



Appeal Decision

Site visit made on 19 April 2021

by Simon McGinnety MSc BSc (hons) M.Arbor.A

An Inspector appointed by the Secretary of State

Decision date: 13 May 2021

Appeal Ref: APP/TPO/N1350/8123

1 Cedar Grove, Middleton-St-George, Darlington, Durham DL2 1GA

- 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 (TPO).
 - The appeal is made by Mr Mark Stratford against the decision of Darlington Borough Council.
 - The application Ref: 20/00578/TF, dated 10 July 2020 was refused by notice dated 11 September 2020.
 - The work proposed is: Horse chestnut - pruning to part of the west facing crown; pruning to lower branches as indicated on attached information.
 - The relevant TPO is The Borough of Darlington Tree Preservation (No. 7) Order 1980 Middleton Lane, Middleton St. George, which was confirmed on 22 April 1981.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The description of the proposed works in the banner heading above refers to 'attached information'. This is in the form of a photograph of the tree showing the location of proposed pruning works. I have considered the appeal having regard to this.
3. The Council's decision notice cites conflict with policies of the development plan. However, the development plan is not decisive in TPO appeals and, as such, I have not considered this matter further.

Main issues

4. The main issues are: the effect of the proposed tree works on the character and appearance of the Middleton One Row Conservation Area (MORCA); and whether sufficient justification has been demonstrated for the proposed works.

Reasons

Character and appearance

5. The tree, a large and mature specimen, is growing along the front boundary of the front garden of 1 Cedar Grove, a contemporary dwelling which fronts onto Middleton Lane. No 1 is located within the MORCA. The tree is one of a group of trees growing along the front boundary of this property and the front boundary of the adjacent property, 61 Middleton Lane. The tree is visible from public

vantage points along both Cedar Grove and Middleton Lane. It appears to be in good condition with an attractive shape and form and is a prominent feature of the street scene. This is notwithstanding that tree appears to have been subject to some minor pruning works in the past, is somewhat suppressed by neighbouring trees and has a crown bias over the front garden of No 1 as a result. There are numerous other trees growing in the locality, many of which are mature. These, along with the appeal tree, afford the MORCA a verdant and mature landscape quality and contribute positively to its character and appearance.

6. The pruning works would reduce the canopy size of the tree by a marked degree. This would have an adverse impact on the attractive shape and form of the tree and the visual amenity it provides. In addition, whilst the markings on the photograph are a useful indication of the proposed works, this alone, without a detailed written specification of works, is of insufficient clarity, in my view, to ensure that any qualified arborist would be able to determine the precise extent and position of the cuts. Accordingly, the proposed works would give rise to considerable harm to the character and appearance of the MORCA. Given that, any reasons given to justify the proposed works need to be convincing. It is to those reasons, the second main issue, to which I now turn.

Justification for the proposed works

7. The appellant puts forward that the tree is starting to reduce the amount of light to the front of the house and that it is too large for its position. It is unclear to me whether the concern is in respect of sunlight or daylight. However, the tree maintains a generous distance from the house and is thus unlikely to have a harmful effect on the level of daylight reaching the front windows of the property. Given its location broadly to the east of the house and having regard to the east to west path of the sun, any shading caused by the tree is likely to be limited to morning hours only and, given this, in combination with the distance of the tree from the house, not to an unacceptable degree. Moreover, the pruning of lateral growth only would be unlikely to have a material impact on shading levels. Furthermore, it is not uncommon, in leafy residential areas, for large trees to cause some shading impacts to property. Given these factors, I do not consider that the tree has a detrimental impact on light levels to the front of the appellant's house and is not of an excessive size for its position.
8. The appellant refers to a recent consent¹ to lift the crown of the tree on the side of No 61 to 3 metres. Nonetheless, the full details of this consent have not been provided and the work consented under that application is not helpfully comparable to the greater extent of works under consideration in this appeal. In addition, each case should be considered on its own merits.

Conclusion

9. With any application for works to a protected tree, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case, the proposed works would result in considerable harm to the character and appearance of the MORCA and, in my judgement, insufficient justification has been demonstrated for the proposed works.

¹ Cited as Council Ref: 20/00205/TF

10. Accordingly, for the reasons set out above and having considered all matters raised, I conclude that the appeal should be dismissed.

Simon McGinnety

INSPECTOR