

Minutes of a meeting of the **Appeals Panel** held at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew on **Thursday 5 April 2018** at **10:45am** when there were present:

Mrs C Bannock Miss S Lawn– Chairman Mr J Emsell

Also in attendance were:

- (1) Mr R Pantry and Miss R Cole – 53 Silk Mill Road, Hellesdon – Minute 14 - objecting
- (2) Mrs S Gurney – Chairman of Hellesdon Parish Council – Minute 14 - supporting
- (3) Mr R Grady - Hellesdon Parish Council – Minute 14 - supporting
- (4) Mrs Prutten - Hellesdon Parish Council – (Hellesdon site visit only)
- (5) Mr Peter Jefferson – 2 Truman Close, Salhouse – Minute 15 - objecting
- (6) Mr Jeans – owner of land at Howlett's Loke, Salhouse on which the trees were situated – observing (Salhouse site visit only)
- (7) The Conservation Officer (Arboriculture & Landscape) presenting the case for the Orders
- (8) The Committee Officer (DM) – advisor to the Panel

12 APOLOGY FOR ABSENCE

An apology for absence was received from Mrs L Hemsall.

13 MINUTES

The Minutes of the meeting held on 16 January 2018 were confirmed as a correct record and signed by the Chairman.

14 THE BROADLAND DISTRICT TREE PRESERVATION ORDER 2017 (NO: 21) 47 – 53 SILK MILL ROAD, HELLESDON, NORWICH NR6 6SJ

The Panel had previously visited the site at 9:30am to inspect a group of 9 Silver Birch trees shown as G1 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 Silk Mill Road and from within the garden of 53 Silk Mill Road. They noted the proximity of the trees to the house and a large branch extending from one of the trees. They also noted that remedial work had been done to the trees to lift their crowns and reduce their canopies prior to the sale of the new houses.

The Panel then convened at 10.45am to consider the objections to the TPO. Those listed above were present. The Chairman invited those present to introduce themselves and then outlined the procedure to be followed.

The Panel noted that the Council had made the decision to safeguard the trees as it was felt they were at risk of being removed or inappropriately lopped. The 9 Birch trees formed a linear group within the rear gardens of the new build properties recently completed by the builders Lovells, following the granting of planning permission no.20141134. The Council decided to make the TPO to safeguard the significant visual amenity and biodiversity value offered by the group of Silver Birch, to the immediate area and the wider environment.

One objection to the Order had been received from Mr R Pantry and Miss R Cole of 53 Silk Mill Road.

The Panel then heard from Miss Cole who stated that they wanted to retain the option to maintain the trees without having to seek permission from the Council each time. They were concerned about the trees and the damage they could cause if they fell. In the summer when the trees were in leaf, they felt they would lose sunlight in their garden. They did not want to cut the trees down but wanted the freedom to maintain them. They confirmed they had moved into the property in January 2018.

The Conservation Officer presented the case for making the Order. He explained the background to the making of the Order as detailed above. A number of trees had been removed from the site to allow for the development and the Council had worked with the developers to retain some of the more important boundary trees which helped provide screening and softened the landscape and discussions had taken place regarding protecting the trees. The trees were in a safe condition and had a reasonable lifespan remaining. Some remedial work had been carried out in liaison with the developers to lift the canopies and allow for the creation of the fenced boundary to the properties. The end weight of some branches had also been reduced. The Council had a duty in accordance with the Town and Country Planning Act to protect significant trees as part of the planning process. He acknowledged the desire of the owners to have the freedom to maintain the trees but commented that the Order was made to safeguard the future of the trees and ensure that any maintenance work proposed was controlled and reasonable. He contended that the trees had significant visual amenity, had a life span of at least 20 years, had no defects and were not at risk of failing. With appropriate pruning they could be retained with minor inconvenience.

In response to questions, the Conservation Officer stated that the Council had up to 8 weeks to determine a request for works to a tree following receipt of a completed application form. The objectors commented that if they were to submit an application at the beginning of the summer because of the loss of sun, the summer would be over before they received permission to carry out the works. The Conservation Officer commented that there would be a need to plan ahead with proposed work and that it might be helpful to leave them for a year to see what impact, if any, they had on the garden. Maintenance work had recently been undertaken on the trees and there was little that needed to be done at the present time other than perhaps shortening the longer branch currently extending towards the roof. Any dead wood had been removed and the owners were at liberty to remove dead wood at any time. In response to a question as to whether the owners could carry out works themselves, the Conservation Officer confirmed that the decision notice issued following an application for works would detail the conditions for undertaking the work and that it needed to be in accordance with the British Standards and at the right time of the year. The owners of the tree would be responsible for the cost of any works undertaken. When asked what would happen if contractors did any damage, the Conservation Officer stated this rarely happened if the work was carried out by reputable, qualified contractors but that, should the tree fail because of inappropriate works, this was an offence which could result in the matter being considered through the Court and fines imposed.

It was confirmed that the developers were aware of the intention to protect the trees when they commenced the development. In response to a question about the layout of the development and the proximity of the houses to the trees, the Conservation Officer stated that officers had been involved in negotiations with the developers and the layout of dwellings had been amended to allow the tree line to be retained, but the viability of the development prevented any further allowances for the trees.

The Conservation Officer added that this species of tree did not have a dense canopy and would allow dappled sunlight through but would not facilitate uninterrupted sun. This matter should have been considered at the time the property was purchased.

The Panel then heard from Mrs S Gurney, Chairman of Hellesdon Parish Council who made reference to the Hellesdon Neighbourhood Plan which sought to preserve trees as part of developments. The Neighbourhood Plan, which had since been adopted, had been in preparation at the time the application for development of this site was submitted and all parties were very aware of the desire to retain the trees on this site. The trees were shown on the plans available in the site office available to prospective purchasers. The purchasers should have been aware of the intention to retain the trees. The Parish Council supported the confirmation of the Order.

In response, the objectors stated they were first time buyers and not as informed as perhaps they could have been. They were told by a lady in the site

office when they commented about the trees to just cut them down. Mrs Gurney commented that having regard to the orientation of the property, the main shading of the garden would be caused by the house itself and not the trees.

Mr Grady of Hellesdon Parish Council echoed the comments of Mrs Gurney, emphasising the need to protect and enhance the green infrastructure in the parish in accordance with the Hellesdon Neighbourhood Plan. He also felt shading in the garden was more likely to result from the house than from the trees and he urged the Panel to confirm the Order.

The Conservation Officer, together with the objectors and the supporters, 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 agreed that the Order should be confirmed.

The reasons for the decision were that the criteria for making the Order had been met, the trees added significantly to both the biodiversity and visual amenity value of the local area, they were not considered to be in an unsafe condition at this time, they had a reasonable life span of at least twenty years and would not cause an increase in nuisance which would be considered unreasonable or impractical to abate in the future.

Accordingly, it was

RESOLVED:

to confirm the Broadland District Tree Preservation Order 2017 (No: 21) without modification.

**15 THE BROADLAND DISTRICT TREE PRESERVATION ORDER 2017 (NO: 22)
LONGACRE, HOWLETT'S LOKE, SALHOUSE, NORWICH NR13 6EX**

The Panel had previously visited the site at 10:15am to inspect a group of Silver Birch trees shown as G1 on the map attached to the Tree Preservation Order (TPO). Following introductions, the Chairman invited those present (as listed above) 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 no 1 Truman Close at the request of the objector Mr Jefferson from no 2 Truman Close who confirmed the owner had consented to access to the garden. Members viewed the proximity of the trees to the bungalow at no. 1, noting that there were 6 trees

still remaining and not 8 as stated in the Order. Their attention was drawn to the moss on the roof of the bungalow and the limited light in that part of the garden. Members then viewed the trees from within the garden of no. 2 and their attention was drawn to the moss on one end of the bungalow roof. They were also asked to note that improvement works had been carried out to the bungalow (installation of specialist air bricks) to help deal with the issue of damp within the rooms of the bungalow caused by water running down the walls from overflowing drainpipes blocked by the leaves/seeds from the trees.

The Panel then convened at 11.45am to consider the objections to the TPO. Those listed above were present. The Chairman invited those present to introduce themselves and then outlined the procedure to be followed.

The Panel noted that the Council had made the decision to safeguard the trees as it was felt they were at risk of being removed. Enquiries had been made about a new access on a new build plot which could affect trees T1 Beech and T2 Oak. The Council decided to make the TPO to safeguard the significant visual amenity and biodiversity value offered by the group of Silver Birch and T1 Beech and T2 Oak, to the immediate area and the wider environment. It was noted that the Order had been drafted based on the number of Silver Birch trees shown in the Tree Survey provided as part of the planning application. At the time of serving the Order, only 6 of the original 8 Silver Birch trees remained.

One objection to the inclusion of the Silver Birch trees (G1) in the Order had been received from Mr P Jefferson of no. 2 Truman Close, Salhouse.

The Panel then heard from Mr Jefferson who stated his main objection related to the nuisance the Silver Birch trees caused to the two properties at no. 1 and no. 2 Truman Close. He did not feel the trees had any public benefit and did not contribute to the landscape. They were obscured from view from Howlett's Loke and were not visible from Station Road. He also suggested the trees did not have a remaining life expectancy of at least 20 years and felt this was more like 10 – 20 years. The trees caused problems with damp and mould on internal walls of the properties and the only time the north facing wall benefitted from direct daylight was for a short period at dawn. The trees prevented any sun from reaching the north side of the bungalows, keeping them cool and damp and this environment caused the moss on the roof. The 2 bedrooms on the north side of the bungalow were dark and shaded and suffered with mould and damp in the wardrobes. The leaves/seeds blocked the guttering and caused rain to run down the walls. Figures provided by the Royal Horticultural Society suggested that the Silver Birch trees shed 200,000 leaves and 5.9million seeds per kg. Improvements in the extent of the damp and mould had been seen when a number of the Silver Birch trees running along the boundary of no. 2 had been removed. Specialist blocks had also been installed in the walls to help deal with the damp. Mr Jefferson was fearful the trees could fall and cause damage to the two bungalows or the new property to be built on Howlett's Loke and could cause serious injury. He stated that Mr Jeans was

happy for a compromise which involved removal of the trees and replanting alternative trees. Mr Jefferson made reference to the report from Robert Thackray Ltd dated 2016 handed to him by Mr Jeans on site that morning who had carried out an assessment of the trees using the TEMPO method and concluded that the trees were not worthy of protection by an Order. An alternative would be to replace them with a different smaller species with landscape value, further away from the boundary line. Mr Jefferson then circulated copies of photos showing the damp treatment, the internal mould, the moss on the roof and the shading caused by the trees.

The Conservation Officer commented that the TEMPO method was one not used by the Council for the assessment of the quality of trees as it relied on numerical values to assess the trees. The Council had agreed the method to be used to assess the value of trees a number of years ago which included the criteria set out in the report and this was the Council's preferred method of assessment.

In response to a question, Mr Jefferson confirmed that the bricks installed in the wall had helped to improve the damp situation but with a heavy downpour they still had a problem with mould. The problem with the leaves/seeds blocking the guttering and downpipes still existed and the removal of the extended line of trees had helped this situation.

The Conservation Officer then presented the case for making the Order. He explained the background for the making of the Order and that the Council had a duty under the Town and Country Planning Act to protect and safeguard trees when granting planning permission. Discussions had taken place with the planning case officer and it was felt that the trees were under threat and needed to be protected. A number of trees in the area had already been felled. The Order had been prepared based on the arboriculture report commissioned by the landowner and since then, two trees had been removed.

The Conservation Officer stated that he was satisfied that the remaining 6 Silver Birch trees made a significant contribution to the biodiversity and visual amenity of the local area, were not unsafe and had a life expectancy of at least 20 years. With regard to being a nuisance, the Conservation Officer stated that the constraints plan contained within the agenda papers demonstrated the shadowing caused by the Silver Birch trees and most of the shadowing fell into land adjoining Mr Jefferson's plot (land owned by Mr Jeans – the owner of the trees). There would always be an element of direct overshadowing and loss of direct light because of the proximity of the Silver Birch trees. There was no engineering evidence which specifically explained the cause of the damp and there were a number of possible explanations for the damp including the construction of the bungalows and the damp proof course. Other elements could contribute to the cause of damp and he did not feel the Silver Birch trees were the cause of the mould growing inside the property. With regard to the moss on the roof, this could be seen on all aspects of the roof and other roofs in the area.

The Conservation Officer then answered questions. He confirmed that there was always a risk that trees could fail but there was no evidence that the Silver Birch trees were compromised in any way to make them any more likely to fall. If a tree became unsafe it could be removed with the necessary consent. The potential risk of the Silver Birch trees failing was such that it did not warrant their removal in case. He also acknowledged that leaf guards could be installed on guttering/down pipes to help control leaf/seed debris. Mr Jefferson commented that there would still be a significant amount of leaf/seed debris. The Conservation Officer confirmed that he was not aware when or how the 2 Silver Birch trees had been removed.

The Conservation Officer, together with the objector, 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 agreed that the Order should be confirmed.

The reasons for the decision were that the criteria for making the Order had been met, the trees added significantly to both the biodiversity and visual amenity value of the local area, they were not considered to be in an unsafe condition at this time, they had a reasonable life span of at least twenty years and would not cause an increase in nuisance which would be considered unreasonable or impractical to abate in the future. Noting the orientation of the properties, Members did not feel that removal of the trees would resolve the issue of damp inside the properties.

Accordingly, it was

RESOLVED:

to confirm the Broadland District Tree Preservation Order 2017 (No: 22) subject to a modification to reduce the number of Silver Birch trees protected from 8 to 6 to reflect the actual number of trees remaining.

The meeting closed at 11:45am