



Appeal Decision

Site visit made on 18 March 2016

by **Jonathan Fulcher**

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

Decision date: 28 April 2016

Appeal Ref: APP/TPO/V2255/4902

5 The Almshouses, South Road, Faversham, Kent ME13 7LU

- 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 Mrs Susan Bayford of Faversham Municipal Charities 2010 against Swale Borough Council.
- The application dated 27 May 2015 ref: 15/504141/TPO was refused by notice dated 14 September 2015.
- The proposed work is the pruning by pollarding of a lime tree.
- The relevant TPO is the Swale Borough Council Tree Preservation Order No 2 of 2015 which was confirmed on 16 September 2015.
- The site of the appeal tree is within the Faversham Conservation Area.

Decision

1. I dismiss the appeal.

Main Issues

2. In my view the main issues in this case are:-
 - i) The effect of the proposed pruning on biodiversity, local landscape quality and on amenity ;
 - ii) The effect of the proposed pruning on the Conservation Area; and
 - iii) Whether or not there are sufficient grounds for the works as proposed.

Reasons

Effects of proposed works on amenity

3. The appeal tree is a maturing lime tree of about 15m in height, standing in grassed open space in the curtilage of the Faversham Almshouses near the northeast fenced boundary along Napleton Road. The tree stands about 1.5m from the boundary which is marked by a low retaining wall that manages the level up from the footway, with a metal fence on the wall. The tree is locally prominent, clearly visible from South Road and Napleton Road. Although there are other trees on the South Road and Napleton Road boundaries of the area of open space at the east side of the Almshouses site, with a smaller tree close to the appeal tree, the appeal tree has amenity value as a single tree in its own right because of its size and proximity to streets. The appeal tree also has amenity as part of the local tree population and contributes to the character of the Conservation area by helping to give definition to the Almshouses site.

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Appeal Decision APP/TPO/V2255/4902

4. The proposed pruning, specified as pollarding, would remove the whole of the crown. Initially thereafter the tree would effectively be a stump of about 5m in height. If it recovered from the pruning by making regrowth, the crown would gradually redevelop, but very much reduced in size and with the form typical of pollards – a small round crown on a large trunk. At present the tree has an attractive form, with the height reduction to about 5m many years ago now giving a large open crown formed from several stems.
5. I find that the appeal tree has amenity value and that the proposed pruning would have a significant adverse effect on local landscape quality, on amenity and on the character of the Conservation Area.

Effects of proposed works on biodiversity

6. The Council's decision refers to the likelihood that the appeal tree contributes to biodiversity. Government guidance on matters such as biodiversity in the context of TPO tree work application is limited to references to compliance with appropriate legislation. With TPOs made in the interest of amenity, biodiversity is not normally a matter that carries significant weight in assessing TPO tree work applications. In the present case I have seen no evidence on matters of biodiversity and set that issue aside.

Grounds for the proposed works

7. The proposed pruning is predicated on the fact that the tree has been pruned by heavy crown reduction in the long past, with adverse consequences from the old pruning. These consequences include decay and suspect attachment of regrowth to the main trunk.
8. Decay is clear from the photographs submitted with the application and from my site visit. There are cavities; but I have not seen evidence to show that the cavities and decay are of such significance to the structural integrity of the tree as to warrant the proposed pruning.
9. I agree in principle that regrowth from old pruning points may be not as securely attached to the tree as naturally arising branches. In the case of the appeal tree, the pruning appears to have been tens of years ago, to judge by the size of the regrowth. The regrowth has the character of a 'normal' multi-stemmed crown. The regrowth does not appear to be branches ringing pockets of decay weakly attached to a thin cambium layer, but substantial branches well-attached by many years of growth.
10. The question raised in the undated unreferenced letter from Mr D J Brice in support of the application about when branches break off, not if, seems to me always to be a fundamental question in any safety assessment. An answer to the question may be approached on the basis of evidence, for example to show when a chronic situation tips over to an acute situation. In the case of the appeal tree I have not seen such evidence.
11. There is a reference in the D J Brice letter to a lime tree elsewhere in the grounds of the Almshouses that has been pollarded. A photograph with the letter shows this tree. This tree appears to be a 'genuine' pollard, which is a tree that has been cut back comparatively early in its life and managed by the removal of the regrowth on a regular cycle. This tree and the appeal tree are not similar in form or management. In my view the comparison between the two trees shows clearly the significant difference in amenity, with the appeal tree a substantially greater contributor to the local landscape and the character of the Conservation Area.

Appeal Decision APP/TPO/V2255/4902

12. The appeal submissions refer to dead wood and debris from the appeal tree, and suggest that arrangements have been made for dead, diseased or dying branches to be removed from the tree. There is also reference to further reporting on the condition of the tree. This is normal good management. I have seen no evidence that links dead wood, diseased or damaged branches to the past pruning, or to warrant the proposed reduction pruning on those grounds.

13. I am satisfied on the evidence I have seen that there are reasonable measures taken and proposed for managing the appeal tree. I conclude that the reasons for pruning are not supported by the evidence and do not outweigh the amenity value of the appeal tree and that I should dismiss this appeal.

Conclusions

14. The appeal lime tree makes a contribution to the local landscape and the proposed felling is likely to have an adverse effect on the local landscape quality, on amenity and on the character of the Conservation Area.

15. On the basis of the evidence I have seen I find that the reasons for pruning do not outweigh the amenity value of the tree and do not warrant the proposed works.

16. I conclude that the proposed pruning of the appeal lime tree is not warranted on the evidence and I therefore dismiss the appeal.

Jonathan Fulcher

Arboricultural Inspector