



Appeal Decision

Hearing held on 18 May 2011

Site visit made on the same day

by **Jacqueline North BSc MSc**

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

Decision date: **14 JUN 2011**

Appeal Ref: **APP/TPO/H0738/1618**

17 Cranwell Grove, Thornaby, Stockton-on-Tees, TS17 9PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Mrs Margaret Jamieson against the decision of Stockton-on-Tees Borough Council.
 - The application Ref: 10/2535/X, received by the Council on 29 September 2010, was refused by notice dated 29 November 2010.
 - The work proposed is to fell one oak tree to the rear of 17 Cranwell Grove.
 - The relevant Tree Preservation Order (TPO) is TPO 1998 No. 297 relating to land to the rear of 17 Cranwell Grove, Thornaby, Stockton-on-Tees, which was confirmed on 12 March 1999.
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Decision

1. I dismiss the appeal.

Main Issues

2. I consider that the main issues are: (a) the amenity value of the tree and the likely impact of felling on the character and appearance of the area; and (b) in the light of the assessment above, to consider whether or not the felling is justified, having regard to the reasons put forward in support.

Reasons

(a) The amenity value of the tree and the likely impact of felling on the character and appearance of the area

3. The oak tree (T1 on the TPO) is sited in the rear garden of 17 Cranwell Grove, a detached dwelling in a residential area of Thornaby. It is a mature tree, around 16 to 18 metres in height, with an overall canopy spread of around 8 metres. It has a single trunk and there is evidence that the lower branches have been removed although the tree retains a good canopy. The oak appears healthy, with no obvious signs of disease, decay or any other significant damage.
4. The tree is visible from the highway and footway along Cranwell Grove and Dishforth Close. It is clearly visible above the rooftops of the dwellings and from the rear gardens of houses on Cranwell Grove and is seen against a backdrop of other individual trees and woodland. Whilst I accept that as an individual oak it is of moderate visual amenity, it is prominent in the street

scene and it makes a significant contribution to the overall pleasant, wooded character of the area. This accords with a previous decision, appeal reference GONE/P/W0720/146/07/2 in respect of the amenity value of the tree.

5. In my view the loss of the oak would harm the street scene even though there are other trees present as it is a highly prominent tree and contributes to the leafy character and mature landscape of the area. This would not accord with Policy CS10 of the Stockton-on-Tees Borough Council Core Strategy Development Plan Document which seeks to protect and enhance the local environment.
- (b) Whether or not the felling is justified, having regard to the reasons put forward in support.*
6. The garden of No. 17 has been laid to decking or hard surfaced. It contains a number of wooden buildings and is enclosed by timber fencing. The oak tree is the only tree in the garden, two other oaks being felled several years ago as they were not considered to be good quality trees and their removal would enhance the growth and amenity potential of the remaining oak. There are a number of mature trees in neighbouring gardens and an area of woodland to the rear of the property.
 7. The appellant considers that that the presence of twigs, leaves, acorns and other debris is a potential trip/slip hazard and, together with bird droppings, poses a risk to the health of their severely disabled son, who is highly vulnerable to infections and at risk of choking if acorns or twigs were placed in his mouth or ingested. The appellant and her partner are finding it difficult to cope with cleaning up debris from the tree due to their age and declining health. These concerns are causing them considerable distress.
 8. All trees shed debris throughout the year. I accept that clearing up debris such as twigs, fallen fruit and leaves from the garden and guttering can involve year-round effort, and that this may be difficult for people in poor health. However, this is part of normal garden and property maintenance and does not justify removal of a protected tree, particularly as on the date of my site visit most of the debris originated from neighbouring gardens and the adjacent woodland. As such, felling the tree would not remove the need to clear debris from the decking.
 9. Similarly whilst I appreciate that bird droppings may be a nuisance, given the availability of alternative perches such as the fencing and timber buildings, removal of the tree would not necessarily significantly reduce the amount of droppings.
 10. I appreciate the problems and concerns that Mrs Jamieson and her partner have, the need to provide a safe environment for their son and the pleasure he experiences from use of the garden. However I do not consider it unduly onerous to clean the decking area of debris and bird excrement before use.
 11. Submissions were made in respect of the European Convention on Human Rights (ECHR). Whilst the appellant did not specify the particular rights, this appears to relate to Article 8 which states that everyone has a right to respect for his private and family life, to Article 1 of the First Protocol which establishes that everyone is entitled to peaceful enjoyment of their possessions and Article 2, the risk to life and health.

12. Having found that clearing debris and bird excrement is part of normal house and garden maintenance, I consider that there is no infringement in respect of Articles 8 and 1 of the ECHR. With regard to Article 2, it is not unreasonable to clear the decking of debris before use and as such there is no significant evidence that there is a real and immediate risk to life and health. Accordingly retention of the tree would not infringe the Human Rights of the appellant and her family.
13. The appellant is agreeable to planting a replacement tree. However a replacement tree would take time to establish and in the short term would not replace the amenity value of the existing oak.
14. My attention was drawn to the recent felling of a walnut tree at Preston Park, Stockton-on-Tees. My understanding is that the tree was removed as part of the redevelopment of Preston Park and the reinstatement of a kitchen garden and orchard, a scheme which included the planting of a significant number of fruit trees. I have no evidence as to whether the tree was subject to a TPO and the circumstances of its felling are very different to those at 17 Cranwell Gardens.
15. Lastly, I have noted the petition submitted with the appellant's documentation and the objection to the proposed works received from a third party.

Conclusion

16. In respect of (a) I conclude that the oak tree has a positive impact on the local environment and its enjoyment by the public. Felling of this tree would be harmful to the character and appearance of the area. With regard to (b), having taken account of all the matters raised above, insufficient reasons have been provided to justify felling the tree.

Jacqueline North

Inspector

APPEARANCES

FOR THE APPELLANT:

Mrs M Jamieson	Appellant
Mr H Lake	Appellant's partner
Mr D Jamieson	Appellant's son

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Hibbert	Principal Tree & Woodland Officer
Ms H Smith	Planning Technician

DOCUMENTS

- 1 Extract from the Evening Gazette, February 19, 2011 in respect of the felling of a walnut tree at Preston Park