

## APPEALS PANEL

Minutes of a meeting of the Appeals Panel of Broadland District Council, held on Tuesday 19 July 2022 at 10.30am at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich.

**Committee Members Present:** Councillors: N J Brennan (Chairman), S Catchpole and S Prutton

**Speakers present:** Jason Boast – objecting  
Andrew Coombes – for the objector  
James Dent – for the objector

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

### 1 DECLARATIONS OF INTEREST UNDER PROCEDURAL RULE NO 8

No declarations were made.

### 2 APOLOGIES FOR ABSENCE

No apologies were received.

### 3 MINUTES

The minutes of the meetings held on 9 March and 13 March 2022 were confirmed as a correct record and signed by the Chairman.

### 4 PROVISIONAL TREE PRESERVATION ORDER (TPO 2022 No 3) HILL HOUSE, 2 MIDDLE HILL REEDHAM NR13 3T

The Chairman welcomed everyone to the meeting and explained the procedure to be followed. Prior to the meeting, the Panel had taken the opportunity to visit the site and view the tree and its location. Mr J Boast was in attendance at the site meeting.

Members firstly heard from the objector. He explained that he had purchased his house 8 years ago. At that time the house had been empty for a number of years and the house and garden including the trees had been neglected.

He had undertaken a range of remedial works to the house and garden and, because of issues with insurance and complaints from neighbours about dead wood from the trees, he had arranged for the trees to be pruned and managed to remove dead wood. He had then encountered issues with the tree roots and the cellar of the house. A programme of remedial work had been undertaken to prevent any further damage to the cellar from tree roots. These included root trimming and underpinning. Mr Boast went on to state that he subsequently took the decision to arrange for removal of the 2 trees. One tree had been removed but works to remove the second tree had been stopped following the serving of the provisional TPO. He explained that the decision to remove the trees had not been taken lightly; he had invested circa £8,000 in getting the trees to a good condition over the 8 years but the issues with the damaged foundations had been the final straw in trying to manage the trees.

Mr Boast then answered questions from members. He explained that when the first tree had been removed it had shown signs of internal rot. He had researched a number of contractors to undertake the removal work and he had intended for both trees to be removed as it was difficult to determine which tree roots were causing the problems. In response to a question about how much of the root network had been removed, Mr Boast explained that the roots had only been able to be trimmed as far as was possible to excavate under the foundations as to not cause damage to the foundations. This had then been back filled with concrete and steel. The house had been built between 1836 and 1840 with foundations that were not comparable to current standards. The house was also built on clay. The cellar now contained a floating suspended floor to accommodate the underpinning carried out. Mr Boast confirmed that when first purchasing the house he had no issue with the trees and indeed had spent 8 years maintaining them with the intention of retaining them. He had consulted with nearby residents and the owner of the holiday cottages opposite and all were in favour of removal of the trees to avoid dead wood in the road and help alleviate the damp caused but the shade of the tree. Mr Boast added that he was willing to provide a number of fruit trees in replacement for the removed trees. Aerial photographs dating back to the 50s/60s indicated that a range of fruit trees had originally existed along the east side of the garden. He was currently investing in the restoration of the garden including the installation of a retaining wall to solve a slippage issue.

With regard to the issue of insurance, Mr Boast stated that there were concerns about potential injury caused by residents tripping on tree debris. He had encountered difficulties in securing insurance for the tree without assurance that the tree was safe. He had been advised to secure a specialist form of cover as opposed to generic house cover. The Conservation and Tree Officer commented that it was not unusual for insurance companies to ask the question as to whether there were any trees within 15m of a property. In reality a large number of properties were within 15 m of a tree and insurance companies could be challenged if they were not responsive on this. Mr Boast had evidence of the engineering works carried out to protect the foundations from the tree roots. Mr Boast added that the clay soil on which the foundations sat was also an issue.

In response to questions from the Conservation and Tree Officer, Mr Boast confirmed that the works carried out to the foundations had not required building control consent. The Conservation and Tree Officer commented that the works carried out to the foundations to trim the roots and reinforce the foundations were typical of the remedial mitigation works which would have been suggested to be undertaken to support the retention of a tree where that tree was potentially impacting on the foundations of a building. Remedial works would always be encouraged before resorting to felling a tree. If the order was confirmed and any future problems arose with the tree causing further damage to the foundations, the tree owner could, with supporting evidence, make a formal tree work application.

Mr Boast confirmed that he would still be arranging to plant a range of fruit trees if the Order was confirmed and the tree retained.

The Panel then heard from Mr Andrew Coombes, arboriculturalist, who had been engaged by Mr Boast following the serving of the TPO to assess the condition of the tree. At this point the tree had been partially felled. A main branch had been removed and the tree was one-sided with no growth on one side. He was concerned the tree was now vulnerable and exposed to stress and strain and potential cracking and failure. In the longer term, the tree would be susceptible to future problems due to the number of exposed wounds caused by the partial felling were beyond the British Standard acceptable levels. Prior to the partial felling the tree had been a sound specimen. Mr James Dent of AT Coombes Associates Ltd added that there was a risk of mass damping by way of increased force on the remaining stems of the unbalanced tree. In response to a question as to what measures could be taken to mitigate against the damage done to the tree, Mr Coombes stated it was possible to consider reducing the tree to rebalance it but that this would involve further cuts which would not help. Mr Coombes asked the Conservation and Tree Officer if he had any views on this point. The Conservation and Tree Officer commented that if a protected tree had lost similar limbs through a natural occurrence, efforts would be made to look to carry out remedial works to preserve the tree rather than see it felled. He was aware there were signs of regrowth on the tree which could continue but this regrowth would be very slow. The tree had withstood three named storms since the partial felling had been carried out.

In presenting his case, the Conservation and Tree Officer stated that the order had been made as a matter of urgency due to being advised of its imminent felling. A conversation had taken place with Eden Tree Care, the contractors on site, who has stated that if they had not done the felling someone else would have. The Conservation and Tree Officer said he had sympathy with Mr Boast's position but the perceived concerns from nearby residents were common to most trees. The loss of the tree would detract from the visual amenity of the landscape and there were already very few mature trees remaining on the ridge. The tree was in a prominent position and could be viewed from public highways, the riverside and from the ferry. Replacement

planting of fruit trees as proposed was to be welcome but would not replace the size and form of the current tree. He believed measures could be taken to mitigate against any perceived concerns including a sympathetic crown reduction mindful of the need to not add too many further open wounds which could allow entry to disease and decay pathogens. With regard to the insurance situation, the Conservation and Tree Officer stated he was unaware why there was a need to insure an individual tree and all trees within the curtilage of a home were normally covered by household insurance. Any issues of damage to a property by a neighbouring tree should be dealt with via house insurance cover. He reiterated that a considered and carefully planned, phased programme of canopy reduction could help rebalance the tree and rejuvenate balanced growth but he acknowledged this was more difficult with a Beech tree than other tree types. The tree had amenity value and biodiversity value and he felt that the tree should be retained and efforts made to look for management options to enable the safe retention of the tree.

In response to questions from members, the Conservation and Tree Officer confirmed that, if the TPO was confirmed, he could work with the tree owner to agree a programme of work to the tree which was in accordance with British Standards. With regard to a comment about the untidy cut left by the felling work, the Conservation and Tree Officer commented that there was a move within arboricultural methods to promote more informal pruning as opposed to the usual pruning of branches as this approach better replicated the natural fractures of limbs resulting from storm damage.

With regard to the age of the tree, the Conservation and Tree Officer had not examined the tree for its age but estimated it to be circa 80 years old. Mr Coombes estimated the tree could even be older – perhaps over 100 years old. The Conservation and Tree Officer also confirmed that the distance from the tree to the house foundations was within the outer limit of the tree's root protection radius and the tree would have been able to tolerate this work to the smaller fibrous roots without compromising the integrity of the tree. He also confirmed that in his opinion he believed the tree could be preserved if managed sensitively but there was always the small risk of branch or tree failure as a result of exceptional storms.

In response to a question from Mr Coombes, the Conservation and Tree Officer confirmed that a native broadleaved tree with similar form to a Beech tree would be a more appropriate replacement tree rather than the fruit trees offered.

Mr Boast stated that he was concerned that he could undertake a programme of work to the tree to ensure its future and still be faced with issues of not being able to secure insurance cover to satisfy his neighbours. He asked the Conservation and Tree Officer if a combined programme of work from himself, the Council and an insurance company would help to alleviate this issue. The

Conservation and Tree Officer stated that he was not aware of any other cases where this approach had been required.

In summing up, the Conservation and Tree Officer stated that the tree had amenity value and whilst it was not ideal that the partial felling had removed a portion of the canopy, he believed the tree would recover and could be safely and sympathetically managed over a number of years.

Mr Coombes stated it was unusual for works to a tree to be stopped part way through and that Mr Coombes had done a restraints check prior to starting the work.

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 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 2022 (No 3) Hill House, 2 Middle Hill Reedham NR13 3T.

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 12.15am)

---

Chairman

19 July 2022