



# Appeal Decision

Site visit made on 29 August 2024

**by I Radcliffe BSc(Hons) MRTPI MCIEH DMS**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 September 2024**

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## **Appeal Ref: APP/TPO/N1350/9261**

### **Garden Cottage, Low Middleton, Middleton St George, Darlington, DL2 1AX**

- 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 Mrs L Brunton against the decision of Darlington Borough Council.
  - The application Ref: 22/00575/TF, dated 25 May 2022, was refused by notice dated 6 July 2022.
  - The work proposed to an ash is to prune back branches to clear the house and telephone wires.
  - The relevant Tree Preservation Order is the Borough of Darlington Council Tree Preservation (No.4) Order Low Middleton Hall, Middleton One Row which was confirmed on 13 June 1986.
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## **Decision**

1. The appeal is dismissed.

## **Preliminary matters**

2. The application gave reasons for wanting to carry out work to the protected ash but did not state the extent of pruning that was proposed. The Council dealt with the application on the basis that it sought to prune back branches close to the house and overhead telephone wires. As the appellant's grounds of appeal confirms the Council's interpretation, I have dealt with the appeal on the same basis.
3. This appeal has been dealt with by way of the fast track written representations procedure. As explained in section F of the appeal form, this means that the appeal is determined on the basis of only those matters that were before the local authority when the decision on the application was made. As a result, reference introduced at appeal stage to concern regarding the danger of injury from falling branches has not been taken into account in the determination of this appeal.

## **Main Issues**

4. The main issues in this appeal are:
  - the amenity value of the ash and the likely effect of the proposed works; and,
  - whether sufficient justification has been provided for the proposed works.

## Reasons

5. The ash is located within the front garden of Garden Cottage close to the entrance and house. It is a tall, mature specimen that appears to be in good health with little deadwood present. Rather than a fuller, domed canopy that is typical of the species, extensive pruning has resulted in the tree having a raised, vase like canopy. Nevertheless, as the first tree encountered within the grounds of a dwelling on the approach to Low Middleton from the north it is highly visible. With the tall boundary wall and garage partially screening the less impressive lower part of the tree from view, it is a tree of significant amenity value that contributes to the mature verdant landscaping in the vicinity of Low Middleton Hall.
6. The application seeks to prune back the tree away from the house and clear of telephone wires. However, the outer edge of the tree's canopy is clear of the house by approximately 2m and the telephone wires pass beneath the canopy of the tree with good clearance. As a result, the tree is not causing problems in relation to its proximity to the house and telephone wires. Any pruning to materially increase the gap between the tree and the dwelling and telephone lines would alter the form of the tree to the detriment of its visual amenity.
7. With any application to carry out works to a protected tree, a balancing exercise needs to be undertaken. The justification for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case, the proposed tree works would have a material adverse effect on the appearance of the tree and the points put forward to justify the proposed pruning do not outweigh the harm that would be caused. Accordingly, I therefore conclude that the appeal should be dismissed.

*Ian Radcliffe*

Inspector