The Planning Inspectorate

Appeal Decision

Site visit made on 12 July 2022

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/TPO/N1350/8910
20 Freville Grove, Darlington DL3 9QN

- 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 Tim Paver against the decision of Darlington Borough Council.
- The application Ref:21/01208/TF dated 20 October 2021 was refused by notice dated 25 November 2021.
- The work proposed is: Oak Tree prune back overhanging branches.
- The relevant Tree Preservation Order (TPO) is Tree Preservation (No.1) Order 1951 and Variation Order No 1 2012 which were confirmed on 6 September 1951 and 6 March 2012 respectively.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council formally adopted the Darlington Borough Local Plan 2016-2036 (February 2022) (DLP) during the appeal process. Both main parties have had the opportunity to comment on the implications of the relevant policies in the DLP for the appeal. Nevertheless, while I have taken account of the policies that the Council considers to be relevant in the DLP, in accordance with the Planning Practice Guidance, these have not been decisive in my determination of this appeal.

Main Issues

3. The main issues are the effect of the proposed pruning works on the character and appearance of the area and whether sufficient justification for the works has been demonstrated.

Reasons

4. The mature oak tree is adjacent to the side boundary of 20 Freville Grove (No 20) at the entrance to an open space that provides footpath access between Freville Grove and Fulthorpe Avenue. It is the most prominent tree of those within the open space when viewed from Freville Grove.

5. The oak tree crown appears balanced and well-structured, and the form of the tree is particularly attractive in its setting. It is a distinctive feature at the head of the Freville Grove cul-de-sac that makes a significant contribution to the character and appearance of the area.

6. The appellant indicates that the pruning of the oak tree is required to provide clearance of the drive and house roof. The application form refers to pruning back overhanging branches. The Council refers to raising the crown of the tree to 6 metres, but the appellant states on the appeal form that it is not proposed to raise the crown but to remove part of a branch. In other correspondence reference is made to the need to shorten two branches by 3 to 4 metres and it is suggested by the appellant that it may be necessary to prune other branches for the appearance of the tree.

7. Even though the extent of the pruning work is not clear, in its highly prominent location, pruning works to the side of the oak tree adjacent to No 20 would notably change its balanced and attractive crown form. As a consequence, the contribution the tree makes to the street scene would be diminished. Therefore, any justification for pruning works must be convincing.

Justification

8. The oak tree appears to be sound and healthy, and no substantive evidence has been submitted that indicates pruning works are necessary for the health of the tree. Further, the application form states that the proposed works are not required because of the condition of the tree or because of damage to property.

9. I acknowledge the appellant's concern about sap and leaf fall, nevertheless, issues with falling debris are not unusual and whilst this may create a maintenance inconvenience, it also goes hand-in-hand with living in an area which is defined by a mature landscape, and which provides an attractive place to live and work. Further, such matters are likely to be seasonal, there are areas of the drive that are outside the canopy of the tree and there is also the possibility that car covers to protect paint work could be used at certain times.

10. I observed at my site visit that tree branches are growing towards the house, and I appreciate that some limited pruning work may be required at some point to allow clearance of the roof. However, extensive, or poorly conceived pruning works involving several cuts may become the entry point for disease and decay and can lead to the decline of the tree. Therefore, any proposed pruning work should be clearly specified.

11. In addition, as the appellant does not own the tree, any consented pruning may be difficult to implement on land outside the appellant's ownership. In this situation, it is essential that there is sufficient information to ensure that appropriate pruning is well planned and can be properly executed without damage or disfigurement to the tree.

12. Whilst I acknowledge that some pruning of the tree was undertaken 2 years ago, previous work is not a reason to undertake further pruning. Also, it appears, from the limited evidence before me, that the previous work was carried out with the owner's consent.

13. Although not determinative, the Council cites conflict with Policy ENV4 of the DLP which amongst other matters seeks to enhance visual amenity, biodiversity, and landscape. I find that the pruning work would conflict with this policy because the removal of branches from one side of the tree would result in harm to its overall attractive crown form.

Conclusion

14. With any application to carry out works to 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 amenity of the area otherwise the outcome would be a gradual erosion of the character and appearance of that area.

15. In this case, although the extent of the work is not clear, any pruning of this important tree would result in at least moderate harm to the character and appearance of the area. In my judgement, insufficient reason and information has been provided to justify such work.

16. Therefore, for the reasons given above, the appeal is dismissed.

Diane Cragg

INSPECTOR