

Minutes of a meeting of the **Appeals Panel** held remotely on **20 November 2020 at 10:00am**.

The following were present:

Cllr S Lawn – Chairman

Cllr K Lawrence

Cllr S M Prutton

Also in attendance were:

The Conservation Officer (Arboriculture & Landscape) – presenting the case for the Order; Malcom Allsop – Wroxham Parish Council – supporting the Order; the Governance Manager and the Democratic Services Officer (DM) – advisors to the Panel.

### **7 DECLARATIONS OF INTEREST UNDER PROCEDURAL RULE NO 8**

No declarations were made.

### **8 APOLOGIES FOR ABSENCE**

No apologies were received.

### **9 MINUTES**

The minutes of the meeting held on 29 January 2020 were confirmed as a correct record and signed by the Chairman.

### **10 THE BROADLAND DISTRICT TREE PRESERVATION ORDER 2020 (NO 5) – 66 CHARLES CLOSE, WROXHAM**

The Chairman welcomed everyone to the meeting and explained the procedure for the Hearing which had been adapted where necessary to accommodate the restrictions imposed as a result of COVID-19, in particular, the site meeting referred to in the procedure had not taken place and, instead, members had viewed the tree by way of photographs and had each individually visited the site and viewed the tree from the public highway.

One formal objection had been received to the making of the order from the owners of the tree, who were unable to attend the meeting but had agreed to the meeting proceeding in their absence. Following receipt of the agenda papers for the Hearing, the owners had been invited to submit a statement for consideration by members and this had been circulated to all members of the

Panel and read out at the Hearing. The statement was as follows:

*"We would like to make the additional comments relating to the correspondence. For ease of reading, these comments will be in the order set out in the correspondence. We kindly ask if you would bring these comments to the attention of the Appeal Committee."*

**Page 15** refers to the canopy having potential to provide nesting sites for many species of garden birds. We have lived at this property for 17 years and not once observed a nest of any description. We are keen wildlife supporters, have been members of the Norfolk Wildlife Trust for many years and have several bird boxes in our rear garden where birds do nest in our trees, holly, pyracantha and boxes. We actually placed a Woodpecker Nesting Box in the Atlas Cedar several years ago to encourage nesting, but this didn't happen. And we feel that this is because the open aspect of the foliage of the tree is not conducive to nesting.

**On Page 16** of the correspondence, the Tree Officer states that during his recent site visit to photograph the tree from the public footpath approximately 8 metres away he could not identify any significant structural defects. It is regrettable that he didn't let us know of his intention to do this as had he viewed the tree from a northerly aspect (not in any photographs) he would clearly have seen bark shedding on the side of a large branch, and evidence of at least two fairly large diameter branches that have jagged edges from where they have broken off. We would have been happy to meet with him and indeed we asked to do this in our original letter, (last paragraph of our letter dated 2nd June states 'May we, therefore, ask if you would arrange for a Council member to telephone us when we could arrange to have some dialogue and we could be given the opportunity to discuss our concerns'. Social distancing would obviously have taken place.

In essence, therefore, we don't feel that the Tree Preservation Officer has viewed the tree in a way that enables him to state his findings in a satisfactory way.

**Page 17** refers in its first line to the observation of 'some dead wood' within the tree canopy that appear to be mostly tertiary branches'. Again we wish to emphasise that we feel the Tree Officer would have seen more evidence had he viewed the tree more closely.

The **second paragraph of Page 17** says about our concerns concerning the tree failing and being blown over. We wish to point out that in no correspondence have we actually said that. We have only stated in our original letter dated 2nd June and subsequent email to the Tree Officer about this meeting's attendance, that it is the top of the tree that we are concerned about breaking off.

*We consider the Tree Officer's statistical details in paragraph three and four of Page 17, therefore, to be totally irrelevant.*

*In **paragraph six on Page 17** the Tree Officer refers to a section of the upper canopy lost in the garden of No 48 The Avenue in Storm Doris of the same species of tree. We would like to ask if he actually viewed that section as we think he only saw the remaining part of the tree when he was approached in April 2018 by new owners of the property to have the remainder of the tree felled? We think this because we knew the very elderly man who subsequently had to pay for the damage to our garden and obviously arrange to clear the debris of the tree in his garden and he and us estimated this to be about 20ft, not just a section of the upper canopy. Sadly, the man referred to has since died.*

*In **paragraph 10 of Page 17**, the Tree Officer states that in his opinion the tree has a compact form and the canopy doesn't appear excessively unbalanced. He then refers to remedial pruning to reshape the canopy in the future. Surely this is a contradiction! How far in the future is he thinking about?*

*In the **last paragraph of Page 17**, it is stated that Atlas Cedars are widely planted as decorative ornamental garden and parkland trees. We don't consider this to be a decorative ornamental tree now that it is 52ft by 42ft (as measured by the Tree Officer), and as written in our original letter of 2nd June, this area did used to be parkland when the tree was planted, but is now residential.*

*In **paragraph two on Page 18** it states that the tree within the front lawn will constrain the type of plants grown due to the shade (a 42ft canopy) and water intake of the tree. This emphasises our comments that we find our front garden very difficult to manage.*

*The Tree Officer's conclusion states that the tree should have a remaining lifespan exceeding 10 years. May we, therefore, draw attention to the statement at the top of the photograph taken by Piers Ranson, the Professional Agent we approached initially, (**Page 35**) that the damaged parts and more importantly his referral to 'DIE BACK' totally contradicts that.*

*In conclusion, and referring to **Page 18**, we accept the Tree Officer's expertise about the importance of 'future proofing' our tree populations, and whilst we have stated in both our original letter and subsequent email that we would be happy to replace the tree, we would be pleased to do this with a non-native tree. The only criteria we would ask for is size and less dependency on water."*

The Panel then heard from the Conservation Officer who explained that the Order (PTPO) had been made on 26 May 2020 after the Council received, on

24 March 2020, a s211 Notification (No. 20200686) to fell an Atlas Cedar tree (*Cedrus Atlantica*) located in the front garden of 66 Charles Close. The Order was made to safeguard the significant visual amenity value offered by the tree to the immediate and the wider environment. The species of tree was widely used in domestic gardens and a range of similar species existed in neighbouring gardens on Charles Close which contrasted well the Atlas Cedar. At the time of making the Order the country had been subjected to a lockdown arising from the COVID-19 pandemic and in the absence of a protocol for holding site meetings, no site meeting had taken place at that time. Discussions had been held with the agent which was normal practice.

A recent inspection of the tree had been undertaken but had not included a view of the tree from the northern aspect. In his extensive experience of conducting tree inspections (36+ years), this inspection did not raise any concerns regarding the structural integrity of the tree. The tree did have a degree of dead wood which could be dealt with as part of management of the tree. The tree had potential to grow considerably (up to 40m in height) in its native environment but was unlikely to reach that height in its current location despite being well suited to the changing UK climate. With regard to the objectors' concerns about the difficulties of using their front garden, it was acknowledged that the tree was in competition with other plants for moisture and there was some degree of seasonal nuisance from needle fall but he felt this was not unreasonable and was to be expected as a result of having a large tree in a domestic garden and it was not an overriding factor or significant enough to justify removal of the tree. With regard to nesting birds, as the tree matured and provided a larger canopy with cavities and hollows it was more likely to provide a nesting site for birds. It was accepted that the species could shed branches on occasions for example when covered in heavy snow. The tree was situated in a large garden some 14m from the property and sat well in the local landscape. The objectors had offered to replace the tree with a more appropriate species but this would result in the loss of a mature tree and its significant visual impact and its replacement with a tree which would take decades to have the same value in the landscape. It was estimated that the tree was in the region of 40 years old and had probably doubled in size over the last 16 years. With regard to the die-back in the tree, the Conservation Officer advised that this was tertiary dead wood which usually formed as a result of overshadowing from the newer outer canopy of the tree and was a natural process with this species.

The Panel then heard from Mr Malcolm Allsop – Vice-Chairman of Wroxham Parish Council who stated that the Parish Council was urging the Council to reject the appeal and confirm the order. All four members of the Parish Planning Group had viewed the tree as had the member with responsibility for tree and conservation matters and were all unanimous in their support of the Conservation Officer's assessment of the tree. The removal of the tree would be contrary to the Wroxham Local Plan, which aimed to enhance the Conservation Area, and would be detrimental to the area. Mr Allsop emphasised that Charles Close formed an Article 4 Direction Conservation

Area which was the most stringent level of conservation area and that this applied to Charles Close due to the trees and the parkland setting of the close. The Parkland had existed for over 50 years and all 90 properties on Charles Close housed sizeable trees within their plots which is what made the area so special. He did not feel the grounds put forward for removing the tree were justifiable and would destroy the main feature of the Article 4 Conservation Area. He invited the Panel to confirm the Order.

The meeting was then adjourned to allow the Panel to deliberate its decision and the Conservation Officer and Mark Allsop left the meeting. They were then readmitted to the meeting and Chairman announced the Panel's decision.

The Panel decided, having regard to all the concerns raised and having regard to the criteria used to make the Order, to confirm the Order. The reasons for the decision were that the tree was under threat, it added to both the visual amenity and biodiversity of the Wroxham Conservation Area, it was not considered to be in an unsafe condition at this time, it had a life span in excess of 10 years barring unforeseen circumstances, and it was not felt that the tree would cause a nuisance which would be considered unacceptable or impractical to manage. The provisional TPO had been implemented and served in a just and appropriate manner.

It was, accordingly,

**RESOLVED** to confirm the Broadland District Tree Preservation Order (TPO 2020 No 5) 66 Charles Close, Wroxham, Norwich, Norfolk.

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 11.00am*