



Appeal Decision

Site visit made on 28 March 2023

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 5 May 2023

Appeal Ref: APP/TPO/C3430/8126

Montague House, Lawnswood, Stourbridge, Staffs DY7 5QP

- 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 David and Jane Wild against the decision of South Staffordshire Council.
 - The application Ref: 20/00565/TTREE, stamped as received by the Council on 26 May 2020, was refused by notice dated 22 September 2020.
 - The work proposed is for either the felling, or the crown thinning and reduction, of a sycamore tree.
 - The relevant Tree Preservation Order (TPO) is the 'South Staffordshire TPO No 37, 1980 – White Friars', which was confirmed on 18 March 1980.
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Decision

1. In so far as consent is sought for felling, the appeal is dismissed, and consent is refused.
2. In so far as it relates to works of crown thinning and reduction, the appeal is allowed and consent is granted to undertake such works to a Sycamore tree protected by 'South Staffordshire TPO No 37, 1980 – White Friars', at Montague House, Lawnswood, Stourbridge, Staffs DY7 5QP, in accordance with the application, Ref 20/00565/TTREE, subject to the following conditions:
 - 1) The works hereby approved shall not be commenced until a detailed scheme of works has been submitted to the local planning authority and approved in writing. The scheme shall include details of the maximum extent of crown reduction, and the maximum percentage of thinning.
 - 2) The works shall be carried out by an appropriately qualified arborist, in accordance with British Standard BS 3998, 'Tree Work: Recommendations' (2010).
 - 3) The works hereby approved shall be carried out only once, and shall be completed within 2 years from the date of this decision.

Procedural matter

3. In the original application, the proposed works are expressed as two alternatives, either for felling or for crown thinning and reduction, as set out above. The Council's decision notice refuses consent for felling, but does not refer to any other works. For the avoidance of doubt, in so far as the appeal relates to the alternative proposal for crown thinning and reduction, I have treated it as an appeal against the Council's failure to determine that part of the application within the prescribed period.

Main issues

4. The issues in the appeal are, firstly, whether the tree's amenity value is such as to justify its continued protection; and if so, whether sufficient justification has been shown to warrant overriding that protection, in respect of either felling or crown thinning and reduction.

Reasons for decision

Amenity value

5. The Lawnswood estate is a wooded enclave comprising a number of small residential cul-de-sacs surrounded and interspersed by residual woodland. Within that area, the White Friars TPO, identified above, gives statutory protection to two individual trees, four tree areas, one tree group, and one large area of woodland. The Sycamore which is the subject of this appeal falls within the area of woodland.
6. On my visit, I saw that the estate's wooded character is one of its most notable characteristics. Seen from within, the trees give an attractive, mature and natural green backdrop to the streets and houses. Viewed externally, they screen the development and help to integrate it into the surrounding countryside. For the most part, the houses now present appear to date from the late 20th century, or since. Without the pre-existing trees and woodland, it seems unlikely that housing development on this scale would ever have been permitted in such an isolated location.
7. The Sycamore in question is a medium sized, mature specimen, in good health, forming an integral part of the estate's woodland tree cover. As such, the tree is fully worthy of the level of protection bestowed upon by the TPO.

Justification for the proposed works

8. The appellants are the owners and occupiers of the adjoining property, Brackenbury House. The appeal tree stands adjacent to the side boundary to the south of their rear garden, and therefore casts its shadow over the garden for the middle part of the day. The garden is not large, and the shade cast by the appeal tree is likely to cover a sizeable proportion of it. The garden is also subject to additional shading from other trees and buildings on, or just beyond, all of its boundaries.
9. The degree of shading likely to be caused by the appeal tree does not justify the loss of the tree in its entirety. But even so, the area of garden affected is sufficiently extensive as to cause some harm to the occupiers' living conditions, and thus to warrant some form of remedial action. In my view, a reasonable improvement in the amount of sunlight reaching the property could be achieved through a modest amount of crown thinning and reduction, without undue loss of the tree's public amenity value.
10. I appreciate the appellants' other concerns, including the potential danger from falling branches, although this risk can be managed to some degree by regular inspection and removal of deadwood, for which no consent is required. I accept also the inconvenience and annoyance caused by the quantity of leaves that fall annually, and by the unwanted seedlings that germinate, and by the proliferation of moss in the lawn. Whilst I sympathise with all these other problems, it seems to me that in this case none of these, either individually or

collectively, are so exceptional as to justify either felling or the other works applied for. But this does not alter my conclusion that some crown thinning and reduction is justified, on grounds of excessive shading, for the reasons given above. In the circumstances, it is not necessary for me to consider these other issues in any more detail, except to note that the thinning and reduction that I shall permit may provide some degree of relief in respect of these matters in addition to the improvement in terms of light.

11. For the reasons explained above, and having full regard for the tree's amenity value, I conclude that felling is not justified, but crown thinning and reduction should be permitted.

Conditions and other matters

12. In the absence of any further information from either the appellants or the Council as to the actual amount of thinning or reduction work that they consider would be either necessary or acceptable, I am not in a position to determine the limits of these works in more detail. However, in this particular case, with the benefit of the consent that I shall grant, I see no reason why these detailed matters cannot be resolved by agreement between the parties. I have therefore imposed a condition to ensure that details of the extent of reduction, and the percentage of thinning, are approved by the Council prior to the work being commenced.
13. Further conditions are also imposed with regard to the standard of work required, and the timescale within the work must take place. The first of these is necessary to ensure the tree's future health and longevity, and the second to accord with the relevant Regulations.
14. For the avoidance of doubt, it should also be noted that the granting of consent under the Regulations does not override the rights of the tree owner. The consent of the owner is needed for any works on land outside the ownership of the person undertaking those works.

Conclusion

15. The Sycamore tree contributes to the estate's tree cover, and thus has significant amenity value. Based on the evidence put forward, felling is not justified. However, a limited amount of crown thinning and crown reduction are justified due to the tree's effects on sunlight to Brackenbury House. Consent for these works is therefore granted, subject to the conditions set out on the first page of this decision.

J Felgate

INSPECTOR