

12 AUGUST 2021

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of the Appeals Panel held on Thursday, 12 August 2021

Councillors:

- * Fran Carpenter
- * Philip Dowd
- * Barry Dunning

*Present

In attendance:

Councillors:

Alexis McEvoy

Councillors:

- * Derek Tipp
- * Neil Tungate

Councillors:

Also In Attendance:

Officers Attending:

Ian Austin, Hannah Chalmers, Richard Davies and Andy Rogers

Apologies

1 ELECTION OF CHAIRMAN

RESOLVED:

That Cllr Dunning be appointed Chairman of the Panel

2 DECLARATIONS OF INTEREST

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

3 TREE PRESERVATION ORDER NO. 0002/21

The hearing had been preceded by a visit to the site to allow members to view the trees identified as woodland adjacent to "The Ruffs", Chapel Lane, Langley of Tree Preservation Order 0002/21 ("the TPO").

The woodland was viewed from various standpoints, from Blackfield cemetery, the open forest, and Chapel Lane.

Members were reminded of the tests that should be applied in considering whether or not to confirm the TPO, as set out in the report to the Panel. The

Panel was advised that it might confirm the TPO if it considered that it was expedient and in the interests of amenity to do so.

Mr Smith, the Objector, addressing the Panel, produced 2 new plans of the site and claimed that the plan attached to the TPO was inaccurate, as there were areas of his site (marked in red) that were not included in the TPO. The plans comprised the Land Registration Plan and the TPO Plan. He claimed the red areas showed where the TPO had not covered all of his land, and the areas marked in blue showed areas which were outside his land boundary. Mr Smith stated the blue areas were owned by the Forestry Commission, which he said had not been served with the TPO. He felt the consequences of this were that the TPO needed a minor amendment to exclude this area. In regard to the red areas of the map (areas of his land not covered by the TPO), Mr Smith pointed out that omitting the area in question from the TPO would mean that 30 or 40 trees on the western boundary would be excluded. This in his view would require a further TPO.

Mr Smith explained that he wished to be in charge of restocking his woodland, but that the TPO would make this difficult, and that this and would lead to an excess of oak trees in the site. He suggested that individual TPOs should be made on each of the oaks on the site, which would not hinder him from restocking the Forest, in line with the Council's Tree Strategy.

Mr Smith claimed that the Council would be liable for compensation in the region of approximately £50k-£100k regarding the loss of timber as a consequence of the TPO being confirmed. The Tree Officer pointed out that a felling licence would be needed for this amount of timber and the licence would override the TPO. Mr Smith claimed that a licence was not required under a certain number of cubic square metres, and therefore he would have to apply to the Council for consent to fell trees, and if refused, he asserted that compensation was then payable.

In response to a question about the value of timber, Mr Smith accepted that while he had had an overall valuation, his estimate may not be accurate.

In answer to a question about licences for felling, Mr Smith stated that he had no interest in felling oak trees, but reiterated that the Council would be liable for compensation and that it should undertake an assessment of that liability under the TPO. Mr Smith repeated his wish to have a diversity of tree species on the site, and argued that he would lose flexibility under the TPO. Mr Smith explained that recreational use of part of the site included running of a woodland school for vulnerable children and children with special needs.

Ms Chalmers, the Tree Officer, emphasised the amenity value of the land and reminded the Panel of the number of members of the public walking their dogs on the open forest nearby. She also referred to the expediency criteria, in particular her concerns over the unclear intentions for the site, and a perceived will to fell trees. She referred to plans for the educational use of the site and the possibility that related facilities would be needed. She felt the further requirements of such a site may then jeopardise the future of the woodland if no TPO were in place.

In respect of Mr Smith's assertions concerning the potential for a liability claim on the Council in respect of loss of timber revenue, the Tree Officer

stated that she was not, in her experience, aware any instances where such claims had been made in these circumstances.

In conclusion, Ms Chalmers felt that the TPO would not prevent any of the forestry practices that Mr Smith wanted to carry out. If Mr Smith obtained a felling licence, this would override the TPO. She felt that identifying individual trees in several TPOs was not practical as it would be hard to identify these trees and enforce the TPO in future. This would be an even more important point if the land changed ownership.

Mr Smith wished to make it clear that no trees had been felled that would have been protected under the Order.

Mr and Mrs Burroughs addressed the Panel and asked what protection there was without a TPO. The Tree Officer explained that as the Forestry Commission appeared to view the site as woodland, the felling licence rules would apply, which would mean there was a felling limit of 4 cubic metres per calendar quarter. Mr Burroughs asked about the intentions for use of the land. In answer, it was explained that use of the site was a Planning matter and that the TPO did not control use of the site.

Mrs Burroughs felt the woodland was a beautiful spot, but it had changed significantly in the last 6 months. She emphasised the risk to wildlife if the site were cleared and made the point that the TPO did not prevent Mr Smith from carrying out the work and activities he wanted to undertake.

The Tree Officer explained that the Council had refused an application from Mr Smith for a 100 year permission for willow coppicing. The Council would normally only give authority for 10 years.

Cllr Mrs McEvoy, for transparency purposes, explained that she knew Mr Smith as he went to school with her son. As a County Councillor, she had awarded Mr Smith a grant to support his aspirations to provide a good outdoor experience to young people.

Cllr Mrs McEvoy was aware that Mr Smith was a keen environmentalist and was supportive of what he was trying to achieve. However, she expressed concern about the amount of clearance on the site, and disagreed with his views on good tree management. She pointed out that Mr Smith could give no guarantees on what any future landowner would do with the land.

Cllr Mrs McEvoy felt the land at present was unsightly and out of keeping with the New Forest vista. She was unclear about Mr Smith's plans for the land, as she had heard that numerous ideas had been suggested. She did not feel that Mr Smith had managed the removal of Rhododendrons in the area in a sensitive way, or in consideration of his neighbours. Cllr Mrs McEvoy was not aware that Mr Smith had approached any of his neighbours about the work on site. She did not feel that he had worked closely with the Tree Officer to date, but noted that he had now said that he would do so in future. She hoped that he and the Tree Officer would work towards an outcome that was fair to everyone.

Cllr Carcas referred to the possibility of allowing pigs to graze on the site and pointed out that pigs ate acorns.

In summing up, the Tree Officer stated that the Council supported good woodland management and the TPO did not prevent this. She pointed out that the site was relatively small and could be classed either as a garden or a woodland. She reiterated the potential changes of use as an educational site, and the facilities on the land which this might require. She felt the site was a public amenity and it was expedient to confirm the TPO.

Mr Smith had nothing further to add.

The Chairman asked all parties whether they felt they had had a fair hearing, and this was confirmed. The Hearing was then declared closed.

Whilst members were encouraged by Mr Smith's stated plans for management of woodland at the site, they also had some concerns. Some felt that the vista of the woodland had been spoiled, the site had changed rapidly over recent months and they felt it was expedient to confirm the TPO.

Members felt they had seen and heard sufficient evidence that there was a high local amenity value in the woodland, it screened nearby development, and it was important that it was preserved. They noted that the TPO did not hinder good management of the woodland. Mr Smith could apply for a felling licence and add new species. The TPO would not prevent Mr Smith from having an educational facility on the site.

After careful consideration of the evidence, the Panel was satisfied that the woodland provided significant public amenity value, and that the trees benefitted the local community.

The Panel unanimously agreed that, in addition to meeting the test of being in the interests of amenity, it was also expedient to confirm the Order due to the risk of development on the site.

RESOLVED:

- (a) That Tree Preservation Order TPO 0002/21 relating to land adjacent to Chapel Lane, Langley be confirmed without amendment, subject to any minor modifications as referred to at * below.*
- (b) That a minor modification be made to amend the title to reflect the change of name of the site to 'Land of Blackwell Forest, Chapel Lane, Langley'.*

*[*The Council's legal adviser referred to the plans submitted by Mr Smith and the related queries concerning the boundaries of the TPO Plan. The Panel noted that this aspect would be considered after the meeting, and if the Order plan contained minor strips of Forestry Commission land, this could be removed from the TPO. If some land owned by Mr Smith had been excluded from the TPO Plan, then the Tree Officer could consider a making a further TPO.]*

CHAIRMAN

CHAIRMAN

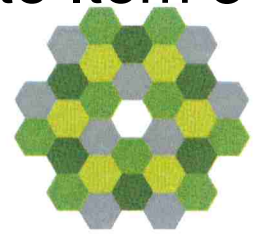
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HM Land Registry Official copy of title plan

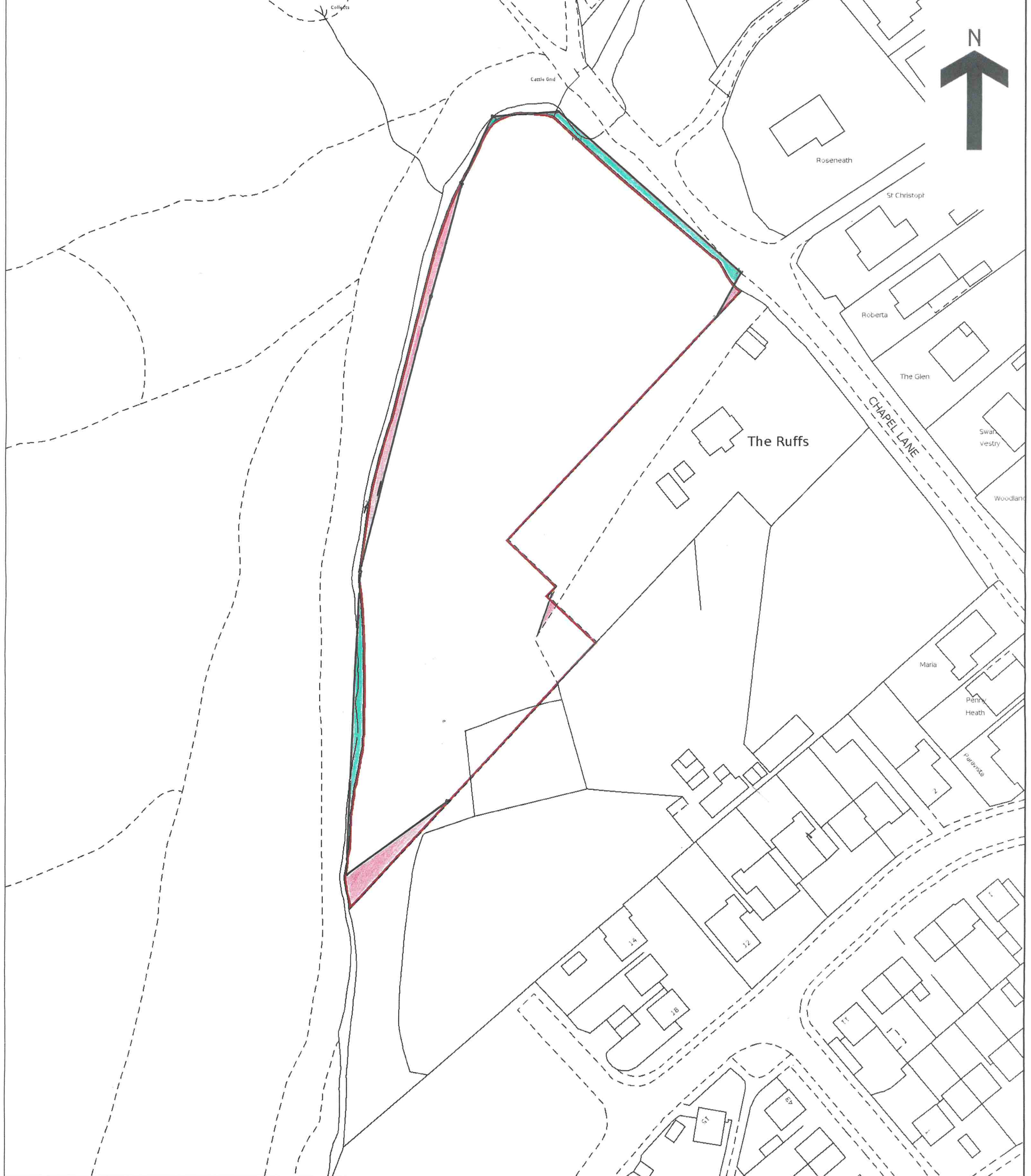
PLANS CIRCULATED BY MR SMITH

Title number **HP716554**
Ordnance Survey map reference **SU4401NW**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Hampshire : New Forest**

Minute Item 3



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Tree Preservation Order Plan




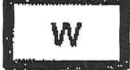
Town and Country Planning Act 1990

TPO Number: TPO/0002/21

Scale: 1:1250

Date Printed: 18/02/21

Key

-  Individual trees covered by TPO
-  Area of trees covered by TPO
-  Groups covered by TPO
-  Woodland of trees covered by TPO



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk