



Appeal Decision

Site visit made on 14 December 2021

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2021

Appeal Ref: APP/TPO/C3430/7834

Pinewood Heights, Top Road, Acton Trussell. Staffordshire, ST17 0RQ

- 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 Ian Atkinson against the decision of South Staffordshire Council.
 - The application Ref: 19/00888/TREE-T, dated 4 November 2019, was refused by notice dated 12 February 2020.
 - The work proposed is: Lime tree - crown lift/reduce overhanging branches to suitable growth points.
 - The relevant Tree Preservation Order (TPO) is Cannock Rural District TPO No 5, 1965, which was confirmed on 13 September 1966.
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Decision

1. The appeal is allowed, and consent is granted to crown lift/reduce overhanging branches of the Lime tree protected under Cannock Rural District TPO no 5, in accordance with the terms of the application Ref: 19/00888 TREE-T dated 4 November 2019, subject to the following conditions:
 - 1) The works hereby permitted shall begin no later than two years from the date of this decision.
 - 2) The works shall comprise crown lifting and the reduction of overhanging branches with no more than 3.0m length removed from the branches. The crown should be raised by removing small low lateral limbs and by reducing branch endings to suitable secondary growing points to achieve an even height of approximately 7.6m from ground level measured from the garden of 'Pinewood Heights'.
 - 3) All works shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations.

Procedural Matters

2. The proposed works are more precisely described in the officer report and appeal statement as: Crown lift and reduction of overhanging branches. I have considered the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed pruning works on the character and appearance of the area and whether sufficient justification has been demonstrated.

Reasons

4. Pinewood Heights is one of three properties which replaced a previous house on the site. The Lime tree is growing in the garden of No 6 St James Crescent to the rear, on land that is a metre or so higher than the ground floor level of the appellant's property. Its crown extends over the common boundary between the two properties into the rear garden of Pinewood Heights.

Amenity

5. The tree is part of the backdrop to the properties surrounding it when viewed from Top Road and St James Crescent, although can only be easily distinguished from close-up viewpoints. Although the tree softens the built form between dwellings, it has little visual impact in streetscape terms. There are other mature trees nearby (covered by the same TPO) which in my opinion have a greater impact on the character and appearance of the locality. Any pruning works should be weighed in this context.
6. The tree appears to be in reasonable condition and there is no technical evidence before me and nothing to suggest that it is diseased or suffering from decay. However, it has been crown-reduced, thinned, and lifted in the past, most recently in 2012, and as a consequence has a relatively poor form. Nonetheless, the tree can be said to make a limited contribution to the character and appearance of the area.

Justification

7. Turning to the second issue, any reasons given to justify tree removal need to carry sufficient weight to outweigh any harm that would arise. The tree overhangs a large part of the rear garden and the appellant says it causes unacceptable shading and light loss to the rear-facing rooms and rear garden, especially when the tree is in full leaf. It is argued that, notwithstanding the presence of other trees, and says the proposed work will help alleviate the shading problem.
8. The work proposed is a crown lift of the lowest overhanging branches and reduction of the upper branches overhang the garden by about 3.0m to suitable growth points, up to a maximum height of 7.6m above ground (equivalent to the measurement of 25 feet given in the evidence).
9. Dominance and shading issues are not uncommon where mature trees contribute towards making an area an attractive place to live. However, the rear garden is modest in size and the only private amenity space available to the occupiers. Although on the north-east boundary, it will shade the garden from sunlight at certain times of the day and reduce the daylight reaching it. The canopy is fairly dense, and the tree will also reduce light levels in the rear-facing rooms. I am thus in no doubt that the tree is having a detrimental effect on the quality of life enjoyed by the appellant and his family, and this is a material consideration to which I afford moderate weight.
10. Secondly, the appellant refers to the potential risk caused by falling branches damaging the property. However, the limit of branch spread is currently well clear of the dwelling, and there is no arboriculturalist's report or tree survey on which to corroborate these risk of failure concerns.

11. In allowing the appeal for the three dwellings on the site of 'Dellwood', the Inspector stated that the mature trees along the 'new' rear boundary would help to protect the privacy of the occupiers of existing dwellings in St James Crescent. Although the Lime trees along the boundary would overhang the rear garden of plot 1 ('Pinewood Heights') they would be well clear of the dwelling, and the Inspector added that any subsequent request to significantly prune the trees' canopy spread to reduce overshadowing, should be resisted.
12. Whilst I note the previous Inspector's comments, the pruning work proposed is modest in extent and would not in my view materially harm the privacy of the occupiers of No 6 St James Crescent. Furthermore, other trees and a substantial hedge on the boundary would remain and afford a substantial screen between the two properties.
13. Whilst earlier works have undoubtedly reduced the impact of shading at the present time, I consider this will afford little long-term relief to the appellant given the tree's restricted location and potential to grow further. Overall, I am satisfied that the proposed pruning works would accord with good arboricultural practice and would reduce, to some extent, the shading of 'Pinewood Heights' and the potential for large branches falling onto the rear garden.
14. Although I appreciate that all wounds can cause pathogen entry, the Lime appears reasonably robust. Although the proposed branch surgery could increase the risk of disease, I am satisfied that this small risk is justified for the improvement in light levels that would follow.
15. In reaching my decision I have had regard those policies of the South Staffordshire Core Strategy which have been referred to. Amongst other matters these seek to retain trees and protect the character and quality of the landscape and the diversity of wildlife and habitats.

Conditions

16. I have imposed conditions to limit the work to a crown lift and the reduction of overhanging branches, to safeguard the future health of the tree, and to ensure the work is carried out to best practice.

Conclusion

17. I appreciate that the proposed works will have an effect on the amenity value of the tree. However, the Government's *Planning Practice Guidance* advises that where there is limited visual amenity derived from protected trees, and the impact of the proposed works would be negligible, it may be appropriate to grant consent even where there is no arboricultural need for the work. In this case the visual impact of the works from the public domain would be negligible. I therefore conclude that sufficient need for the works has been demonstrated and that the appeal should be allowed, subject to the constraints set out in the conditions.

Nigel Harrison

INSPECTOR