



Appeal Decision

Site visit made on 30 June 2020

by Rachel Walmsley BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2020

Appeal Ref: APP/TPO/C3430/7425

18 Tollhouse Way, Wombourne WV5 8AF

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Mr Andrew Ferrier against the decision of South Staffordshire Council.
 - The application Ref: 19/00070/TREE_T dated 26 January 2019, was refused by notice dated 18 April 2019.
 - The work proposed is to fell 1no. Cypress tree.
 - The relevant Tree Preservation Order (TPO) is Tree Preservation Order No.206, 2002 relating to: Bratch Common Road, Wombourne which was confirmed on 17 June 2003.
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Decision

1. The appeal is dismissed.

Main issues

2. These are:
 - (i) the effect of the proposed works on the character and appearance of the area, and;
 - (ii) whether sufficient justification exists for the proposed works.

Reasons

Character and appearance

3. Despite the tree being in the rear garden of the appeal property, its position on raised ground means that it is visible from the highway and neighbouring gardens. On the approach to the appeal property, along Tollhouse Way, properties are highly visible, creating an area that is notably built-up in appearance. The appeal tree is one of several that are visible above rooftops and soften the built-up nature of the area. As such, the tree is obvious within local views and contributes positively to the character of the area. Felling the tree would leave a notable gap in vegetation which would have an adverse effect on the character and appearance of the area.

Justification for the works

4. The condition of the tree is generally good albeit it has a multi-trunk. This form of trunk can be weaker than one single trunk. However, in this case the

- trunks are closely clustered and appear sound. There is no evidence of any rot or disease where the trunks connect. It is often a misconception that a tree with shallow roots is likely to fall in inclement weather. A tree will spread its roots to compensate for any increase in load above, and, as in this case, to reflect the fact that it is located on sloping ground. There is no evidence before me of the tree being diseased, damaged or structurally unsound to consider it unsafe and a risk to people and property.
5. Whilst the tree stands tall within the garden, its height is experienced mostly because of the tree's position on raised ground relative to the property and much of the rest of the garden. When looking at the height of the tree from the base of its trunk and in relation to the size of the garden, it is not overly tall. Furthermore, as the tree is located towards a corner of the garden, it does not appear unreasonably sized for its grounds. I recognise that cypress trees can grow relatively fast. However, as the photographs before me show, the tree's rate of growth year on year is not discernible. I do not agree, therefore, that the tree is inappropriate for the garden.
 6. The ground immediately around the base of the tree is devoid of grass. This is not uncommon for cypress trees; growing vegetation underneath these trees can be difficult because of the unfavourable conditions cypress trees create. However, there is sufficient space elsewhere within the garden for the appellant to grow plants for wildlife. Plus, I see from past photographic evidence that grass has grown beneath the tree, demonstrating that it is possible.
 7. Given the height of the tree and its position at the end of the appellant's garden, it will cause some overshadowing of the appellant's garden and the gardens to neighbouring properties. However, as the shadow diagram demonstrates, the tree does not obscure the sun from the gardens entirely. And in the absence of any evidence from neighbouring occupiers to suggest that their enjoyment of their property is being affected by the tree, I do not find that it is having a harmful effect on occupiers' living conditions.
 8. Cypress trees are important to the ecosystem, not least because of the insects and birds that they support and the wider environmental benefits of trees generally. It would take many years for a replacement tree to grow and be of equal maturity, stature and value to local biodiversity. A replacement tree, therefore, would not compensate for the tree works proposed. For the same reasons, whilst I recognise that the appellant plans to introduce planting to the front of the property which could enhance the local street scene, this would not compensate for the removal of a tree in the rear garden.
 9. The tree was in situ before the appellant moved into the property and so, at that time, he had the opportunity to consider any implications for building insurance. In any case, the concern regarding insurance is assumed and is not supported with any evidence that could change my position on this matter.
 10. It is not within the remit of this appeal for me to comment on the circumstances that led the Council to confirm the Tree Preservation Order. Therefore, the question of whether it was appropriate to protect the tree when the housing was built does not change my findings.
 11. I appreciate that felling one tree may appear negligible compared with numerous trees that are being felled within the district. However, the cypress

tree has visual and ecological value which, of themselves, are of benefit to the wider area, irrespective of other trees being felled.

Conclusion

12. With any application to fell a protected tree a balancing exercise must be undertaken. The essential need for the works applied for must be balanced against the resultant loss to the amenity of the area. In this case I have found that felling the tree would leave a notable gap in the street scene which would be harmful to the character and appearance of the area. None of the factors submitted by the appellant, taken either singly or cumulatively, provide sufficient justification for the works proposed. Therefore, I dismiss the appeal.

R Walmsley

INSPECTOR