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## Appeal Decision

Site visit made on 6 December 2017

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

an Inspector appointed by the Secretary of State

**Decision date: 25 January 2018**

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**Appeal Ref: APP/TPO/T1410/6137**

**29c St Annes Road, Eastbourne, BN21 2DJ**

- 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 Ms Betty Gallagher against the decision of Eastbourne Borough Council.
  - The application Ref: PC/170256, dated 3 March 2017, was refused in a decision dated 17 March 2017.
  - The work proposed is to repollard/reduce one elm tree.
  - The relevant Tree Preservation Order (TPO) is The Eastbourne Borough Council Tree Preservation Order (Land at 29 St Annes Road, Eastbourne, East Sussex) No: 81 (2002), which was confirmed on 3 December 2002.
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### Decision

1. The appeal is allowed and consent is granted to undertake work to a tree protected by The Eastbourne Borough Council Tree Preservation Order (Land at 29 St Annes Road, Eastbourne, East Sussex) No: 81 (2002) in accordance with the terms of the application, Ref PC/170256, dated 3 March 2017 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 copies of the Council's decision notice that I received from both main parties were undated. The Council provided me with a dated copy of the decision notice on 2 January 2018.

### Main Issues

3. The main issues are:
  - The effect that the works would have on the character and appearance of the area; and

- Whether sufficient justification has been demonstrated for the proposed works.

## **Reasons**

### *Effect on the character and appearance of the area*

4. The tree is located within the appeal site's rear garden, adjacent to a lane that corners the site to run along its side and rear boundaries. The elm is a tall specimen with a relatively narrow spread that can be glimpsed along the laneway from St Annes Road. It has greater visibility from along the laneway, which is publicly accessible and trafficable, as well as the numerous buildings that face towards the corner. Consequently, the tree has a high degree of visual prominence.
5. The works required are described by the appellant as a reduction of the small branch wood to previous pollarding points on the tree, with remaining branches reduced in height. At the time of my visit, broadleaved trees were not in leaf and given that the tree stands apart from other tall trees in its surroundings, it is particularly noticeable. As such, the tree makes a significant contribution to the sylvan character of the area, and the works would reduce its large crown height and some of its spread, thereby reducing its dominance within the immediate landscape. Accordingly, I conclude proposed works would result in moderate harm to the character and appearance of the area.

### *Justification for the works*

6. Bearing in mind the amenity value of the protected tree, any reasons given to justify its removal need to be convincing. There is nothing before me to suggest that the tree is currently in poor health or vigour or that it is suffering from pests, disease or decay. This was confirmed by my own observations during my site visit. Overall, I saw nothing to suggest that the tree was unstable or dangerous or that it would not live for many more years.
7. I acknowledge the concerns of the Council with regard to the risk of decay deriving from the pollarding of a mature elm, and agree that such specimens are susceptible to the problems that it has identified. However, I observed that previous pollard points in the tree have recovered without any indication of affliction. There is no evidence that similar works to other elms in the immediate vicinity have led to decay. Moreover, the arboricultural evidence submitted with the appeal makes it clear that the work would be carried out in accordance with British Standard 3998:2010 *Tree work: Recommendations*. As such, I see no reason why the works, if carried out correctly, would result in any more than a minimal risk to the health of the tree.
8. The appellant noted that the size of the tree has a detrimental on the light received to her property, and also results in an overbearing feature within the small urban garden of the appeal site. The tree has been growing at this location for many years and was present before the property was developed. Clearly, the Council considered the presence of this tree in deciding to grant planning permission and its presence should have been taken into account when the house was purchased.
9. Nonetheless, given the aspect of the host property I accept that the tree would have an impact on sunlight and daylight at certain times of the day. Its size means that it is unlikely that the works would have a significant impact on

light, but the works would have an impact on outlook from the property, the enclosure of the garden and the sense of the tree's overbearing appearance. In this respect I consider that the works would lead to a material improvement in the appellant's living conditions.

10. The appellant has also mentioned the issue of leaf litter from the tree, which impacts guttering and drainage. I am in no doubt that this would be a nuisance, but the severity of these problems can be significantly reduced with regular household maintenance. The inconvenience of effects such as shading and leaf litter are not uncommon in an area where mature trees create an attractive place for local communities to live and work.
11. A balancing exercise must be undertaken in relation to any application to carry out works to a protected tree. Consequently, the essential need for the works must be weighed against the resultant loss of visual amenity to the wider area. In this instance, I am satisfied that the significant likely improvement to appellant's living conditions justifies the moderate harm to visual amenity and minimal risk of disease that would result from the proposed works to the protected tree.

### **Conclusion and Conditions**

12. For the above reasons and having regard to all other matters raised, I allow the appeal.
13. I have imposed conditions requiring all works to be carried out in accordance with industry best practice and for notice to be given to the Council.

*G Rollings*

INSPECTOR