
Appeal Decision

Site visit made on 4 February 2021

by Elaine Benson BA (Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 13 April 2021

Appeal Ref: APP/TPO/C3430/7929

Rear of 46 Hists Drive, Codsall, Wolverhampton WV8 2ET

- 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 Amy Rhodes against the decision of South Staffordshire Council.
 - The application Ref:20/00146/TREE_T, dated 23 February 2020, was refused by notice dated 14 May 2020.
 - The work proposed is T113, Oak – crown reduction and reduction in height to 10 metres.
 - The relevant Tree Preservation Order (TPO) is 33/1970, which was confirmed on 13 May 1971.
-

Decision

1. The appeal is dismissed.

Main Issues

2. These are the amenity value of the protected oak tree, the likely impact of the proposed works on that amenity and whether the reasons given are sufficient to justify the proposed course of action.

Reasons

Amenity

3. The appeal tree is a mature oak growing alongside a protected sycamore on a grass verge just beyond the appellant's rear garden boundary. The verge is part of an access road to The Paddock at the rear. The impressive oak tree is about 18-19m tall and appears to be in good condition. It has previously been crown lifted, most noticeably on the side closest to the appellant's property. The oak is a mature and apparently healthy specimen of significant size. Along with the protected sycamore tree which backs onto the neighbouring garden, the oak makes an important contribution to local amenity. The pair of trees can be seen from a number of roads and properties to the side and rear, as well as in longer views, due to their heights and canopy spreads. The trees are also visible between and above the houses on Hists Drive.
4. Although the TPO relates to individual trees, groups of trees and woodland, it covers a very large area of Codsall. There are few other trees in the locality of the oak of a similar stature. There are smaller trees lining The Paddock and in its properties' gardens. There are also a few, mainly coniferous, trees in Hists Drive which do not have the amenity value of the protected trees.

5. The proposal is to reduce the height of the oak tree to 10m. The extent of any accompanying canopy reduction, if any, is unknown. I conclude that the proposed works would significantly harm local visual amenities. Against this context it is necessary to consider the reasons for the proposed works.

Reasons for proposed works

6. The reasons for the proposed works include that the appellant considers the work is required maintenance for oaks to improve their overall health and longevity. Permission has been granted by the Council for work to other trees, including oaks, with no apparent concerns about potential infection. The timing of pruning works can minimise the risk of fungal infection. The tree has grown significantly over the last 4 years. There is a lot of dead wood and many branches have fallen into the garden which is a danger for the appellant's children. The tree blocks light to the garden and to the neighbours' garden. There are many bird droppings which are a health hazard.

Assessment

7. Evidence of research relating to the need for works to manage oak trees as referred to by the appellant has not been provided. A reduction to 10m would be excessive and would create large wounds. In my view these works would likely harm the health of the oak and reduce its safe, long-term life expectancy. Furthermore, mature trees usually have a reduced capacity to tolerate the potentially adverse effects of pruning, particularly with regard to the development of physiological dysfunction and decay.
8. There is no dispute that tree pruning should be carried out at optimal times to reduce the likelihood of infections. However, this does not overcome the need to demonstrate firstly that works are necessary. Good pruning practice includes minimising the number and size of pruning wounds. I agree with the Council that a lack of maintenance would not necessarily result in a diseased and dangerous tree. It is more likely that pruning works would increase the opportunities for fungal infections and decay.
9. There is no verifiable evidence about the growth of the oak over the last 4 years. The height estimates noted in the tree work applications in 2017 and the present day do not indicate a significant increase in height. The dropping of dead wood, especially during windy weather is a common occurrence and care should be taken when in proximity to trees at such times. There is nothing to indicate that the tree contains more dead wood than is usual and the oak appeared to be in a good, healthy condition at the time of my site visit.
10. The oak is around 11.5m from the house and significantly overhangs the small garden and, to a greater degree, that of the neighbouring property. There would be shading of the appellant's garden for part of the day, which would be greater when the tree is in full leaf. Whilst it might well be reasonable to reduce the extent and density of the canopy, the tree works as proposed would significantly reduce the height of the oak and would result in an unbalancing of the tree, due to the number of branches remaining at a lower level on The Paddock's side of the tree. Substantiated evidence for any canopy reduction would be essential.
11. I acknowledge the appellant's concerns relating to bird droppings. Health concerns relate primarily to a build-up of dry bird droppings in an enclosed

space which does not apply to this appeal. The Council further addresses these concerns in respect of pigeons and provides research evidence which suggests that risks to human health are low. Overall, there is insufficient evidence to lead me to a different conclusion on this matter and I can therefore give little weight to these concerns.

12. There is no dispute that the Council has allowed some crown reductions of healthy trees. There will also be examples where permission has been withheld. As each application is required to be considered on its individual merits, other approvals do not set a precedent for the appeal proposal.

Conclusion

13. The reasons for reducing the tree by almost half of its existing height do not outweigh the harm to amenity that would result. Therefore, for the reasons set out above, the appeal is dismissed.

Elaine Benson

INSPECTOR