



Appeal Decision

Site visit made on 25 March 2009

by **Jonathan Cocking F.R.E.S., P Dip Arb. (R.F.S.), F Arbor A., M. IOB, C.Biol, MICFor**
 an Arboricultural Inspector appointed by the Secretary of State for Communities and Local Government

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Date: - 1 JUN 2009

Appeal Ref: APP/TPO/N1350/407

Greystones Drive, Darlington, County Durham, DL3 9TN.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent to undertake work to 7 x Lawson Cypress and 2 x Yew trees protected by a Tree Preservation Order.
 - The appeal is made by Susan Mawer against the decision of Darlington Borough Council.
 - The application Ref: 08/00682/TF, dated 13 August 2008, was refused by notice dated 27 October 2008.
 - The work proposed is to fell the appeal trees.
 - The relevant Tree Preservation Order (TPO) is The County Borough of Darlington, Tree Preservation (No.3) Order, 1962, which was confirmed on 5 September 1962. The trees are located within A2 of the order.
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Decision

1. The appeal is dismissed with regards to the removal of the 2 x Yew trees, but the appeal is allowed in respect of the removal 7 x Lawson Cypress.

Preliminary Matters

2. Although a number of documents on file refer to the appeal trees as Leylandii Cypress, it should be noted that the appeal trees are in fact Lawson Cypress.

Main Issues

3. I consider that the main issues in this appeal are:
 - Are the appeal trees in an acceptable condition and do they obstruct the erection of a suitable fence?
 - The amenity value provided by the trees.
 - Does the amount of light blockage to the property cause sufficient nuisance to warrant the removal of the appeal trees?

Reasons

The first issue - Are the appeal trees in an acceptable condition?

4. During my site inspection I noted that the appeal trees were found to be in acceptable condition and all were found to be structurally sound. The trees are growing in a typical form for their species and will continue to grow to a significant size if left unmanaged. Their presence does indeed hinder the
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erection of a fence to some degree although this reason alone would not justify their removal.

5. I have therefore decided on the first issue that the removal of all the appeal trees on these grounds alone has not been justified.

The second issue - The amenity value provided by the trees.

6. The site is well tree'd and maintained to a high standard and contains several blocks of flats within private grounds.
7. The seven relatively young Cypress trees and the two older Yew trees are situated within a dense woodland area and as such their amenity value is some what lessened by the presence of other trees. However, they do offer some amenity value when viewed as a collective part of a larger group. The removal of the appeal trees, whilst not changing the overall appearance of the woodland significantly, would open the woodland up in this area.
8. It is noted that the appellant's neighbour wrote a letter in support of Darlington Borough Council's decision to refuse consent, and that the Planning Application committee's report dated 22 October 2008 recorded a recommendation to grant consent.
9. It is accepted that the Lawson Cypress could be removed without greatly affecting the amenity value of the surrounding area.

The third issue - Does the amount of light blockage to the property cause sufficient nuisance to warrant the removal of the appeal trees?

10. Concerns have been expressed by the appellant that the appeal trees are casting shade to her property. The appeal trees are located to the east of the property and gardens and will cast shade in the morning. However, there are much bigger specimens in the vicinity which will block more light than the appeal trees. It is considered however that the removal of the 7 Lawson Cypress trees would have the effect of allowing more light into the garden.
11. I have therefore decided on the third issue that the removal of the 7 x Lawson Cypress trees would improve the living conditions for the occupiers of 23 Staindrop Crescent with regards to daylight and visual impact, but the removal of the 2 x Yew would have little effect and is not warranted.

Conclusions

12. The appeal trees in general are growing reasonably well, are in good condition and have no faults or weaknesses. As such there are no arboricultural grounds for their removal.
 13. Given their setting and the dense nature of the woodland, the removal of the 7 x Lawson Cypress trees would not be detrimental to the area whereas the 2 x Yew trees have considerable long term value and are set further back into the woodland from the appellant's house.
 14. The 7 x Lawson Cypress appeal trees are responsible for a considerable blockage of morning and residual light and this will get worse as the trees grow. As such their removal would be beneficial, but the removal of the 2 x
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Yew trees would have little effect at this point in time, nor would it in the future as they are set well back and will not grow as large as the Lawson Cypress. The two young Yew trees are more fitting to the woodland setting and have real long term value.

15. I therefore allow the appeal in respect of the 7 x Lawson Cypress and in light of the dense nature of the woodland I am not imposing a replanting condition. I dismiss the appeal in respect of the 2 x Yew trees.

Jonathan P Cocking

Arboricultural Inspector

