



Appeal Decision

Site visit made on 11 November 2019

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/TPO/B9506/7053

Plum Tree House, 50 New Forest Drive, Brockenhurst SO42 7QW

- 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 Mrs Freeston against the decision of New Forest National Park Authority.
 - The application Ref: TPO/18/0810, dated 21 August 2018, was refused by notice dated 11 October 2018.
 - The work proposed is described as "Purple leafed Plum (T2) – lowest branch over garage removed and overall reduction of 2m. To control and manage size of tree in tight location next to garage and footpath. Blue Atlas Cedar (T4) – fell. Starting to outgrow its location. Reduction may leave it looking unsightly."
 - The relevant Tree Preservation Order (TPO) is Tree Preservation Order No 60/02, land of 36 to 76 (evens) New Forest Drive, Brockenhurst, which was confirmed on 17 March 2003.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Authority issued a split decision for works to the purple leafed plum and Blue Atlas Cedar. Consent was granted for works to the plum, with the felling of the cedar refused, albeit consent was granted for reduction and reshaping of the tree. The appellant is appealing against the Authority having refused consent for the felling of the cedar, and for the avoidance of doubt I have determined the appeal with that regard.
3. At the site visit, the appellant sought to submit additional information in support of their case, including evidence from the occupiers of the neighbouring property, 52 New Forest Drive. However, the appellant chose the fast track appeal procedure and this precludes the submission of additional information after the statement of case has been provided. Consequently, I have determined the appeal on the basis of the evidence submitted under the requirements of the fast track appeal procedure.

Main Issues

4. The main issues are the effect of the proposed felling of the Blue Atlas Cedar upon the character and appearance of the area, and whether sufficient justification has been demonstrated for the works.

Reasons

5. The Blue Atlas Cedar is growing within the rear garden of 50 New Forest Drive. This detached house is part of a residential estate comprising similar aged and styled dwellings, many of which are positioned within generous plots. Growing amongst the houses there are several trees, including ones planted as part of the landscaping for the estate. In addition, there are lengthy linear groups of tall trees along the public footpath routes through the estate, as well as mature hedgerows defining garden boundaries.
6. Many of the larger trees pre-date the construction of the housing and as such they give a verdant maturity to the estate. These trees comprise mostly deciduous species, including a number of oaks. Their height and size is such that they create leafy settings and skylines to the built form. The rich variety of the trees within the estate is a distinctive and attractive aspect of the character and appearance of the area.
7. The size and height of the cedar, with its ascending branches and blue-green needles makes it a prominent feature within the area. In contrast to the many deciduous trees nearby, the colour and evergreen nature of the cedar makes it an eye-catching specimen. Given its height and size, along with its position close to the estate distributor road and a nearby public footpath, it can be seen from a number of public vantage points. The cedar is a conspicuous tree that makes a positive contribution to the diverse range of trees present within the estate and the verdant nature of the area. As such the reasons for the felling of this tree need to be convincing and conclusive.
8. The tree is growing to one side of the rear garden of No 50, within a border of mostly evergreen shrubs. Although much of the lower stem and buttress is obscured by planting, the tree appears in reasonable health and condition. There is evidence of historic works, with the crown having been raised above the shed and greenhouse in the neighbouring garden, and there is also some evidence of selective limb reduction. Notwithstanding this, the tree does not appear to have been managed for some time, with extensive ivy coverage upon the stem and within the crown, as well as the presence of deadwood and crossing and rubbing limbs.
9. Having regard to the position of the tree within a built-up area I appreciate its presence would be of concern for the appellants, particularly as Blue Atlas Cedars can grow to considerable heights. However, large trees are often found near to buildings, and the presence and consequences of living near to a protected tree in a residential area would have been a matter for any occupiers of the surrounding houses to take into consideration when purchasing their properties. This would include the commitments of undertaking all reasonable steps to avert or minimise the risk to people and property, including undertaking regular crown assessment and works so as to manage the tree within its context.
10. The limbs of the cedar are clear of the nearby houses, and the separation that exists between the tree and buildings along with its raised crown is such that it does not cause continuous shading to either property. The cedar is part of the outlook from these houses, but as it is growing to one side of the garden, it does not obliterate views into the surrounding area, nor does it create an unacceptably oppressive outlook for the occupiers of the nearby houses. Moreover, there are other tall trees and hedges defining the boundaries of

No 50, all of which enclose the garden and outlook, and contribute to shading of the property.

11. Planting in the garden would need to take into account the presence of the tree, with appropriate selection of species. In this instance the garden plants and grass under and near the canopy of the cedar appeared healthy and lush. Whilst the appellant considers the tree to be a parkland specimen that is not native to the New Forest, given the cedar is growing within a residential estate within which there is a diverse range of both native and ornamental species, this tree does not appear out of place, but adds to the rich variety of trees that is such a characteristic of the area.
12. Issues of leaf, flowers and cone litter would be inconvenient for the occupiers of those properties near to the tree. Nonetheless, dealing with this and also the litter that would originate from other nearby trees and hedges would be part of the routine property maintenance associated with living in a verdant residential area.
13. The cedar would produce pollen but given the extensive number and variety of species of trees and shrubs in the area it would be one of many sources. Whilst noting the concerns of nearby residents with regard to the impact of the tree upon health, in this case it has not been conclusively demonstrated that the cedar is solely responsible for the problems raised.
14. Damage by the tree's roots to a main sewer has been alleged, but such claims have not been substantiated by an engineer or surveyor report that conclusively establishes that it is the cedar responsible for the stated problems. Structural damage has not been identified with written technical evidence, nor has any exploration of preventative or remedial measures been undertaken to justify that the felling of the cedar is the only option.
15. In the event of consent being granted to fell the tree, the appellant has suggested replacing the cedar with two silver birch. However, these trees would take some time to grow, and even when mature they would have a very different appearance to the cedar, particularly given their deciduous nature. They would not therefore, make a similar contribution to the area as the cedar.

Conclusion

16. With any proposal for work to a protected tree, the effect needs to be weighed against the resultant loss of amenity to an area and the potential harm to property and people. In this instance the cedar makes an important contribution to the character and appearance of the area, and there is insufficient technical evidence and insufficient conclusive justification to justify felling. There would be some commitments, costs and inconveniences resulting from the presence of the tree, but these would not be sufficiently onerous or harmful to warrant felling. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR