

APPEALS PANEL

Minutes of a meeting of the Appeals Panel of Broadland District Council, held on Wednesday 9 March 2022 at 10.30am at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich.

Committee Members Present: Councillors: N J Brennan (Chairman), K Lawrence and S Prutton

Speakers present: Mr and Mrs Williams - supporting

Officers in Attendance: The Conservation and Tree Officer (MS) – presenting the case for the Order and the Democratic Services Officer (DM)

9 DECLARATIONS OF INTEREST UNDER PROCEDURAL RULE NO 8

No declarations were made.

10 APOLOGIES FOR ABSENCE

No apologies were received.

11 MINUTES

The minutes of the meeting held on 10 November 2022 were confirmed as a correct record and signed by the Chairman.

12 THE BROADLAND DISTRICT TREE PRESERVATION ORDER 2021 (No 9) 5 LAKE VIEW CLOSE GREAT WITCHINGHAM NR9 5BS

The Chairman welcomed everyone to the meeting and explained the procedure. Prior to the meeting, the Panel had taken the opportunity to visit the site and view the tree and its location. Mr and Mrs Williams were in attendance at the site meeting.

In the absence of the objectors, the Democratic Services Officer read out an email from the objectors confirming that they wished to confirm their objections to the order for the reasons outlined in their original representation. The tree was not a native species, it had not as yet reached maturity but was

already too large for its surroundings and its roots were causing damage to the property at 9 Ladys Row.

The Chairman then invited the Conservation and Tree Officer to make the case for the making of the Order. The Conservation and Tree Officer explained that the Order had been made following receipt of a TPO suggestion form from the owner of the tree raising concerns that the tree was at risk because of the planning permission granted on the neighbouring property to demolish the existing bungalow and replace it with a house. There were concerns about potential damage to roots of the tree and also concerns about inappropriate pruning of the tree. The owners of the tree had stated that inappropriate pruning of a different tree had been undertaken in the past in accordance with common law rights to cut back growth to the boundary.

The Conservation and Tree Officer stated that discussions had been held with the planning case officer which had established that the proposed dwelling would be positioned further away from the tree. There were still concerns about the impact of the provision and use of a parking area to serve the new property and potential damage. Whilst the planning permission was able to offer protection to the tree during demolition and construction, there was no future protection against inappropriate pruning and potential root damage and a decision had been taken to serve the Tree Preservation Order to provide future protection.

The Conservation and Tree Officer went on to state that the main objections to the order related to the proximity of the tree to the building, damage to the wall and the surface of the driveway. His response to these concerns were detailed in the report. Despite the concerns, he was of the view that the tree should be protected. The form of the tree was unusual and there were very few trees in the Lake View Close/Ladys Row, with none being as significant as this tree. The tree met the criteria for making an order and had amenity value. A range of options were available to manage the impact of the tree and minimise nuisance. If the Order was confirmed, any application for remedial work to the tree would be considered and, subject to meeting the necessary guidelines, could be supported. An application for remedial works had been submitted by the tree owners and was currently being assessed.

The Conservation and Tree Officer invited members to confirm the order.

In response to questions, the Conservation and Tree Officer explained that the current tree works order included proposals for a 2-3m crown reduction and raising of the canopy over both driveways. (The tree owners shared photos of the proposed works.) He confirmed that the volume of crown reduction proposed may exceed the recommended amounts and would impact on the energy reserves of the tree, the reduction in height would remove some of the lever action on the union of the main trunks of the tree, reducing the risk of union failures. With regard to the installation of a new parking area for cars at the adjoining property, the Conservation and Tree Officer gave details of typical established practices for providing hard surfaced

areas for driveways within the area of a root protection zone which avoided the need for excavation and included the provision of a permeable surface. This avoided damage to root systems from excavation and allowed for adequate drainage through the permeable surface. He explained how the root protection area had been calculated. He estimated the age of the tree to be 30 - 35 years and confirmed that, whilst annual growth of tree root diameter was slower/less than the growth seen in the trunk, this growth could potentially cause issues for adjoining garden walls particularly if the walls did not have deep secure foundations. There were many ways however to mitigate this. With regard to the wildlife value of the tree, it was noted that the species did have some wildlife value in terms of providing cover and nesting sites, but that it was not as significant as other native species which had a greater association with insects. The value of the tree was enhanced by virtue of it being endangered in the wild.

The Panel then heard from Mr and Mrs Williams in support of the order. They stated that pruning work had been carried out to the tree 5-6 years ago by a qualified professional and they were very impressed with the work undertaken. They were hoping to engage the same professional for their latest proposals to manage the tree. The tree was a beautiful species, particularly in the autumn and its amenity value was very special. They believed other trees had existed in the location prior to the planting of the Maidenhair Tree. Mr and Mrs Williams stated they were concerned about the potential for unsuitable pruning of branches of the tree overhanging the neighbouring garden. A holly tree had previously been unsympathetically pruned hard to the boundary on the side of the neighbouring property destroying the overall shape of the tree. They were very concerned about this happening again and also the potential for damage to the tree by builders working on the neighbouring property. The maintenance work proposed to the tree would hopefully allow for any vehicles to pass under the canopy without damaging the tree. They felt the cracking of the tarmac driveways could be down to natural wear and tear.

It was noted that, if the tree was protected, this removed the common law rights for neighbours to prune the tree back to the boundary and any unauthorised works carried out would potentially constitute a breach of the order and could potentially lead to a caution or prosecution.

In summing up, the Conservation and Tree Officer reiterated that the protection of the tree by way of the planning permission granted would only apply during demolition and construction works. The Order had been made to provide long term protection for the tree.

With the exception of the Democratic Services Officer, all present then left the meeting whilst the Panel deliberated its decision. They were subsequently readmitted to the meeting and the Chairman announced the Panel's decision.

Having regard to all the information before them, both written and oral, and having regard to the criteria used to make the Order, the Panel decided (unanimously) to confirm the Order. The Panel was satisfied that the provisional TPO had been implemented and served in a just and appropriate manner and was expedient in the interests of amenity to make provision for the preservation of the tree. The Panel was also satisfied that the Council's criteria for making the Order had been met: the tree made a significant contribution to the local environment, there was no reason to believe it was dangerous, it had a life span in excess of 10 years, it did not present an unacceptable or impracticable nuisance and contributed to the biodiversity of the immediate area.

It was, accordingly,

RESOLVED to confirm the Broadland District Tree Preservation Order 2021 (No 9) 5 Lake View Close Great Witchingham.

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 concluded at 11.40am)

Chairman