

Minutes of a meeting of the **Appeals Panel** held at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew on **Wednesday 29 January 2020** at **9:30am** when there were present:

Mr A Adams – Chairman
Ms S Catchpole
Mrs S Prutton

Also in attendance were:

Thorpe St Andrew site visit and hearing	Spixworth site visit and hearing
(1) Mr McNaught - objecting	Ms M Holmes
(2) Ms C Twinn – (attended site visit only)	
(3) Mr A Coombes – A T Coombes Associates Ltd – the Council's appointed Arboricultural Consultant (attended meeting only)	
The Conservation Officer (Arboriculture and Landscape) – presenting the case for the Orders	
The Committee Officer (DM) – advisor to the Panel	

4 MINUTES

The Minutes of the meeting held on 24 July 2019 were confirmed as a correct record and signed by the Chairman.

5 THE BROADLAND DISTRICT TREE PRESERVATION ORDER 2019 (NO: 8) 1 SOUTH AVENUE, THORPE ST ANDREW, NORWICH, NR7 0EY

The Panel had previously visited the site at 9:30am to inspect the trees shown as T1, T2 and T3 on the map attached to the Tree Preservation Order (TPO). Following introductions, those present (as listed above) were invited to point out anything they wished the Panel to observe whilst on site but not to discuss the merits or otherwise of the making of the Order as this would take place at the hearing.

Members viewed the trees from within the garden of 1 South Avenue and from points along South Avenue. They also viewed the trees from Gt Yarmouth Road and from within the rear garden of 10 Chapel Avenue.

The Panel then convened at 10:45am at Broadland District Council offices to consider the objections to the TPO. Those listed above were present. The Chairman explained the purpose of the Hearing and the procedure to be followed was outlined.

The Panel noted that the Council had decided to make the TPO after the Council received a S211 Notification on 16 July 2019 to fell four conifers (trees A,B,C

and D on the application form) and to remove a section of conifer hedge (trees E on the application form). Following a tree evaluation method for preservation orders (TEMPO) assessment undertaken by the Council's contractor, A T Coombes Associates Ltd, consent was given for the felling of Tree B and trees E. It was considered that removal of trees A, C and D would have a negative impact on the landscape and it was expedient that they be protected. The Council decided therefore to make the TPO to protect three of the individual Cypress trees to safeguard the significant visual amenity and biodiversity value offered by the trees to the immediate and the wider environment.

Two formal objections to the Order had been received from Mr Cole and Ms Twinn, of 10 Chapel Close (whose rear garden formed a boundary with No 1 South Avenue on which tree T1 was located) and from Mr and Mrs McNaught of 1 South Avenue, owners of the trees.

The Panel then heard from Mr McNaught who stated that Tree T1 was a large tree which blocked light from his dining room, lounge and bedroom. He wished to extend his property and a pond in the rear garden prevented a rear extension so he had to extend to the front which would necessitate removal of the tree. The tree was unsightly, particularly the severed stem. He also had an issue with nearby drains that he needed to resolve. With regard to tree T2, if it continued to grow would continue to damage the retaining wall which he believed was supporting the tree. This tree also blocked much light from the garden. The location of tree T3 prevented him from carrying out works to extend and improve his driveway which was currently narrow and caused concerns for safety when entering and leaving his property into South Avenue. He wished to create a double width drive.

In response to questions, Mr McNaught confirmed he had lived at his house for 2 years and had not as yet taken any advice regarding options for maintenance of the retaining wall and the impact of tree T2 because of the costs of expert advice.

The Panel then heard from the Conservation Officer who explained the reasons for the making of the Order as set out above. He added that the Council's appointed arboricultural contractor had used the TEMPO method of assessment to help assess the value of the trees and determine if the order should be made. Mr A Coombes then outlined his responses to the objections raised. He commented that all three trees were Cypress trees and that these trees were first introduced to the area in the Victorian period and now formed a feature of the Thorpe St Andrew conservation area. With regard to tree T1, it was estimated that the tree was between 80 – 100 years old and was large in size which added to its visual appeal in the wider area. With regard to the concerns about the roots, he commented that tree roots could potentially move light structures but that it was possible to accommodate this and take remedial action which did not necessitate removal of the tree. Whilst these trees had a tendency to split and shed dead wood, there was no evidence of any weakness in the trees which was likely to be of concern. The tree was clearly visible from Gt Yarmouth Road. The

large stem remaining from a previous felling did not add to the aesthetic value of the tree and could be removed with permission and subject to it being undertaken without harming the remaining stems. With regard to tree T2, it was possible the roots may have contributed to the lean of the retaining wall over a number of years but remedial works were possible to the wall to avoid removal of the tree. With regard to tree T3, Mr Coombes stated that, whilst not as significant as tree T1, this tree had amenity value; in particular, it complimented the other two trees as part of the wider environment. With regard to the proposed works to the driveway, enquiries would need to be made as to whether these required planning permission and the Conservation Officer added that, if planning consent was granted and tree T3 had to be removed to facilitate the works, the planning consent would override the existence of the TPO.

In response to questions, Mr McNaught was advised that work could be carried out which would allow roots to be sympathetically trimmed and a root barrier material put in place which would improve the situation with the retaining wall. It was unlikely this work would have to be repeated every 5-7 years as Mr McNaught feared. Mr McNaught raised concerns that a full visual assessment of the trees had not been undertaken, as Mr Coombes had not viewed tree T1 from with the garden of No 10 Chapel Avenue. The view from within this garden was unsightly. The Conservation Officer and Mr Coombes commented that the overall amenity value of the tree which could be seen from a wide area was significant albeit that the portion of the tree visible in the garden of no 10 was less significant. This could however be enhanced by the removal of the remaining large stump and dead wood. Mr McNaught added that the tree cast significant shadowing to the garden of no.10 prevented them from growing other plants and dropped a lot of dead wood. Mr Coombes then went through the TEMPO assessment to explain how the tree had been "marked".

Mr McNaught stated that the situation regarding planning permission for the works to the driveway was confusing as prior to the serving of the TPO he did not believe he needed planning permission for works to his driveway. The Conservation Officer re-affirmed that if planning permission was needed and removal of the tree was necessary to facilitate the works, the planning permission would override any TPO made.

In response to a question, Mr McNaught confirmed that he was aware when he purchased his house that it was within a conservation area which would affect the management of the trees.

In summing up, the Conservation Officer invited the Panel to confirm the Order without modifications. A proper assessment of the amenity value of the trees had been undertaken and the required processes for making the Order had been complied with. He acknowledged that there may have been a lack of maintenance of the trees in the past and that remedial work could help enhance some elements of tree T1.

Mr McNaught confirmed that he wished to see the trees removed and was

concerned regarding health and safety. He was now left with trees which had not been properly maintained.

With the exception of the three Panel Members and the Committee Officer, all present then left the room whilst the Panel considered the objections and made its decision. They subsequently re-joined the meeting and were advised that, having listened carefully to all the evidence put before it and having regard to the criteria for making the Order, the Panel had decided that the Order should be confirmed with modification to remove tree T3 from the Order.

The reasons for the decision to confirm the Order in relation to trees T1 and T2 were that the provisional TPO had been implemented and served in a just and appropriate manner, the criteria for making the Order had all been met together with a satisfactory TEMPO assessment. The trees were under threat, they made a significant contribution to the local and wider environment, there was no reason to believe they were dangerous, they had a life span in excess of 10 years, they did not present an unacceptable or impracticable nuisance and they contributed to the biodiversity of the immediate area and offered a wildlife habitat. The reasons for the decision to modify the Order to remove tree T3 were that this tree did not make a significant enough contribution to the local and wider environment and it presented a nuisance which was impracticable and unacceptable.

Accordingly, it was

RESOLVED:

to confirm the Broadland District Tree Preservation Order 2019 (No. 8) with modification to exclude tree T3.

All present were advised that if any person was aggrieved by a local authority's confirmation of a Tree Preservation Order, they may, within 6 weeks of that confirmation, apply to the high court under section 288 of the Town and Country Planning Act 1990, for an order quashing or (where applicable) suspending the order, either in whole or in part. The grounds upon which such an application may be made are that the order is not within the powers of that Act or that any relevant requirements have not been complied with in relation to that order.

6 THE BROADLAND DISTRICT TREE PRESERVATION ORDER 2019 (NO: 9) 43 AND 45 ROSA CLOSE, SPIXWORTH, NORWICH, NR10 3NZ

The Panel had previously visited the site at 10.00am to inspect the trees shown as G1 (two multi stemmed Lime trees) on the map attached to the Tree Preservation Order (TPO). Following introductions, those present (as listed above) were invited to point out anything they wished the Panel to observe whilst on site but not to discuss the merits or otherwise of the making of the Order as

this would take place at the hearing. Members viewed the trees from various points along Rosa Close, from within the rear garden of no 47 Rosa Close and were able to view the trees from the B1150 North Walsham Road.

The Panel then convened at 11:55am at Broadland District Council offices to consider the representations made to the TPO. Those listed above were present.

One formal objection to the Order had been received from Mr D South of 45 Rosa Close, Spixworth, and one letter of support had been received from Ms Holmes of 47 Rosa Close. Mr South was unable to attend the hearing and had sent in the following submission:

“I’m unable to attend tomorrow as I’m at work. I dispute the claims about this being a bat run as these are stand-alone coppice limes. The laurel hedge I have planted and would continue, would be of greater benefit to the small wildlife and insects that would make their home there. The trees at the moment starve the surrounding area of moisture and cut out a lot of light into the house and garden. The trees have almost doubled in height in the time we have lived here and need to be replaced with something more manageable, and preferably evergreen. I think the scrappy trees look a mess during the winter months and do nothing to enhance the area.”

The Panel noted that the Council had decided to make the provisional TPO after the Council received a TPO suggestion form as it was believed the trees at 45 Rosa Close were at risk of being removed. The Order was made to protect the two multi stemmed Lime trees due to their close proximity to each other with the two trees combining to form a distinct group feature and to safeguard the significant visual amenity and biodiversity value offered by the trees to the immediate area and the wider environment.

The Panel then heard from the Conservation Officer who stated that, following a visual assessment of the trees from the surrounding area, he had considered that they were worthy of protection and he was not aware at this time of any issues with the condition of the trees. There were very few mature trees in the area and the Lime trees offered an important visual amenity on entering Rosa Close and from the nearby A1150. The trees also had historical significance in that they formed part of a line of trees shown as a boundary feature on the 1st edition Ordnance Survey maps produced between 1879 and 1886. He was aware of concerns about the overshadowing caused by the trees but he felt that this was not justification for their removal.

In supporting the making of the Order, Ms Holmes referred to the recent loss of mature trees in the area and that the presence of established broad-leaved trees in the area was rare. The trees offered a visual amenity and could be seen from a wide area. The trees were in situ before the properties were occupied and, indeed had been one of the reasons Ms Holmes chose her property. One of the

mature Lime trees within the curtilage of no 45 had already been removed and she had at that time endeavoured to encourage the protection of the remaining trees along the boundary. When she became aware of the imminent plan to remove the two remaining trees at no.45 she had believed they were already protected and was concerned to discover they were not.

In response to the submission read out at the hearing from Mr South regarding his objection to the Order, the Conservation Officer stated he had no evidence of the existence of a bat run but Ms Holmes confirmed that she had regularly seen bats in her garden and in neighbouring gardens which foraged on the many insects in the trees. In addition, a range of other wildlife including owls and woodpeckers were regularly seen in the gardens. With regard to Mr South comment that the laurel hedge would be of greater benefit to wildlife, the Conservation Officer commented that, whilst the additional planting would contribute to the habitat, it would not be a replacement for or compensate for the loss of the trees. He accepted that the trees had an impact on removing moisture and limiting light to the garden but felt these factors did not warrant removal of the trees. He did not believe the trees were likely to have doubled in height in recent years, as they had been mature specimens for some considerable time. He did not support the view that the trees were a scrappy mess as the trees had excellent form and made a positive contribution to the local landscape and environment.

With the exception of the three Panel Members and the Committee Officer, all present then left the room whilst the Panel considered the representations and made its decision. They subsequently re-joined the meeting and were advised that, having listened carefully to all the evidence put before it and having regard to the criteria for making the Order, the Panel had decided that the Order should be confirmed.

The reasons for the decision were that the trees were under threat, they added significantly to both the visual amenity and biodiversity of the local area, they were not considered to be in an unsafe condition at this time; they had a life span in excess of 10 years, it was not believed the trees would cause an increase in nuisance which would be considered unreasonable or impractical to manage in the future and the provisional TPO had been implemented and served in a just and appropriate manner.

Accordingly, it was

RESOLVED:

to confirm the Broadland District Tree Preservation Order 2019 (No. 9).

All present were advised that if any person was aggrieved by a local authority's confirmation of a Tree Preservation Order, they may, within 6 weeks of that confirmation, apply to the high court under section 288 of the Town and Country

Planning Act 1990, for an order quashing or (where applicable) suspending the order, either in whole or in part. The grounds upon which such an application may be made are that the order is not within the powers of that Act or that any relevant requirements have not been complied with in relation to that order.

The meeting closed at 12:20pm