

6 FEBRUARY 2009
NEW FOREST DISTRICT COUNCIL
APPEALS PANEL



Minutes of a meeting of the Appeals Panel held in the Council Chamber, The Grove, St John's Street Hythe on Friday, 6 February 2009.

Councillors:

p D Harrison
e Lt Col M J Shand
p F P Vickers

Councillors:

p R A Wappet
p Mrs P A Wyeth

In Attendance:

Officers Attending:

A Douglas, Ms M Stephens and E Williams.

Also Attending:

Mr & Mrs Godfrey – Objectors
Mr & Mrs Wride – Objectors
Mr & Mrs Whettingsteel - Objectors
Mr & Mrs Williams – Objectors
Mr Bedwell – Supporter
Mr Snook – Observer

17. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Mrs Wyeth be elected Chairman for the meeting.

18. DECLARATIONS OF INTEREST.

Cllr Vickers declared a personal interest as he had lived in Roman Gardens between 1982 – 1990 and therefore knew the area well and was acquainted with Mr Bedwell during those years. He did not consider his interest to be prejudicial and remained in the meeting, took part in the debate and voted.

19. MINUTES (REPORT A).

RESOLVED:

That the minutes of the meeting held on 18 November 2008, having been circulated, be signed by the Chairman as a correct record.

20. TREE PRESERVATION ORDER NO. 33/08 (REPORT B).

The Panel considered an objection to the making of Tree Preservation Order 33/08 relating to land of Brambles, West Gable and Hasquencort, Roman Road, Dibden Purlieu, Hampshire.

The meeting had been preceded by a visit to the site. This had allowed Members to assess the amenity value of the trees and their physical relationship to the houses, other trees within the street scene and paved areas.

There were eight objections from the property owners and local residents to the Order on the grounds that there were many other trees within the local vicinity of equal size, species and age which had not been subject to an order. All of the objectors, particularly those whose properties the trees fell within, felt that they had managed and cared for the trees more than adequately in the twenty or so years that they had lived in their properties.

All of the objectors felt that imposing an Order on the trees would prevent the residents freedom from maintaining their gardens and trees and that having to make a tree work application when basic horticultural husbandry was needed would be time consuming and cause stress and hassle. Some residents, particularly Mrs Williams and Mrs Whettingsteel felt that they were being victimised. They had lived in their properties for many years, and brought up families in their homes and had managed their trees well so far. The Order would take away responsibility of managing their trees and would cause stress.

Mr & Mrs Williams, Mr Wride and Mr Whettingsteel expressed that view that the Council's Tree Officer was exaggerating the risk of development on the site and they had lived in their properties for decades and had no intention of selling and therefore saw no risk of development on the sites.

Mr & Mrs Wride expressed the view that they were responsible neighbours and had previously felled a tree on their property as it had caused light obstruction to their neighbours garden and the falling pine needles prevented other plant life to grow in both properties. They stated that they had no intention of felling further trees. They were saddened that a simple responsible act had instigated the initial site visit and subsequently the Order. The Objectors also expressed the view that the trees could only be vaguely seen through other trees and bushes from the main road.

In response to comments made by Objectors, the Council's Arboriculturist confirmed that an initial site visit had been made because a tree had been removed at Mr & Mrs Wride's property. Following the site visit it was decided that due to the size of land at Brambles, West Gable and Hasquencort the trees on these properties were at risk because of the potential for development. The size of the three properties made the area unique due to its development potential, and therefore all the trees within the rear of the gardens were covered in the Order.

The Arboriculturist explained that whilst he appreciated that the Objectors were not looking to develop, the future potential development was always there, and therefore the Council had taken a proactive step to protect the trees. He explained that any tree works that needed to take place would have to have prior approval of the Council, except in cases where the trees(s) were dead, dying or dangerous.

In answer to comments raised by the Arboriculturist, Objectors felt that there were other large gardens within the area with potential development opportunities and no Order had been made. In response, the Arboriculturist said that if a call was made to the Council's Tree Team raising a concern regarding the future of trees within an area, a site visit would be made, and where it was felt that the trees needed to be protected an Order would be made. The Council often had limited time to protect trees and therefore took proactive steps to protect them.

The Council's Solicitor advised members of the Panel that when making decisions regarding confirmation of Orders, members needed to take account of the amenity value of the trees and the expediency of protecting them. In relation to the expediency, the element of risk, whether immediate or not, needed to be taken account of, and in this case members should decide whether the risk to the trees was perceptible or theoretical.

In answer to questions from members of the Panel, the Arboriculturist advised the Panel that it was felt by the Council's Tree Service that there was a risk to the trees because of the development opportunities that the collective properties provided.

The owners of the three properties confirmed that they would be happy for just one tree in each of their gardens to be protected, in order to satisfy the Council's officer in protecting the trees against the risk of development.

A member queried whether the Council had ever made an Order covering multiple properties and the Arboriculturist confirmed that this was common practice across the Forest.

A member questioned whether there was any value in confirming the Order today, or rushing an Order through in response to a future planning application. The Arboriculturist said that if an Order was in place then an application that would jeopardise the trees would not be made in the first place and the trees would be protected.

In response to a comment as to whether an Order was an onerous burden on property owners, the Arboriculturist said that the Council was reliant on householders to be responsible and applications would need to be made for any tree works to take place. The Council's Tree Service offered free advice to residents. Tree work applications took between five to eight weeks to be completed.

The Arboriculturist expressed the view that selecting individual trees within each of the three properties was not appropriate in this case, as the group of trees as a whole needed to be protected because of the collective amenity value.

The Arboriculturist also confirmed that Orders could be reviewed or revoked but only where the plotting of the trees was inaccurate, if the environment changed or there was a health and safety risk.

Mr Bedwell spoke in support of the Order. He expressed the view that whilst he had sympathy for the property owners, his primary concern was the protection of trees in the area. He had noticed that in the twenty or so years that he had been a resident of the area, that there had been a gradual erosion of local trees. He considered that there was potential for development in the area and that the trees should be protected from this. He was sure that the Council's Tree Service offered sound advice regarding the management of trees. Mr Bedwell concluded that he had some concerns that this particular Order had already been through the hearing process.

In support of the case for confirming the Tree Preservation Order, the Council's Arboriculturist advised the Panel that the large group of trees were under threat from potential development due to the unique and large size of the collective properties.

In summing up, Objectors felt that in the many years that they had lived at their properties they had looked after the trees well, and that the Order would place unnecessary burden on them and that applications for trees works were time consuming and would cause hassle to residents.

The Hearing was then formally closed to allow the Panel to debate the merits of confirming, not confirming or modifying the Order.

Some Members considered that the future ownership of the three properties would change and that the Council had to protect the trees from any future development that new owners might wish to undertake.

Whilst members had sympathy for residents, they felt that the inconvenience was in reality minimal and that the wider community interest in the trees had to be considered. There was a risk that current and future owners could consider development at the properties and a cautious and proactive approach should be taken for the sake of the trees.

Other members felt that the trees offered some amenity value as they could be clearly seen in many directions including the main road. They were not aware of any concerns or objections to the Order from local members or the Parish Council and concluded that the best interests of the large group of trees should be maintained.

The members also considered whether to confirm the Order in respect of all of the trees or only in respect of some of them. On the basis that the trees together offered amenity value the members decided that they should not restrict the scope of the Order.

Having considered the evidence before them it was:

RESOLVED:

That Tree Preservation Order 33/08 relating to land of 33/08 relating to land of Brambles, West Gable and Hasquencort, Roman Road, Dibden Purlieu, Hampshire be confirmed without modification.

CHAIRMAN