

**5 OCTOBER 2017**

**NEW FOREST DISTRICT COUNCIL**

**APPEALS PANEL**

Minutes of a meeting of the Appeals Panel held in the The Forest Suite, Ringwood Gateway Building, The Furlong, Ringwood on Thursday, 5 October 2017

**Councillors:**

\* A R Alvey  
\* Mrs S M Bennison  
Ms L C Ford

**Councillors:**

\* D B Tipp  
\* D N Tungate

\*Present

**Also In Attendance**

Mr D Gruber (New Forest National Park Authority) and Ms L Saunders (New Forest National Park Authority)  
Mr Carpenter – Objector  
Mrs Mitchell – Resident  
Parish Councillor Spark - Ellingham Harbridge and Ibsley Parish Council.

**Officers Attending:**

Miss J Debnam and Mrs K Green

**Apologies**

Apologies were received from Cllr Ms Ford.

**5 ELECTION OF CHAIRMAN**

**RESOLVED:**

That Cllr Alvey be elected Chairman for the meeting.

**6 MINUTES**

**RESOLVED:**

That the minutes of the meeting held on 22 August 2017 be signed by the Chairman as a correct record.

**7 DECLARATIONS OF INTEREST**

There were no declarations of interest made by any member in connection with an agenda item.

**8 TREE PRESERVATION ORDER NO. 31/17 - LAND OF SNAILS LANE, BLASHFORD**

The Hearing had been preceded by a site visit during which Members of the Panel had viewed the landscape covered by this Area Tree Preservation Order from various viewpoints along Woolmer Lane, and Snails Lane, Blashford. They had noted the general landscape character; the position and prominence of the trees within and along the boundary of the site; and the extent to which Woolmer Lane was overhung by vegetation included with the boundary of the Order and outside that boundary. They had particularly considered whether the vegetation would be considered to be trees, or part of a hedgerow and therefore not covered by the Order, but protected by separate legislation.

Mr Carpenter advised the Panel that, although he supported the principle of protecting key landscape features and important trees on the site, the lack of specificity as to what was covered by the Order, the need to seek prior consent to carry out any works to trees, such as cutting back branches that were obstructing access along these narrow lanes, would impose onerous and time consuming requirements on the landowners that would stop them carrying out essential maintenance. In due course this would prejudice the safety of pedestrians and cyclists using the lanes. Essential delivery vehicles already experienced problems, necessitating prompt action to cut back branches. Mr Carpenter had been installing new fencing on part of his land when the Order had been served. As this required him to cut back the existing hedgerow he had stopped work pending the outcome of this Appeal. The Order would prejudice the proper future management of the trees on the site as people would consider the requirement to gain consent to be sufficiently onerous to prevent them doing anything.

In answer to questions from members of the Panel it was confirmed that Mr Carpenter had already been given consent to manage and trim the hedgerow on his property so that he could finish his fencing works. It was also possible for landowners to agree with the National Park Authority a management plan for trees on the site, which would cover a specific area and be in place for an extended period of 10-15 years, so that individual one-off consents would not be needed.

Mrs Mitchell, one of the affected landowners, confirmed that she did not object to the Order, but was seeking further information about its effect.

Mr Gruber, the Park Authority's Tree Officer advised the Panel that the Tree Preservation Order had been made in response to the District Council's notification of its intention to include this land in the Local Plan Review documents as a potential housing development site. It was then normal practice to make an Order to protect important trees on the site from indiscriminate removal to facilitate the maximum potential development of the site. The use of an Area Order, without any specification of the trees covered, was the only practical option at this stage because of the large area involved. There were insufficient resources available to identify and accurately plot individual trees, and in any event, such an exercise could omit trees that may, within a few years, become of greater significance in retaining a pleasant mature landscape for any new development. In the event that the land was not designated for development, consideration would be given to revoking the Order, provided the trees were being maintained under sensible management, as was currently the case. Should development proposal come forward, the application process would require the submission of a detailed

topographical and tree survey that would allow individual trees, that were worthy of retention to be identified and plotted. At that stage therefore the Area Order would be replaced with a specific Order. Mr Gruber drew members' attention to the landscape features that they had seen on the site, and the importance of securing their retention, in the context of the potential development of the site. The amenity value of the trees could be seen, and the potential for development satisfied the test that it was expedient to make the Order.

Mr Gruber reminded the Panel that a Tree Preservation Order did not prevent reasonable works to the protected trees, and indeed tree owners were encouraged to manage their trees. The process to gain consent for works to the trees was not onerous and was free of charge.

In answer to questions from Mr Carpenter, Mr Gruber confirmed that the consent process took just over 4 weeks from the receipt of the application. Consent was not required to trim any hedges on the land as they were not covered. Proper trimming back of the trees that currently overhung the lanes would last at least 5 years. Consent for works to the trees could be agreed on a generic basis, without specifying what would be done to each tree separately, and an individual consent normally allowed a 2 year period in which to carry out the works.

In answer to questions from the Panel, Mr Gruber confirmed that an agreed management plan for the trees could cover a longer period of 10-15 years, with individual applications unnecessary during that time period.

The Panel was reminded that the preparation of the Local Plan was still at an early stage, and that it was expected that the Cabinet would approve draft documents to form the basis of public consultations later in the year. Following that, the various proposals would be considered in the light of the representations received and the proposals to go forward to Examination by an Inspector agreed. This process would determine whether the land covered by the Area Order would ultimately be designated for development.

Parish Councillor Spark of Ellingham, Harbridge and Ibsley Parish Council advised the Panel that a number of local residents had approached the Council to express concerns about the effect of the Order. The main issues appeared to be the lack of specificity about what was covered and the subsequent confusion about what work, for example to hedgerows, could be done without needing consent. The Parish Council was therefore concerned that landowners would not continue to carry out the normal maintenance that was currently happening, because of the need to go through a consent process. The Parish Council was aware of the potential designation of the land for development and would not wish to see the site cleared and the loss of important landscape trees. They objected to the Order only in its current form. Cllr Spark was however encouraged to hear about the possibility of agreeing a longer term management plan for the trees on the site.

In view of the confusion about whether some of the vegetation on the site would be considered a hedgerow, Mr Gruber advised that it was normally considered to be a hedge if it had been planted and managed to serve that purpose. The vegetation would therefore normally have a flat side and top. The species involved would normally also be hedgerow species such as holly, hazel and blackthorn. He would be happy to see the management of former hedgerows reinstated, but such works remained the responsibility of the owner. The decision as to whether a plant was a tree depended on a number of factors including the species, location and amenity value it provided. Each must be considered on its merits.

In summing up. Mr Gruber reminded the Panel that the use of an Area Order should be seen as an interim measure, to be followed either by potential revocation if the land was not ultimately designated for development, or its replacement with a specific Order should development proposals proceed. The trees on the site offered significant amenity value and should be protected.

In summing up Mr Carpenter reiterated his concerns about highway safety should landowners be deterred, by the consent process, from undertaking normal maintenance.

The Hearing was then closed.

The Panel was satisfied that the various trees on the site offered significant amenity value and should be protected in the face of the potential designation of the land for development. The potential designation of the land satisfied the test of expediency in making the Order.

The Panel was however mindful of the concerns of local residents, the majority of which arose from the confusion about what vegetation could be considered hedgerow, and therefore exempt from the Order, and what was protected. The option to agree a longer term management plan for the trees on the site would overcome the practical problems with gaining consent for works that had been raised by the objector and parish council. The officers should therefore be requested to take a proactive approach and, when confirming the Order, advise all affected landowners of the options that were available, supplying a copy of a Tree Works Application form, and suggesting that they arrange to meet with the officers to discuss the works that would be needed.

**RESOLVED:**

- (a) That Tree Preservation Order 31/17 relating to land of Snails Lane, Blashford, be confirmed without modification; and
- (b) That the officers be requested to take a proactive approach and, when confirming the Order, advise the affected landowners of the options that are available, supplying a copy of a Tree Works Application form, and suggesting that they arrange to meet with the officers to discuss any works that would be needed.

CHAIRMAN