



Appeal Decision

Site visit made on 4 October 2016

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 01 November 2016

Appeal Ref: APP/TPO/N1350/5356

Flat 1, Polam House, 2 Blackwell Lane, Darlington, Co. Durham DL3 8QD

- 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 Miss Susan Lay against the decision of Darlington Borough Council.
 - The application Ref: 15/00940/TF, dated 28 September 2015, was refused by notice dated 1 June 2016.
 - The work proposed is fell 1 x Ash tree.
 - The relevant Tree Preservation Order (TPO) is Darlington Borough Council Tree Preservation Order No 3 2004 (Polam House, 2 Blackwell Road, Darlington) (T1), which was confirmed on 11 February 2004
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the impact of the proposed felling of the ash tree on the character and appearance of the West End Conservation Area (CA), and whether sufficient justification has been demonstrated to warrant its removal.

Reasons

3. The appeal tree is an ash of medium size and with a well-shaped, balanced canopy situated in the narrow front garden of 2 Blackwell Lane (No 2), a three storey period end terrace. Although it is probably self-seeded, it is fairly prominent in the street scene when viewed from both Blackwell Lane and Grange Road, and affords an appreciable degree of public visual amenity. It also contributes to the verdant character of the CA and its loss would be to the detriment of the character and appearance of the aforementioned CA. I give this moderate weight. Accordingly, any reasons given to justify its removal need to be convincing. It is to those reasons, the second main issue, to which I now turn.
4. The application was accompanied by a building surveyor's report¹ and a brief statement from an arborist². It is notable that the surveyor's report specifically identifies the ash as causing damage to the freestanding walls and detached

¹ Harrison and Johnson, 9 September 2015

² Will Holstein, 27 July 2014

garage, but does not identify it as the cause of damage to the dwelling. A further letter from the surveyor³ considers engineering solutions that might be considered as an alternative to felling the tree, but fails to identify the ash as the cause of specific structural faults in the dwelling. For clarity, I have also split my reasoning between the main dwelling and the external structures.

5. There is an intermittent line of horizontal brick displacement running up the side of the dwelling some 400 – 500mm behind the return of the front elevation's facing brickwork. This is most pronounced at height, particularly above the level of a stone gutter, stone frieze panel and brick corbelling. Although the surveyor's report states that it appears that the front elevation has settled relative to the main gable, I noticed no evidence of displacement or cracking at, or immediately above, ground level on this side elevation.
6. A proportion of brickwork on the dwelling's side chimney stack is eroded, with some bricks missing altogether. In addition, there is grass growing in a section of the front gutter and a leaking soil vent pipe (SVP) on the side elevation. These observations lead me to conclude that the chimney stack and gutter may not be watertight; if the gutter is blocked by debris and vegetation, rainwater will overflow into the roof space. There is also a patch of saturated brickwork some 6 courses high adjacent to the leaking SVP and although it was a dry day, the adjacent paving was wet.
7. There are capillary roots entering the brickwork of the cellar's vaulted roof at a point which approximates to the position of the leaking SVP and damp brickwork outside. Although I had only a flashlight, I did not notice any cracking in the walls or roof of the cellar. The presence of roots is noted in the surveyor's report, but they are not recorded as causing damage and there is no evidence of root identification having been undertaken.
8. There is also a light well between the appeal tree and the dwelling's front elevation; this would provide at least a partial obstruction for the appeal tree's roots were they growing in the direction of No 2. I also noted there appeared to be both ash and birch trees on the boundary between No 2 and 4 Blackwell Lane. Some of these trees appeared to be as close to No 2 and its cellar as the appeal tree, and are not separated from it by a light well. As such, the evidence before me does not indicate that it is necessarily the appeal tree's roots visible in the cellar; in any case, tree roots will follow a line of least resistance, especially where there are consistent sources of moisture which, as noted above, appears to be the case here.
9. Furthermore, were the tree roots to be the cause of the evident structural fault in the side elevation of No 2, I would have expected to see evidence of movement in the walls and roof of the cellar, as well as cracks or displacement at ground level externally. There was no such evidence and nor did I notice significant cracking or movement on the concrete path between the ash and the light well. As such, I am not persuaded that the appeal tree is causing structural damage to the dwelling. Moreover, as outlined above, it appears likely there is water ingress into the dwelling, which in itself may lead to the loss of integrity of structural elements.
10. With regard to the external structures, there are freestanding walls immediately adjacent to the tree which exhibit minor cracking. The tree is also

³ Harrison and Johnson, 7 January 2016

adjacent to a low retaining wall with stone coping at the rear of the footway, whose bricks and copings have been displaced. Although there is no evidence before me of crack monitoring or cyclical movement, given the proximity of the ash's trunk to these walls I conclude that this movement is directly attributable to the growth of the tree. There is also some minor displacement of paving slabs on the footway.

11. A few metres away there is stepped cracking in the brickwork forming the rear wall of a garage, adjacent to and just below, an integral brick arch linking the garage wall to the side elevation of the dwelling. These cracks are about 4 - 5 mm wide and indicate movement towards the area of the leaking SVP and the displacement of the dwelling's front elevation. The evidence before me does not demonstrate that the appeal tree is the cause of this movement.
12. A brief report has been provided by an arborist which states that the tree is causing subsidence to the property wall and public footpath. It is unclear which wall is being referred to, but no further evidence is provided and the report does not alter my conclusions. Although the application form states that the tree is damaged or diseased, this statement is not supported by the arborist's report.
13. The appellant has also stated that an overhanging branch has recently been knocked by a vehicle. However, maintaining sufficient clearance to enable the passage of traffic, or indeed maintaining light levels for nearby windows could be achieved by other means and these do not appear to have been considered. I appreciate that the appellant has suggested replacement of the ash with a smaller species, but this would not provide sufficient mitigation for the loss of a healthy and significant amenity tree, unless there were compelling reasons for its removal.
14. Consequently, whilst I appreciate that engineering solutions to remedy the defects to the dwelling are expensive, the evidence before me does not demonstrate that the appeal tree is the cause of those defects or that causes other than the proximity of the ash have been investigated or eliminated. With regard to the freestanding walls, the trunk and root collar will increase in girth as the tree grows and will continue to exert pressure on adjacent structures. However the damage caused thus far will not be undone by the felling of the tree, and although I appreciate that it is likely the ash tree has caused the minor damage that I observed, other arboricultural options to control the tree's future growth do not appear to have been considered. I also noted on my visit that minor cracking in brickwork is not uncommon in nearby boundary walls, and I am also mindful that this is a former mining area where there may still be some underground movement.
15. I appreciate that the ash is the cause of minor damage to freestanding walls in No 2's garden. However, I am not persuaded that the harm so identified is sufficient to outweigh the harm to the character and appearance of the CA, were the tree to be felled, particularly when there are alternatives available to control future growth. On that basis, there is insufficient evidence to warrant felling of the tree and I consider that the appeal should be dismissed.

Amanda Blicq

INSPECTOR