



Appeal Decision

Site visit made on 17 July 2023

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Appeal Ref: APP/X1735/TPO/9309

2a Kennedy Close, Purbrook, Hampshire PO7 5NZ

- 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 Marshall Clarke against the decision of Havant Borough Council.
 - The application Ref: APP/21/01309, dated 13 November 2021, was refused by notice dated 19 July 2022.
 - The work proposed is to trim overhanging branches on 1 No Common Beech (T2) back to boundary.
 - The relevant Tree Preservation Order (TPO) 1389 – 103 Stakes Road, Purbrook, which was confirmed on 26 May 1989.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For clarity, I have used the description of works given on the Council's Decision Notice.
3. The Council cites conflict with Policy DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework (the Framework) on its' Decision Notice. However, Policy DM8 does not refer specifically to protected trees, rather development and the conservation, protection and enhancement of existing natural features. As such, as development is not the subject of this appeal, the policy, and for similar reasons the Framework which does not specifically refer to pruning of trees, this policy is not a material consideration in this appeal.

Main Issues

4. The main issues in this case are the effect of the proposed works on the character and appearance of the area, and whether justification has been demonstrated for the works.

Reasons

5. Turning to the first main issue, the appellants' property shares a northern boundary with No 2a Kennedy Close. The appeal tree (T2), which is a Common Beech, is found close to this boundary and on the land associated with No 2a. In combination with the mature Oaks and Beech trees within the grounds of the adjacent properties, the appeal tree helps to frame and soften the built form when viewed along Kennedy Close and from within the more contemporary mews type development at its western end.

6. The established and natural shape of the appeal tree can also be glimpsed between the dwellings that face onto Shaftesbury Avenue to the rear of Kennedy Close. Therefore, in addition to the mature trees in the wider views, T2 makes a positive contribution to the surrounding environment. Pruning the overhanging branches of T2 would erode this contribution and give rise to significant harm to the character and appearance of the area. Consequently, any reasons given to justify the works to the tree need to be convincing. It is to those reasons, the second main issue, to which I now turn.
7. The Council summarised that T2 appears to be adequately sound and in a healthy condition. This accords with my findings at the site visit, where I noticed that although the tree has had some smaller branches removed at low level it appeared to be in good health with numerous immature beech nuts and a dense green crown. Therefore, I have no reason to disagree with the Council's summary. As such, I consider that the Beech tree appears to have good vigour and vitality for its age and species.
8. The appellant's garden has a single-storey store and a retaining wall adjacent to the appeal tree. I recognise that trees can, in some situations, cause damage to buildings or structures. Moreover, in this case, although I noticed that there is some historic cracking to the retaining wall that has been reinforced by two wall straps, the cracking is relatively minor. However, without any substantiated evidence that the damage has been caused by the roots of the appeal tree, proximity to a structure such as the retaining wall is rarely a valid reason for the removal of protected trees. In this case, I have not been presented with any such evidence.
9. Due to the personal circumstances of the appellant, he considers that the tree debris, sap, leaf fall, staining and slippery surfaces associated with the appeal tree result in an unacceptable burden on him. His ambition is to prune rather than to fell the tree to address these issues.
10. However, at my site visit I noticed the overhang of the tree was relatively minor and that much of the debris was likely to be seasonal. Moreover, as maintenance of the tree forms just one part of the necessary care of the front, side and rear gardens of the dwelling the additional burden of the tree in relation to these matters is limited.
11. Trees, particularly those that are protected, are an integral part of the surroundings and that a scheme of regular maintenance should be expected, otherwise the result would be a gradual erosion of the character and appearance of that area, as trees that people later object to are lost. I therefore give limited weight to the personal circumstances of the appellant as justification for the works.
12. I therefore find that there is no substantiated justification on the basis of the health of the tree or the effect of the tree on the structural integrity of the retaining wall, but limited weight to the personal circumstances of the appellant.

Conclusion

13. With any application to carry out works to a protected tree; a balancing exercise needs to be undertaken. The request to carry out works to protected trees must be weighed against the resultant loss to the amenity of the area. In this case, the proposed works would result in considerable harm to the character and appearance of the area, and in my judgement, insufficient justification has been demonstrated for the proposed works.
14. For the reasons set out above and having considered all matters raised, I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR