

---

## Appeal Decision

Hearing Held on 12 February 2019

Site visit made on 12 February 2019

**by Stephen Brown MA(Cantab) DipArch RIBA**

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

**Decision date: 12 April 2019**

---

**Appeal Ref: APP/TPO/X1735/6969**

**Land adjacent to Crest House, Stakes Hill Road, Waterlooville PO7 5UE**

- 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 trees protected by a Tree Preservation Order.
  - The appeal is made by Janet Quick against the decision of Havant Borough Council.
  - The application ref. APP/18/00621, dated 15 June 2018, was refused by notice dated 20 August 2018.
  - The works proposed are to fell 1 copper beech, and 2 lime trees.
  - The relevant Tree Preservation Order (TPO) is The Knowle and Khandala, Stakes Hill Road Tree Preservation Order no. 1363, which was confirmed on 11 November 1988.
- 

### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The Council have referred to development plan policy concerning the conservation, protection and enhancement of existing natural features. The development plan is not determinative in TPO cases, but I shall take this policy as indicating the Council's stance on such matters.
3. The tree works application form is undated, but it was agreed between the parties that the application date was 15 June 2018.

### Background

4. Crest House is a substantial detached dwelling on the eastern side of Stakes Hill Road, at the northern corner of the junction with Khandala Gardens. The three trees in question stand on the wide mainly grassed verge along the northern side of Khandala Gardens, just outside the boundary fence of the appeal property. This verge is owned by the original developers of the houses on Khandala Gardens, or their successors, and is not within the appellant's control, or that of residents of those houses.

## Reasons

5. From my inspection of the appeal site and its surroundings, and from all that I have heard and read I consider the main issues in this appeal to be:
  - The effect of the proposed works on public amenity in terms of the character and appearance of the appeal site and the area in its vicinity; and,
  - Whether the proposed works would be justified by the appellant's concerns arising mainly from overshadowing, falling leaves and branches, pollen irritation, and pigeon droppings.
6. All three trees are of substantial size – estimated to be in the region of 14 to 16 metres in height. All appear in good condition, with little dead wood, and no apparent signs of disease. The copper beech stands about 4.5 metres from the flank of the house, and slightly behind the main rear wall of the house. The limes are close to the southern boundary fence, and roughly on the line of the rear boundary of the appeal property
7. The trees are readily seen from Stakes Hill Road when passing the end of Khandala Gardens, and provide an attractive setting for Crest House. Three trees of such size are a highly prominent feature in the street scene, particularly since there are very few trees of any maturity on this relatively small housing estate, or indeed nearby. I concur with the view expressed by one of the objectors to the application that the area would appear 'bare and lifeless' without these trees. Although treetops of wooded areas are visible over the house roofs, looking eastwards, these are at such a distance they provide no more than a somewhat remote backdrop. Overall, I consider the copper beech and the two limes make an important contribution to the street scene in the vicinity of the appeal site.
8. Furthermore, all three trees offer valuable habitats for insects, birds and a variety of other wildlife – where there are otherwise few such sites in the immediate area. In my view this makes a significant contribution to the rather limited natural characteristics of the area.
9. Concluding on the first main issue, felling these trees would be a serious loss, and I consider would cause significant harm to the character and appearance of the appeal site and the area in its vicinity.
10. Turning to the second main issue, the appellant argues that the trees – which are close to the southern side boundary of Crest House – deprive the back garden of sunlight almost entirely. However, given this orientation, there will clearly be early morning sun on the back of the house. Later in the morning, it is apparent that the two lime trees, which stand close to one another, will cast a large shadow over much of the garden. However, by midday the sun will have come around between the limes and the beech, so that the back of the garden will be shaded, but the remainder in sunlight. The period for which the entire garden is in shade is likely to be relatively limited. I noted at the time of my visit – approximately 11.00 GMT – there was sun on the back of the house, and this situation would last until mid-afternoon, when the beech would start to shade the western part of the back garden.

11. The appellant submitted that she and her partner were unused to living near trees, and when they bought the house some 4 years ago did not appreciate their potential growth and likely problems, such as leaf clearing and falling branches. However, leaf-fall is an inevitability when living near deciduous trees. While clearance may be regarded as a tedious chore, it is nevertheless a matter of routine maintenance. The autumn period is relatively brief and is a time when this annual chore has to be undertaken. Furthermore, photographic evidence of fallen branches showed these to be small, and little more than relatively slender twigs. I saw on my visit that a number of such pieces had recently fallen into the garden, but note that this was a few days after Storm Erik had crossed the British Isles, and such a situation was unsurprising.
12. I saw from photographs put in by the appellant that the paving around the southern boundary of the back garden had been stained by pigeon droppings from the lime trees, as well as the 'honeydew' produced by lime aphids, which would occur mainly in hot dry weather. Again, these are natural phenomena, that are inevitable consequences of proximity to these trees. Although they may be perceived as nuisances, they do not endanger people or structures, and do not justify removal of the trees. As to pollen irritation, this comes in a similar category of natural phenomena, and cannot reasonably be excluded from the surroundings of an individual dwelling.
13. The appellant also drew my attention to cracking in the brickwork of the southern side of the house, and repairs that have been done. It is argued that this was caused by the proximity of the beech tree to the house. However, as the Council say, it is necessary to establish a clear connection between structural damage and the presence of a tree in order to propose remedial works – whether to the tree or the structure. This would require obtaining an engineering investigation and report. No such investigation has been done.
14. The limes had clearly had a severe crown reduction many years ago, and probably another - less severe - more recently. As a result, both trees have produced multiple stems at about one third of their height, and again close to their tops. Furthermore, both trees have much epicormic growth on their stems, and around the base. This situation, as well as heavy ivy growth on all three trees, produces very dense foliage indeed - as can be seen from the appellant's photographs.
15. The epicormic growth and the more or less uncontrolled formation of multiple stems - on the lime trees particularly - indicate there has been little or no maintenance for many years. Much could be done in terms of removal of epicormic growth, crown reduction, removal of ivy, and of any dead wood. Properly considered, and with regular inspection, these measures could have the effect of significantly reducing shading, removing vulnerable branches, and reducing the quantity of leaf fall. Apart from dead wood removal, such works would require approval, but they appear to me well overdue, and it is likely a suitable scheme could be agreed.
16. I appreciate there are difficulties carrying out works, since the appellant has not been able to contact the original developers and owners of the verge, whose permission would in any case be required. It is thought the company may have been dissolved. However, if that is the case, it is likely a successor in ownership will exist, and could be identified.

17. Overall, I do not consider the proposed works would be justified by the appellant's concerns arising mainly from overshadowing, falling leaves and branches, pollen irritation, and pigeon droppings.

**Conclusions**

18. For the reasons given above and having regard to all other matters raised, I consider the appeal should not succeed.

*Stephen Brown*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

|             |                                                     |
|-------------|-----------------------------------------------------|
| Janet Quick | Appellant, Joint owner and occupier of Crest House. |
| Kevin Zahra | Joint owner and occupier of Crest House.            |

### FOR THE LOCAL PLANNING AUTHORITY:

|                             |                                                   |
|-----------------------------|---------------------------------------------------|
| Adele Poulton BA(Hons) NCHA | Arboricultural Officer<br>Havant Borough Council. |
|-----------------------------|---------------------------------------------------|

## **DOCUMENTS**

- 1 Attendance list.
- 2 Letters of representation.