
BRECKLAND COUNCIL

At a Meeting of the

APPEALS COMMITTEE

**Held on Wednesday, 11 July 2007 at 10.00 am in
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Mr P.S. Francis (Chairman)
Mrs J. Ball

Mr M. Fanthorpe
Mr I. Sherwood (Vice-Chairman)

Also Present

Mr C. Hepher

Solicitor for Breckland Council

In Attendance

Gilbert Addison
Julie Britton
Ian Vargeson
Richard Fisher
Tiffany O'Connor
Nigel Burrows

- Tree & Countryside Officer
- Committee Services Officer
- Democratic Services Manager
- Tree Preservation Order Review Officer
- Technical Officer - Licensing
- Principal Environmental Health Officer
(Licensing Officer)

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7/07 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 24 January 2007 were confirmed as a correct record and signed by the Chairman.

8/07 APOLOGIES (AGENDA ITEM 2)

An apology for absence was received from Mr R Duffield.

9/07 OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 2007 NO.16: 13 HALE ROAD NECTON (AGENDA ITEM 7)

The report was considered in the absence of the objectors, Mr and Mrs Whitehair and Mr S Banning.

The Tree Preservation Order Review Officer presented the report, which outlined an objection to a Tree Preservation Order (TPO). Photographs of the site had been circulated with the Agenda.

The Order had been made in response to a planning application to sell the plot of land for development. It had been found that the Horse Chestnut, T1 on the Order, was considered to be of high amenity value and that it was important to provide the tree with statutory protection since there was potential that it would be

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greatly compromised if inappropriate development was permitted. It was pointed out that a letter of objection had been received alleging that Officers had informed the applicant that no Orders would be made on or surrounding the plot. Discussions had since taken place with the said Officers and it had been found that no-one from that department had made such a proclamation.

RESOLVED that Tree Preservation Order 2007 No. 16 be confirmed.

10/07 OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 2007 NO.12: TERRA FIRMA 8 RICHMOND ROAD SAHAM TONEY (AGENDA ITEM 8)

The Chairman explained the order the meeting would follow.

Mr and Mrs Smith were in attendance to make submissions in support of their objection to the above Tree Preservation Order (TPO).

Mr and Mrs Smith were provided copies of the Agenda.

Members had been afforded with further details relating to the TPO as there had been no response to the letter that Mr Smith had sent to the Tree Preservation Order Review Officer on the 9th June 2007 (letter attached to the Agenda).

The Tree Preservation Order Review Officer reported that the TPO 2007 No. 12 had been served on Mr Smith in respect of one individual tree at Terra Firma, Richmond Road, Saham Toney on 13 April 2007. The Order had been made under Section 198 of the Town and Country Planning Act 1990 on the grounds that the tree had significant amenity value, and that it was under threat of being felled by the owners and it was deemed expedient in the interest of amenity to protect it.

The Tree Preservation Order Review Officer had received several calls from the public in late March 2007 informing him that the Oak tree (T1), on the western boundary, might be felled. A site visit was made, to Terra Firma, and the condition of the tree was investigated where it was found that the tree itself was in a satisfactory condition. There was no reason for the tree to be felled as it was considered that it had a safe and useful life expectancy of more than 20 years and should be retained as part of the street scene. Members were informed that there was an area of land on the site that could be developed in the future. Mr Smith queried the piece of land in question. He advised that he had no thought of developing the land as any development would be too close to his dwelling. Mr Smith also asked how the 20 years life expectancy had been calculated as he had found, and this was the reason he wished the tree felled, that the Oak had been infected by a serious disease called Artist's fungus (Ganoderma). Mr Smith had tried to treat the tree but after further investigation, and, on consulting a tree surgeon, he had been

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advised that the tree should be disposed of. The Tree Surgeon's advice had been confirmed by that given by the Botanic Gardens Trust (BTG), which was that, once a tree had been infected, by this particular fungus, it was only a matter of time before it died and the tree should be removed for safety reasons.

A sycamore, with the same disease, had been removed in February 2007. Mr and Mrs Smith had concerns that this type of fungi had already spread, by the Oak's spores, to other host trees in the garden.

The Tree Preservation Order Review Officer disputed this. He felt that the Oak in question would have a very good defence mechanism and would be able to keep the disease contained. The remaining trees on the site could be susceptible to any other wind borne spores from any trees in the vicinity. He suggested that an industry approved consultant should be employed by Mr Smith to investigate the matter further.

The Chairman felt that the issue relating to the disease was very important and he asked the Tree and Countryside Officer what would happen if a tree, that Breckland owned, was found to have the same disease. In response, Members were informed that the use of the word disease was misleading and should be more appropriately called a condition. The Officer added that most trees of this nature grew with this fungus already on them; it was even possible that this type of fungi might be helping the trees in a way that we were unsure of. As far as he was concerned this was an engineering issue; a Breckland-owned tree would have had its crown reduced.

The Chairman asked if the Oak had the same condition as the Sycamore that had already been felled. Mr Smith advised that the sycamore had a disease named honey fungus. The Tree Preservation Order Review Officer was asked if this fungus was common in other Oak trees and if the tree in question was felled would it still spread further spores. In response, the Tree and Countryside Officer pointed out that evidence had been found that fungi existed latently in trees all of their lives; it was not something that would be spread, unlike a flu virus. A fungus developed according to the environment and would be manageable.

Another Member asked whether honey fungus was in the ground as she was concerned about the remaining trees on the site. Members were advised that honey fungus was everywhere in the ground and there were several types but was not always the cause of death. The Member further asked whether the tree, if the crown were to be reduced, would develop into a typical oak shape. The Committee was informed that by reducing the crown the weight of it would be reduced making it more aesthetically pleasing and less vulnerable.

Mr Smith was given the opportunity to put his case forward but he had little to add except for asking Members to note the submissions attached to the report from The Botanic Gardens

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Trust (BTG). He explained that the BTG was a Government led organisation based in New South Wales in Australia and that its guidance should be acknowledged. He asked Members to take note of the pictures of the Oak (attached to the report) which highlighted the severity of the fungus and the damage it was causing to the base of the tree. Mr Smith felt that the tree was in a dangerous condition and should be removed even though it would be at a great expense to himself. He advised the Committee to consider the views of his tree surgeon, the BTG and the Council's Tree Officers before any decision was made.

After deliberating the matter very carefully, the Committee

RESOLVED that the Tree Preservation Order 2007 No.12 be confirmed.

11/07 EXCLUSION OF PRESS AND PUBLIC (AGENDA ITEM 9)

RESOLVED that under Section 100(a)(4) of the Local Government Act 1972, the press and the public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in paragraphs 1 and 7 of Part 1 of Schedule 12A to the Act.

12/07 APPLICATION TO GRANT A HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVERS LICENCE (AGENDA ITEM 11)

The Solicitor explained the process concerning spent and unspent convictions.

The application was considered in the presence of the applicant.

Following the presentation of the Operations Manager's report, the Committee heard the appeal in accordance with the Council's agreed procedure.

Members were reminded that the decision to bring these matters to the Appeals Committee was at the discretion of a Senior Officer.

Under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 the Licensing Authority had to be satisfied that an applicant for a Hackney Carriage/Private Hire Vehicle Drivers Licence was a 'fit and proper person' before granting that licence.

Previous convictions which had been spent were not required to be disclosed; however, following the advice provided from the Solicitor Members felt that a fuller picture was required and the convictions should be made known.

The Principal Environmental Health Officer read out the copy of the enhanced disclosures.

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The applicant was given the opportunity to put his case forward in support of his application.

Members noted the applicant's personal circumstances and felt that he should be given a chance as age was now on his side and agreed the Officer's recommendations.

RESOLVED that the Hackney Carriage/Private Hire Vehicle Licence be granted, subject to:

- 1) the licence being restricted to six months, enabling the applicant to prove that he was a responsible person; and
- 2) delegated authority be given to Officers on renewal unless further concerns arise.

The meeting closed at 12.05 pm

CHAIRMAN