



# The Planning Inspectorate

3/25 Hawk Wing (Env)  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

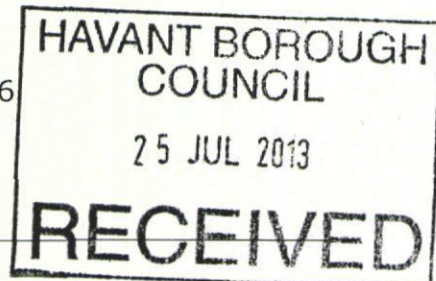
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Ms K Wooden  
Havant Borough Council  
Public Service Plaza  
Civic Centre Road  
Havant  
Hants PO9 2AX

Your Ref: app/13/00180

Our Ref: APP/TPO/X1735/3216

Date: 24 July 2013



Dear Ms Wooden

**THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND)  
REGULATIONS 2012, SI No. 605  
APPLICATION FOR CONSENT TO CARRY OUT WORKS TO PROTECTED TREES  
APPELLANT: MR D LAMONBY  
SITE: THICKET HOUSE, 6 THE THICKET, WIDLEY, WATERLOOVILLE, HANTS PO7  
5JL**

I enclose a copy of our Inspector's decision on the above appeal following the site visit on 26 June 2013.

The appeal decision is final unless it is quashed following a successful challenge in the High Court on a point of law (see enclosed leaflet). If the challenge is successful the decision may be quashed but the case will probably be returned to the Secretary of State for re-determination. However, if it is to be re-determined, it does not necessarily follow that the original decision on the appeal will be reversed.

An application under Section 288 of the Town & Country Planning Act 1990 must be made to the High Court promptly and in any event within 6 weeks of the decision in question. This is an absolute time limit that cannot be extended by the Court.

A challenge must be made on one or both of the following grounds:

- (1) the decision is not within the powers of the above-cited Regulations;
- (2) any of the relevant statutory requirements have not been complied with.

A decision will not be overturned by the Court merely because someone does not agree with an Inspector's judgment. It would need to be shown that a serious mistake was made by the Inspector when reaching his or her decision or, that the site visit was not handled correctly, or that the appeal procedures were not carried out properly. Even if a mistake has been made, the Court may decide not to quash the decision if it is decided that the interests of the person who has sought to challenge the decision have not been prejudiced.

If you have any complaints or questions about a decision, or about the way we have handled

the appeal write to:

Quality Assurance Unit  
The Planning Inspectorate  
4/06 Kite Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Phone No. 0303 444 5884

Or visit:

<http://www.planningportal.gov.uk/planning/appeals/planninginspectorate/feedback>

The Quality Assurance Unit will investigate your complaint and will endeavour to reply within twenty working days.

Yours sincerely



Kevin Gordon  
Environment Appeals Administration

Enc



## Appeal Decision

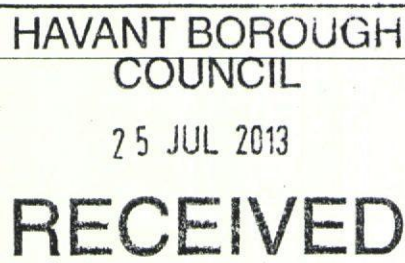
Site visit made on 26 June 2013

by **Jonathan Fulcher**

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

Decision date:

24 JUL 2013



**Appeal Ref: APP/TPO/X1735/3216**

**Thicket House, 6 The Thicket, Widley, Waterlooville, Hampshire PO7 5JL**

- 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 D Lamonby against the decision of Havant Borough Council.
- The application ref: APP/13/00180 dated 17 February 2013 was refused by notice dated 15 April 2013.
- The work proposed is the felling of a dawn redwood tree.
- The relevant Tree Preservation Order is the Council of the Borough of Havant Tree Preservation Order No. 1656 'Thicket House, The Thicket, Purbrook' which was confirmed on 2 December 1996.

### Decision

1. I dismiss the appeal.

### Main Issues

2. In my view the main issues in this case are:-
  - i) The effects of the proposed felling of the dawn redwood tree on the local landscape and on the visual amenities of the locality; and
  - ii) Whether or not there are sufficient grounds for the works as proposed.

### Reasons

#### *The tree*

3. The appeal tree is a maturing dawn redwood of about 14m in height, with a trunk diameter of about 65cm. The first branches arise from about 2.5m to give a crown height above the ground from about 2m. The tree appears to be in normal health and condition for the species. The tree stands in the front garden of Thicket House about 5.9m from the nearest part of the front elevation of the dwelling.

#### *The area and its character*

4. The Thicket is a quiet residential street in suburban Widley, to the north of Havant and Portsmouth. Properties in the vicinity are typically detached houses and bungalows in their own modest grounds, with comparatively shallow front gardens. The significant landscape vegetation is behind dwellings to the west and east; trees are the skyline landscape features to the west. To the east and south there is open space in the form of a golf course, with substantial trees in groups visible beyond houses. There are views north and south and south west along the street but to the east and west houses with

trees form the horizons and limits of view, and there are no long landscape views into or out of the site of the appeal tree.

*The effects of the proposed felling on amenity*

5. The appeal dawn redwood tree is visible from The Thicket, from the short residential cul-de-sac of Copse Close to the north east, from The Dale to the west and from the short residential cul-de-sac of The Rise to the west. The tree is well set back from The Thicket and there is a large birch between the dawn redwood and the road, so views of the appeal tree tend to be partial and comparatively distant. Even so, the tree is distinguishable as an individual specimen in its own right, and it is also part of the wider landscape and tree population on the south east side of The Thicket. I find that the appeal tree has amenity value and that its removal would have an adverse effect on the local landscape and on the visual amenities of the locality.

*Grounds for felling*

6. The appeal tree stands to the north west of the front elevation of the dwelling at Thicket House and some 5.9m from it. In this orientation the tree does not obstruct direct sunlight to the house and does not shade the dwelling. The tree occupies skylight, although it has a comparatively narrow crown, and the birch tree behind to the north west has a broader crown and occupies skylight to a greater extent. I am not persuaded on the evidence that the appeal tree casts shade to such an excessive and unreasonable extent so as to warrant felling.
7. I accept that leaves from the appeal tree will be shed each year, and to this extent the appeal tree is no different from any deciduous tree. The shedding of leaves is a normal and natural process and is usually considered to be one of the normal and natural consequences of having trees on one's property. I understand that the shed foliage may be a seasonal nuisance, but I am not persuaded that for the appeal tree it is so excessive a nuisance that felling is the reasonable remedy. I also accept that foliage may fall in gutters; and that in the absence of the installation of proprietary measures to limit the effects of leaves in gutters that clearing the gutters may require regular work in the season of the shedding of foliage. Even so, I am not persuaded that the management of the gutters is to such an excessive and unreasonable extent that the felling of the appeal tree is warranted on those grounds.
8. I acknowledge that the appeal tree is partly obscured from direct view from the street by other trees and particularly by the birch in the neighbouring property to the north west. However, birch as a species has a life expectancy in this country of some 60-70 years; and dawn redwood well in excess of 100 years. In this respect the dawn redwood is the tree of the future and likely to substantially exceed the life expectancy of the birch. The dawn redwood is likely to become significantly taller than the birch too, which in the longer term will increase its amenity value. I am satisfied that the appeal tree has amenity value now; and that its amenity value is likely to increase as the tree grows and as the birch begins to decline.
9. I have seen no direct evidence relating to roots in drains. While it is possible for tree roots to penetrate drains, they are usually able to do so only where such drains have been poorly laid or have failed e.g. by displacement or cracking. Modern repairs to drains and modern drains are usually free of the risk of penetration by roots. If roots are found in drains an assessment would need to be made about the management of the drains and the tree roots; but I have not seen evidence that helps me to assess such a situation. In the

circumstances I am not satisfied on the evidence that the felling of the tree is warranted on the grounds of roots affecting drains.

10. I note the planting of a cedar in the rear garden, and there appears to be space for this tree to develop as a good specimen. However I do not see the cedar as a replacement for the dawn redwood, which in my view is a specimen in its own right with a good life expectancy and increasing amenity value before it. I am not persuaded that the cedar is a replacement for the dawn redwood so as to warrant the felling of the dawn redwood.
11. I have not seen pressing evidence sufficient to outweigh the amenity value of the appeal dawn redwood tree and warrant its removal and I conclude that in consideration of the circumstances I should dismiss this appeal.

### **Conclusions**

12. I find that the appeal dawn redwood tree has amenity value as a specimen in its own right and as part of the characteristic tree population in the local landscape. I am satisfied that the proposed felling has the potential to have an adverse effect on the local landscape and on the visual amenities of the locality.
13. I find that the grounds for the felling are not supported by the evidence and that the potential adverse effects of the proposed works on amenity outweigh the condition and other circumstances of the tree.
14. I conclude that the proposed felling of the appeal tree is not warranted on the evidence and I therefore dismiss the appeal in respect of the dawn redwood tree.

*Jonathan Fulcher*

**Arboricultural Inspector**