



6 MARCH 2006

**NEW FOREST DISTRICT COUNCIL**

**APPEALS PANEL**

Minutes of a meeting of Appeals Panel held at Appletree Court, Lyndhurst on Monday, 6 March 2006.

**Councillors:**

p K F Ault  
p Ms L C Ford

**Councillors:**

p L R Puttock  
p J M Hoy

**In Attendance:**

Cllr D Russell

**Officers Attending:**

D Brophy, Miss J Debnam and Ms J Mutlow.

**Also Attending:**

Mrs and Mrs Evans – Objectors  
Mr Garfoot – Totton and Eling Town Council

**9. ELECTION OF CHAIRMAN.**

**RESOLVED:**

That Cllr Ford be elected Chairman for the meeting.

**10. DECLARATIONS OF INTEREST.**

Mrs Evans declared a personal interest as an employee of the Council and also one of the objectors.

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

**11. MINUTES (REPORT A).**

**RESOLVED:**

That the minutes of the meeting held on 22 November 2005, having been circulated, be signed by the Chairman as a correct record.

**12. TREE PRESERVATION ORDER 59/05 – LAND OF CRABBS WAY TOTTON (REPORT B).**

The Panel considered an objection to the inclusion of four oak trees which formed part of Group 1 within Tree Preservation Order 59/05. 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 with this Tree Preservation Order, to establish their geographical context and to form an opinion on their health and amenity value.

Mr Evans recognised the amenity value of the trees but considered that the public interest must be set against the potential deleterious effect of the trees on the private amenity and enjoyment of their property. The original landscaping scheme for the housing development had not anticipated the retention of the hedgerow oak trees which were now included within Group 1. Individual trees T1 and T2 had, at the time of planning consent being granted, already been significant trees and the layout had recognised the need to protect them and also to allow a sufficient un-obstructed area of influence for them as they grew. In the case of the original hedgerow, the additional landscape planting was of species such as the rowan tree which had been pointed out to members during the site visit, as being close to the gable end of 7 Matley Gardens. This tree was much more of the scale and spread which had been envisaged in the landscaping scheme. The current British Standards for developments now suggested that Local Authorities should not seek to introduce or maintain trees within the landscape of housing developments if this could not be done without periodic, significant, pruning.

Mr and Mrs Evans had objected to the protection of four oak trees which were immediately adjacent to the gable end of their property, 7 Matley Gardens. These trees already had an 8 metre spread towards the road but had been subject to pruning where they overhang the domestic properties. Mr and Mrs Evans' property had been damaged by a squirrel infestation, which had found access through the overhanging oaks. There was however no suggestion at this stage that the oak trees were causing physical damage to the structure of the property through their roots. It must be noted however that the property was on a heavy clay soil.

Mr Evans emphasised that he had no wish to pressure the owner of the trees to remove them, but he was concerned that the imposition of a Tree Preservation Order might, as in other areas, be used as an excuse to undertake no management works whatsoever. He was concerned that any negotiations on potential pruning works would now have to include a third party and may, inevitably, become more complicated.

Mr Evans emphasised that the trees were only in their current condition because of an absence of active management of the approved landscaping scheme for the area and had developed to their current size by default.

Mr Brophy, the Council's Arboriculturist, advised members that this Tree Preservation Order had been made in response to a request by Totton and Eling Town Council, who were the landowners. They were experiencing problems with other trees in the locality being pruned, injudiciously, by adjacent landowners who had no right to do so without specific consent. The Town Council had felt that the involvement of a third party, with statutory powers, was essential to ensure the retention of those trees. For consistency, the Arboriculturist's survey had included other trees along the same hedgerow. These were the subject of the current objection. It was emphasised that Mr and Mrs Evans had acted responsibly for the welfare and management of the trees adjacent to their property, and this could be expected to continue whilst they remained in occupation. The situation could not however be guaranteed should Mr and Mrs Evans move.

The Arboriculturist emphasised the amenity value of the trees which lay along a main route which was used extensively for both pedestrian and vehicular access. The Panel was reminded that the imposition of a Tree Preservation Order did not prevent the trees from being pruned, or crown thinning or lifting being undertaken. The only difference was that prior consent was required. In addition, any essential works which were necessary to prevent the trees causing damage to the property, for example by over-hanging branches, could be done without consent. If, in the longer term, the trees were found to be of a totally inappropriate scale or to be causing damage they could be removed at that stage, with consent. The Tree Preservation Order would however control the process and also allow for negotiations for suitable replacement planting at that stage.

Cllr D Russell, as one of the local ward members, advised the Panel that the trees in question had formed part of the original field hedgerow. From the layout of the estate it appeared that 7 Matley Gardens had been slotted in, as an extra plot, closer to the hedgerow than elsewhere on the estate. He was concerned that the trees along this hedgerow may be subject to too radical pruning, or removal, if they were not protected by the Tree Preservation Order. He sought, and received, confirmation that necessary management works could still be undertaken to the trees.

Mr Garfoot, on behalf of Totton and Eling Town Council, advised the Panel that the Town Council tried to take a pro-active role in managing the trees for which they were responsible. They had a specific budget allocation for this purpose and tried to plan essential works in advance, and not merely operate on a reactive basis. They were sympathetic to requests from neighbours of preserved trees. In the current instance, they could see no reason why the essential pruning works envisaged by the neighbours could not be carried out. He hoped that the neighbours' fears could be allayed by the Town Council's reassurances.

In summing up, Mr Brophy reaffirmed the amenity value of the trees and the need to protect them from injudicious pruning. With proper management he was satisfied that they had a useful life in excess of 20-30 years. If however, their proximity to homes was proven to cause problems at a later date then they could be removed. At the present time however there was no evidence that they were causing any damage or significant problems.

In summing up, Mr Evans drew members' attention to the comparative photographs which were attached in the supplementary evidence circulated prior to the meeting and that demonstrated the extent of growth of the oak trees since the property had been built. Although he was concerned at the suggestion that his property had been crammed into the estate layout, he was pleased to hear that Totton and Eling Town Council were sympathetic towards the needs of neighbours and asked for confirmation that they would support the views being expressed by the Council's Arboriculturist on pruning and management works.

Cllr Russell, having discussed the issue with the Town Council representative, advised the Panel that the Town Council was minded to do some pruning works, following consultations, in the near future.

The Chairman then closed the hearing.

The Panel debated the merits of protecting the trees and considered the amenity value of the trees and the expediency of making the Order. Members of the Panel considered that the trees did provide significant amenity value and were worthy of protection. They considered that the objectors had demonstrated legitimate concerns about the potential impact of the trees but that these could be overcome by proper management. The Panel expressed the hope that the Town Council would agree, and undertake, appropriate management works to all the trees included within Group G1, to improve their overall form and condition and also their relationship with the neighbouring residential properties. On this basis it was

**RESOLVED:**

That Tree Preservation Order 59/05 relating to land of Crabbs Way, Totton, be confirmed.

Action: Phil Brophy/Ann Caldwell

CHAIRMAN

(AP060306)