
BRECKLAND COUNCIL

At a Meeting of the

APPEALS COMMITTEE

**Held on Wednesday, 12 September 2007 at 10.00 am in
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Mr P.S. Francis (Chairman) Mrs J. Ball
Mr I. Sherwood (Vice-
Chairman) Mr R.W. Duffield

Also Present

Mrs D.K.R. Irving

In Attendance

Richard Fisher - Tree Preservation Order Review Officer
Sian Harland - Senior Committee Officer
Andrea Long - Environmental Planning Manager
Patrick O'Brien - Technical Officer - Licensing

Action By

13/07 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 11 July 2007 were confirmed as a correct record and signed by the Chairman.

14/07 APOLOGIES (AGENDA ITEM 2)

An apology for absence was received by Mr M. Fanthorpe.

15/07 NON-MEMBERS WISHING TO ADDRESS THE MEETING (AGENDA ITEM 5)

Mrs D. Irving.

16/07 OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 2007 NO.18: THE ROOKERY, DEREHAM ROAD, SCARNING (AGENDA ITEM 7)

The report was considered in the absence of the objector, Mrs Caroline Hay acting on behalf of Mr and Mrs T. Farnham.

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.

Action By

The Order had been served on Mr and Mrs T. Farnham in respect of 9 individual trees in the grounds surrounding 'The Rookery', Dereham Road Scarning on 25 April 2007 under section 198 of the Town and Country Planning Act 1998 on the grounds that the trees had significant amenity value.

An objection into the making of the TPO was made by Mrs Caroline Hay of Caroline Hay Associates acting on behalf of Mr and Mrs T. Farnham and was received on 22 May 2007. Although the objection was to only tree numbers T4 and T8.

Whilst Oak Trees T4 and T8 had amounts of deadwood this was, in itself, not an indication that the trees were in poor condition and was a good habitat for a variety of living things. Oak trees, by their nature, would form a new, secondary, crown when they reached a mature stage; this was to ensure the continuation of the tree. The larger pieces of deadwood could be removed leaving the newer, healthy crown to flourish.

The liability in terms of health and safety of the trees lay entirely with the owners and it would be their responsibility to make the appropriate checks on the trees.

In terms of biodiversity the deadwood should be left in the tree; although the owners could remove the deadwood but would need to notify the Local Authority before any works to the trees could be undertaken. However, unless the tree had a fungal infection it was understood that dead oak tree wood was very strong. If time allowed the tree could be assessed by the Local Authority to ensure that only the deadwood had been removed.

If the tree had a fungus, which would affect the strength of the deadwood, it would be the responsibility of the land owner to undertake an independent investigation and liability would lie with the owner.

In response to queries regarding making an TPO on a tree which had rot and then subsequently fell the Tree Preservation Order Review Officer stated that it would depend entirely on where the tree was situated. In this case the tree was in the middle of the garden and a recommendation may be different if a tree was situated at the side of a road.

To summarise the Chairman affirmed that the owners were only objecting to trees T4 and T8 which they felt were dying. However, the Tree Preservation Order Review Officer stated that as the trees were oak trees they would, eventually, form a second crown and would re-grow.

Another Member stated that if the owners undertook an independent specialist survey of the trees and it was found that the trees were rotten they could be removed upon submitting this evidence to the Local Authority.

Action By

With regard to the type of wildlife which would make the hole on T8 its home Members were informed that this could be anything from the smallest insect to possibly an owl or bats.

Members wished to thank the Officers for producing such clear and concise maps and photographs.

RESOLVED that Tree Preservation Order 2007 No. 18 be confirmed.

17/07 EXCLUSION OF PRESS AND PUBLIC (AGENDA ITEM 8)

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 Schedule 12A to the Act.

18/07 APPLICATION TO GRANT A HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVERS LICENCE (AGENDA ITEM 10)

The Licensing Officer 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 Licensing Officer Members felt that a fuller picture was required and the convictions should be made known.

The Licensing Officer read out the copy of the enhanced disclosures.

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

Action By

Members noted the applicant's personal circumstances and felt that he should be given a chance but was informed that as the primary function of the Appeals Committee was to ensure public safety and Hackney Carriage/Private Hire drivers must be considered responsible in every way.

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 11.00 am

CHAIRMAN