

30 NOVEMBER 2012

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of the Appeals Panel held in the Town Hall, New Milton on Friday, 30 November 2012.

Councillors:

p A R Alvey
p A T Glass
p J Penwarden

Councillors:

p C A Wise
p P R Woods

Officers Attending:

Ms E Beckett, Ms L Clark and Miss J Debnam

Also Attending:

Mr Black – Objector
Town Cllr Humphries – New Milton Town Council

1. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Wise be elected Chairman for the meeting.

2. MINUTES.

RESOLVED:

That the minutes and confidential minutes of the meetings held on 21 June and 25 June 2012 be signed by the Chairman as correct records.

3. DECLARATIONS OF INTEREST.

None of the Councillors present at the meeting declared any interest in this matter.

4. TREE PRESERVATION ORDER NO. 18/12 (REPORT A).

Tree Preservation Order 18/12 protected 1 oak tree on the boundary between 6 Barton Court Avenue and 4 Albany Close, Barton-on-Sea, New Milton. The hearing was preceded by a site visit during which members of the Panel had viewed the tree from within the garden of 4 Albany Close and also from various viewpoints within Barton Court Avenue and Albany Close.

The Panel was reminded of the tests that should be applied in deciding whether or not to confirm the Order and their attention was drawn to the guidance set out in the "Blue Book" – "Tree Preservation Orders a Guide to the Law and Good Practice". In addition, under the Human rights legislation, the benefits of the tree to the wider community must be balanced against the rights of the objectors to the peaceful enjoyment of their possessions, and for respect for their private lives and homes.

Mr Black, the objector to confirming the Order, advised the Panel that he considered that trees should not be protected if they would grow too large for their position. He believed that this tree was at the maximum size that was compatible with its position, and it needed to be reduced in size to ensure it did not affect the adjacent dwellings. Once the tree had been reduced in size he considered that its amenity value would be reduced to such a degree that it was insufficient to justify protecting the tree. He was also concerned that statutory protection had the potential to prevent works that would adequately constrain the size of the tree in the longer term.

In answer to questions, Mr Black advised the Panel that he had lived at this property for 13 years, and in that time the tree had grown quite significantly. There was evidence that the tree had been subject to management in the past to constrain its size, but he had not previously sought to carry out any works to the tree, or to reach any agreement with the tree's owner as to the work that should be done. He wished to reduce the branches in the crown by around 3.5 m.

Ms Beckett, the Tree Officer, advised the Panel that the owner of the tree had requested the imposition of the Tree Preservation Order as she was concerned that the scale of crown reduction being proposed by Mr Black would be harmful to the tree. Ms Beckett had inspected the tree and concluded that it was relatively young, in the first third of its life cycle, in good health and offered significant amenity value when viewed from surrounding roads. She consequently made the Order to protect the tree. She had subsequently held discussions with Mr Black, when it had been agreed that, historically, the tree had been subject to management to control its size, which meant that consent was likely to be granted for reasonable works to the tree to continue to control its size. Under best practice, a tree should not have its crown reduced by more than 30%, or it would prejudice its ability to photosynthesise sufficient nutrition to maintain its health. In addition, pruning scars should not be greater than 5 cm in diameter, or the wound would be unacceptably vulnerable to fungal attack. Under these criteria, Ms Beckett would expect consent would be granted for a reduction of up to 2.5 m, but not the 3.5 m which Mr Black wished to see.

A letter from the tree's owner, Mrs Williams, was submitted to the meeting. Mrs Williams wished to see the tree protected to control the scale of works that could be carried out. She was happy for works to be carried out to the tree, provided it was in accordance with consent from the District Council and carried out by an authorised tree surgeon. She did not however wish to undertake any works to the tree and did not consider that its current size caused any problems.

Town Cllr Humphries advised the Panel that, on balance, he considered that the tree offered adequate amenity value to the wider area, although it was smaller than he had envisaged and a 2.5 m crown reduction would reduce it by a significant amount.

In summing up, Ms Beckett considered that the tree offered significant amenity value to the wider area. The tree could be managed, and sympathetic work would not be prevented by the tree preservation order. Indeed the imposition of the Order would mean that the tree officers would provide professional advice on the works, free of charge. There was a degree of agreement that a crown reduction of 2.5m would meet Mr Black's aspirations, and was of a scale that may be acceptable to the tree's owner.

In summing up, Mr Black reiterated his concerns about the future management of the tree and the potential of the Order to prevent works, in the future, that would adequately constrain its size.

Having considered all the evidence presented, it was concluded that the tree offered significant amenity value to the wider area and was young and healthy. It was noted that there were relatively few trees in the area, which increased the value of this tree. The Order would prevent the tree being pruned to such a degree that its survival was prejudiced, would ensure that any pruning conformed with best practice, and would also protect the tree from being felled by the future occupiers of the adjacent properties. The tests of amenity value and expediency were met and accordingly it was

RESOLVED:

That Tree Preservation Order 18/12 relating to land of 6 Barton Court Avenue, Barton-on-Sea, New Milton be confirmed without amendment.

CHAIRMAN

(AP301112)