
Appeal Decision

Site visit made on 4 January 2017

by **Alwyn B Nixon BSc MRTPI**

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

Decision date: 09 February 2017

Appeal Ref: APP/TPO/N1350/5433 6 Westkirk Close, Darlington DL3 0TF

- 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 trees protected by a Tree Preservation Order.
 - The appeal is made by Mrs Stacey Flinn-Scholfield against the decision of Darlington Borough Council.
 - The application Ref: 16/00576/TF, dated 25 May 2016, was refused by notice dated 1 August 2016.
 - The work proposed is prune back overhanging branches and crown lift one Sycamore.
 - The relevant Tree Preservation Order (TPO) is the Borough of Darlington Tree Preservation (No. 12) Order, 1985, which was confirmed on 26 March 1986.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original application sought permission to carry out works to 2 sycamore trees located within the rear garden area of 6 Westkirk Close, which lies behind the appellant's house. Permission was refused in respect of the works sought to both trees; However, the appellant now states that she only seeks to pursue an appeal in respect of the decision concerning the tree immediately behind her property (referred to as T1 in the application and subsequent documentation), as she does not consider her living conditions to be affected by the other tree (referred to as T2). I have therefore considered the appeal on this basis.
3. Although the appellant and the Council refer in their submissions to the sycamore tree in question as tree T1, it is actually identified in the First Schedule to the TPO and on the accompanying Map as tree T6 Sycamore (T1 is identified in the TPO as a Silver Birch in a location unrelated to the appeal site).

Main Issue

4. The main issue in relation to the appeal is whether the work proposed to the tree is justified, having regard to the contribution which it makes to public amenity and the reasons put forward for the work.

Reasons

5. The TPO covers an area formerly comprising playing fields and now developed for housing. The tree stands within the garden of 6 Westkirk Close, close by the rear garden boundary of the appellant's property. The tree is a mature
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sycamore. Whilst it does not occupy a prominent position in the street scene, it forms part of the tree cover providing a pleasant setting to the dwellings and residential environment in this location, and is also visible from the main West Auckland Road entering Darlington from the north-west. It makes a positive contribution to public amenity.

6. The application sought consent to prune back branches overhanging the garden of 21 Duxford Grove and to crown lift to allow more light. The tree is currently of reasonable structural form and condition, and there is no reason related to ensuring the health and well-being of the tree for such works to be carried out. Crown lifting as proposed, whether only on the side facing 21 Duxford Grove or alternatively on all sides in order to maintain an even appearance, would adversely affect the overall appearance and form of the tree.
7. The tree is located on the southerly side of the garden, and its proximity to the boundary of 21 Duxford Grove is such that there will be some shading of the garden area when the tree is in leaf. However, due to the time of year it was not possible to gauge accurately the extent of overshadowing or loss of light caused when the tree is in leaf, and no documentary evidence has been submitted which demonstrates that the tree is significantly harming living conditions at the Appellant's property. Whilst some branches slightly oversail the curtilage of 21 Duxford Grove, there is insufficient basis to conclude, on the evidence before me, that the tree in its existing form is presently unduly compromising residential amenity.
8. The Appellant states that wasp nests within the tree have been a problem. At the time of my inspection there was no evidence of such activity, although this is unsurprising given the time of year. Whilst I accept that a nest or nests may previously have been present in the tree, there is nothing to indicate that a recurrence of this problem in future years is likely. With the exception of overwintering queens, wasps do not hibernate and the same site (particularly in the case of a nest located within a tree that has subsequently been removed) would not be used habitually from one year to the next. Neither crown lifting nor trimming back of branches overhanging the garden is likely to materially affect this issue.
9. Sycamores can attain a considerable size, and may not always be easily accommodated within a residential setting. I recognise that in some circumstances proactive tree management works may be necessary, in order to achieve an appropriate balance between safeguarding a tree's contribution to public amenity and maintaining adequate living conditions for the occupiers of nearby dwellings. I do not rule out the possibility that such an approach may at some point be necessary here. Nonetheless, on the evidence before me I am unable to conclude that such a point has been reached, such as to justify the works currently proposed.
10. For the reasons given, and having taken into account all matters raised, the appeal does not succeed.

Alwyn B Nixon

Inspector