The Planning Inspectorate

Appeal Decision

Hearing and site visit held on 26 July 2016

by A U Ghafoor BSc (Hons) MA MRTPI

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

Decision date: 24 August 2016

Appeal Ref: APP/TPO/Y3800/5112
1 Southlands Way, Shoreham-by-Sea, BN43 6AS

- 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 Ben Richardson against the decision of Adur District Council.
- The application Ref: AWDM/1635/15 dated 26 October 2015, was refused by notice dated 23 December 2015.
- The work proposed is to fell and replace one Monterey cypress tree.
- The relevant Tree Preservation Order (TPO) is Adur District Council – Southlands Hospital Shoreham-by-Sea TPO 13.53/2/93(SU), which was confirmed on 14 March 1994.

Decision

1. The appeal is dismissed.

Main issues

2. I consider these are: (1) The public amenity value of the protected tree and (2) whether there is sufficient justification for the work proposed, having regard to the likely impact on public amenity.

Reasons

Amenity

3. The appeal property is situated on the junction where Southlands Way meets Upper Shoreham Road. It is part of recent residential development at the former Southlands Hospital complex. The surrounding area is predominately residential in character. In this location trees are part of the residential quality of the street scene. In my assessment, tall and mature trees give the area a verdant and green setting.

4. The appeal tree is located within the rear garden to no. 1. It is a *Cupressus Macrocarpa* (also known as Monterey cypress). It is between 15 and 20 m tall. It is a mature tree with an estimated future lifespan of at least 20 years. The tree is multi-stemmed to about 6 m. The substantial main stem separates and forms several more slender upright stems. The main crown, which is dense and widespread, is of high foliage emerging at 9 – 10 m.

5. From Upper Shoreham Road the built form of existing development obstructs direct views of the evergreen. However, it is highly visible at Upper Shoreham Road and Southlands Way junction, which forms the entrance to this new residential development. Southlands Way gently slopes downwards and the

tree can be seen along the road leading into the estate. It is also prominent in views from the adjacent health centre car park.

6. In my assessment, the tree forms a pleasant landscape setting to the urban environment. It is set in a very prominent place easily seen by users of footpaths and roads, and from surrounding houses. It would be seen in views from the new residential development. It makes a strong visual contribution to the verdant quality of the locality because of its size and form.

7. The tree is an attractive evergreen and it makes a substantial and positive contribution to the visual amenity of the wider environment because of its overall health, height and location. In views from the junction, the tree is likely to form a screen to new residential development currently being built towards the rear of no. 1 at the former hospital site.

8. The Appellant is willing to plant a suitable replacement tree such as an equivalent pine or holm oak tree, which is likely to take some time to mature. I consider that felling the tree would cause a wide gap thus exposing built development and causing visual harm to the pleasant landscape setting of the area. It is in this context I shall examine whether the proposed felling is justified.

The need for the proposed work

9. The Appellant is concerned about the stability of the tree, because it is multi-stemmed and forms a 'V' shape between co-dominant stems of similar height and disposition. The assertion is that at the crotch a crack could form causing a split at the fork. In high winds or gusts, the assertion is that the tree could fail and fall thus cause damage to life, limb or property.

10. This is a fine and mature tree and it appears to be healthy. Indeed, there is no obvious sign of decay. There is certainly no evidence of a weak fork with included bark indicating compression or weakness that could lead to a major failure. I have seen no cogent evidence to support the assertion that the tree is in imminent danger of falling in high winds, because of its exposed location or growth characteristic.

11. I have seen undisputed photographic evidence of damage caused by a branch falling on a stationary vehicle in the residents' car park, debris falling on the footway and in the rear garden of the adjoining property. Branches could fall in the appeal property's garden, which is moderate in size, when children are playing outside and this is a real concern for the Appellant who has a very young family. However, dead branches can be removed via good tree management. Indeed, in 2015 this tree has been subject to extensive pruning and thinning. It appears to me that this exercise has improved its structural integrity and aesthetic value.

12. The Appellant is also concerned about shed foliage; particularly the twisted needles which, potentially, suffocate grass growth allow growth of fungi and bacteria and affect the amenity value of the garden. However, 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 and the Appellant has invested in some garden maintenance equipment to assist in clearing debris.

13. I do not consider that shed foliage for the appeal tree is so excessive a nuisance. I am not satisfied that the management of the appeal property and its garden as well as the neighbouring property and public highway is to such an excessive and unreasonable extent that the felling of the appeal tree is warranted on these grounds.

14. The Appellant is concerned about subsidence as the property is built on clay. It was built around 2014 in compliance with building regulations. But the Appellant is not confident with the new build because mistakes have been made by the developer. For example, the properties drainage system was incorrectly connected to the former hospital sewer. That said, however, I have seen no evidence whatsoever of any subsidence or potential structural damage as a result of roots from the appeal tree affecting property.

Conclusions

15. I have reviewed all of the oral and written representations and my findings are as follows.

16. The appeal tree has amenity value in its own right and as part of the characteristic tree population in the local landscape. I am satisfied that the proposed felling has the potential to have an adverse visual effect on the local landscape and on the visual amenities of the locality.

17. None of the grounds advanced as reasons for felling are supported by the evidence and the potential adverse effects of the proposed work on public amenity outweighs the Appellant's concerns.

18. Therefore, the proposed felling of the appeal tree is not warranted on evidence. Having regard to all other matters, I conclude that that appeal should be dismissed.

A U Ghafoor

Inspector

APPEARANCES

FOR THE APPELLANT:

Ben Richardson	Appellant
Stephen Duance	South Coast Tree Care Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Jeremy Sergeant	Senior Tree and Landscape Officer, Adur District Council

INTERESTED PERSONS:

Rebecca Kirkham	Local resident in support of the Appellant

DOCUMENTS HANDED IN AT THE HEARING

1. Appellant's supporting information.