

15 OCTOBER 2004

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of Appeals Panel held at the Town Hall, New Milton on Friday, 15 October 2004.

Councillors:

p K F Ault
p Mrs M Humber
p Sqn Ldr B M F Pemberton

Councillors:

p J Penwarden
p G M Walmsley

In Attendance:

Councillor:

Mrs S I Snowden

Officers Attending:

Miss J Debnam, R Lewis and B Wilson.

Also Attending:

Miss S Lang – Supporter of the Order.

13. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Ault be elected Chairman of the meeting.

14. DECLARATIONS OF INTEREST.

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

15. TREE PRESERVATION ORDER 67/04 – LAND OF 86-94 OSBORNE ROAD NEW MILTON (REPORT A).

The Panel considered the objection from CBA Trees, acting on behalf of Mr Yarnold, to the making of this Tree Preservation Order. This was an Area Order which covered the rear gardens of 86-94 Osborne Road, New Milton.

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 their health and amenity value. The opportunity was also taken to evaluate how much of the land designated within the Tree Preservation Order contained trees which were worthy of protection. Members had formed a view about the relative impact of the trees from Osborne Road and also Oak Road.

The Panel was reminded that the only issues that they should take into account, in considering whether or not to confirm the Order, were the amenity value of the trees and the expediency of confirming the Order. Issues relating to development control, or potential compensation, were not relevant.

In answer to questions, the Panel was further advised that there was no distinction between the amenity enjoyed by the public in general, and the neighbouring community. The Panel's attention was drawn to paragraphs 4.2 to 4.4 of Mr Harverson's report, as attached in Appendix 2 of Report B. Mr Harverson suggested that the imposition of an Area Order was inappropriate. Their attention was drawn to the guidance issued by the Office of the Deputy Prime Minister, which stated that, where appropriate, individual trees and groups of trees should be specified, but an Area Order was a legitimate use of the procedures. There was no basis for Mr Harverson's objection on this ground.

The Panel explored the reasons for objection, as set out in Mr Harverson's report. One basis appeared to be the principle of imposing an Area Order, which had been addressed above. Mr Harverson had not himself submitted any detailed survey of the trees on the site to form the basis for negotiations on a more specific Order.

Mr Harverson's other objections related to the lack of degree to which trees that were protected were visible to the general public; their lack of individual impact and significance within the landscape. It was noted that paragraphs 5.3 to 5.5 of Mr Harverson's report related to development proposals and were not relevant to the current proceedings.

Mr Wilson, the Council's Arboriculturist, advised the Panel that the Order had been made in response to concerns from local people about potential felling. It had therefore been expedient to make the Order. It had not been possible to gain access to the rear gardens of the properties to allow the Tree Officer to carry out a proper survey. It had therefore been necessary to impose an Area Order, in order to protect the current situation. It was intended to review the Order, revoking the area designation and replacing it with a specific schedule of individuals and groups of trees. The Area Order included an extensive band of mature oak, ash, sycamore and other species along the rear boundaries of the properties, adjacent to the railway line. A number of smaller trees within the rear gardens, some of which were of a more ornamental nature, had also been included and should be subject to further review and negotiation.

In answer to questions, Mr Wilson advised members that the existence of a Tree Preservation Order was a material consideration in the determination of a planning application, but did not preclude development of a site.

Miss Lang, as a supporter of the Order, advised the Panel that she had requested that the trees should be protected following the refusal of planning consent for development in the rear gardens of 92 and 94 Osborne Road. She considered that it was important to identify and retain the trees that were important in contributing to the amenity value of the area.

It was reported that Mr Marchant of No. 88 Osborne Road, who had invited members to view the trees in his rear garden and also those in the garden of No. 90, had been unable to attend the formal hearing. He had indicated that he supported the principle of the Order but would wish to see it reviewed and subject to further negotiations to exclude small "ornamental" type trees that were currently included.

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 Order covered trees which offered a significant amenity value and that it had been expedient to make the Order. They considered however that the Order should be reviewed, as a matter of urgency, to identify those trees which should properly be protected as individuals or part of a group.

RESOLVED:

- (a) That TPO 67/04 be confirmed without amendment; and
- (b) That the Order be reviewed within six months to allow for a detailed survey of the trees so that a new Order can be prepared to include individuals or groups of trees as appropriate.

CHAIRMAN

(AP151004)TPO6704