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# Appeal Decision

Site visit made on 11 January 2017

**by Kay Sheffield BA(Hons) DipTP MRTPI**

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

**Decision date: 22 February 2017**

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**Appeal Ref: APP/TPO/X1735/5373**

**75 Hulbert Road, Havant, Hampshire, PO9 3TB**

- 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 G Spurway against the decision of Havant Borough Council.
  - The application Ref: APP/16/00406, dated 18 April 2016, was refused by notice dated 13 June 2016.
  - The work proposed is to fell 1No. Oak and removal of tree stump.
  - The relevant Tree Preservation Order (TPO) is The Council of the Borough of Havant Tree Preservation Order No. 2040/2015, which was confirmed on 17 December 2015.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect the felling of the tree would have on the character and appearance of the area; and whether, having regard to the reasons put forward, the works are justified.

## Reasons

3. The Oak which is the subject of the appeal is the sole tree protected by the Tree Preservation Order. The tree lies within the rear garden of a residential property. It is approximately 13 metres tall with a radial spread of about 8 metres and is situated approximately mid-way along the length of the garden and a short distance from the southern side boundary. There is a further oak in a similar position within the neighbouring garden to the north.
  4. Buildings work was underway on the property at the time of my site visit which includes an increase in the height of the dwelling from single to two storeys. Nevertheless, the tree is visible from Hulbert Road in the gap between the house and its neighbour and from this direction it creates a significant feature in the street scene. Whilst the increased height of the dwelling will reduce the extent of the views of the tree, it continues to make a positive contribution to the character of the area and its felling would cause undue loss and detriment to the visual amenities of the locality.
  5. The tree is a mature specimen with a large dense canopy. Whilst there is evidence that the tree is showing signs of normal vigour and vitality, it has a cavity opening in the trunk at ground level and the Arboricultural Consultant
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acting for the Appellant recorded a suspected cone of active decay extending approximately 2 metres in height. There are also other smaller cavity openings with associated signs of decay and large buttress roots. Although the Arboricultural report confirmed that the decay is active and will get worse, the type of decay has not been confirmed and details of the considered useful life expectancy of the tree have not been given other than it is not in imminent danger of structural failure. The reduction and reshaping of the crown by reducing the height by 1 metre and lateral spread by up to 2 metres was suggested as a suitable way to reduce the risk of failure.

6. It is acknowledged that the report recommended the removal of the tree and the planting of a replacement. However, one of the grounds for this was cost effective management as the decay will increase over time and there will be a need for repeat pruning of the crown approximately every 5 years. It is accepted that pruning would have some effect on the visual amenity value of the tree as it would remove the live foliage and leave the canopy looking bare. However, this would only be until regrowth from the cut surfaces occurred.
7. Whilst the Oak is not a huge tree it is a dominant feature in the rear garden to the dwelling and together with the Oak in the neighbouring garden causes shading. The concerns of the Appellant regarding health and safety are also acknowledged. However, works to reduce the canopy would help mitigate both these issues.
8. The felling of the Oak would be detrimental to the character and appearance of the area and in view of the positive contribution the tree makes to visual amenity and the ability to reduce and manage the risk of its failure, it is concluded that the works proposed are not justified at this time.
9. For the reasons given above, and having had regard to all other matters raised, the appeal is dismissed.

*Kay Sheffield*

INSPECTOR