The Planning Inspectorate

Appeal Decision

Site visit made on 6 July 2023

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8 September 2023

Appeal Ref: APP/TPO/A2525/8870
6 Dairy Close, Pinchbeck, Spalding, Lincolnshire PE11 3ZE

- 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 Miss Chelsea Turnell against the decision of South Holland District Council.
- The application Ref: H14-1056-21, dated 30 September 2021, was refused by notice dated 1 December 2021.
- The work proposed is fell a horse chestnut tree.
- The relevant Tree Preservation Order (TPO) is the South Holland District Council Tree Preservation (Pinchbeck No 17) Order 2019, which was confirmed on 21 January 2020.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: the effect the proposed works would have on the character and appearance of the area; and whether sufficient justification has been demonstrated for the proposed works.

Reasons

3. The tree is a relatively young specimen situated in the garden of No 6 to the side of the house. Dairy Close is a recent development where the few trees in front gardens have a newly planted appearance. However other trees in back gardens, including a group of protected willows some of which are at No 6, provide a more mature backdrop to the development.

4. The Council advise that the tree was a replacement for a protected tree that was felled and that it was planted as near as practicable to the site of that tree. They go on to explain that this was done with an appreciation of the layout of the new development.

5. Despite its relatively small stature its crown can already be seen above the garden fence from Dairy Close. However, as a replacement tree an important consideration is the contribution it has the potential to make to the character and appearance of the area as it matures. Given its location, in time it would be likely to make an important contribution to the mature tree setting of the estate and beyond. It has the potential to become a prominent feature that would be visible not just from the cul-de-sac but from the adjoining Pennyfield and even glimpsed from Mayfield Close between houses on Dairy Close. The

tree consequently contributes, and will continue to contribute, by itself and with other trees, to the mature landscape of the surrounding area.

6. Consequently, its removal would prevent this contribution to the character and appearance of the area and perpetuate the loss of amenity that will have resulted from the felling of the tree it replaced. In these circumstances, any reasons to justify removing the tree must be convincing.

7. The appellant is concerned that the proximity of the tree to a nearby willow has led to the tree to grow in a distorted shape and that the willows will continue to compete for light and space to the detriment of the horse chestnut. They are also concerned about the ultimate mature size of the tree given its position in the garden and relative to the house.

8. Although the tree would appear to be growing in a manner that has been affected by its proximity to the willow, there is no evidence to suggest that the relative proximity of the trees would restrict the growth of the horse chestnut to such an extent that would warrant its removal.

9. Furthermore, the Council point out that the willows have previously been pollarded and they would expect them to be managed in a similar fashion. Should this happen periodically that would enable the horse chestnut more opportunity to gain a natural shape. Whilst these willows are also protected, and therefore consent for certain works would be required, given the Council's indication that such a management regime may be acceptable in principle, there is a degree of reassurance that the Council would be amenable to suitably specified works. Furthermore, although not a matter raised by the parties, I noted that the tree is still staked and in the interests of the health and longevity of the tree the appellant may wish to address the tie strap which appears to be restricting the stem.

10. Given its current size the tree will take a considerable time to reach a stature where its crown may begin to get close to the dwelling. It would be premature and disproportionate to fell the tree in anticipation of issues which may not materialise, nor even if they should, would be some time in the future and even then unlikely to require the tree to be felled. Removing the tree would also negate its purpose of replacing the one which would have been present before the house was built.

11. 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 felling of the tree would harm the character and appearance of the area, including in the long term, and, in my judgement, insufficient justification has been demonstrated for the proposed works.

12. Accordingly, for the reasons set out above, I conclude that the appeal should be dismissed.

Geoff Underwood

INSPECTOR