



Appeal Decision

Site visit made on 14 May 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2024

Appeal Ref: APP/TPO/X1735/9752

57 Silverdale Drive, Waterloo, Hampshire PO7 6DN

- 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 Ms Belinda Cornelius against the decision of Havant Borough Council.
 - The application Ref: APP/23/00309, dated 25 April 2023, was refused by notice dated 28 June 2023.
 - The work proposed is Tree 1. Felled down to stump. 12 metres approximately being compromised by Tree 2, so growing towards house not up. Tree 2. 15 metre height, reduce by 3 metres to 12 metres. Spread is 12 metres reduce to 7 metres.
 - The relevant Tree Preservation Order (TPO) is TPO No 1578, which was confirmed on 24 June 1994.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. There are two trees within the rear garden of the appeal property, described as Tree 1 and Tree 2 by the appellant. I have referred to the trees in the same manner.
3. The works proposed within the original application are as described above. Although the Council's officer report expresses concern regarding the extent of the works to Tree 2, the refusal of consent referred solely to the tree that was proposed for felling. As the appellant is appealing against the refusal of consent, for the avoidance of doubt I have therefore considered the appeal on the basis of the refusal of consent to fell Tree 1.

Main Issue

4. The main issue in this case is the effect of the proposed felling of a protected tree upon the character and appearance of the area, and whether sufficient justification has been demonstrated for the works.

Reasons

5. Two oaks are growing within the rear garden of 57 Silverdale Drive (No 57), near to the boundary fence. This property is positioned within a residential estate comprising mostly bungalows of similar ages and styles. To the rear of the properties to the northern side of the road is a large area of public open

space. Within the gardens of several of the properties that back onto the open space there are a number of mature trees, many of which are oak. In addition to single specimens, several are growing in a long row. The linear positioning of so many trees, along with their impressive height and size, creates a verdant setting and skyline to the residential estate that gives a distinct identity to the area.

6. The two mature oaks within the appeal property are part of a long linear group of trees that form a backdrop to the bungalows along Silverdale Drive. The height and size of these trees, when combined with the length of the row is such that they are visible from long distances away, both from views within the estate and from within the public open space. The oaks within the garden of No 57 are near to one end of the row, and they contribute to the distinctive linear continuity of the group. The trees are prominent within the area, both as individual specimens and because they form part of such an eye-catching row. In addition, they serve to partially screen and draw the eye away from the nearby electricity pylons and cables, an attribute that is appreciated by nearby residents. Given that the trees make an important contribution to the visual amenity of the area, the reasons for felling Tree 1 need to be conclusive and convincing.
7. Due to the close proximity of the oaks within the appeal property to each other and also to those in the neighbouring gardens, they form a continuous crown, and it is this long sinuous length of the composite canopy that makes a distinct feature within the area. Some limbs extend into the garden of No 57 towards the bungalow, and also beyond the rear garden fence. In the case of Tree 1, the canopy also extends into the garden of the neighbouring property. Both trees have an even spread of leaves that are of a normal colour and size. Some evidence of historic works was apparent, including crown raising and reduction, with more recent works to remove epicormic growth from Tree 1. Apart from this, neither tree shows signs of recent management. Deadwood was present in both, along with some crossing and intertwined limbs, and new epicormic growth was apparent on Tree 1.
8. The removal of Tree 1 would create an abrupt and disruptively noticeable gap within the linear continuity of the row of similarly aged and sized tall trees. The loss of this tree would be apparent from both public and private vantage points, including to nearby residents and also from long distances away. The disruption of the continuity of the linear frame to the residential estate would have a discordant impact, as well as reducing the distinctive impact of the trees and the contribution they make to the area.
9. There are a mix of species of trees within the public open space to the rear of the appeal property, including an oak, but they are not part of the row and consequently this separation would not maintain the distinctive verdant continuity of the row that is such a prominent feature of the area. The replacement beech trees and a small species tree would take many years, if ever to make a similar contribution to the area, and particularly so in this instance as the beech are set apart from the oaks as well as being a different species than is found within the protected row. Furthermore, the entwined nature of the limbs of the two trees within the appeal property is extensive, and the felling would require considerable care so as to avoid damage to the adjacent trees. Whether this could be achieved whilst maintaining the health and vitality of the trees either side has not been demonstrated.

10. The appellant's rear garden was well-cared for, having an attractive and carefully designed appearance, accommodating a variety of uses and features. Tree 1 has a canopy shape that has been informed by the presence of it growing as part of a row of other similarly aged and sized oaks. Trees self-optimize within their context, as is the case with Tree 1 extending into the garden of the appeal property and into that of the neighbouring garden. The tree would drop leaf and acorn litter, but its felling would not eradicate the occurrence of these deposits as there are other oaks in the garden and also very close by. Removing such deposits would be part of the routine property maintenance associated with living near to trees. Whilst the appellant considers the tree reduces the usable garden space, making it wet and stopping grass and shrubs from growing, the presence of the oak would not preclude day-to-day use of the garden. Plant and shrub selection would need to respond to local circumstances that would include the presence of nearby trees. The raised crown allows unimpeded passage beneath it, and removing one tree would not significantly improve the drainage of the garden, particularly given the close proximity of the trees that would remain.
11. The appellant has referred to an incidence of falling deadwood that caused an injury. Deadwood is present within the crowns of both trees, including some larger-diameter limbs and one detached branch that was caught up within the canopy. A feature of oaks is that they retain deadwood, and this can include large limbs. There would be a risk to people and property if the deadwood failed, but it could be removed so as to minimise risks. There would be costs and inconveniences associated with the presence of the oak, including undertaking its ongoing management, but dealing with such matters would be part of routine property maintenance, rather than a justification for felling.
12. There has been little consideration of why alternative works to the oak would not be appropriate for managing it within its context. There is a strong presumption against the removal of a healthy protected tree, particularly one that makes an important contribution to the character and appearance of the area, as is the case with Tree 1. The Planning Practice Guidance (the Guidance) makes it clear that applicants must provide reasons for works to protected trees, including that the required works are a proportionate solution to their concerns and meet the requirements of sound arboriculture. In addition, the higher the amenity value of the trees and the greater any negative impact of the proposed works, the stronger the reasons needed before consent is granted. Felling the oak would bring benefit to the appellant, but such personal benefits would not outweigh the significant harm that would arise to the amenity value of the area.
13. The Guidance states that development plan policies can be material considerations where they are relevant, and the Council have referred to Policy DM8 of the Havant Borough Core Strategy (2011). As this policy requires, amongst other things, the protection of natural features, such as trees, for the reasons given above the works would fail to accord with this objective.

Other Matters

14. The original application also proposed works to reduce the height and spread of the crown of Tree 2, to which the Council raised concerns within their officer report. Given the extent and totality of the works to Tree 2, numerous wounds

would occur some of which would be very large, and I share the concerns of the Council regarding the impact of such extensive works. In addition, the Council have also suggested the management of Tree 1 as a more appropriate course of action. Nevertheless, the appellant appealed against the refusal of consent to fell Tree 1, and consequently any alternative works to this tree and to Tree 2 would be matters for the parties to address.

15. Finally, the appellant has referred to there being no protected trees in the next village. Notwithstanding this, I am obliged to determine the case before me, irrespective of the presence or absence of protected trees elsewhere.

Conclusion

16. With any proposal for works to a protected tree the effect needs to be weighed against the resultant loss of amenity to the area and the potential harm to people and property. In this case the oak makes an important contribution to the character and appearance of the area, but there is insufficient technical evidence and insufficient conclusive justification for its felling. Furthermore, the felling may harm the health, vitality and appearance of nearby trees. There would be some commitments, costs and inconveniences resulting from the presence of the oak, but these would not be sufficiently onerous or harmful to warrant felling. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR