



Appeal Decision

Site visit made on 11 June 2020

by E Symmons BSc (Hons) MSc MArborA

an Inspector appointed by the Secretary of State

Decision date: 01/07/2020

Appeal Ref: APP/TPO/N1350/7525

7 Friary Cottage, Church Lane, Middleton-St-George, Darlington, Durham DL21 1DD

- 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 Lisa Bentley against the decision of Darlington Borough Council.
 - The application Ref: 19/00351, dated 9 April 2019, was refused by notice dated 24 June 2019.
 - The work proposed is to pollard three yew (no's 1-3) by approximately 5-6 metres and fell one conifer (no 4).
 - The relevant Tree Preservation Order (TPO) is Darlington Borough Council Tree Preservation Order No.5 2010 (within the grounds of 7 & 8 Church Lane, Middleton St George, Darlington), which was confirmed on 1 July 2010.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original application sought permission to fell a conifer tree and pollard three yew trees. The conifer has not formed part of the Council's decision or the appellant's appeal. My deliberations are therefore focussed on the three yew trees.

Main Issues

3. The main issues are the effect of pollarding three yew trees on the character and appearance of Middleton-One-Row Conservation Area, and whether the reasons given for the work justify that course of action.

Reasons

Character and appearance

4. The appeal site is within Middleton-One-Row Conservation Area (CA). This period residential property is typical of others in the vicinity comprising large residential dwellings in substantial plots. The property is surrounded by mature and statuesque trees with a mixture and variety of both coniferous and deciduous species. This creates a rich sylvan setting to the property and is an integral part of the character of this part of the CA.

5. Amongst the trees to the front of the property are the three yew trees. These trees can be seen from Church Lane and although they have been subject to poor pruning in the past, they have recovered well and are an integral part of the mature tree cover in the front garden. Their presence adds considerably to the character and setting of the property and of the CA in general and they will be of particular value in the winter months when the deciduous trees lose their leaves. Pollarding these trees by removal of the top 5-6 metres would remove a large part of their canopies, damage their shape and form and have a detrimental effect upon their appearance. This in turn would harm the character and appearance of the CA. Consequently, any arguments to prune the trees must be convincing. It is to this justification which I now turn.

Justification

6. A series of photographs have been submitted in support of this appeal. Photograph No 1 shows a large branch which is stated to have recently come off one of the yew trees, but it is not clear which of the trees the photograph is showing. During my site visit I did see one large branch snagged within the canopy of tree 1, but otherwise, there was not a large amount of dead wood within the tree canopies. Branches die from time to time for a variety of reasons and no arboricultural evidence has been provided regarding the cause of this branch failure or whether there are structural features present on any of the trees in the group which give cause for concern. Generally, regular removal of dead wood, which does not require permission, ensures that this does not pose a threat.
7. Photograph No 2 is titled 'badly maintained tree' but no detail has been included defining the issues of concern. Although the tree has been crown-raised in the past with large limbs removed, it makes a positive contribution to the group within the garden and CA. Pollarding the tree will not improve its appearance and may compromise its future health and vitality.
8. The Council's arborist has made an inspection of the trees and considers the them to have reasonable form and condition and no substantive arboricultural evidence to the contrary has been submitted. During my site visit I did notice that soil levels around tree No 3 have recently been altered with roots exposed, cut and damaged. It is not clear when this took place but at the time of my site visit, the tree did not appear to be in decline. Other than this, the condition of the trees appeared good. Regarding the form of the trees, this reflects previous pruning, but they still retain good visual amenity value within the CA.
9. Photographs No 3 and 4 show examples of other conifers which have been 'topped' and severely reduced. No supporting information has been provided regarding where these trees grow, or the reasons behind their pruning. It is suggested that these images provide an example of how the trees may recover from having a 5-6m height reduction. However, the trees shown in the photographs no longer have a natural form and shape and rather than persuading me that similar pruning would benefit the yew trees', these photographs demonstrate that topping conifers is detrimental to their visual amenity value.
10. I have also considered issues of general nuisance associated with the trees including fouling to the driveway/cars by pigeon droppings and blockage of guttering by debris resulting in water damage to the property. I have no doubt that bird droppings and debris from the trees fall on cars and surfaces and this

may create a maintenance inconvenience, including the need to clean more frequently. It is also likely that even if these trees were pollarded, the issue of bird droppings from roosting birds would remain. From my experience, barriers such as canopies can be constructed to protect cars from debris and bird droppings. Installation of gutter or drain leaf-guard covers can alleviate problems associated with blockage from leaf drop. These problems are natural phenomena which go hand in hand with living in an area which is defined by mature trees and which provide an attractive place to live.

11. The pollarding of these trees would be at odds with Saved Policy E13 of the Borough of Darlington Local Plan 1997 which requires the condition and visual amenity value of TPO trees to be considered within determination of TPO applications. It would also conflict with Policy CS15 of the Darlington Core Strategy Development Plan Document 2011 which seeks to protect mature trees and biodiversity.
12. Furthermore, the lack of substantive evidence to demonstrate that these trees are unsafe or in poor condition provide inadequate justification for their pollarding.

Conclusion

13. With any application to prune protected trees, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss to the visual amenity of the area. Pollarding these trees would harm the character and appearance of the CA. Insufficient justification for this course of action has been demonstrated.
14. For the reasons stated above, the appeal is dismissed.

E Symmons

INSPECTOR