



## Appeal Decision

Site visit made on 16 February 2016.

**by Alan Engley** MARb (RFS) FARborA M.C.I Hort MICFor AARC

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

Decision date: 10 March 2016

**Appeal Ref: APP/TPO/B9506/4878.**

**Land at 27 Clarendon Park, Lymington SO41 8AX.**

- 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 trees protected by a Tree Preservation Order (TPO).
- The appeal is made by Mr T Quigley against the decision of the New Forest National Park Authority.
- The application Ref: TPO/15/0783 dated 12 August 2015, was refused by notice dated 10 September 2015.
- The proposed work is the felling of 1 Sycamore.
- The relevant TPO is the District Council of New Forest Tree Preservation Order No 1133 Ridgeway School, Lymington, which was confirmed on 12 March 1980.

### Decision

1. The appeal is dismissed.

### Main Issues

2. I consider that the 2 main issues in this appeal are:
  - The effect on the character and appearance of the locality and the street scene if the tree is removed; and
  - Whether the reasons given for its removal are sufficient to justify that course of action.

### Reasons

***The first issue – the effect on the character and appearance of the locality and the street scene if the tree is removed***

*Character of the locality*

3. Clarendon Park is a winding cul de sac through a modern residential development constructed within a lightly wooded locality. The properties are characterised by 2 storey brick built houses constructed in modest sized plots along both sides of the road with open plan frontages. The topography is fairly level land.
4. No 27, which has the appeal tree, is fairly typical of the detached houses. It is set back on the westerly side of the cul-de-sac turning head. The rear garden is laid to lawn and contained along the westerly side by wooden board edges. Beyond which the land level drops to the base of the close

boarded wooden boundary fence. Beyond the fence is Lower Pennington Lane. Facing from the cul de sac, beyond the left side boundary of No 27 is the dwelling and rear garden of No 26. The appeal tree grows towards the top left corner of the rear garden of No 27 about 4m from the westerly boundary and 4m from the boundary with No 26.

*Local tree cover*

5. Within the rear garden and lining Pennington Lane are young Ash trees and tall hedging. Scattered throughout the wider development are many ornamental specimens and conifers growing within the gardens. Locally, there are a good number of large mature trees that altogether lend the area a very pleasant lightly wooded character.

*Amenity value of the appeal tree*

6. The appellant considers the tree is too large this close to his and the neighbour's property and he wishes to remove it and replant using a smaller growing type such as an apple tree. The Council argue that it is a prominent feature to Clarendon Park, it can be seen from the front of the property and it has good form and its removal would have a detrimental impact on the public visual amenity to the area.
7. It is a large mature Sycamore; it grows above its younger companion trees and has a slightly one-sided but attractively dome shaped crown. It forms one of many similar trees that line the lane and grow throughout the development that lend the area a very pleasant, lightly wooded character. Its top can be seen when approaching the turning head of the road and from properties opposite and is particularly noticeable in views when seen in the gap between Nos 26 and No 27. It can be glimpsed when approaching along Lower Pennington Lane.

*The effect of the proposals on the visual amenity*

8. The removal of the Sycamore would delete a large, attractive, solitary specimen and reduce the number of similar trees growing locally and result in the loss of an important landscape feature. A small growing replacement tree would not replace the visual amenity lost due to its removal and any replacement tree species would take very many years to replace the visual amenity lost due to its removal.
9. Based on the above, I find that the appeal tree enhances the visual amenity of the locality and its felling would cause harm to the character and appearance of the street scene and the wider area therefore strong justification is necessary for its removal.

***The second issue – whether the reasons given for the proposed works are sufficient to justify that course of action***

*Third party representations*

10. There is 1 third party representation that supports the application.

*Size of the tree, safety and exposed roots*

11. The appellant claims the tree is too large and has an increasing lean with the tree rotating towards his house and roots have pushed up the lawn and make it difficult to cut the grass and there are voids within the roots. In



addition, he has been advised that it has a weak fork that could fail. He has concerns that in high winds the tree moves and creaks therefore he cannot use the back bedrooms of his house.

12. The Council argue that from the information gained at their limited inspection it considers the tree appears to be in good health and has previously been pruned resulting in multiple cuts and regrowth and viewed from the front of the property they could not see a weak fork.
13. The Council consider that roots will inevitably push up through the lawn and there is no evidence provided to demonstrate that there has been damage to property and surface root growth can be perfectly normal. It considers that some form of pruning to contain its lateral branch growth is a reasonable course of action.
14. The tree is large and it dominates the rear gardens and the rear of both the dwellings by a significant amount. Should any part of it fail it could cause serious damage. Its crown radial spread occupies the majority of the garden space in the left corner of No 27 and is across the centre of the rear landscaped garden of No 26 and across its roof tiles.
15. The trunk is bulky and has a bias towards the rear of No 27, the trunk buttress spurs are fairly evenly distributed indicating normal development. There are large diameter surface roots close to the trunk, some of which have been mower damaged and there are soil voids close to surface roots and the wooden boards to the lawn and generally within the uneven lawn area.
16. However, I could not see any gaps in the soil in positions to suggest to me that the roots or root plate was insecure or the tree has an increasing lean that could escalate its risk of failure. Surface rooting can occur due to a number of reasons including soil conditions and the species and age of the tree. It has a crown weighted towards the house before it grows towards the upright, indicating that it has adapted to this growing situation over a period of time. Therefore, surface roots and soil voids do not imply unsoundness or an increased risk of tree failure.

#### *Creaking noise and swaying movement*

17. The trunk forks at about 3.5m into 3 principal sub-leaders; I could see one tight fork configuration, which can mask a fork weakness. One leader has a large cavity at roof height facing No 26. The creaking of trees during windy conditions can be a result of rubbing limbs, and not a source of serious weakness.
18. The tree has a large crown wind-sail area and will sway during high winds because of the wind loading of the upper canopy transfers the stress through the branch system and trunk down into the roots. Therefore, tree swaying implies soundness and not weakness of the tree. Overall, there is insufficient evidence provided to persuade me that the tree should be removed on safety grounds.
19. The tree has a wide spreading crown and it has been historically pruned. The Council consider it would benefit by reducing its branches back from the neighbours. In my view some form of crown growth control, such as cutting back to the old pruning wounds within the canopy would contain its growth,

reduce its dominance and the overhang from No 26 to more acceptable levels and may be the subject of further discussions with the Council.

20. In light of the foregoing, I have decided on the second issue that the reasons given for removing the appeal tree are insufficient to justify that course of action at this time.

### **Conclusions**

21. My conclusions on the 2 main issues have led me to the view that the appeal tree makes an important contribution to the amenity of the locality, the street scene and the wider landscape and the proposed work would cause demonstrable harm. In reaching my decision I have taken into account all other matters raised by the parties and the third party representation which was made at the time of the application.
22. I consider that the Sycamore is not so ill-suited to its location sufficient to override the amenity benefits that it provides. The appeal is dismissed.

*Alan Engley*

**Arboricultural Inspector**