



Appeal Decision

Site visit made on 19 March 2019

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28/03/2019

Appeal Ref: APP/TPO/Z4718/7027

1A Oak House, Beaumont Park Road, Huddersfield, HD4 5JT

- 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 Guy Crossley against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref: 2018/92136 dated 2 July 2018, was refused in part and granted in part by notices dated 29 August 2018.
 - The work proposed is Fell 1 No Sycamore tree.
 - Consent was refused to fell the tree.
 - Consent was granted for lesser pruning works to the tree.
 - The relevant Tree Preservation Order (TPO) is the County Borough of Huddersfield TPO HUI/49/W13 which was confirmed on 20 November 1949.
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Decision

1. The appeal is allowed, and consent is granted to remove a Sycamore tree protected by County Borough of Huddersfield TPO HUI/49/W13, in accordance with the terms of the application, Ref: 2018/92136 dated 2 July 2018, subject to the following conditions:
 - 1) The work hereby permitted shall begin no later than 2 years from the date of this decision.
 - 2) A replacement Norway Maple or Silver Birch of minimum size 'selected standard' as specified by BS 3936 Part 1 *Specification for Trees and Shrubs* shall be planted in a location as near as practicable to the tree to be removed. The planting shall be carried out during the first available planting season (November to March) following the removal of the Sycamore tree. Details of the exact location of the replacement tree shall be submitted to and approved in writing by the Local Planning Authority. Variation to the species shall only be permitted if agreed beforehand and in writing with the Local Planning Authority.
 - 3) If, within a period of 5 years from the date of the planting of that tree, it is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.

Main Issues

2. I consider the main issues in this case are the impact of the removal of the Sycamore tree on the character and appearance of the area, and whether sufficient justification has been demonstrated for the proposed felling.

Background

3. The appellant sought consent to fell 1 No Sycamore tree located in the gap between No 1 and No 1A Beaumont Park Road. The Council has issued a split decision and has granted consent for lesser works; namely: *'Crown thin, removing 15% of the crown mass, thinning the crown evenly throughout the entire canopy. Clean out crown removing any dead, dangerous, hazardous or split branches and stubs while maintaining the tree's structural integrity and natural form. Prune to reduce branches back to a suitable side branch to give 2m clearance from the adjacent buildings.'*
4. Permission to remove the Sycamore was refused, and that decision is before me.

Reasons

5. The Sycamore is located close to the common boundary of No 1 and No 1A and is visible from various public vantage points. Whilst Sycamore trees are by no means uncommon, the appeal tree undoubtedly contributes to leafy and verdant character and appearance of the area.
6. However, as the tree is positioned behind a large garage, only partial views of it are possible from the street. There are many other protected trees nearby (including several sited more prominently within the front garden of No 1A which have greater visual impact). Therefore, whilst removal of the tree would have a detrimental effect on the character and appearance of the area, the other protected trees would remain the leafy character of the area would be maintained. Any tree loss should be weighed in this context. Consequently, I consider the harm to the character and appearance of the area if the tree were to be removed would be limited.
7. Nonetheless, any reasons given to justify felling of the tree need to carry enough weight to outweigh any harm that would arise. It is to those reasons to which I now turn.
8. The reasons put forward are straightforward. The appellant says the tree causes his neighbour at No 1 excessive shading in her house and rear garden. It also overhangs part of the roof of No 1A and the greenhouse at No 1. Dominance and shading caused by mature trees are not uncommon in an area where mature trees contribute towards making an area an attractive place to live, moreover, with any application to fell protected trees a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against any loss of amenity to the area, and in the normal course of events there would be a strong presumption against the removal of a reasonably healthy, protected tree.
9. However, this tree is situated in a confined space at the top of a steep slope and near the dwellings on either side. The crown is fairly dense and given its position on the south-east side of No 1 it will shade the rear-facing rooms and rear garden of that property for much of the day when in full leaf. I am thus in

no doubt that the tree is having a detrimental effect on the quality of life enjoyed by the occupier of No 1 and this is a material consideration to which I afford moderate weight.

10. The Council has permitted significant pruning as part of its split decision. However, these reduction works would reduce the tree's amenity value and would provide little long-term relief to the appellant. Moreover, As already stated the tree is in a confined space and has the potential to grow further thus exacerbating the existing shading problems.

Conclusion

11. With any application to fell a protected tree a balancing exercise needs to be undertaken. The essential *need* for the works applied for must be weighed against the resultant loss to the amenity of the area.
12. The tree is not prominent from public viewpoints, and particularly in the context of the remaining trees within the garden of No 1A and many others in the vicinity it has limited amenity value. As set out above it is clearly impacting on the living conditions of the occupier of No 1 Beaumont Park Road. Therefore, having considered all the foregoing matters, I consider on balance that sufficient justification has been provided to fell the tree.
13. The appellant has suggested that the Sycamore be replaced with a Birch, Ash or Elder. However, I consider an Ash or Elder would not be appropriate and a Silver Birch or a Norway Maple, as suggested by the Council, would be more appropriate in the interests of the appearance of the area. The planting and future maintenance of the replacement tree will be secured by condition.

Nigel Harrison

INSPECTOR