sufficiently robust and additional protection was needed through the Tree Preservation Order. The amenity value of the woodland was also supported by the Hampshire Wildlife Trust, on the basis of its value to wildlife. This was confirmed to be one of the tests of amenity value.

In summing up, Mr Wilson reminded Members of the collective amenity value represented by the trees within this woodland and was satisfied that their loss would make the area poorer. He was satisfied that it had been expedient to make the Order in the light of the felling being done. The boundary would benefit from further negotiations and a detailed survey, which would have been carried out if there had been more time when the Order was originally made. The Tree Preservation Order was needed to supplement the SSSI designation because of doubts about the strength of the SSSI. The woodland was of high amenity value to local residents.

In summing up, Mr Pierson advised the Panel that he was happy to provide further information on the extent of his freehold ownership in order to aid the process of designation but he maintained the view that additional protection was not needed. He considered that the boundary should be adjusted to exclude the area adjacent to Christchurch Road which no longer had any vegetation on it. The woodland would continue to need to be managed and he hoped that this would not be prevented by the controls.

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 woodland offered significant amenity value and it had been expedient to make the Order. They considered however that further work was necessary to establish the correct boundary of the area that should be protected. They requested that, should the Officers undertake a review of the boundary, all interested parties who had contacted the Council on this Order would be notified and consulted on the proposed changes.

RESOLVED:

- (a) That Tree Preservation Order 57/04 be confirmed without amendment;
- (b) That the Officers be instructed to review the boundary of the designated area, within a period of 3 months, and to consult all those persons who had originally been served or who had contacted the Council on this matter on the proposed changes;
- (c) That any further objection be reviewed once again by a meeting of the Appeals Panel.

CHAIRMAN

(AP061004)