



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: - 8 JUN 2009

Appeal Ref: APP/TPO/N1350/401

39 Blackwell, Darlington, DL3 8QT.

- 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 a Yew tree protected by a Tree Preservation Order.
- The appeal is made by Mr Thomas George Oxley against the decision of Darlington Borough Council.
- The application Ref: 08/00^{82c}682/TF, dated 5 October 2008, was refused by notice dated 7 November 2009.
- The work proposed is to fell the appeal tree.
- The relevant Tree Preservation Order (TPO) is The County Borough of Darlington Tree Preservation (No.1) Order 1970, which was confirmed on 4 March 1971.

Decision

1. This appeal is allowed.

Preliminary Matters

2. The site visit was carried out in the presence of Mr Thomas Oxley (Appellant) and David Nelson (Darlington Borough Council).
3. The property is approximately 35 years old.

Main Issues

4. I consider that the main issues in this appeal are:
 - Is the appeal tree causing damage to the front boundary wall, which predates the dwelling and was built in 1848?
 - Does the appeal tree have significant amenity value?

Reasons

The first issue - Is the appeal tree causing damage to the front boundary wall, which predates the dwelling and was built in 1848?

5. The front garden is bordered by an old brick wall with a stone coping at the top, which was built in 1848. The appeal tree is growing with a pronounced lean of the trunk, from its base, in the direction of the brick wall and some of its branches are resting on the top coping stones.
6. As a consequence of this close proximity to the wall, the tree is causing progressive damage to the wall and is likely to eventually knock the wall over. The Council have suggested the possibility of an engineering solution to

the problem although I can see no sensible engineering solution other than removing a section of the wall's top to accommodate the trees progressive lean, which I believe would spoil the wall.

7. There are Leylandii trees to both sides of the appeal which will fill the gap should the appeal tree be removed.
8. I have decided on this first issue that the appeal tree is indeed causing some damage which, whilst being at present relatively minor, will worsen in time.

The second issue - Does the appeal tree have significant amenity value?

9. The appeal tree is located in the front garden of 39 Blackwell and within this garden are approximately 30 other Yews, hedges and other trees. Due to the presence of these other trees, the appeal tree's amenity value is somewhat lessened.
10. I have decided on this second issue that the loss of the appeal tree will not significantly or detrimentally affect the amenity of the area.

Conditions

11. A replacement tree should be planted in the front garden of 39 Blackwell, its position, species and size to be agreed with the Local Authority.

Conclusions

12. The appeal tree has a relatively low amenity value, due to the presence of other trees in the vicinity.
13. The appeal tree is damaging the boundary wall and I do not consider that there is a suitable engineering solution to this problem.
14. I shall therefore allow this appeal.

Jonathan P Cocking

Arboricultural Inspector

Keith Hodgson

From: Gordon, Kevin [Kevin.Gordon@pins.gsi.gov.uk]
Sent: 11 June 2009 08:36
To: Keith Hodgson
Subject: FW: Tree appeal - 39 Blackwell, Darlington

Dear Mr Hodgson,

I apologise for the error, however the reference number has no effect on the decision notice therefore it will not be re issued.

Regards.

Kevin Gordon

Recreation and Environment Appeals Team
Room 4/04,
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
Tel 0117 372 8727

From: Stanmore-Richards, Hazel
Sent: 10 June 2009 12:30
To: Gordon, Kevin
Subject: FW: Tree appeal - 39 Blackwell, Darlington

From: Keith Hodgson [mailto:Keith.Hodgson@darlington.gov.uk]
Sent: 10 June 2009 12:19
To: Environment Appeals
Subject: Tree appeal - 39 Blackwell, Darlington

.ee

Your appeal decision has an incorrect planning reference number. You have quoted 08/00682/TF when it should be 08/00820/TF.

Please advise - will you re-issue the decision notice?

Regards,

Keith Hodgson

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Chief Executive's Department
Darlington Borough Council
Town Hall, Darlington DL1 5QT
Direct Dial No: (01325) 388474
E keith.hodgson@darlington.gov.uk

1/06/2009

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