



Appeal Decision

Site visit made on 11 July 2017

by G Rollings BA(Hons) MA(UD) MRTPI

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

Decision date: 13 September 2017

Appeal Ref: APP/TPO/P1425/6061

3 Carey Down, Telscombe Cliffs, BN10 7LF

- 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 Lee Smith against the decision of Lewes District Council.
 - The application Ref: TW/16/0130/TPO, dated 28 October 2016, was refused by notice dated 12 January 2017.
 - The work proposed is to fell one sycamore tree.
 - The relevant Tree Preservation Order (TPO) is Tree Preservation Order (No 60) 1998 (Ambleside Avenue, Carey Down and Woodlands Close, Telscombe Cliffs/Peacehaven), which was confirmed on 7 October 1998.
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Decision

1. The appeal is allowed and consent is granted to undertake work to a tree protected by Tree Preservation Order (No 60) 1998 in accordance with the terms of the application, Ref TW/16/0130/TPO, dated 28 October 2016, subject to the following conditions:
 - 1) The work for which consent is hereby granted shall be implemented within two years from the date of this decision.
 - 2) All work shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced).
 - 3) Five days' notice shall be given to the local planning authority prior to the commencement of the operations authorised by this consent.

Procedural Matter

2. The Council issued a split decision, which refused consent to fell the tree but granted permission to lift its crown. The appeal was made against the refusal, and I have determined it on this basis.

Main Issues

3. The main issues are:
 - The effect of the removal of the sycamore tree on the character and appearance of the area; and
 - Whether sufficient justification has been demonstrated for the proposed felling.

Reasons

Character and appearance

4. The appeal tree is located at the front of the dwelling at the appeal site, close to the side boundary adjoining 2 Carey Down. Its stem divides close to the base so it has the appearance of a twin-stemmed tree for most of its height. It has been subject to pollarding works which have lifted its crown to the approximate height of the eaves of the dwelling on the appeal site. As such, the tree has an unnatural shape with a compact crown.
5. The tree is one within a dispersed group of several in properties around Carey Down. The road is in a small valley and as such, visibility of the tree away from the street – particularly from surrounding streets – is extremely limited by this geography given the presence of buildings and other trees, some of which are within the TPO. There are other retained, protected trees within the immediate surroundings on the street, which include the front gardens of 4 and 10 Carey Down. Were the appeal tree to be removed, tall trees in close proximity would still be visible in a group from other parts of Carey Down.
6. As such, the amenity value of the tree deriving from its character and appearance is restricted to Carey Down and the properties immediately surrounding the tree. However, given the unnatural appearance and shape of the tree, I consider this value to be limited. Given the proximity of the tree to the dwelling at No. 3, it is highly likely that the tree will be the subject of additional crown lifting in the future. I am not convinced that this would improve the attractiveness or amenity value of the tree.
7. I therefore conclude on the first main issue that the removal of the tree would have a detrimental effect on the character and appearance of the area, but given the characteristics of the tree and its surroundings, the effect would be moderate.

Justification for the felling

8. The appellant has provided several reasons in support of the tree's removal. These include the litter dropped by the tree, and an adjacent neighbour who supports the tree's removal has also raised the issue of damage by sap dropped from the tree. Shedding of such detritus is a natural occurrence to many trees and is to be expected when inhabiting a sylvan area such as this part of the street. The tree has benefitted from TPO status for almost two decades and the shedding of waste matter is to be expected when moving to such an area. Whilst drains and cars can be protected against litter and sap drop, ultimately all properties require routine maintenance and felling trees on this basis would soon result in a denuded townscape.
9. The appellant has also raised the issue of shading caused by the tree, as a cause of both restriction of sunlight into the property, and damp conditions leading to slippery pavement conditions and damage to the house's structure. I have concerns in respect of the former, which I address in the next paragraph. In respect of the latter, I accept that these matters are irksome, but they can nonetheless be avoided with reasonable maintenance that is common in areas with similarly large trees. I also acknowledge that other protected trees have recently been removed from the street, but as each case is considered on its own merits, there is no precedent to be applied in this

instance. Additionally, the appellant has expressed concern that roots could be extending under the house, but I have no technical evidence before me to substantiate the matter and, as such, this is not a matter to which I can afford any weight.

10. Shading that results in restriction of light to the dwelling is a significant issue. I observed on my visit that the southerly position of the tree, relative to the easterly orientation of the front of the house, would result in shading of sunlight during most of the year, despite the significant and obvious crown lifting that has previously occurred. I observed that the presence of other tall trees in the area would potentially limit light to other parts of the property. Under these circumstances, I consider that shading from the tree results in harm to the living conditions of the appellant and other occupiers of No. 3.
11. In many instances, such shading would not significant enough a reason to justify the loss of a protected tree. However, I have found that the appeal tree has only limited amenity value. Although its loss would be detrimental to the character and appearance of the street, the effects on same would be correspondingly limited. I therefore conclude that sufficient justification has been demonstrated for the proposed felling.

Conclusion and Conditions

12. For the above reasons and having regard to all other matters raised, I allow the appeal.
13. I have imposed a condition requiring all works to be carried out in accordance with industry best practice and for notice to be given to the Council. I have also considered whether a condition requiring the planting of a replacement tree should be applied, but a tree of similar amenity value would likely eventually lead to the same problems identified by the appellant. I also agree with the Council's view that there is little available space in which a replacement tree could flourish.

G Rollings

INSPECTOR