

BRECKLAND COUNCIL

At a Meeting of the

APPEALS COMMITTEE

**Held on Wednesday, 6 May 2009 at 10.00 am in
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

PRESENT

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

Also Present

Mr A. Joel Ward Representative, Buckenham
Mr M. Horn Solicitor for Breckland Council

In Attendance

Sheila Cresswell Member Services Officer
Richard Fisher Assistant Tree & Countryside Officer

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16/09 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 8 April 2009 were confirmed as a correct record and signed by the Chairman.

17/09 APOLOGIES (AGENDA ITEM 2)

An apology for absence was received from Mrs J Ball.

18/09 NON-MEMBERS WISHING TO ADDRESS THE MEETING (AGENDA ITEM 5)

Mr A. Joel, Ward Representative for Buckenham.

19/09 PROCESS OF AN APPEAL AGAINST CONFIRMATION OF TREE PRESERVATION ORDER 2008 - NO. 89 (TOFTWOOD, DEREHAM) (AGENDA ITEM 7)

The Chairman explained the reasons why this apology had been requested. He also confirmed that the letters of objection had been taken into account during the Appeals meeting held on 25 February 2009.

With respect to the process, and on behalf of the Appeals Committee, the Chairman then offered his apologies to Mr Diffey and Mr Rollo, the two neighbours who had raised the objection to the TPO. They had not been informed of the date of the second Hearing and had therefore been unable to present their cases personally.

20/09 OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 2009 - NO. 14 (OLD BUCKENHAM) (AGENDA ITEM 8)

The Hearing was heard in the presence of the objector, Mr I. Hardy, who was supported by Councillor A. Joel, the Ward Representative for Buckenham. Mr M. Horn, the Council's solicitor, was in attendance.

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The Assistant Tree and Countryside Officer presented the report, explaining that Tree Preservation Order (TPO) 2009 No. 14 had been made on 11 March 2009 to protect two individual Ash trees within the garden of 1 Barbers Yard, which fell within the conservation area of Old Buckenham. An objection had been received on 17 March 2009.

Over recent months various planning applications relating to the neighbouring property had been received and then withdrawn as the proposed new dwelling needed an access driveway directly adjacent to the Ash trees. However, the latest planning application had been given approval on the 25 March 2009.

The Assistant Tree and Countryside Officer confirmed to the Committee that Mr Hardy's objections related to concerns about the size and proximity of the trees, as well as possible potential damage due to root growth or the shedding of branches.

The Assistant Tree and Countryside Officer confirmed that a TPO had been served on these trees because of the history of planning applications in their immediate vicinity and an earlier application by Mr Hardy to fell one of them.

It was considered important that the TPO remained in force as the trees offered good amenity value. They were believed to be about 40-60 years old, with a likely lifespan of 80 years or more. In his opinion, the Assistant Tree and Countryside Officer felt that the trees were sound and merited the TPO. He had not received any reports of damage being caused by either tree, although he did acknowledge that the shedding of branches was part of the natural growth cycle.

When asked what extra level of protection was given by a "TPO", as compared to that given to other trees growing in a "Conservation Area", the Assistant Tree and Countryside Officer explained that a TPO effectively gave the Local Authority a little more authority and control over exactly what happened to the protected tree(s). Generally speaking, the Local Authority was better placed to give advice to tree owners applying for work to be done on such trees.

Mr Hardy was then given the opportunity to speak and asked if he could present two papers for consideration by the Committee. The Chairman confirmed that the Appeals Committee welcomed opinions from relevant experts, though the source and author should be apparent, and any such papers should ideally have been circulated in advance of the relevant meeting. In the case of the first paper, no author had been credited and the content appeared to be multi-sourced. With this in mind, Committee Members read the paper and noted its content.

Mr Hardy's first concern was that upper branches were spreading and that one of the trunks had split into more than one piece. The research he had presented to the Committee suggested that multiple trunks in Ash trees could eventually lead to structural failure.

The Assistant Tree and Countryside Officer said that he did not believe the split trunk to be a major problem in this case: the tree would have grown naturally that way. He agreed that higher growth could be pruned if there were concerns about this.

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Mr Hardy's second concern related to root growth and potential damage to his property's drainage.

The Assistant Tree and Countryside Officer said that root damage to drainage and foundation systems was something of a misconception: roots would always seek the easiest way to water and any physical barrier, such as concrete, would result in the roots pushing downwards or along the path of the obstruction, not through it.

There was also some concern about the proximity of the two trees to each other. However the Assistant Tree and Countryside Officer explained that Ash trees were traditionally considered to be hedgerow trees, often giving the effect of single crowns. As such, there should be no need for any concern about their closeness unless the trunks themselves were in direct contact.

Mr Hardy then presented the committee with a copy of a report received from Broadland Tree Services in response to his request for advice. It became apparent that the advice given with respect to pruning was not actually in dispute and did not, of itself, run contrary to any Preservation Order placed on the trees. The Assistant Tree and Countryside Officer confirmed that he had no objection in principle to the proposed remedial actions, although he would wish to discuss the details further.

In conclusion, it seemed that when Mr Hardy had initially applied to have some dramatic work done on the two Ash trees, the ongoing planning application situation in the immediate vicinity had created a sense of alarm about the status of the Ash trees and therefore the TPO had been served. The newly granted planning application would mean that the trees would be extremely close to the access route of the new property, but as they were believed to be safe, it would be acceptable for constructive pruning to be carried out.

Mr Joel and Mr Hardy thanked the Committee for the chance to have the case fully discussed. Mr Hardy had welcomed the opportunity for a constructive talk with the Assistant Tree and Countryside Officer in the margins of the meeting.

Mr Duffield commented that, as a longstanding member of the building trade, he disagreed strongly with the remarks about tree roots not damaging drainage systems or foundations. He believed that officers and colleagues in Building Control were right to bear this in mind when making planning decisions.

After retiring to consider the matter, it was

RESOLVED that Tree Preservation Order 2009 No. 14 be confirmed.

The Committee requested that Mr Hardy should liaise direct with the Assistant Tree and Countryside Officer if the recommendations suggested by the Broadland Tree Services were to be carried out, in terms of exactly what could be done, and when.

It was also confirmed that a TPO, of itself, was no impediment to allowing necessary work to be carried out in order to preserve the health and safety of the tree(s) concerned.

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The meeting closed at 10.50 am

CHAIRMAN