



Appeal Decision

Site visit made on 12 April 2022

by **Richard McCoy BSc MSc DipTP MRTPI IHBC**

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

Decision date: 03 May 2022

Appeal Ref: APP/TPO/N1350/8562

River View, Dinsdale Spa House, Church Lane, Middleton St George, Darlington DL2 1DJ

- 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 Mr George Murray, Dinsdale Spa Management Ltd against the decision of Darlington Borough Council.
 - The application Ref: 21/00303/T, dated 10 March 2021, was refused by notice dated 30 April 2021.
 - The work proposed is trim and remove dead branches and reduce crown up to 2 metres.
 - The relevant Tree Preservation Order (TPO) is No. 11 2019 (adjacent to The Lodge, Dinsdale Spa House, Church Lane, Middleton St George, Darlington), which was confirmed on 10 December 2019.
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Decision

1. I dismiss the appeal.

Main Issues

2. The main issues are the effect of the proposed crown reduction on the visual amenity of the surrounding area and whether the reasons given for the works to the tree justify that course of action.

Reasons

The First Issue - Character and appearance

3. The mature Willow, identified as T1 in the TPO, stands on the riverbank, next to Dinsdale Spa House. The Willow has a large crown spread which covers a seating area, belonging to the Octagon, a dwelling within Dinsdale Spa House, and part of the adjacent parking area and riverbank footpath. While the tree displays a large split limb, it appeared to be in good health and vigour, and there is nothing before me, or that I saw on site, to indicate that the tree is suffering from any decay or disease that would foreshorten its long-life expectancy.
4. The tree's riverside location gives it significant public amenity value as it is prominently seen, particularly from the nearby public footpath on the bank of the river. Its attractive form and riparian setting result in the tree making a significant contribution to the character and appearance of the area. It is an

integral part of the historic landscape setting of the area, contributing an important element of its skyline.

5. I note the appellant's argument that the amount of crown to be removed has been reduced from 4 to 2 metres under this proposal and that he would accept a reduction of "up to 1 metre". Nevertheless, under the proposal of this appeal, the extent of the proposed crown reduction would, in my judgement, be likely to disfigure the Willow by causing it to lose its natural well-balanced shape. The proposed works would detract from the tree's attractive profile and would reduce the amount of foliage cover, to the detriment of the area's wider amenity. In which case, the proposed works to the tree would reduce the significant contribution the tree makes to the visual amenity of the area, resulting in significant harm to the character and appearance of the area.

The second issue – the justification for the proposed works to the tree

6. The appellant claims that the works are necessary to reduce the radius of the overhanging lowest branches which encroach over the Octagon seating area, car parking area and public footpath, and to prevent risk of damage to telephone wires. I observed that the seating area decking has been erected directly beneath the tree and the car parking is also partly within its crown spread. Within such an area it would be reasonable to expect a tree such as a Willow to have branches which sweep downwards.
7. Moreover, while covering the seating and parking areas, and part of the footpath, it did not appear that the lower branches of the tree were impinging to such an extent that the intended use of these areas was being prevented, or that members of the public were endangered by the tree when using the footpath. Furthermore, the removal of any deadwood from the tree would reduce the likelihood of danger from branch shedding. In terms of the specific branches identified for pruning, there is nothing before me by way of an assessment from a suitably qualified person such as an arboriculturist, to demonstrate that these branches require cutting back as they pose an imminent danger to those using the footpath.
8. Consequently, I am unable to conclude that the tree is harming the living conditions of the occupiers of the dwellings at Dinsdale Spa House, or is posing a danger to users of the footpath, in such a way that can only be remedied by the reduction of its crown.

Conclusion

9. The Willow makes a significant contribution to the visual amenity of the area. It has not been demonstrated that crown reduction is necessary in the interests of safeguarding the living conditions of local residents. Accordingly, the works would be contrary to saved policy E13 of the adopted Borough of Darlington Local Plan which seeks to ensure that works to protected trees consider their public amenity value.

For the reasons given above, I conclude that the proposed works would not be justified.

Richard McCoy

INSPECTOR