

Appeal Decision

Site visit made on 22 May 2017

by **A U Ghafoor BSc (Hons) MA MRTPI**

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

Decision date: 05 June 2017

Appeal Ref: **APP/ENV/3165106**

15 Westminster Drive, Dunsville Doncaster DN7 4QB

- 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 Mrs Nicole Redfern against the decision of Doncaster Metropolitan Borough Council.
 - The application ref 16/02441/TPO, dated 27 September 2016, was refused by notice dated 18 November 2016.
 - The work proposed is fell yew tree.
 - The relevant Tree Preservation Order (TPO) is Doncaster Borough Council no. 86 Park Lane Farm Dunsville, which was confirmed on 11 November 1991.
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Decision

1. The appeal is dismissed.

Reasons

2. The **main issues** are: (1) the effect of the proposed work upon the character and appearance of the locality (2) whether or not there is sufficient justification for the proposed work.
 3. The appeal property is a modern detached dwelling situated within a suburban residential setting. In the wider locality there are individual and groups of trees in front and rear gardens, in the near and middle distance, in a variety of sizes and species. Although the modern housing estate has low tree cover, the surrounding area is well supplied with trees and they tend to form the horizons and limits of view in most directions. I consider that trees are an important element of the local environment.
 4. Mrs Redfern argues that the yew has been protected because of its age; I disagree. The unchallenged evidence is that the appeal tree is about 8.5 m tall; it has a crown spread of 4 m to the east and 3.5 m to the north. It has a clear stem of 3.5 m and a diameter of 510 mm. I concur with the assessment that the tree appears to be in good condition and probably has a long life expectancy. It is part of a protected group of trees with some stature. These are mainly located to the rear of the properties fronting Westminster Drive and provide a landscaped setting to residential development.
 5. While the appeal tree is located within a private garden nevertheless part of its canopy is noticeable from Westminster Drive and it projects above roof tops because of its overall height. It makes a significant contribution to the group, because of its shape and structure. It is an attractive tree of some stature and makes a substantial and positive contribution to the visual amenity of the wider
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- environment because of its overall health, height and location. I find that the tree provides soft landscape setting and reinforces the verdant character of the wider locality.
6. The tree is also likely to be visible in views from properties. People are likely to experience the view and appreciate the contribution made by the tree. While I do not afford such private views the same weight as those from public viewpoints, these views can contribute to an area's overall character and how it is perceived and enjoyed by those living within it. In my assessment, individually and as part of a group, the tree provides a reasonable degree of public benefit. Its removal would open up views of built development, especially when seen from Cathedral Court, and adversely undermine the amenity value of the group of trees.
 7. Mrs Redfern claims that the tree should be felled because it is a dominant feature in the garden, and its canopy overshadows the area and restricts sunlight from reaching the main family room and a bedroom. However, despite orientation, a reasonable amount of daylight reaches the rear elevation to the dwelling. The information presented does not sufficiently show the tree unreasonably restricts direct sunlight or indirect daylight from reaching the property. Given the compact urban environment in this part of the settlement, I do not consider that any perceived loss of sunlight or daylight can solely be put down to the location and positioning of the tree, because of the site's layout.
 8. I appreciate that part of the garden is likely to be shaded by the tree throughout the summer months. However, the tree's shape and form allows some daylight to penetrate. In any event, no. 15's wedge-shaped residential curtilage includes a reasonably sized garden. I observed that daylight reached significant parts of the garden and there is ample usable amenity space. The evidence presented does not show that the property or garden suffers from poor sunlight because of the size, shape and positioning of the tree.
 9. Shed foliage, according to Mrs Redfern, potentially suffocates grass growth, and allows growth of fungi and bacteria and affects the amenity value of the garden because it is too muddy. Notwithstanding these concerns, leaves from the tree will be shed each year and to this extent it is no different from any other tree. The shedding of leaves is a normal and natural process and is an unavoidable consequence of having trees on one's property. Good management can be an alternative. I do not consider that shed foliage for the tree is so excessive a nuisance.
 10. Mrs Redfern contends that the tree is too close to existing garden structures and overhanging branches adversely affect the use of the amenity areas. However, good arboricultural management as well as the potential removal of dead wood could assist in mitigating impact of low branches. Finally, there is no evidence of storm damage or risk from branches falling due to the tree's stability.
 11. At application stage, Mrs Redfern referred to potential risk to humans and animals from toxic berries. However, the National Poisons Information Service as well as its veterinary equivalent suggests that the vast majority of significant overdoses occur in individuals who self-harm. School age children are at very low risk of accidental toxicity. The risk to animals is not life threatening. Dogs can recover from yew tree berry consumption although may

develop gastrointestinal illnesses. I attach limited weight to this line of reasoning.

Conclusion

12. The tree makes a substantial and positive visual contribution to the amenity of the local environment, and forms a screen to residential development. Felling the tree would cause a wide gap in the protected group of trees thus exposing built development and harm the pleasant landscape character and appearance of the locality. The explanation advanced to fell the tree is flawed and the reasons for felling have not been made out. The proposed work would be unjustified and unwarranted.
13. For all of the above reasons and having regard to all other matters, I conclude that the appeal should fail.

A U Ghafoor

Inspector