The Planning Inspectorate

Appeal Decision

Site visit made on 31 August 2022

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/TPO/Y3805/8895
14 Southdown Road, Southwick, West Sussex BN41 4FT

- 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 Ian Felton against the decision of Adur District Council.
- The application Ref: ADUR/1719/21, dated 13 September 2021, was refused by notice dated 3 November 2021.
- The work proposed is to fell and replace one Macrocarpa Tree.
- The relevant Tree Preservation Order (TPO) is 13.53/1/05/SW, which was confirmed on 6 February 2006.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (a) the public amenity value of the Macrocarpa tree and the likely impact of its felling on the character and appearance of the area; and (b) whether the reasons given are sufficient to justify the felling of the tree.

Reasons

3. The Macrocarpa tree is a mature and substantial specimen located in the north-eastern corner of the front garden adjacent to the carriageway to Southdown Road. It is one of two such trees in the front garden; the other in the north-western front corner is not as large and is not covered by the TPO.

Amenity

4. The protected tree has a trunk with a wide diameter that separates into several large stems that are generally upright in nature to result in a high and open crown. There is one low lateral branch extending over a parking area serving a library and doctors' surgery immediately to the east of the site. Limbs have been removed in the past and the tree is showing signs of decline. There is die-back towards the ends of some limbs, deadwood within the canopy and weak growth, particularly to the west towards the other front garden tree.

5. Nonetheless, the tree retains an attractive overall frame and is a prominent feature in the street scene. It is conspicuous when viewed from the east and at the junction with Southwick Street. When viewed from the west the two front garden trees merge in appearance. The protected tree appears as a close and striking feature when viewed from the library car park and is also clearly visible

from the public car park to the south of this. The tree enhances the appearance of the road, the opposite northern side of which is within a conservation area.

6. Notwithstanding the tree's declining condition, its form, size and visibility in the street scene and surrounding area are such that the Macrocarpa tree has a high level of public amenity value. As such, its felling would give rise to considerable harm to the character and appearance of the area. Consequently, any reasons given to justify its felling need to be convincing.

Justification

7. The reasons put forward for the proposed felling are straightforward. The main reason given is the tree's declining health and that it is a danger to the public and surrounding properties as it is located by a busy road and a doctors' surgery. There is not a footpath to the southern side of Southdown Road and the tree's canopy does extend over the carriageway and adjacent car park. It is apparent that the tree has had several limbs removed but there is no evidence before me whether this was a result of branches falling or as part of planned maintenance. Similarly, there is no arboricultural evidence before me to corroborate the assertions about the tree being a danger to public safety.

8. There has to be a balanced assessment of the risk to public safety against the loss to public visual amenity if the tree were to be felled. In this instance, it seems to me that works to reduce the height and radial spread of the tree could be undertaken. This would reduce the weight within the crown and enable weaker growth and any limbs considered to be a particular risk to be removed. Consent is not required to remove deadwood.

9. In view of the tree's declining health, the Council have estimated that it may not survive for more than 10-15 years. Nonetheless, during this time the tree could continue to be a positive feature in the street scene that enhances the character and appearance of the area. The appellant has offered to plant a replacement broadleaf tree (possibly an Acer 2-3m high). Any replacement tree would take many years to grow and mature and provide a similar contribution to the character and appearance of the area. This would not be adequate recompense at this time given the tree's present amenity value.

10. The Council's decision notice cites conflict with Policies 15 and 30 of the Adur Local Plan (2017). However, such policies are not decisive in an appeal relating to works to protected trees. Whilst the policies promote respect for natural features including trees, they appear to relate more to the impact of new built development proposals on the character of an area and green infrastructure including trees, and thus have not formed part of my deliberations.

Conclusion

11. With any application to fell a protected tree, a balancing exercise needs to be undertaken. The necessity for the works applied for must be weighed against the resultant loss to the amenity of the area. Having regard to reasons given in support of felling the Macrocarpa tree, it is my judgement that these matters do not outweigh the harm to the character and appearance of the area that would result from the tree's felling due to its high public amenity value. I do acknowledge the tree's signs of decline, but these are not so extensive to justify its removal at the present time on the evidence available to me.

12. Accordingly, for the reasons set out above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Rory MacLeod

INSPECTOR