

23 MARCH 2022

NEW FOREST DISTRICT COUNCIL

APPEALS PANEL

Minutes of a meeting of the Appeals Panel held on Wednesday, 23 March 2022

Councillors:

- * Keith Craze
- * David Hawkins

*Present

Apologies

Cllr Philip Dowd

In attendance:

Councillors:

Ann Sevier

Councillors:

- * Alvin Reid
- * Derek Tipp

Also In Attendance:

N Edmunds and J Mullard (Owners)

Officers Attending:

Andy Rogers, Hannah Chalmers and Richard Davies

Apologies

10 ELECTION OF CHAIRMAN

RESOLVED:

That Cllr Derek Tipp be appointed Chairman of the Panel.

11 DECLARATIONS OF INTEREST

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

12 TREE PRESERVATION ORDER NO. 0012/21

The hearing had been preceded by a visit to the site to allow members to view the tree at 30 Park Road, Fordingbridge of Tree Preservation Order 0012/21 (the TPO). The tree was viewed from the road, close to where it stood.

Members noted 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 Appeals 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 Edmunds, the owner, explained the reasons for his objection to the TPO. Since it was planted by a landscape gardener employed by him in 2014, the tree, a London Plane, had exceeded its expected rate of growth and was already overhanging the road. He was also concerned about the roots of the tree damaging his retaining wall. He did not feel the tree was a candidate for preservation and estimated that the spread of the tree could potentially be 40 feet. He would like to retain the tree but could not see how this was practical. He felt the TPO was an infringement of his civil liberties.

In answer to a question from the tree officer on whether he sought professional advice on the planting of the tree, Mr Edmunds stated that the landscape gardener who planted the tree did not advise Mr Edmunds about the size and he did not know whether the landscape gardener had any professional accreditations.

Mr Edmunds was asked why he objected to the TPO when he could manage the tree with the tree officer's advice. Mr Edmunds felt he could manage the tree himself through common sense management. He did not feel the TPO was justified and did not feel that tree made a difference to the visual amenity of the area.

In her statement, the Tree Officer explained that following the July 2021 planning application, it was not clear whether the tree would be retained, and therefore the TPO was made due to the potential risk to the tree. It was felt the future amenity value of the tree should be protected. As the tree was not a mature specimen, this did not restrict the amenity value. She explained that this species of tree (a London Plane) tolerated pruning, and pruning over the highway was exempt from the conditions in the TPO. The Tree Officer estimated that the potential spread of the tree was 10m in diameter and was a great feature to that part of the road.

Mr Edmunds asked what recourse there was if the tree damaged his retaining wall, including the inconvenience and expense. The Tree Officer responded that trees could be removed if there was subsidence to properties, in which case an application to fell the tree could be made. Where there was evidence of damage caused by trees, the Council could also be held liable for costs. There was also a provision that trees could be removed if they were a 'legal nuisance.'

In response to a question, the Tree Officer confirmed that applications to undertake works under a TPO were free, and there were no costs for applying to do work. The only extra burden of the TPO was the timescale, where it could take up to 8 weeks to make a decision on applications for tree work.

It was confirmed that if the tree became a legal nuisance, with supporting evidence, the council would struggle to refuse applications to fell a tree.

In answer to a question, the tree officer confirmed that even though that the planning application had been refused, the expediency argument still potentially remained.

The local member, Cllr Sevier, spoke in support of the TPO and felt the tree was an important part of the street scene and emphasised the need for tree owners to get good advice about their management.

In summing up her case, the Tree Officer said that the subject of the TPO was a young maturing tree and a feature in the street scene, whose amenity would grow. Future planning applications could jeopardise the tree.

The legal adviser explained that TPOs could be precautionary and cater for potential future circumstances, the Panel would decide what appropriate weight to give to this aspect.

Edmonds reiterated that he did not feel that a TPO was appropriate for a young tree which had grown up very quickly. He felt that another tree could be replanted in a better location with the same public amenity.

The hearing was then closed and the Panel deliberated on whether to confirm the TPO.

Members agreed that the tree had significant amenity value and that it was expedient to protect the tree, as it could be under possible threat in the future given the potential for development. Accordingly, the Panel felt there were sufficient grounds for the tree to be preserved.

In addition, they noted there was no real evidence of damage caused by the tree to date. They acknowledged that if works needed to be carried out, they could be done under the TPO in consultation with the Council. It was reiterated that if the tree could be shown to have caused damage, the owner should approach the Council and officers would work with the owner towards a satisfactory conclusion.

Members noted the owner had not had the benefit of technical advice from the person planting the tree. Whilst the Panel had some sympathy with the owner's concerns about potential damage, they felt that applying for works under the TPO would not be too onerous.

RESOLVED:

That Tree Preservation Order TPO/0012/21 relating to land of 30 Park Road be confirmed.

CHAIRMAN