

**10 MARCH 2005**

**NEW FOREST DISTRICT COUNCIL**

**APPEALS PANEL**

Minutes of a meeting of Appeals Panel held at Appletree Court, Lyndhurst on Thursday, 10 March 2005.

**Councillors:**

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

**Councillors:**

p G M Walmsley  
p Mrs B Vincent

**Officers Attending:**

P Brophy, Miss J Debnam and Miss J Mutlow.

**Also Attending:**

Mr and Mrs Ings – Objectors  
Mr Trant – Supporter.

**35. ELECTION OF CHAIRMAN.**

**RESOLVED:**

That Cllr Ford be elected Chairman of the meeting.

**36. DECLARATIONS OF INTEREST.**

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

**37. MINUTES (REPORT A).**

**RESOLVED:**

That the minutes of the meeting held on 23 February 2005, having been circulated, be signed by the Chairman as a correct record.

**38. TREE PRESERVATION ORDER 88/04 – LAND OF FLETCHWOOD HOUSE FLETCHWOOD LANE TOTTON (REPORT B).**

The Panel considered an objection to the making of this Tree Preservation Order (TPO). The meeting had been preceded by a visit to the site to allow members to inspect the 5 protected oak trees Group G1 within the TPO, to establish their geographical context and to form an opinion of their health and amenity value. The site visit had been attended by a representative of OCA UK Ltd and also one of the local ward Councillors, Cllr Puttock.

Mr and Mrs Ings advised the Panel that they had objected to the Tree Preservation Order on the advice of their Insurance Company. Their home was suffering from subsidence and, following a report from OCA UK Ltd, the Insurance Company had concluded that the trees were the cause. The trees also shed considerable quantities of leaves which were a nuisance, and blocked the gutters in the autumn. Mr and Mrs Ings felt that they could not remedy the subsidence to their home until the tree issue was resolved. They had been pursuing this matter for some two years, with the possible involvement of the trees only being identified in the last few months. They were frustrated by the difficulty in resolving the damage to their home.

In answer to questions, Mr and Mrs Ings advised the Panel that OCA had prepared a report based on a test pit dug by the foundations of the property, compared with a pit on the other side of the garden, in the lawn. They had also inspected the drains, which had needed remedial work as a result of root damage. The OCA tests had revealed live oak tree roots underneath the foundations. They had also felt that the pattern of subsidence was typical of that caused by trees and therefore concluded that the nearby oak trees were the direct cause of the subsidence. There was however no direct causal linkage to any one tree. They had consequently applied to fell 4 oak trees, designated T2 to T5 on the map which was reproduced in Appendix 4 to Report B.

Mr Brophy, the Council's Arboriculturist, advised the Panel that the Tree Preservation Order had been made following an approach from OCA to see if the trees were protected. An inspection had confirmed that the trees had significant amenity value and were worthy of protection. Because it was known that there was a subsidence issue involved and trees were under threat, a precautionary TPO had been made. OCA had subsequently made an application to fell the trees. The evidence in support of the claim the trees were the cause of the subsidence had been submitted to Dr Biddle, an expert in this field. Dr Biddle's analysis was attached at Appendix 5 to Report B. In essence, Dr Biddle concluded that the evidence submitted did not support the claim that the trees had caused the damage. It was noted that OCA had only just installed crack monitors to establish whether there was a cyclical pattern to the movement in the cracks.

In the light of Dr Biddle's analysis of OCA's report, consent to fell the trees had been refused.

The protected trees would benefit from pruning and removal of dead wood. They were however typical of the pattern of tree cover in this area and had had significant amenity value when viewed from the road.

In answer to questions the Panel was advised that if additional monitoring and gathering of evidence substantiated the claim that the trees were causing the subsidence, consent to fell could be granted through a tree work application. The TPO merely safeguarded the Council's position.

The stream to the right of the property (facing from the road) was unlikely to be affecting the pattern of root growth as the majority of the tree's catchment was within the adjoining paddock. It was noted however that ground movement consequent to the washing away of soil by water in this stream was a potential contributory factor to the subsidence and had not, to date, been explored.

Mr Trant, a supporter of the Order, represented the company that owned the adjoining land, including the four trees which OCA had proposed to fell. While he was willing to arrange for pruning and the removal of dead wood, he would not agree to remove any of the trees in question until there was substantive evidence that one or more specific trees were the cause of the subsidence. He emphasised his confusion in that OCA had originally proposed to fell the oak tree right at the front of Mr and Mrs Ings property, but had subsequently changed their minds to apply to fell the other four trees, which were marginally closer to the effected property. Mr Trant emphasised the possible implications of soil being washed away by the stream in causing the subsidence.

It was reported that Cllr Puttock, during the site visit, had indicated that the trees had significant amenity value and he would wish to see them retained provided they were not causing damage to the property.

In summing up, Mr Brophy emphasised that, with judicious pruning, the trees should enjoy a long lifespan and continue to make a significant contribution to the amenity value of the area. There was no evidence to implicate the trees as the cause of the subsidence to Mr and Mrs Ings' property. Should such evidence subsequently come to light, consent to fell could be granted through a tree work application. In the meantime, the Council had been appropriate in seeking to retain them for their amenity value.

The Chairman then closed the hearing.

The Panel debated the amenity value of the trees and the evidence that had been submitted to support the case that four of the trees were implicated in causing damage to Mr and Mrs Ings' property. They noted that the four trees were not within Mr and Mrs Ings' ownership and that Mr Trant would wish to see substantive evidence before deciding to remove any trees.

Having considered the amenity value of each of the trees within the group protected as Group G1, the Panel concluded that, while the two oak trees closest to the road had significant amenity value and made a clear visual impact when viewed from the road, the three trees further back were less visible and were not of such good form. The amenity value of the road would therefore not be significantly damaged by their loss, provided the two front trees were retained.

**RESOLVED:**

That Tree Preservation Order 88/04 relating to land of Fletchwood House, Fletchwood Lane, Totton be confirmed subject to amendment to protect only those two oak trees closest to the road.

CHAIRMAN