

## Appeal Decision

Site visit made on 4 January 2017

**by Alwyn B Nixon BSc MRTPI**

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

**Decision date: 21 February 2017**

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**Appeal Ref: APP/TPO/H0738/5436**

**Manor Cottage, Darlington Road, Elton, Stockton on Tees, Teesside TS21 1AG**

- 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 Mark Page against the decision of Stockton-on-Tees Borough Council.
  - The application Ref: 16/1181/X, dated 3 May 2016, was refused by notice dated 20 July 2016.
  - The work proposed is removal of limb of Horse Chestnut tree overhanging access lane to west of tree.
  - The relevant Tree Preservation Order (TPO) is the Stockton on Tees Borough Council (Manor Cottage, Elton) Tree Preservation Order, 2002 No. 428, which was confirmed on 22 March 2004.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal states that it is against both a refusal of consent and against the Council's failure to determine the application within the prescribed period. Notwithstanding that the Council took more than the prescribed 8 weeks to determine the application, the Council issued its decision on 20 July 2016, before the appeal was lodged. The appeal is therefore made against the Council's decision on the application. However, this does not affect in any way my determination of the appeal, which is based on my assessment of the planning merits of the works proposed, having regard to all of the information before me.
3. The tree at issue is identified in the relevant TPO and on the accompanying map as tree T1, Horse Chestnut; but is referred to elsewhere in the submissions as tree T7.

### Main Issue

4. The main issue in relation to the appeal is whether the Council's decision to refuse consent for the work to the tree is justified, having regard to the contribution which the tree makes to public amenity and the reasons put forward for the work.
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## Reasons

5. The tree is one of a pair of large Horse Chestnuts standing close to the side boundary of Manor Cottage which is bounded by an enclosed private unmade vehicular access leading between properties fronting the village street to the land behind. It has a major lateral limb which extends sideways from the main stem and overhangs the access track. The Council has refused consent to remove this lateral limb.
6. The two Horse Chestnuts are prominently visible in the street scene within the historic core of the village of Elton, and contribute significantly to visual and public amenity in the locality.
7. The lateral limb the subject of the appeal has previously been cut back, which has stimulated significant regrowth of secondary branches at this point. With these secondary branches the lateral limb forms a substantial part of the tree's canopy on this side.
8. Removal of this major limb would heavily reduce the extent of the tree's lower leaf canopy on its western side, significantly unbalancing its shape and diminishing its contribution to public amenity. Moreover, its removal would cause major shock and the large new wound created would increase the threat decay entering the main stem, compromising the overall health and potential longevity of the tree.
9. I recognise that previous works to the tree have already compromised its form to some degree and have resulted in wounds with some decay. However, the professional arboricultural evidence submitted in support of the appeal amounts only to a very brief summary synopsis of the tree's existing form and condition. It provides no assessment of the implications of the proposed work for the tree's form and appearance or for its longer-term health and vigour.
10. Turning to the reasons advanced for the work to the tree, it is said that the extent to which it overhangs the access track is preventing economic access to the land behind. It is stated that the limb has recently prevented two visits by agricultural vehicles, because of the height restriction it imposes on the use of the access, and that this has prevented access to the field and woods behind to carry out works.
11. However, the limb has plainly been present for very many years. It clears the access track by a good height, sufficient in my view to permit use of the track by typical agricultural vehicles and those normally associated with routine land management and at maintenance. No specific details have been given of the particular vehicles which were unable to use the access or the land management operations concerned.
12. The appellant also states that it is apparent that the partial limb is a "hazard beam", and that the secondary growth is creating adverse end weight, rendering the limb susceptible to failure. However, the previous shortening of the lateral limb will have significantly reduced the load and stress upon it. Notwithstanding the evidence of wound sites showing signs of decay, there is no professionally qualified opinion or visual indication that the limb is likely to fail if it is allowed to remain in place at this time. Whilst it is said that the tree has also suffered fire damage in the past, there is no evidence that this has significantly compromised its viability or normal life expectancy.

13. My overall conclusion is that the proposed work would significantly and adversely affect the contribution which the protected tree makes to amenity, and that there are no overriding reasons for the work which provide justification sufficient to outweigh the harm which would be caused. Accordingly, and having taken into account all matters raised, I dismiss the appeal.

*Alwyn B Nixon*

**Inspector**