

From: Halesowen Abbey Trust <hales.abbey@btinternet.com>
Date: 20 April 2007 08:48:17 BDT
To: Cllr David Caunt <cllr.david.caunt@dudley.gov.uk>
Cc: Cllr Harold Jackson MBE <cllr.harold.jackson@dudley.gov.uk>, Cllr Lesley Faulkner <cllr.lesley.faulkner@dudley.gov.uk>, Cllr Jennie Dunn <cllr.jennie.dunn@dudley.gov.uk>, Cllr Jill Nicholls <cllr.jill.nicholls@dudley.gov.uk>, Cllr Ken Turner <cllr.kenneth.turner@dudley.gov.uk>, Cllr Ray Burson <cllr.ray.burston@dudley.gov.uk>, Cllr John Woodhall <cllr.john.p.woodall@dudley.gov.uk>, Cllr Karen Shakespeare <cllr.karen.shakespeare@dudley.gov.uk>, Charles Fraser-MacNamara DMBC <cllr.Charles.Fraser-MacNamara@dudley.gov.uk>, Cllr Bob James <cllr.robert.james@dudley.gov.uk>, Cllr Hazel Turner <cllr.hazel.turner@dudley.gov.uk>
Subject: Decision by Cllr Martin regarding "RESTRICTIVE COVENANT ON LAND AT BROMSGROVE STREET, HALESOWEN"

For Urgent Attention

20th April 2007

Dear Councillor Caunt

Decision by Cllr Martin regarding "RESTRICTIVE COVENANT ON LAND AT BROMSGROVE STREET, HALESOWEN"

Reference: LP/11/2007

I am compelled to draw this decision to your attention and I have some sympathy with Cllr Martin because the officer's report to her was grossly inadequate and seriously misrepresents the situation.

Contrary to the misinformed advice to Cllr Martin, the applicant for the restrictive

covenant will have to remove trees that are covered by a blanket tree preservation order, in order to provide the visibility splay.

Not only this but the splay involves the removal of a natural earth bank (many tons of material) and must either or jointly involve the provision of a revetment and/or the re-profiling of this natural slope 'to the angle of repose' with the loss of many more trees.

Amazingly, and I must say incompetently in the light of the serious affect that failure to provide relevant information is likely to have on the decision making process, the officer's report does not mention these points whatsoever, and this is inexcusable considering the extant TPO and the geological feature removal. **I suggest to you that such work will require formal applications in respect of the TPOs and planning permission for the removal and support of the land.** Additionally the re-profiling will require a technical appraisal of engineering work to determine suitability because members of the public using the footpath (footway) below will be at risk if it is inadequate.

I trust that you will look at the report to Cllr Martin as shown in the following link and that you will share our concerns regarding the poor quality of that report:

<http://online.dudley.gov.uk/dudco/decision/showdecision.asp?id=2394>

The views of the Halesowen Area Committee have not been fairly represented by the reporting officer. That Committee, after careful consideration, unaimously opposed agreeing to the restrictive covenant - not only because of loss of protected trees but also because of the major earthworks and their impact. The Area Committee, after carefully considering photographic evidence provided by the Trust were also concerned by the unauthorised and unlawful removal of protected mature trees on the Dudley Council owned land - work that demonstrated complete contempt for their TPO protection. Prior to the Area Committee decision, the site was visited by Cllr Harold Jackson who at first hand understands the situation.

The Trust is suggesting that you immediately suspend enactment of this delegated decision which conflicts with that of the Area Committee's view. We hope that the inappropriate and ill informed decision of Cllr Martin, based upon a poor report by an officer, is rescinded.

Officers should be asked to look carefully at what is involved in providing this visibility splay and you will no doubt find that we are correct. The Council has a duty of care for the public and a responsibility for the environment - both considerations will have been ignored if this deplorable situation is not carefully reconsidered.

I look forward to your reply and more consultation, if necessary with the Area Committee, to reflect the importance of this gross error of judgement.

Below is our e-mail to the Area Committee. I am sorry to record that the Area Committee has been subjected to some ill informed pressure from your officer. This has been in the form of pressuring them to consider that DMBC, as a neighbouring land owner, must agree to give control of this land to a planning applicant to assist him in his development. Nothing could be further from the truth. Neighbouring landowners are under no such obligation, either morally or legally, to assist an applicant with their application - this is particularly so, as in this case, where the local authority will be agreeing to environmental damage, which is against the public interest.

The officer states that the visibility splay will **'not impact upon any existing trees'** -

that is not true.

The mention of a landscaping scheme by that officer is somewhat premature and presumptuous because the site and landholding is such that appropriate mitigation is not possible - if it were then a detailed landscaping scheme should be agreed PRIOR to consideration of a covenant. As such the suggestion is pure rhetoric lacking substance.

Our e-mail to members of the Area Committee, dated the 11th March, which follows this message, includes photographs - more photographs will be taken as a record of this proposed traversy.

I have to say that in dealing with Dudley Council for in excess of a quarter of a century, the officer's advice to Cllr Martin is the worst that I have seen and I examine many reports.

We look forward to your reply!

Best Wishes

Mick Freer

Honorary Secretary

Hales Owen Abbey Trust

Tele: 0121 550 5440

Mobile: 07855 473045

Founded in 1986 for the Conservation and Improvement of the Local Environment
Registered charity No. 517973

Begin forwarded message:

From: Halesowen Abbey Trust <hales.abbey@btinternet.com>
Date: 11 March 2007 10:36:48 GMT
To: Cllr Harold Jackson MBE <cldr.harold.jackson@dudley.gov.uk>, Cllr Jennie Dunn <cldr.jennie.dunn@dudley.gov.uk>, Cllr Bob James <cldr.robert.james@dudley.gov.uk>, Cllr Lesley Faulkner <cldr.lesley.faulkner@dudley.gov.uk>, Cllr John Woodhall <cldr.john.p.woodhall@dudley.gov.uk>, Cllr Jill Nicholls <cldr.jill.nicholls@dudley.gov.uk>, Cllr Ray Burson <cldr.ray.burston@dudley.gov.uk>, Cllr Karen Shakespeare <cldr.karen.shakespeare@dudley.gov.uk>, Cllr Hazel Turner <cldr.hazel.turner@dudley.gov.uk>, Cllr Ken Turner <cldr.kenneth.turner@dudley.gov.uk>
Subject: Item 13b - Agenda for Halesowen Area Committee

Item 13b - Agenda for Halesowen Area Committee
Request for Visibility Splay at Bromsgrove Street, Halesowen

The Councillors of the Area Committee rightly deserve to be congratulated for not conceding that this publicly owned woodland bank should be sacrificed to assist a planning application. However, Councillors are now being faced with undue and unjustified pressure to agree to the land being used as a visibility splay.

1. It is not uncommon for an applicant to be unable to meet the requirements of an application or its conditions because the applicant does not own or cannot achieve control of the land to meet responsibilities or requirements. That is entirely a matter for the applicant with no responsibility to adjoining landowners to assist the applicant. Therefore, contrary to officers advice to the Area Committee, there is neither a moral or any other requirement for them to agree to the loss of this landscape/nature conservation land.
2. It appears that persons/contractors, acting for the applicant, not only cut down beautiful trees with TPOs on his land but also on land belong to DMBC. We took pictures at that time to record the event and enquiries suggested that permission to cut down the protected trees on Dudley's land had not been secured. Officers should appraise councillors regarding whether such approval on the DMBC land had been sought and what action had been taken if the removal was unauthorised.
3. Nevertheless, the stools of the cut down trees still retain the protection of the TPO and contrary to the advice given to councillors in the report to the Area Committee, the work

involved in making the visibility splay does involve permanent removal of those protected trees - including ones that have regenerated.

4. A further failure of the officer's report is that it does not explain to councillors that the natural steep wooded embankment on Dudley's land will have to be removed down to road level to facilitate visibility from the access/egress point for the development. Withholding or failing to report this is a serious omission affecting an elevated landscape feature celebrated in Halesowen's historic literature. Photographs (see attached document ' Land removal') taken from the access/egress clearly demonstrate this point and the need to remove the natural embankment/trees if the Area Committee agrees to the officer's recommendation.

5. Thus far the Area Committee have made the correct decisions regarding this potential loss and it is recommended that they refuse to agree to the officer's illogical recommendation.

Best Wishes

Mick Freer

Honorary Secretary

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