

2 JUNE 2005

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of Appeals Panel held at The Town Hall, Spencer Road, New Milton on Thursday, 2 June 2005.

Councillors:

p K F Ault
p D J Russell
p D N Scott

Councillors:

p Mrs S I Snowden
p Mrs B Vincent

Officers Attending:

Miss J Debnam, J Hearne and Miss J Mutlow.

Also Attending:

Ms Rogers and Mrs Lane (Objectors)
Mr Roche (Supporter of Objectors).

1. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Ault be elected Chairman of the meeting.

2. DECLARATIONS OF INTEREST.

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

3. MINUTES (REPORT A).

RESOLVED:

That the minutes of the meeting held on 10 March 2005, having been circulated, be signed by the Chairman as a correct record.

4. TREE PRESERVATION ORDER NO. 8/05 – LAND OF 6 COPSE AVENUE NEW MILTON (REPORT B).

The Panel considered an objection to the inclusion of one monterey cypress tree, designated T1, within Tree Preservation Order 8/05. The meeting had been preceded by a visit to the site to allow members to inspect all five of the trees that were protected by this Order, to establish their geographical context and to form an opinion of the health and amenity value.

Mrs Lane advised the Panel of her concern about the size of the monterey cypress tree, T1, and its proximity to her bungalow. In addition to causing excessive shading, the tree shed branches in an unpredictable fashion. As the tree had become progressively larger, the branches that it shed were correspondingly more dangerous. In addition, Mrs Lane's bungalow was showing signs of cracking in the wall nearest the tree and there was some concern that this may be subsidence caused by root activity. In answer to questions, Mrs Lane confirmed that she had lived at the property for some 15 years and the tree had always been some problem but this had increased markedly as the tree became larger. She had, in the past, sought management works to the tree but had not considered asking for it to be felled until the Tree Preservation Tree Order had been made.

Ms Rogers confirmed that she also only objected to the protection of the monterey cypress designated as T1 within the Order. Her concerns also related to the size of the tree, its proximity to her bungalow and Mrs Lane's, and the danger caused by shed branches. She also felt that the Order had only been made following the ring barking and removal of significant trees, including two large birches, in the grounds of 8 Copse Avenue, New Milton, which was currently being redeveloped. Without the loss of those trees, she did not feel that there would have been any desire to protect the trees in 8 Copse Avenue. Mrs Lane confirmed that, until recently, the owner of 6 Copse Avenue had refused to do any pruning or maintenance works to the trees within his grounds. The ownership of the property had recently changed and the new owner was much more amenable but had done the requested pruning works himself leaving the tree in rather an ugly condition. Mrs Rogers would favour crown lifting and thinning together with measures to reduce the problems caused by branches being shed, in an unpredictable way, by the tree.

Mr Rocke, as a supporter of the objectors, advised the Panel that it was disappointing to see the tree in its current state with no proper management. The main problem that he saw was the danger caused by the tree as it was impossible to predict those branches that would be shed, in advance, to avoid the danger.

Mr Hearne, the Council's Arboriculturist, confirmed that a number of very significant trees had been lost at 8 Copse Avenue, New Milton. The trees had been ring barked prior to any planning application being made. The Tree Preservation Order had been made in respect of 6 Copse Avenue when the Council had been advised that the same developer was trying to acquire the site. An Order had been made, but subsequently revoked and replaced with the current Order which identified specific trees which were worthy of protection. A number of trees on the site had now been omitted as they were in poor condition. These had been noted by members during the earlier site visit. The removal of the trees at 8 Copse Avenue increased the visual impact and amenity value of the protected trees in this Order. There was no doubt that the Monterey Cypress, tree T1, was very close to Mrs Lane's bungalow. If the large beech trees had still been present in the grounds of No. 8 Copse Avenue, this tree would not have been protected as its loss would have been insignificant against the background of the beech trees. With the beech trees gone however the monterey

cypress was the most significant visual feature, and significantly outweighed the other monterey cypress on the site, tree T2.

In respect of the cracking, Mr Hearne had not seen any direct evidence to suggest that this was caused by the protected tree. The type of evidence that would be required would be proof that the soil was a clay type which was vulnerable to shrinkage, that there was root activity under the foundations and that the cracks showed a cyclical pattern of widening and narrowing. If evidence was provided that the tree was the cause of damage to the property then an application to fell the tree would be given consent under a tree work application. Mr Hearne urged Mrs Lane to notify her insurers of the current problems with cracking to her property. Problems caused by shading could be improved by crown lifting and thinning, and also by trimming back some of the lower branches. This could reduce the problems without severely damaging the amenity value of the tree. Mr Hearne confirmed that there were cost implications associated with maintaining a protected tree and, no matter what action was taken, this particular tree would continue to dominate the properties within Branksome Close. He felt however that the lack of other significant trees in the neighbourhood meant that tree T1 was now of such significant value that the public benefit outweighed the problems that the tree caused to its immediate neighbours.

In answer to questions, Mr Hearne confirmed that the tree had only been protected because its rarity value had been increased by the removal of trees on the adjoining site. If these trees had not been removed, this tree would have been judged to be too close to the adjoining properties. In answer to further questions Mr Hearne confirmed that the tree was not fully grown and would continue to increase, mainly in spread, if it was not kept pruned. The tree was now approximately 60 years only and should have a further life of about 40 years. Its value arose from its own intrinsic beauty and the manner in which it softened the built environment. If this tree was removed from the site, two of the others which were in poor condition would be unlikely to benefit as they were already too poor, whilst one further tree may thrive as a result of additional light and space.

In summing up, Mr Hearne emphasised the rarity and amenity value provided by this tree which he commended as outweighing the inconvenience caused to the adjoining properties.

The Chairman then closed the hearing.

The Panel debated the merits of protecting this tree. They noted that the tree was within the ownership of a neighbour who had not objected to the making of the Order. There was no indication that there was any immediate intention to fell this tree. Members felt that the tree was however too large and too close to the adjoining properties to warrant protection through an Order. Although it was undoubtedly of significant amenity value they considered that this was outweighed by the problems being caused by the tree. They did not therefore feel that this tree was worthy of protection, with the consequent statutory controls over work that may be done to it. By removing this tree from the Order, its future maintenance could be the subject of negotiation between the tree's owner and the neighbours.

RESOLVED:

That Tree Preservation Order 8/05 be confirmed subject to amendment by the deletion of tree T1.

CHAIRMAN

(AP020605)