

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**AREA 3 PLANNING COMMITTEE**

**20 August 2009**

**Report of the Chief Solicitor**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL DECISIONS**

- 1.1 Site **37 The Avenue, Aylesford**  
Appeal **Against the refusal to grant consent to fell one beech tree protected by a Tree Preservation Order**  
Appellant **Mr B Layzell**  
Decision **Appeal dismissed**  
Background papers file: PA/12/09

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The Inspector considered the main issues to be:

- i. the impact of the proposed works on the character and amenity of the area.
- ii. does the presence of the tree pose such a significant nuisance to the owners of 37 The Avenue, Aylesford that this is sufficient to outweigh the amenity value and justify the works proposed?

The tree is visible from The Avenue, rising above the roofline of nearby houses. It is also visible from Orchard Avenue which stands to the south of the tree; however views of the tree from Orchard Avenue are obstructed partly by buildings and partly by a line of maturing beech trees which stand on the borders of gardens in The Avenue and Orchard Avenue.

The Inspector considered the tree to be healthy and growing with appropriate vigour for its age and species. It is likely to have a long, safe, useful life expectancy and he considered that it contributes to the landscape amenity of the immediate area. He considered that its removal would degrade such landscape amenity.

The tree stands to the south of the house, and approximately half way along the garden. The tree will therefore cast shade into the garden and towards the house for a considerable part of the day. However, the screen of beeches to the

southern boundary of the site will also cast shadow which is likely to affect the gardens of No's 37 and 39 to a similar degree. The Inspector therefore considered that the removal of the tree would not resolve the shading problems and the crown of the tree was not overpowering.

The Inspector concluded that the tree contributes to the landscape quality and amenity of the area. Its removal would have a negative effect on these attributes. Whilst the tree is large and likely to cast shadow into nearby gardens he did not consider that this poses problems for the owners of such properties as to justify its removal.

**Ian Henderson**  
Chief Solicitor