

30 OCTOBER 2014

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of the Appeals Panel held at Ringwood Gateway, Ringwood on Thursday, 30 October 2014.

Councillors:

p A R Alvey
p Mrs S Bennison
p A T Glass

Councillors:

p J Penwarden
ap A R Tinsley

Officers Attending:

Mrs E Beckett (New Forest National Park Authority), Miss J Debnam and Mrs A Wilson

Also Attending:

Parish Cllr L Burtenshaw (Ellingham, Harbridge and Ibsley Parish Council)
Ms C Arturi and Mr F Phillips (objectors)

13. ELECTION OF CHAIRMAN.

RESOLVED:

That Cllr Alvey be elected Chairman for the meeting.

14. DECLARATIONS OF INTEREST.

No Councillor present declared any interest in this matter.

15. TREE PRESERVATION ORDER NO. 18/14 (REPORT A).

The Hearing was preceded by a visit to the site during which the Panel viewed Lomer Copse, Bleak Hill, Harbridge, Ringwood, which was protected in its entirety by TPO 18/14. The copse was viewed from Harbridge Drove, Lomer Lane and the intersection of a public footpath with Lomer Lane, to the north of the site. Members noted the general condition of the trees and the degree to which the copse was visible from various public viewpoints, to assist in assessing the amenity value that it provided.

Members were reminded of the tests of amenity value and expediency that must be applied in determining whether or not to confirm the Order.

Ms Arturi advised the Panel that she and her husband did not object to the principle of protecting trees by a Tree Preservation Order, but had a number of concerns about the imposition of this Order. Ms Arturi and Mr Phillips had bought the land at auction on 2 July 2014 and there had not been any indication in the seller's pack that the imposition of the Order was imminent. They had subsequently checked with the auctioneers, who also had no knowledge of the impending Order at the time of the auction. The Order affected the value of the land and consequently it was likely that Ms Arturi and Mr Phillips had paid more for the land than would have been the case in knowledge of the Order. She questioned the degree of urgency in the imposition of the Order, as purchasers did not become the full owners of the land until 28 days after the date of the auction. She also considered that the copse did not offer significant amenity value to the general public. The traffic using Harbridge Drove was travelling at a relatively fast speed. The hedgerow along Harbridge Drove was thick, allowing no views of the copse until the intersection with Lomer Lane, where there was a fleeting view only. The hedgerow along Lomer Lane was also thick and consequently obscured views of the copse. There were very few dwellings in the area, therefore the number of people who would potentially pass by and view the copse was very small. There were no public footpaths through the copse and there was no right of public access. On this basis the amenity value must be limited and people would not notice whether the copse was there or not. She had attempted to reach a compromise with the Tree Officer by suggesting that specimen trees, of particular individual value, should be protected, with the remainder excluded from the Order, but this had not been acceptable to the Tree Officer. She did not believe that the designation of the woodland as a Site of Interest to Nature Conservation (SINC) indicated that it had any particular ecological merit as many woodlands throughout Hampshire were designated as SINC, amounting to some 9% of the total area of the County. This was merely a list of SINC sites and did not prove that this copse had any particular value.

In answer to a question from Mrs Beckett, Ms Arturi advised the Panel that she considered that the copse was a beautiful piece of privately owned woodland within a widely wooded area. She went on to question why this particular piece of woodland had been protected by an Order when others in the area were not. She considered it was hard to see what amenity value was provided by a copse. The value of individual or groups of specimen trees was easier to understand as they were often a rare resource within a neighbourhood, often a heavily populated area. Some councils applied a points system to the evaluation of such trees and it was therefore easier to understand the rationale for their protection.

In answer to questions from members of the Panel, Ms Arturi advised them that she and Mr Phillips had bought the area of woodland as an area for outdoor recreation for themselves and their family, a quiet place away from a busy urban life. They were also considering inviting local schools to hold visits to learn from the woodland. It was a learning experience for them as well, as they attended courses about the management of the woodland. Mr Phillips advised the Panel that they intended to reinstate the copse as a working woodland that was coppiced. At the moment they were focussing on improving the drainage of the area as the ditches had become blocked and the land was now waterlogged, damaging the trees. While they had attended courses to learn how to manage the copse they were employing expert people to undertake the majority of the work, while retaining some hands-on work for themselves.

They further advised the Panel that they wanted to manage the woodland so that there was more light and a greater variety of flowering plants, to give colour in the summer. They considered that the Order would impede them as they would have to gain consent for the work to every tree. Although there was no cost attached to the application form, they would have to employ a qualified tree surgeon to prepare the application and to undertake the consented works, which would add to the cost for them. The Order also took away some of their ownership rights. They would consequently be quite dismayed if the Order was confirmed as it had not been in place when they had bid for the land at auction.

There were no buildings currently on site, with the tools that were used being stored in a moveable hut that Ms Arturi and Mr Phillips and brought onto the site.

Ms Arturi further questioned the need for the Order as the Forestry Commission's consent was necessary before a landowner could fell more than 5 metres of timber in a year. She considered that this was very small amount and provided adequate protection.

Mrs Beckett, the Tree Officer, advised the Panel that she had made the Tree Preservation Order after she had been consulted on pre-application advice in respect of Lomer Copse and an adjacent plot of land, due to be sold at auction. The proposal was for a hub centre, together with car parking, and included domestic accommodation and work spaces. She had visited the site on 2 July and, having seen the signs advising of the impending auction, made the Order the same day, although it had not been completed and served until a few days later. She had been satisfied that the copse offered significant amenity value to the wider area and was clearly visible from public viewpoints, including Harbridge Drove, which was busy. This was also an historic managed coppice, with a mixture of native species, offering a high quality, varied habitat. Other small woodland areas in the vicinity were protected by woodland Tree Preservation Orders following a number of instances where attempts had been made to set up unauthorised domestic accommodation within such woodlands, causing damage to the environment and local amenity and considerable distress in the local community.

Experience had also demonstrated that developers could enter a site and fell all the trees, without warning, in order to free up the development potential of the land. It had therefore been urgent that the Order was made to protect Lomer Copse before it could be damaged. She had met with the new owners following service of the Order. She had explained that the value of the copse lay in its entirety, not from individual specimen trees, and also explained why the Order had been made when it had. This had not satisfied their objections. The new owners were demonstrating that they had plans to manage the copse sensitively, but there was no guarantee that the woodland would not be sold on, and the copse should therefore be protected against speculative development in the longer term. The Forestry Commission must give consent for the felling of more than 5 cubic metres of trees in any calendar quarter, which was a much greater amount than had been suggested by Ms Arturi.

In answer to questions from the objectors Mrs Beckett advised the Panel that the proposed hub development would have required the removal of about two thirds of the copse. The Order had been made urgently as Mrs Beckett had known occasions when the developer had moved onto site immediately after contracts had been exchanged and flattened all the trees present on the same day. This was much cheaper than supposed, as no care had to be taken to protect surrounding structures or to maximise the value of the trees. The cost of flattening the trees was also insignificant compared to the added value of the site once it was clear for

development. Mrs Beckett did not agree with Ms Arturi that local people would not notice should the copse be removed. The local community had been very upset by other instances where woodlands in this area had been damaged. She was satisfied that the loss of Lomer Copse would have a significant impact on the people who lived in this area. Mrs Beckett's view, that there were more than the 4 households cited by Ms Arturi as living in the vicinity of the site and being affected, was supported by Parish Councillor Burtenshaw.

In answer to questions from members of the Panel Mrs Beckett confirmed that she had visited the site on 2 July 2014, following receipt of the consultation for pre-application advice on 26 June 2014. The Order had been served on 8 July 2014. The woodland was mainly native species, predominantly holly, hazel, oak and ash, with 2 poplars towards the centre of the site, a few Norway spruce close to Lomer Lane and a little rhododendron incursion. Historically the woodland had been coppiced and consent had recently been granted, to these current owners, under a 5 year rolling consent, for work to re-coppice the woodland and bring it back into active management. The application and consent were attached as Appendix 4 to Report A. This demonstrated that it was not necessary for such an application to be prepared and submitted by a qualified tree surgeon, or to gain consent for work to each tree separately, as had been the case put forward by Ms Arturi. The consent did not require that the works should be carried out by a qualified tree surgeon either. The Tree Team would advise on suitably qualified tree surgeons, if asked, but could not require their use. In addition, the Tree Team, in accordance with best practice, would always give advice, free of charge, to anyone wishing to do works to protected trees. The Tree Team also signposted the owners of small woodlands to other sources of help, working closely with the National Park Authority's landscape advice service, which was very supportive of the owners of small woodlands, putting them in touch with various resources to assist with the management of their land.

Parish Councillor Burtenshaw advised the Panel that the making of this Tree Preservation Order was entirely consistent with the statutory protection given to other small areas of woodland in the area, with the woodland to the south being protected by 2 such Orders. It was important to continue to safeguard the character and integrity of the landscape around Bleak Hill, with Lomer Copse edging this important area. There would be considerable local concern if 1 tree was felled, or there was more significant felling on this site. The Order protected the copse from inappropriate management that would detract from the benefits offered by such small patches of semi-natural ancient woodland. She commended the owners on their proposed management of the copse. The Parish Council's concerns were not about the current owners, but future owners, who may take a different view, should the land be sold on.

In summing up, Mrs Beckett reiterated the public amenity offered by the copse and also its environmental value as a semi-natural ancient woodland offering a valuable habitat. The copse offered significant value within the local landscape and should be protected.

In summing up, Ms Arturi considered that the discussion and questioning on the role or otherwise of tree surgeons within the tree works application process and subsequent carrying out of consented works suggested that the Panel had a pre-formed view in favour of confirming the Order. She reiterated her view that the copse could not be seen by enough people to warrant the judgement that it offered significant amenity value to the wider public. There would be no significant impact should the copse be removed. She considered that the Order unduly impinged on her human rights as the owner of the woodland.

Mr Phillips suggested that it was nonsense that someone seeking pre-application planning advice could trigger the imposition of the Order as anyone, who had no interest in land, could submit such a request for advice. The woodland had been in situ for hundreds of years without statutory control. He considered the issue here was solely that of the change of ownership. The copse did not offer wider public amenity value.

The Hearing was then closed.

Members discussed the degree to which Lomer Copse was visible from public viewpoints. They accepted that there was limited visibility from Harbridge Drove. However, Lomer Lane was quiet and rural, and would be very popular with walkers, horse riders and cyclists, who would be at leisure to observe the copse through the hedgerow throughout its length. They had also viewed the copse from the junction of the public footpath that ran parallel to the copse and Lomer Lane. They had been satisfied that the copse was a very significant feature when viewed from this direction and its removal would have a detrimental effect on the quality of the landscape. The Panel was also satisfied that this semi-natural ancient woodland provided a good quality habitat and, in accordance with the Government's Guidance, its value to the nature conservation should also be taken into account when assessing its amenity value. On this basis, the Panel was satisfied that Lomer Copse offered significant amenity value and was worthy of protection through a Tree Preservation Order.

The Panel went on to consider the question of expediency. They noted that an Order could be made on a precautionary basis. When the Order had been made the ownership of the land was changing and the making of the Order had therefore been justified. Although the current owners were demonstrating proposals for the proper and sensitive management of the copse, their future ownership of the land could not be guaranteed. In the light of problems experienced with equivalent areas of woodland in close proximity, and the statutory protection of other nearby woodlands by Tree Preservation Orders, the Panel considered that the test of expediency had also been fulfilled, and protection of this woodland would be entirely consistent.

The Panel considered that the rights of the owners of the woodland, for the enjoyment of their property, could justifiably be impinged upon on the grounds of the greater public benefit offered by the protection of the woodland in this instance.

RESOLVED:

That Tree Preservation Order 18/14, relating to Lomer Copse, land of Bleak Hill Farm, Harbridge, Ringwood be confirmed without amendment.

Action: Liz Beckett and Ann Caldwell.

CHAIRMAN