

22 MARCH 2006

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of Appeals Panel held in the Council Chamber, Public Offices, Ringwood on Wednesday, 22 March 2006.

Councillors:

p Ms L C Ford
p F R Harrison
p Mrs B M Maynard

Councillors:

p D J Russell
p Mrs B Vincent

Officers Attending:

Miss J Debnam, J Hearne and A Luddington.

Also Attending:

Mr Spender and Mrs Garlick – Objectors.

13. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Ford be elected Chairman for the meeting.

14. DECLARATIONS OF INTEREST.

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

15. MINUTES (REPORT A).

RESOLVED:

That the minutes of the meeting held on 6 March 2006, having been circulated, be signed by the Chairman as a correct record.

16. TREE PRESERVATION ORDER 65/05 – LAND ADJACENT 29-32 KINGSFIELD RINGWOOD (REPORT B).

The Panel considered an objection to the inclusion of an oak tree, designated tree T1, within Tree Preservation Order 65/05. The Order also covered an additional oak tree (tree T2) and a field maple designated as tree T3. The meeting had been preceded by a visit to the site to allow members to inspect all the trees that it was proposed to protect within this Tree Preservation Order, to establish their geographical context and to form an opinion on their health and amenity value.

Mr Spender objected to the protection of tree T1 within Tree Preservation Order 65/05 on the following grounds:

- The tree was of poor shape and form which limited its amenity value;
- The tree was behind trees T2 and T3 when viewed by passing traffic and pedestrians. This reduced its impact and therefore amenity value within the street scene;
- The tree was the likely cause of damage to the water supply pipe to the neighbouring property. It had cost a considerable amount of money to remedy this damage;
- There were other services such as gas and sewers within the likely area of influence of the tree roots. These were also vulnerable to damage, leading to expense and potential danger;
- The pathways were suffering significant signs of subsidence and damage, which was likely to be caused by the roots of tree T1. During the site visit members' attention had also been drawn to a puddle adjacent to the cover to the gas main access;
- The tree was heavily infested with ivy which may lead to its death and create a hazard from it falling over;
- The trees shed a lot of leaves which could increase the likelihood of elderly neighbours slipping;
- The wider public amenity value afforded by the trees should be offset by the problems experienced by the persons living closest to the trees.

The Tree Preservation Order had been made following an enquiry by the arboricultural contractor engaged by Mr Spender to remove the tree. In accordance with best practice, the contractor had been checking the tree was not protected.

Mrs Garlick advised members that she was very concerned about the effect that the tree was having on her property. The effects of the tree under the soil surface were unknown and she had already incurred considerable expense to remedy the damage to the water supply.

In answer to questions, Mr Spender confirmed that he had lived at his current property since 1988 and had owned the land containing tree T1 since 1993/94. He had maintained the tree since that time. He also confirmed that the puddle that members had noted around the cover to the gas main was unlikely to be the result of rain, following the long dry spell, with this being a noticeable feature for the last few months.

Mr Hearne, the Council's Arboriculturist, advised members that, since the Order had been made, it had been established that trees T2 and T3 were owned by the Highway Authority. In accordance with normal practice where the trees were in the ownership of a responsible authority, it was therefore recommended that these trees should be omitted from the Order should it be confirmed. Mr Hearne considered that tree T1 should be protected for the following reasons:

- The tree was of substantial size and could be clearly seen, above the roof tops, from throughout the surrounding area. It was not fully obscured by trees T1 and T2;
- The shape and form of the trees was quite normal;
- The ivy infestation would not be fatal to the tree and in any event should be treated by cutting the stem to the ivy;
- Oak trees tended to remain standing even after death, but the tree could be expected to have a life expectancy in the order of 200 years;
- The undulations in the pavement were typical of root damage but the worst of the damage was most probably caused by ground subsidence as a result of the water leak;
- There was no definitive proof that the tree was the cause of the damage to the water pipe. In any event, that damage had now been rectified, and damage to any other service pipes could be treated in the same way;
- All deciduous trees shed leaves and the potential nuisance that this caused was insufficient justification to warrant the removal of the tree;

The Panel was reminded of the criteria, set out in Government guidance, which should be taken into account when assessing the amenity value of the tree.

In summing up, Mrs Garlick considered that Mr Hearne was underestimating the effect of the tree on the surrounding properties. She maintained her concerns about the potential danger to elderly neighbours.

In summing up, Mr Spender re-emphasised the limited amenity value provided by tree T1, the problems that the tree caused to the structure of the services and the potential damage to services in the future.

The Chairman then closed the hearing.

The Panel debated the merits of protecting the trees.

With respect to trees T2 and T3 they concluded that, although the trees were within the ownership of the Highway Authority, they were vulnerable to injudicious pruning by the neighbouring property owners. On this basis it was therefore justifiable to maintain their protection through a Tree Preservation Order. With respect to tree T1, members concluded that it was partially hidden by trees T2 and T3. Since there was a degree of evidence that the tree was causing damage and the amenity value that it provided was limited by it being obscured by trees T2 and T3, they considered that it was not expedient to continue to protect this tree.

RESOLVED:

That Tree Preservation Order 65/05 relating to land of 29-32 Kingsfield, Ringwood be confirmed subject to amendment by the deletion of tree T1 from the Order.

CHAIRMAN

(AP220306)