

23 NOVEMBER 2004

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of Appeals Panel held at Fordingbridge Town Hall on Tuesday, 23 November 2004.

Councillors:

p Ms L C Ford
p J M Hoy
p Sqn Ldr B M F Pemberton

Councillors:

p J Penwarden
p D J Russell

In Attendance:

Councillor:

Lt Col M J Shand

Officers Attending:

Mrs L Battersby, P Brophy, Miss J Mutlow and B Wilson

Also Attending:

Mr B Currie – objector to the Order

Mrs C Bennett)
Miss A Leather) supporters of the Order
Mr B McKeown)

29. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Ms Ford be elected Chairman of the meeting.

30. DECLARATIONS OF INTEREST.

No member declared an interest in the agenda item.

31. OBJECTION TO TREE PRESERVATION ORDER 19/04 – LAND OF BURGATE COURT, SALISBURY ROAD, BURGATE, FORDINGBRIDGE (REPORT A).

The Panel considered an objection from Mr Currie, owner of Burgate Court, to the making of this Tree Preservation Order.

The meeting was preceded by a site visit to allow members of the Panel to view the trees from either side of Salisbury Road and assess their impact.

The Panel was reminded that the only issues 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 were not relevant. Government Guidance stated that it may be expedient to make an Order if the Council believed there was a risk of the trees being cut down or pruned in ways which would have a significant impact on the amenity of the area. It was not necessary for the risk to be immediate. It may be a general risk from development pressures. A precautionary Order may also be considered appropriate to protect selected trees in advance, as it was not always possible to know about changes in property ownership and intentions to fell.

Mr Currie, owner of the trees, agreed that they were of outstanding amenity value. However, there were other equally beautiful trees in the area that were visible from the road but which were not covered by an Order. The reason for the Order must therefore have been that the officers considered the trees were under threat. In fact, the trees were under no threat from him. He valued them both as an amenity and because they served to screen the property from the road and traffic noise. He could see no reason why any future owner of the property would want to remove the trees as to do so would devalue the property. He objected to the Order as an unnecessary layer of bureaucracy that would mean he needed to apply for permission whenever the trees needed pruning, which would be a regular requirement as lower branches overhung the parking area.

He also objected strongly to the way in which the Order had been made. He referred to what in his view was inappropriate e-mail correspondence of June 2004 between a tree officer and Mrs Bennett, a nearby resident who had requested that the Order be made and who was a former employee of the Council. There had never been any suggestion of road widening, which had been put forward as an argument in favour of the Order, and nor had there been any threat to the trees from the Local Plan. He had no intention of exercising his easements over the lane between Burgate Farm and Doleswood to achieve visibility splays onto the main road. The Order had in fact never needed to be made, and this was a relevant point when considering the question of expediency.

Mr Wilson, the Council's arboriculturist, advised the Panel of the reasons why the Order had been made, as set out in his report. He agreed that the Order had been made following a request from a nearby resident who was a former Council employee and who was concerned at the possible implications of the District Local Plan First Alteration. He was sorry that Mr Currie was disappointed at the tenor of the e-mail communications referred to. While he himself knew Mrs Bennett, she had left the Council's employ before the tree officer with whom she had corresponded had joined. At the time the Order was made the Inspector's report into the Local Plan Inquiry was awaited. It had appeared that the potential threat of development at that time was an acceptable reason for making the Order, whatever the status of the person who had brought the matter to the Council's attention. It was true that there were many other trees in the area worthy of preservation. However, the Council was not resourced to make an Order in respect of every tree that was of

amenity value, and therefore tended to make Orders only when their notice was drawn to particular trees which might be threatened.

He accepted that there was in fact no threat to the trees from Mr Currie, and the Inspector's report indicated that there was now little chance of development opposite the site. However, confirming the Order would protect the trees if ownership changed in the future. If Mr Currie was concerned about the burden of having to apply for permission every time he wished to prune the trees, it should be possible to come to an arrangement whereby individual permissions were not needed for specific types of work.

In response to questions, he stated that no copy of the initial site visit report from the tree officer had been retained. It was normal practice for notes made on site to be incorporated directly onto a computer-drawn plan and then destroyed. He accepted that there were pines of amenity value only a matter of yards to the south of Burgate Court that had not been included in the Order. However, when considering how many trees to include in an Order in an area such as this one which ran along a highway, the question of where to draw the line between protected and unprotected trees was always a matter of difficult judgment.

Mrs Bennett stated that it was not the case that the development threat had gone away, quoting from the Inspector's report that there may be a special case for development of the dilapidated buildings opposite the trees. If development occurred this could result in widening of the lane between Burgate Farm and Doleswood to provide adequate visibility splays, entailing removal of the hedges from the gardens of both properties.

Mr McKeown accepted that the trees were not under threat from Mr Currie and that Mr Currie had no intention of using his easement over the land between his property and Mrs Bennett's. However, he was concerned about the situation should Burgate Court change ownership. The horse chestnuts in particular were very fine specimens visible from his property and to the many walkers who used the Avon Valley Pathway, and the trees as a group helped absorb traffic noise and fumes.

Miss Leather, another adjoining owner, supported Mrs Bennett and Mr McKeown and stated that she too was concerned should ownership of the trees change in the future.

Cllr Shand, the local member, expressed the view that although there had been justifiable concerns about possible development at the time the Order was made, it was now extremely unlikely that this would happen. He was very much in favour of protecting all trees of amenity value, but clearly the resources available made this impossible. Orders therefore tended to be restricted to trees that were under threat. The amenity value of the trees in question was no greater than that of other unprotected trees in the area. He therefore had some difficulty in seeing the necessity for the Order if it was accepted that the trees were not under any threat.

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

The Panel was satisfied that the trees that were the subject of the Order offered a significant amenity value. On the question of expediency, they accepted that Mr Currie had no intention of removing or harming the trees. However, confirming the Order would mean that the trees were protected should ownership change in the future.

RESOLVED:

That TPO 19/04 be confirmed without amendment.

CHAIRMAN

(AP231104)