

TREE PRESERVATION ORDER SUB-COMMITTEE

Minutes of the meeting held on Tuesday 1 November 2011 in the Town Hall, Royal Leamington Spa at 5.00pm.

PRESENT: Councillors Mrs Blacklock, Brookes and Weed.

7. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor Mrs Blacklock be appointed as Chairman for this meeting.

8. DECLARATIONS OF INTEREST

Councillor Mrs Blacklock declared a personal interest as she knew Mrs Harvey, one of the objectors, socially.

Councillor MacKay, who normally chaired this meeting, attended in the capacity of Ward Councillor as he intended to speak in objection to Tree Preservation Order 455. As such he declared a prejudicial interest in the Tree Preservation Order, stated that he would not act as a member of the Sub-Committee at this meeting, and would leave the room after addressing the Sub-Committee so as not to influence its decision.

9. MINUTES

The minutes of the meeting held on 18 August 2011 were taken as read and signed by the Chairman as a correct record.

10. TREE PRESERVATION ORDER 455 – OTTERSPOOL, ASHOW

The Sub-Committee considered a report about a provisional Tree Preservation Order (TPO) made on 25 August 2011 in respect of three ash trees located within the rear curtilage of Otterspool, a detached residential property on the edge of Ashow village and Conservation Area.

A site visit had been undertaken prior to the meeting to assist the Sub-Committee in reaching its decision.

The report suggested that the ash trees were of considerable value because they formed a green backdrop to the property and helped to merge this modern development into the surrounding countryside, making a significant contribution to the amenity of the area and the character of the conservation area. The trees were estimated to be approximately 25 metres in height, with an age of between 80 and 100 years.

An objection to the Order received by the Council stated that the trees comprised a significant risk to the house and occupants, as evidenced by a substantial branch which had fallen and narrowly missed the house on a day when there was little or no wind to speak of. The objection stated that there were many mature trees within the garden and that the trees in

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question did not form a green backdrop but masked a magnificent oak behind them. A second objection, from the Parish Council, pointed out that if the trees were removed there would be a backdrop of mature oak trees bordering the garden, that the 3 ash trees were very close together and oppressively close to the house, and that they had previously been damaged by a lightning strike.

An addendum circulated to the Sub-Committee summarised five further objections received since publication of the agenda. The objections, including one from Councillor MacKay, suggested that the garden was larger than it appeared to be on the plan, that the 3 trees were only visible from the north side of the property and that only felling of the trees would remove the significant threat they posed to the safety of the house and its occupants.

It was the case officer's opinion that the issues raised by way of objection to the making of this TPO were not sufficient to outweigh the amenity benefits arising from the presence of the trees. The notification of intent to fell the trees had not contained evidence of structural instability within the trees to support the view that they were unsafe. Mr Simons, forestry officer for Warwickshire County Council, was in attendance at the meeting and confirmed that he had made an assessment of the trees from the ground on 20 October 2011. At that time he had found no evidence to question the health and safety or stability of the trees and he suggested that the physiology and structure of them was good. He also found no evidence to suggest that the recent loss of a branch had increased the risk to the property from these trees, and talked about 'summer branch drop', a phenomenon affecting many trees where tree limbs fell without any apparent cause. The case officer pointed out that the effect of the Tree Preservation Order was to bring future work to the trees under the Council's control. It did not prevent future maintenance and an application to carry out works could be made at any time. Insurance liability for trees subject to a TPO generally rested with the property owner, but following any refusal by the Local Authority of an application to undertake works to a TPO tree, compensation could be claimed within 12 months of the date of that decision for loss or damage which had been reasonably foreseeable when the application was decided.

Mrs Charlesworth, the owner of the property, addressed the Sub-Committee in objection to the TPO. She expressed her concerns about the trees and talked about having sleepless nights as a result. Mr Burdette addressed the Sub-Committee in support of Mrs Charlesworth's objection. He pointed out that a tree in this area had been felled and that, while it had appeared to be perfectly healthy, after felling it had been found to be rotten. He suggested that it was not possible to tell whether the same were not true of the ash trees without drilling into them, but that they were too tall and too close to the house anyway. Councillor MacKay reiterated the concerns he had put in writing, that there were plentiful trees on the site, that Mrs Charlesworth perceived the trees as a threat and that this outweighed amenity or conservation concerns. After making his statement, Councillor MacKay withdrew from the room for the remainder of the meeting.

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The Sub-Committee asked questions of residents, the case officer and Mr Simons, trying to establish why and how long the house and trees had been included within a conservation area. Members looked at the key issues relating to the TPO and noted that there was little or no amenity to residents as the trees were not visible from public roads or paths, other than to local residents who had demonstrated through their objections that the trees provided no amenity. The trees seemed out of scale with the property and the Sub-Committee felt that, on balance, the objections outweighed the amenity benefits of the trees.

Having considered the officer's report and presentation, and having visited the site, Members agreed that the TPO should not be confirmed, contrary to the recommendation in the report.

RESOLVED that Tree Preservation Order 455 NOT be confirmed.

(The meeting ended at 5.30 pm)