



Appeal Decision

Site visit made on 9 December 2019

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23/01/2020

Appeal Ref: APP/TPO/Z4718/7298

Field Head House, 46 Leeds Road, Liversedge, West Yorkshire, WF15 6HX

- 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 Marshall against the decision of Kirklees Metropolitan Council.
 - The application Ref: 2019/90089 dated 14 January 2019, was determined by notice dated 11 March 2019.
 - The work proposed is: Remove Beech tree.
 - Consent was refused for the removal of the tree.
 - Consent was granted for: prune to reduce branches back to a suitable side branch to give 2m clearance from the fabric of the building.
 - The relevant Tree Preservation Order (TPO) is Kirklees Metropolitan Council TPO No 42 1980 Leeds Road, Liversedge, which was confirmed on 16 March 2011.
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Decision

1. The appeal is dismissed.

Main Issues

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

Procedural Matter

3. The Council has issued a split decision. Whilst refusing consent to fell the tree, it has granted consent for lesser work: Namely; "prune to reduce branches to a suitable side branch to give 2m clearance from the fabric of the building".

Reasons

4. The appeal tree is a mature Beech tree close to the roadside boundary wall of Field Head House, and the tree's stem is approximately 8m from the front elevation of the building.

Amenity

5. The tree seems to be in good physiological condition, and at the time of my site visit there were no obvious signs of ill health. By virtue of its height and form it has a prominent and striking presence within the street scene of Leeds Road, and is clearly visible from other and from other more distant viewpoints.

6. Although pruning work has clearly taken place in the past (most recently some outer branch trimming), the tree has been permitted to grow to an attractive and handsome shape. It is a distinctive landscape feature of the locality and makes an important contribution to the setting of Field Head House itself (a grade II listed building) and to the character and appearance of the surrounding area.
7. Therefore, any reasons given to justify its removal need to be convincing. It is to those reasons which I now turn.

Justification

8. Firstly, the appellant says that during recent renovation works it became apparent that structural damage may have been caused to the front elevation of the building due to the close proximity of the Beech tree, and that the damage required partial rebuilding. The appellant also points out that the boundary wall and former gate piers close to the tree are leaning, and it again suggested that damage from the tree's roots is the most likely cause.
9. A report has been submitted in support of the application¹ which makes reference to the *Kew Tree Root Survey*². This sets out that the influencing distance of a Beech tree (whereby roots are likely to cause structural damage to a building) is half the height of the tree. The author of the report estimates the tree to be about 30m high (an over-estimate based on my own visual appraisal), and on that basis says the building is within the influencing distance of the root system. As such, the report recommends removal of the tree in order to prevent future damage to the building.
10. Significantly, the 'Kew Tree Root Survey', is based on a data collected primarily in London and the South East for trees growing on shrinkable clay soil which poses a particular problem for tree stability. However, in this case no evidence has been provided to show whether or not the site is underlain by shrinkable clay, or that the tree is experiencing seasonable movement as a consequence.
11. I observed at my site visit the bowing in the boundary wall/ gate piers referred to above. However, although the appeal tree is the most likely cause, it has not been shown that this damage is wholly attributable to the tree's roots or indeed the nature of the sub-soil. Nor has it been demonstrated beyond reasonable doubt that the tree's roots caused earlier damage to the front elevation, and no comprehensive structural survey has been submitted as evidence. Indeed, as the report acknowledges, *'there is no visual evidence of structural damage to the building'*, although it goes on to say that *'given that the root system will have reached the property and possibly passes beneath the foundations, there is the potential for future structural problems, particularly during periods of dry weather.'*
12. The nature of a fast-track appeal is such that only the information submitted at the application stage can be considered, and very little evidence has been submitted to corroborate the source of any damage, or properly quantify its extent. Nor have I been made aware that any investigations have been carried out such as the digging of trial pits, soil analysis, or the identification of specific roots which may be the main cause.

¹ Robert A Binns Structural Surveyors Ltd: 22 June 2018

² Tree Roots and Buildings: Dr David Cutler & Ian Richardson 1981 (Kew Tree Root Survey)

13. The appellant says the possible effects of structural damage from the tree have been discussed with Historic England and CLA (I assume Country Landowners Association). However, the outcome of these discussions have not been presented to me as evidence and therefore I cannot consider it.
14. I appreciate the considerable efforts the appellant has made to restore this Grade II listed building. However, without conclusive evidence to demonstrate that the tree has been the cause of previous structural defects, or has the potential to cause problems in the future, the status of the building is not a matter to which I can attract great weight at this time.
15. The appellant explains that an earlier planning application for the overall renovation of the building and site originally included a proposal to fell the appeal tree to allow a new access to Leeds Road to be formed with improved sightlines. However, following unfavourable advice from the Council, this element of the scheme was omitted to enable the renovation works to progress. However, whilst noted as background information, I can only consider those arguments which are pertinent to an appeal made under the provisions of the *Town and Country Planning (Tree Preservation) (England) Regulations 2012*.
16. The appellant questions the amenity value of the tree, and says this has been exaggerated in the context of the large number of trees elsewhere on the site and the offer to plant additional trees as a replacement for the appeal tree. However, most of the other trees within the garden have less stature and presence, and are not so readily visible or prominent when seen from public viewpoints.
17. Overall, I am not satisfied that the reasons put forward afford sufficient justification to fell the tree at this time. Furthermore, felling is not the only option that should be considered in terms of lessening the effects of the issues identified above, particularly as any trees planted in replacement would take many years to mature and make a comparable contribution to the character and appearance of the area.

Conclusion

18. With any application to fell protected trees a balancing exercise needs to be undertaken, where the essential need for the work must be weighed against the resultant loss to the amenity of the area.
19. Overall, having considered all matters, I conclude that the loss of this Beech tree would result in significant harm being caused to the character and appearance of the area. Insufficient justification has been provided to fell the tree and therefore the appeal should fail.

Nigel Harrison

INSPECTOR

