

30 JUNE 2010

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of the Appeals Panel held in the Main Hall, The Jubilee Rooms, Fawley on Wednesday, 30 June 2010.

Councillors:

p Ms L C Ford
p D Harrison
p C Lagdon

Councillors:

p Mrs S I Snowden
p A R Tinsley

In Attendance:

Councillors

Mrs A E McEvoy
R A Wappet

Officers Attending:

Miss J Debnam, A Douglas, Ms T Putnam and E Williams.

Also Attending:

Cllr Glass and Cllr Holtham – Fawley Parish Council
Mrs Neale and Mrs Wallington – Objectors to the Order
Mr Angus, Mr Phelps, Mr McLaren – Supporters of the Order.

1. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr D Harrison be elected Chairman for the meeting.

2. MINUTES.

RESOLVED:

That the minutes of the meeting held on 23 March 2010, having been circulated, be signed by the Chairman as a correct record.

3. DECLARATIONS OF INTEREST.

Cllr Glass of Fawley Parish Council was involved with the Scout movement but not with the Fawley Group, who leased the land on which one of the trees was situated.

Cllr Wappet declared personal interests as a member of Fawley Parish Council, and also on the basis that he had in the past assisted the scout group, although not for some years. In both cases he concluded that the interest was not prejudicial and remained in the meeting to speak. He did not have a vote.

4. TREE PRESERVATION ORDER NO. 02/10 (REPORT A).

The Panel considered objections to the making of Tree Preservation Order 02/10 which related to 2 oak trees, one of which was in the grounds of the Scout Hut off Thornbury Avenue, and the other in the rear garden of 64 Hampton Lane, Blackfield. The Hearing had been preceded by a visit to the site which had viewed the trees from within the grounds of the Scout Hut, the Queen Elizabeth II Recreation Ground and the surrounding roads. The Panel had noted key relationships between the trees and other features in the landscape, had noted their appearance and general condition, and also formed a view on the amenity value of the trees when viewed from public viewpoints in the vicinity.

Mrs Neale advised the Panel that she had written to Fawley Parish Council in 2006 to express concerns about the effects of the oak tree in the grounds of the Scout Hut, and offering to remove it. At that stage the Scouts had agreed that the tree could be removed. Fawley Parish Council had arranged for the crown of the tree to be pruned. The tree was now pushing on the concrete post supporting their wooden panel fencing. The post had been displaced so that the panels were vulnerable to being blown out in windy weather. Mrs Neale had 2 large dogs that she needed to keep secure on her premises and the lack of stability of the fence was consequently a cause for concern.

The roots of tree T1 were pushing up within the lawn, close to the house. In addition, because of the proximity of the tree to her home, there were concerns for safety should the tree fail.

Mrs Neale was upset that her latest request for help from the Parish Council had led to the imposition of a Tree Preservation Order on that tree and also another oak tree which was within her garden.

Mrs Wallington emphasised that the tree T1 was a nuisance, creating a lot of mess, with the debris having to be cleaned up from the bungalow, guttering and the roof of their lean-to.

Mrs Neale confirmed that the objection related to tree T1. While tree T2 was a nuisance, she did not feel sufficiently strongly about it to object to the protection of that tree.

In answer to questions from Mr Douglas, Mrs Neale confirmed that, to date, the tree had not caused any damage to her dwelling. Her concerns were about the proximity of the tree and the potential for it to cause damage. The roots had however lifted paving slabs within her garden. She did not feel that the meetings with Mr Luddington, the Council's arboriculturist, had sought any compromise or resolution of her concerns about the protection of the tree.

In answer to questions from the Panel, Mrs Neale confirmed that the family had lived at this property for about 11 years, and it was not until 2006 that they had felt any concerns about the tree. The tree had grown significantly in the period up to 2006. Also, pruning the crown of the tree appeared to have stimulated its growth very significantly. The fence posts had been in place when they moved into the property.

Mr Douglas, the Council's arboriculturist, advised the Panel that tree T1 looked healthy and was growing normally and vigorously. There was evidence of some crown reduction work in the past, which may not have been the best management option for this tree as it did indeed encourage growth. The tree was difficult to age because of its constrained position, but it was likely to be at least 60-70 years old. It was unlikely to increase the diameter of the trunk much more, although it would continue to grow in height.

Mr Douglas reminded the Panel that the imposition of a Tree Preservation Order did not prevent all works to the tree in future. It merely meant that such works were controlled and must have prior consent following the submission of a Tree Works Application.

Mr Douglas believed that tree T1 was highly visible within the surrounding area and made a significant contribution to the visual character of the area, when viewed from within the Queen Elizabeth II recreation ground and also from the neighbouring roads.

There was no evidence that the tree was causing any damage to the property at 64 Hampton Lane, and damage to the fencing was insufficient justification to warrant removal of the tree. Should the tree be causing damage in the future, this would need to be explored and the evidence of damage evaluated at that stage.

Mr Douglas suggested that there may be benefits from further negotiations between the Parish Council and the objectors to overcome the concerns about the stability of the fence.

Mr Douglas referred to a previous attempt to ring bark tree T2, before it had been made subject to a Tree Preservation Order. This attempt to kill the tree had failed. It had recovered well and was in vigorous health.

Mr Angus had been Scout Leader with the Blackfield Group for 5 years, and had lived in the area for 18 years. He considered that the tree was very visible and formed part of the character of the local area. The tree was also used for various purposes by the scouts, for example as the basis for conservation projects and for bark rubbing. They also had huge fun practising their tug of war against the tree. He circulated some letters and a petition from the younger scouts that explained how important the tree was to them. Mr Angus considered that falling leaves and debris were all part of living in a beautiful rural area and formed part of routine maintenance of property. He did not believe that the tree was the cause of damage to the fencing, where one of the concrete posts had started to lean. He emphasised that sources of help were available to Mrs Neale, from the Scouts themselves and from the Parish Council, if a fence panel did blow out.

Mr Phelps, the Area Commissioner for the Scouts, also emphasised the value of the tree to the local community and to the local scout group. Trees were part of the community's environment. The leaning fence post could be moved slightly to remedy the problem. The objectors had already had one tree removed on their property and sometime in the past tree T2 had been ring barked, which had been reported by the Police, but not the scouts.

Mr McLean, a neighbour, also supported the protection of the trees with the Order. He had a row of trees along his boundary, coming to within 10-15 feet of his property. The ground in this area was plateau gravel, which was extremely stable, and damage from trees highly unlikely. The tree had been in place before the house and should therefore remain.

As one of the local ward councillors, Cllr McEvoy sympathised with Mrs Neale's and Mrs Wallington's feelings of distress about the tree. Nonetheless she supported its protection on the grounds that it was a significant tree within the local landscape, forming part of the rural landscape of the Forest. She had been aware of the tree in the local landscape for over 25 years, and it continued to be a significant feature. She was sure that Fawley Parish Council would look at the matter sympathetically if there was more of a problem with the fence.

Cllr Wappet, the other local ward councillor, considered that both trees T1 and T2 were part of the overall ambience of the Queen Elizabeth II recreation area. Three sides of the field were bounded by trees. If any trees were lost this would damage the special ambience of the area. He hoped that all the trees could be retained for a long time. The loss of mature oak trees, in particular, was a travesty. He sympathised with the objectors over their feelings over debris from the trees. However he considered the trees should be protected and retained. Their value outweighed the objections.

Parish Councillor Glass agreed that these trees formed part of the visual ambience of the area. The Queen Elizabeth II recreation ground was surrounded by trees. The trees adjacent to the scout hut provided shade for the scouts and were a useful tool for scouting activities. The trees were part of life in the area. This was part of the New Forest, where people should expect trees. Tree T2 had been damaged but survived as an asset to the area. He supported the confirmation of the Order on both trees.

Parish Councillor Holtham loved oak trees and had 5 very significant specimens in his own garden. He considered that if someone chose to move in with significant trees, they must accept the trees and their effects. In 2006, when Mrs Neale had written to the Parish Council Cllr Holtham had been asked to deal with the matter, as their tree expert. He did not agree that tree T1 was causing damage to the fence or the paving slabs in the garden of No 64. Cllr Holtham thought it very unlikely that the tree's roots were causing any damage. Oak tree roots tended to go straight down, and it was unlikely there was significant root activity around the foundations of the property on No 64. He remained sceptical that the tree was causing damage to the fence post, which was showing a slight lean. The tree was unlikely to fall on the dwelling at No 64, as it leant away from that property.

In summing up, Mr Douglas emphasised the amenity value provided by tree T1 which could be clearly seen within the recreation ground and from surrounding roads. It was a healthy specimen offering a safe life expectancy in excess of 40 years. Tree T2 had been ring barked but survived and also offered a safe life expectancy in excess of 40 years. He urged the confirmation of the Order without amendment.

In summing up, Mrs Neale reiterated her concerns about maintaining the security of her fencing and questioned what help would be available in stormy conditions if a fence panel blew out.

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

The Panel was satisfied that both trees T1 and T2 offered significant amenity value within the local environment and also that the test of expediency in making the Order had been satisfied.

RESOLVED:

That tree preservation order number 02/10 relating to land of 64 Hampton Lane and the Scout Hut, Thornbury Avenue, Blackfield, Fawley be confirmed without amendment.

CHAIRMAN

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