



Appeal Decision

Site visit made on 26 July 2016

by **Alex Hutson MATP CMLI MARborA**

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

Decision date: 11 August 2016

Appeal Ref: APP/TPO/V2255/5023

Aldwick, The Street, Borden, Sittingbourne, Kent ME9 8JH

- 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 Douglas Platt against the decision of Swale Borough Council.
- The application Ref: 15/508174/TPO, dated 7 October 2015, was refused by notice dated 27 November 2015.
- The work proposed is to fell one sycamore.
- The relevant Tree Preservation Order (TPO) is Swale Borough Council (Aldwick The Street Borden) Tree Preservation Order 1992 (1) which was confirmed on 21 April 1992.

Decision

1. The appeal is dismissed.

Main issues

2. The main issues in this case are the impact of the removal of the sycamore on the character and appearance of the area and whether sufficient justification has been demonstrated for the proposed felling

Reasons

3. Turning to the first issue, the tree, a large and mature multi-stemmed specimen, is located along the rear boundary of the rear garden of Aldwick, a single storey dwelling. It is visible from public vantage points along The Street and Borden Lane over the top of and through gaps between single storey dwellings along these roads. It is also visible from public vantage points along Mountview, where it forms an attractive backdrop to the two storey terraced dwellings of 96, 97, 98 and 99 Mountview. There are a large number of trees, many mature, in the locality, including another mature sycamore growing in the rear garden of Aldwick that is also covered by a TPO. The tree therefore makes a significant contribution to the mature and verdant landscape of the locality.
4. Thus, the loss of the tree would result in considerable harm to the character and appearance of the area. Given that, any reasons given to justify the removal of the tree need to be convincing. It is to those reasons, the second main issue, to which I now turn.
5. The appellant considers that the tree is causing damage to a footpath that provides access to the rear of Nos 96, 97, 98 and 99 Mountview and that the

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only way of remediating the damage is to remove the tree. The appellant has set out that the request for him to remove the tree originally came from the occupier of No 98.

6. I observed that the roots of the tree are lifting some of the flagstones nearest to the base of the tree along the footpath that extends along the rear boundaries of Nos 96, 97, 98 and 99. The roots are substantial in size given that they are structural roots. I would concur with the appellant that it would not be feasible to sever these roots given the harmful effect this would have on the health and structural integrity of the tree. The Council also acknowledges that severing the roots would harm the tree.
7. Nevertheless, the damage to the footpath is localised and only affects a very short part of the overall length of the footpath. Moreover, the damage is not so extreme as to completely obstruct access along this footpath. In addition, the main access to Nos 96, 97, 98 and 99 are from the front of these properties, with the footpath providing only a secondary access to the rear gardens. It is therefore unlikely to be used by the occupiers of Nos 96, 97, 98 and 99 on a frequent basis. I am also not convinced that there are no alternative options available to repair any damage to the footpath in a manner that would allow an even surface whilst allowing the future expansion of roots. Such an alternative option, as suggested by the Council, could reasonably include the replacement of the damaged flagstones with a new flexible surface, such as gravel.
8. I acknowledge the appellant's willingness to replace the tree with a new tree elsewhere in the garden. However, no details of the size or species of a proposed replacement tree have been put forward by the appellant for me to consider this matter further. Furthermore, any replacement tree would take many years to reach the stature of the appeal tree and to meaningfully reinstate the loss of amenity. A tree replacement condition would not, therefore, mitigate the harm that would arise in this instance.
9. With any application to fell 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 loss of the important tree would result in significant harm to the character and appearance of the area and, in my judgement, insufficient reason and information has been provided to justify its removal.
10. Thus, having considered all matters raised, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR