



Appeal Decision

Site visit made on 12 February 2015.

by **William L Anderson**

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

Decision date: 29 April 2015

Appeal Ref: APP/TPO/N1350/4246

18 Carmel Gardens, Darlington, DL3 8JD.

- 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 Mrs Jo Finney against the decision of Darlington Borough Council.
 - The application Ref: 14/00699/TF, dated 14 July 2014, was refused by notice dated 11 September 2014.
 - The proposed work is the removal of one Silver Birch tree.
 - The relevant Tree Preservation Order (TPO) is Tree Preservation Order (No 7) 2009-10-29, which was confirmed on 27 January 2010.
-

Decision

1. I allow the appeal and grant consent to remove the Silver Birch tree T1 protected by Tree Preservation Order (no 7) 2009-10-29, in accordance with the terms of the application Ref: 14/00699/TF dated 14 July 2014, subject to the following conditions:
 - 1) A scheme for the for the planting and maintenance of one replacement tree, minimum size 8-10cms girth (measured at 1 metre above soil level), shall be submitted to, and approved in writing by the local planning authority; these works shall be carried out as approved. These details shall include the position of planting and a maintenance programme. The works shall be carried out in the first available planting season (November to March) following the removal of T1. The replacement tree shall be a species to be agreed in writing by the local planning authority.
 - 2) If within a period of five years from the date of the planting of that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously

damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.

Main Issues

2. I consider the main issues in this appeal are the tree's contribution to the character of the neighbourhood and whether the reasons given for its removal justify that course of action.

Reasons

Character of the area.

3. Carmel Gardens is a residential road with a football pitch-sized public open space in its centre. It is not in a conservation area although the property's rear garden adjoins a neighbouring conservation area. While Carmel Gardens is a thoroughway it appears to be something of a backwater, probably used only by residents and their visitors. The open space is given over mainly to grass although there is a substantial Poplar tree growing somewhat off-centre. There are other trees within the open space; well-established albeit not as large as the Poplar. There is one newly planted tree in the open space, more or less outside No 18.
4. The appeal property and all the neighbouring ones are of a similar style, presumably developed at roughly the same time. While the appellant's house and some neighbouring ones have clearly been modified since their original construction, most of the alterations appear in keeping with the original designs. This gives the neighbourhood a certain measure of uniformity that is not unattractive.
5. If there was ever any similarly uniform landscape in the area there is now no sign of it. While a couple of nearby gardens have Silver Birch trees there are also Ornamental Cherries, dwarf conifers and other species that are typical for a residential area.
6. I noted that the area has a backdrop of much larger trees to the north and to the west, which appear to be growing in the grounds of the Darlington Crematorium and a local school. For these reasons and on balance I consider the removal of the Silver Birch, which is neither prominent nor an essential part of the neighbourhood's character, would result in minimal harm to the character and appearance of the neighbourhood.

Damage to the drains and driveway.

7. The driveway is quite clearly being disturbed by the roots of the tree. Silver Birch are known to often disturb lawns with surface roots and disturbed block paving on driveways such as this is also fairly common. The appellant states that it is hard to imagine an engineering solution to this problem. I agree with this appraisal and give significant weight to this factor.

8. I have also taken into account the submission that the drains have been lined on account of root damage. I am unable to corroborate this damage although I noted that there is an inspection chamber adjacent to the base of the tree. While I am unable to comment on the drains themselves it is self-evident that the tree is likely to distort this chamber. It is hard to imagine this damage being corrected without causing significant root damage and this carries significant weight in favour of the appeal.
9. In coming to that view I have considered the Council's suggestion that a report from a Structural Engineer would be required to confirm that the tree was affecting the drains or driveway. In this instance the tree is so close to both the driveway and the inspection chamber that the possibility of the tree affecting them is self-evident and a report to the effect would be overly onerous; an unnecessary expense.

Conclusions

10. Local planning policy seeks to retain healthy trees and in the normal course of events there would be a presumption against the removal of a healthy protected tree. In this case I consider that the tree has insufficient significance in the area for this to outweigh the problems and expense of repairs to the drainage system and the driveway.
11. In the interests of maintaining the character and appearance of the area I will impose two conditions to ensure a replacement tree is planted and maintained. The Council's suggestion that the works be carried out to BS3998 (2010) *Tree Work Recommendations* is not necessary as the tree is being removed. A condition to secure the replacement tree within the TPO is not the correct mechanism for doing so.
12. For these reasons the appeal will be allowed.

William L Anderson.

Arboricultural Inspector.

