

4 JANUARY 2013

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of the Appeals Panel held in the Marchwood Village Hall, Marchwood on Friday, 4 January 2013.

Councillors:

p Ms L C Ford
p A T Glass
p D B Tipp

Councillors:

p C A Wise
p P R Woods

Officers Attending:

Ms E Beckett, Miss J Debnam and Miss A Fairclough

Also Attending:

Mr D Harper – Supporter of the Objector
Rev S Hones – Supporter of the Order
Ms C Venton – Objector
Parish Cllr White – Marchwood Parish Council

1. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Woods be elected Chairman for the meeting.

2. MINUTES.

RESOLVED:

That the minutes of the meeting held on 30 November 2012 be signed by the Chairman as a correct record.

3. DECLARATIONS OF INTEREST.

No Councillor present declared any interest in this matter.

4. TREE PRESERVATION ORDER NO. 24/12 (REPORT A).

Tree Preservation Order 24/12 protected 1 beech tree, 1 birch tree and 2 oak trees on land at Vicarage Mews, Vicarage Road, Marchwood. The hearing was preceded by a site visit during which members of the Panel had viewed the trees from within Vicarage Mews and from surrounding public viewpoints.

Ms Venton, the objector to the Order, advised the Panel that she did not object to the protection of trees T1, T2 and T4 within the Order, but objected solely to the protection of T3, the oak tree which was immediately outside her home. The Mews properties only enjoyed natural light through their front windows. Her home, No 2 Vicarage Mews, was south facing but suffered significant loss of light from the vegetation along the boundary, but more particularly from tree T3, which was between the boundary fence and the house, and in relatively close proximity to the building. She was concerned about the loss of light, the proximity of the branches to the roof of the house, as they were nearly touching when the tree was in full leaf, and the hazard caused by leaf fall over the pathways in the autumn. The leaves also got into the guttering, although there were no problems with gutters being blocked. She considered that as there was a significant amount of vegetation along the boundary the tree could be removed without any detriment to the local environment.

In answer to a question from Ms Beckett, the Tree Officer, Ms Venton advised the Panel that, prior to the making of the Order, she had been exploring options for work to be done to the tree. Mr Harper of HMS Properties, the property management company employed by the Residents' Management Company to maintain the communal areas, advised the Panel that, prior to the Order being made, there had been a number of discussions with residents about the management of trees on the estate and the Company had been trying to establish the ownership of various trees in and around the site. There was some doubt as to whether some of the trees were on Highway Authority land, and this issue was still to be resolved.

Ms Venton was advised that there was an independent appeals process that meant that all the issues associated with a tree were explored should the consent for works to a protected tree be refused. Ms Venton had feared that, as the Order had been made following poor quality works to two trees on the site, an application in respect of T3 would not have been seen in a favourable light. She had consequently objected to the Order. Ms Venton had lived at this property for 3 years. Vicarage Mews had been constructed in the 1980's.

Parish Cllr White advised the Panel that although there had been discussions between the residents and the Management Company about potential works to the trees, it was unclear who had actually done the damaging works to the 2 oak trees in the car park.

Mr Harper advised the Panel that, before the Order had been made, his company had been discussing works to the trees with all the residents of Vicarage Mews, and had been particularly concerned about the oak tree outside Ms Venton's property because of the resultant loss of light and the proximity of the branches to the roof of the building. There would have been further consideration of the pruning or removal of the tree and if the Residents' Company had given consent for the work, the cost would have been born either by the Residents' Management Company or Ms Venton and her partner. In the summer there was no doubt that the oak tree was significantly reducing the amount of light reaching the property.

Ms Beckett, the Tree Officer, advised the Panel that the character of Marchwood was defined by the oak trees that lined the streets. On this site two oak trees would be lost as a result of the extremely poor work that had been carried out to them prior to the imposition of the Order. There was a mature oak tree along the frontage of the site to Main Road which was now in decline and would be lost in due course. Tree T3 was relatively young, at about 30 years old, and would act as a replacement for the trees being lost, contributing to the character of the area. The

shading experienced by Ms Venton's property was not solely the result of this oak tree, but also of the other vegetation along the boundary with Main Road. There were consequently other things that could be done, for example removing the dead trees along the boundary, removing non-native evergreen species and crown thinning to create greater permeability to light. The leaves on the paths and in the guttering were issues of maintenance that had to be expected wherever there were trees. The work that they created was not unusual in this case. Ms Beckett reminded the Panel that the imposition of an Order did not prevent works being carried out to the tree, merely required that consent was obtained to ensure that the scale of work did not prejudice the tree. Pruning to prevent the tree from touching the roof of the property was very unlikely to be refused consent.

In answer to questions from the Panel, Ms Beckett advised them that the proximity of the tree to the building was not a cause for concern with respect to roots. The building was relatively modern and the foundations would have been constructed in the knowledge of the context of surrounding trees. It was confirmed that the tree was around 30 years old, certainly in early maturity. It would grow larger, but not to the scale of the older oak on the corner of the frontage, which was an historic field tree and consequently had grown in a much less constricted environment. It was confirmed that although the tree's increase in size had the potential to increase loss of light, this tree was not the greatest cause of loss of light to Ms Venton's property. Without the controls imposed by the Order, it would not be possible to ensure that, should tree T3 be removed, it was replaced with another oak tree along the boundary, to achieve the succession in planting currently provided by T3.

The Order had been made after the Authority had been informed by a neighbour that two oak trees in the car park had been severely damaged through being pruned extremely badly. The Panel was advised that works to the first tree would not be able to re-establish a balanced, attractive form, and it also had a significant structural fault which might prejudice its long term retention. The second tree, in the middle of the group of three in the car park, had historically been overshadowed by its companions. It could be improved by judicious pruning, and although it would never achieve full beauty as a specimen, it could nonetheless still provide a level of visual screening to the adjacent Vicarage.

Parish Councillor White advised the Panel of the Council's disappointment that the two oak trees that had been badly pruned were not protected. While sympathising with Ms Venton, the Parish did not support the exclusion of tree T3 from the Order. Options for its removal could be explored if the tree became more of an issue, but in the meantime the tree should be retained.

The Rev Hones advised the Panel of his disappointment that the two badly pruned trees were not protected. They still offered some amenity value and this could be improved by proper pruning and through their natural regrowth. They would also look better in full leaf. The vandalism of those trees had already damaged the character of the area and had opened up views from the Vicarage to an undesirable degree, removing the screen that they had provided to adjacent development. Rev Hones supported the principle of the protection of the trees on the site, although he had sympathy with Ms Venton's particular circumstances. He was not however in favour of removing tree T3.

In summing up, Ms Beckett reminded the Panel that the trees provided significant amenity value and that trees lining the streets were a significant element in the character of the area. Most of the issues raised by Ms Venton in respect of tree T3 were normal maintenance matters, while the issue of light to her property could be

addressed through other means. She consequently advocated the confirmation of the Order, without modification.

Ms Venton agreed that many of the issues raised did relate to routine maintenance. She supported the retention of trees, in general terms, and indeed did not wish to see trees along the front boundary of the site removed as they provided welcome privacy from the road, which tree T3 did not, as the crown was higher. She did however have concerns about the proximity of T3 to her property with the resultant loss of light and possibility of damage to the roof.

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.

The Hearing was then closed.

Members considered that trees on the site had been subject to inappropriate pruning that prejudiced their amenity value and their longer term retention. It was therefore expedient to confirm the Order in respect of other trees on Vicarage Mews that provided amenity to the wider area. While there was no doubt that trees T1, T2 and T4 provided significant amenity value to the wider area and consequently should be protected, the Panel gave further consideration to tree T3. While this tree was relatively young, it was in an unfortunate position, away from the boundary, within the limited area of lawn between the boundary and the properties. The Panel concluded that the tree was a significant contributor to the loss of light suffered by Ms Venton's property, and that its management would become problematic as it increased in size, both of which would prejudice her right to enjoy her home. As the amenity value of the tree was more limited from public view points, as it was set between an existing dense vegetation screen and the building, the Panel concluded that this tree should not be protected.

RESOLVED:

That Tree Preservation Order 24/12 relating to land of Vicarage Mews, Vicarage Road, Marchwood be confirmed subject to modification by the deletion of tree T3, the oak tree close to the southern boundary of the site.

Action: Ann Caldwell.

CHAIRMAN

(AP040113)