

Minutes of a meeting of the **Appeals Panel** held remotely on **10 February 2021 at 10:00am**.

The following were present:

Cllr S Lawn – Chairman

Cllr A Adams

Cllr S M Prutton

The Conservation Officer (Arboriculture & Landscape) – presenting the case for the Order;

Mr and Mrs Anderson – objecting to the order

Cllr D Harrison – one of the local members for Aylsham)

The Democratic Services Officers (DM and JO) – advisor and host of the meeting.

11 DECLARATIONS OF INTEREST UNDER PROCEDURAL RULE NO 8

No declarations were made.

12 APOLOGIES FOR ABSENCE

No apologies were received.

13 MINUTES

The minutes of the meeting held on 20 November 2021 were confirmed as a correct record and signed by the Chairman.

**14 THE BROADLAND DISTRICT TREE PRESERVATION ORDER 2020 (NO 6)
– 19 MILLGATE, AYLSHAM**

The Chairman welcomed everyone to the Hearing and explained the procedure which had been adapted where necessary to accommodate the restrictions imposed as a result of COVID-19. Members had viewed the trees by way of photographs and had each individually visited the site and viewed the trees from the public highway before the Hearing

Two objections had been received to the making of the order from the owners of the trees and from the occupants of a nearby property.

The Panel heard from Mrs Anderson, objecting, who stated that the two trees towered above her cottage and the neighbouring bungalow. Both she and her neighbour found the close proximity of the trees intimidating and dangerous particularly in high winds. The trees were 60-70 ft. tall and sat on a 5ft tall

raised mound only 20-25 ft. from the cottage. She demonstrated the proximity with photographs which also indicated how close the branches of the tree were to the properties. She stated the trees would cause major damage to the properties if they fell. The occupier of no 15 also had similar concerns. The Scots Pine tree in the garden of no 13 (T3) had recently been felled which had left the remaining trees (T1 and T2) exposed and more vulnerable in high winds. In 2006 a previous officer of the Council had sanctioned the removal of two other similar trees which were a further distance from their cottage and a short time later over 14 trees had fallen in the garden. These two trees would have caused significant damage if they had not previously been removed and had fallen at this time. Photographs of tree debris were included in the agenda papers. Mrs Anderson stated the trees were affecting their wellbeing and residents of the adjacent properties were not willing to sleep in bedrooms near the trees. The pollen also affected the health of Mr and Mrs Stanford for up to 8-12 weeks of the year. With ever increasing periods of high winds and the funnelling effect of the garden, there was real concern the trees would fall in a storm. Having already experienced a large volume of trees falling, this left them feeling very vulnerable and anxious. Mrs Anderson stated she did not feel the trees contributed to their amenity, indeed the trees adversely affected their wellbeing.

In response to questions, Mrs Anderson confirmed that T3 had been felled in 2020 following an application by Mr Stanford. The Conservation Officer confirmed this was the case stating that, at the time the notification application had been received from Mr Stanford, there was no protocol in place for site visits during a lockdown and a visual assessment had not therefore been possible. The period of time allowed for a decision to be made had lapsed and the tree had therefore been removed by default. If he had been able to undertake a visual inspection he would likely have concluded that the tree was worthy of protection and served a PTPO.

In response to a question regarding the serious consequences/damage caused by the large number of trees that had fallen, Mrs Anderson confirmed the trees were at the back of the garden and had damaged a bothy, a wall and a Silver Birch tree. The Conservation Officer questioned if this could be regarded as serious damage and that it would be disproportionate to fell every tree because of potential damage.

The Chairman reported that Mr and Mrs Stanford who had also raised objections to the making of the Order were unable to attend the hearing and had declined an invitation to submit any further evidence. Their initial representations were included in the agenda papers and would be taken into account by members in determining the matter.

The Panel then heard from the Conservation Officer who explained that the Order (PTPO) had been made on 17 August 2020 after the Council received, on 3 July 2020, a s211 Notification (No. 20201300) to fell two Scots Pine trees located in the garden of 19 Millgate. The Order was made to safeguard

the significant visual amenity value offered by the trees to Aylsham conservation area and the wider environment. There had been a significant number of tree loss (19 in the storm and 4 removed with consent) and trees T1 and T2 were the only remaining large trees so it was considered necessary to protect them. There had been no evidence provided to demonstrate that trees T1 and T2 needed to be removed on safety grounds and the fact that they had survived recent storms when many others had not was considered to demonstrate their strength and health. The TPO would not prevent future applications for necessary remedial work to the trees nor prevent their ultimate removal if evidence was provided that they were unsound or unstable. In conclusion, the Conservation Officer stated that the criteria for making the Order had been met: the trees had visual amenity, they contributed to the biodiversity of the area, they would not cause an increase in nuisance (in reality any nuisance caused by pollen was limited to a 4 week period occurring anytime during spring) and they had a life span in excess of 10 years. He invited the Panel to confirm the Order.

In response to questions, the Conservation Officer confirmed that reducing the overall height of the trees would be unlikely to allay any of the concerns raised as the trees were no less safe because of their height. Any potential failure was more likely to be due to structural defects which could be identified as part of regular inspections by a qualified person. The trees were unlikely to affect the foundations of nearby properties as the trees were situated on raised ground and, in any event, the root network would have adapted to the soil zone around the trees and to the location to optimise their stability. The Conservation Officer confirmed that the loss of tree branches occurred on all trees as new growth was produced above older growth and could be dealt with by way of regular maintenance. The risk to safety from falling branches was statistically very small. The Scots Pine species was widespread in Europe and had adapted well to extreme weather conditions including heavy snowfall.

In response to the Conservation Officer's case, Mrs Anderson stated that the roots of trees T1 and T2 were at the same level as the bungalow occupied by Mr and Mrs Stanford. In response to questions from Mrs Anderson, the Conservation Officer agreed that, in the event that the trees did fall in the direction of the Cottage, the branches would reach the cottage. With regard to a query about the life expectancy of the trees, the Conservation Officer explained that the criteria for making an Order required a tree to have a life expectancy of at least 10 years as stated in the report and that trees T1 and T2 had a life expectancy of 100-150 years. In response to a question as to why consent had been given for the removal of two trees at the top of the objector's garden which it was suggested were more visible than T1 and T2, the Conservation Officer stated that these trees had been situated to the rear of the property and the conservation area and, in his opinion, were less prominent and did not have the same amenity value as T1 and T2.

Attention was drawn to the Conservation Officer's statements contained in the first paragraph of the third box on page 14 of the report and he apologised that these had been included in the report in error.

The Panel then heard from Cllr D Harrison one of the local members for Aylsham who stated that he supported the case put forward by the objectors and felt the trees were located too close to the properties.

The Chairman then invited closing statements.

Mrs Anderson stated that she loved trees and would plant additional more suitable trees if she was able to remove these trees.

The Conservation Officer invited the Panel to determine the Order based on factual evidence. Mindful of climate change and biodiversity, every tree was important and the planting of new trees whilst welcomed would not replace the benefits of a mature tree for a considerable number of years. A considerable number of trees had already been lost from this site, by way of them falling or being felled with consent and he invited the Panel to confirm the Order. In response to further questions, the Conservation Officer stated that he estimated the trees to be 50 years old but it was difficult to determine their potential height as this would depend on many variables. The trees were virtually mature and would not necessarily continue to grow at their previous rate but would instead reach their optimum condition. Ideally trees needed to be inspected annually/bi-annually depending on the situation to identify any potential issues and remedial work necessary to remove damaged branches.

The Panel then left the meeting to deliberate their conclusions in private together with the Democratic Services Officer (DM) who provided support. They then all re-joined the meeting and Chairman announced the Panel's decision as follows:

Having regard to all the evidence available and to the criteria used to make the Order, the Panel decided to not confirm the Order. The reasons for the decision were that on balance they considered that the amenity value of the trees was not sufficient to outweigh the nuisance factors caused by 2 very large trees standing isolated in their current location and their proximity to adjacent dwellings.

It was, accordingly,

RESOLVED that the Broadland District Tree Preservation Order (TPO 2020 No 6) 19 Millgate, Aylsham, Norfolk NR11 6HX be not confirmed.

The meeting closed at 11.13am