



Appeal Decision

Hearing Held on 12 December 2017

Site visit made on 12 December 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 7th February 2018

Appeal Ref: APP/TPO/R4408/6111

Rear of 18 Hornthwaite Close, Thurlstone, Sheffield S36 9RZ

- 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 Graham Platts against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref: 2017/0090, dated 10 January 2017, was refused by notice dated 24 February 2017.
 - The work proposed is removal of sycamore tree.
 - The relevant Tree Preservation Order (TPO) is Barnsley Metropolitan Borough Council Tree Preservation Order No 2/2006 Site: Hornthwaite Farm Footpath, which was confirmed on 7 November 2006.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is some uncertainty about the circumstances of the making and confirmation of the Tree Preservation Order (TPO) under consideration in this case. It is probable that this was related to the construction of the dwellings in Hornthwaite Close, which took place at around the time the TPO was confirmed. The appellant, who owned No 18 Hornthwaite Close at this time, maintains that he understood that the tree was to be removed and has provided a copy of an arboricultural report that was produced at this time. Nevertheless it remains that the TPO, which relates to the appeal tree only, was confirmed and its purpose is to ensure the long term protection of this tree. As such the appellant's comments regarding the legitimacy of the TPO, with particular reference to the suggestion that the tree did not appear on the approved plans for these dwellings, are not valid considerations in this case.
3. The Council supplied a map indicating the precise boundary of the Thurlstone Conservation Area after the close of the appeal hearing. However, as this confirms the assumption that the appeal tree is located within this boundary I am satisfied that the party's cases have not been affected by this information.

Main Issues

4. The main issues are:

- The amenity value of the tree and the effect of its proposed felling on the character and appearance of the area; and,
- Whether the felling of the tree is justified in the circumstances of the case.

Reasons

5. The appeal tree is located in a prominent position within the footpath linking Hornthwaite Close with the Trans Pennine Trail (TPT). It is one of two mature Sycamore trees located along this short connecting section, within the Thurlstone Conservation Area. Whilst the other tree has a domed canopy typical of such trees, the crown area of the appeal tree has clearly been substantially reduced in recent years. Nonetheless, this tree retains a pleasant form and is a notable feature of the approach to the TPT and, due in part to its elevated position on the rising gradient of the footpath, is part of the backdrop of mature trees visible in the adjacent residential area.
6. It is the easternmost tree in a line of 5 or so similarly mature trees located parallel to the northern side of the TPT in this local area. As this section of the TPT is relatively open, with most other vegetation of less significant age and stature, this group of trees frames the path and are a distinctive element of its appearance in this locality. Overall, notwithstanding the fact that it is a non-native species, the appeal tree makes a significant contribution to the mature landscape setting of the connecting footpath, the residential area and the TPT.
7. The loss of this tree would therefore result in considerable harm to the character and appearance of the area. Whilst the appellant has suggested a Silver Birch replacement tree, the nature of this tree type is such that even when mature it would not have an equivalent presence in the local area. Given this harm, any reasons given to justify the removal of the tree need to be convincing. It is to these reasons, the second main issue, that I now turn.
8. The appeal tree is located adjacent to the boundary with the rear garden of 18 Hornthwaite Close. It appears to be a healthy tree and there is nothing before me to suggest that it will not live for many years to come. The appellant complains that the tree shades up to 70% of his rear garden area. At the time of my site visit on a sunny winter's day I noted that, whilst the TPT was in full sun, the garden to No 18 remained largely in shade. This was not due to the presence of the appeal tree or other nearby trees which were without leaf, but to the high wooden fence on the garden's southern boundary, and also this garden's position at a slightly lower level than the TPT. It is these factors which prevent the low level winter sun accessing the garden, rather than the presence of the tree.
9. I accept that in summer months, when the sun has a higher trajectory in the sky and the trees are in leaf, the effect of the appeal tree is more pronounced. Its location to the west of the garden means that there is some loss of evening sun. However, the tree is located outside the garden area and its crown area is both at a high level and of reasonably modest size. As such the tree itself is unlikely to cause an unacceptable degree of shading.
10. I have some sympathy with the fact that the appellants garden is located within the root zone of the tree and that as a result there maybe some disturbance to the patio area, though I saw no obvious damage on my site visit. I also accept that during the autumn time it is necessary to collect fallen

leaves. I noted that the tree does have a slight lean towards the appellant's garden, though this does not in itself indicate that the tree is unstable or dangerous.

11. The appellant refers to what he considers to be the precedent set by the removal of a tree visible from the TPT adjacent to the rear garden of No 22 Hornthwaite Close. However, it is clear that this tree was located outside the Conservation Area boundary and was not the subject of a TPO. As such it did not have the same statutory protection as the appeal tree.
12. A third party refers to the inconvenient location of the appeal tree in the footpath for passing bikes and pushchairs. Nevertheless, the remaining footpath width is reasonable and in this respect the degree of nuisance caused is not unacceptable.
13. In addition to these points is the fact that the presence of such a mature tree adjacent to gardens of this size is not unusual. The inconveniences identified are not uncommon in an area where mature trees make a valuable contribution to an attractive place in which to live. Moreover, with any application to fell a protected tree a balancing exercise must 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 insufficient evidence has been put forward to justify the removal of the protected tree.
14. I therefore find that, having considered all matters raised, the removal of the Sycamore tree would result in harm to local amenity. Furthermore insufficient justification has been put forward to justify the removal of this tree.
15. For these reasons the appeal is dismissed.

AJ Mageean

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Graham Platts

FOR THE LOCAL PLANNING AUTHORITY

Edward Jowett

Rachel Roddis

INTERESTED PERSONS

Trevor Mayne