



Appeal Decision

Site visit made on 18 May 2019

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 05/06/2019

Appeal Ref: APP/TPO/W0734/6998

43 Harrow Road, Middlesbrough TS5 5NT

- 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.
 - The appeal is made by Mr Naseem Mohammed against the decision of Middlesbrough Council.
 - The application Ref: 18/0484/TPO, dated 16 July 2018, was refused by notice dated 12 September 2018.
 - The work proposed is: Removal of 3 Sycamores and 1 Horse Chestnut.
 - The relevant Tree Preservation Order (TPO) is The Middlesbrough Borough Council (43A Harrow Road) TPO No 72 1998, which was confirmed on 9 June 1998.
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Decision

1. The appeal is allowed insofar as it relates to sycamores T1 and T2 and therefore consent is granted to fell sycamores T1 and T2 protected by Middlesbrough Borough Council (43A Harrow Road) TPO No 72 1998, in accordance with the terms of the application dated 16 July 2018, subject to the following conditions:
 - 1) All works hereby permitted shall be carried out within 2 years of the date of this decision.
 - 2) Details of the species, size and location of replacement trees shall be submitted to and approved in writing by the local planning authority. The replacement tree planting shall take place during the first planting season (October – March) following the felling of the trees. The local planning authority shall be notified two weeks in advance of replacement tree planting.
 - 3) If within a period of five years from the date of planting, the replacement trees, (or any trees planted in replacement for them), are removed, uprooted, destroyed or die, or become in the opinion of the local planning authority, seriously damaged or defective, trees of the same species and size as that originally planted shall be by planted in the same place, unless the local planning authority gives its written approval to any variation.
 - 4) All tree work shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced).
2. The appeal is dismissed insofar as it relates to horse chestnut T3 and sycamore T4.

Procedural Matters

3. Although the application and appeal forms have different applicants, I am satisfied that the appellant named in the heading above is the owner of the trees.
4. I have used the numbering given in the tree report in this decision.

Main Issues

5. The main issues are the effect of the felling on the character and appearance of the area and whether sufficient justification has been demonstrated.

Reasons

6. The appeal trees comprise three sycamore and one horse chestnut in the plot of 43 Harrow Road (No 43), which appear to be all that remains of a Group Order for ten sycamore and three horse chestnut.

Sycamores T1 and T2

7. The difference between the TPO plan and the current building pattern suggest that No 43 has been built on former garden land. Sycamores T1 and T2 are tall and rather spindly trees with significant lengths of largely clear stem below top heavy and poorly shaped canopies. Although they make a contribution to the collective impact of the trees in No 43's garden, they are partially screened from the public domain by the trees on the frontage and by the dwellings of No 43 and 45 Harrow Road (No 45). As such, given their form and location I conclude that they make a minor to moderate contribution to the character and appearance of the area.
8. Although I agree with the Council that these sycamores appear to have vigorous growth, given the limited space between Nos 43 and 45, and the sycamores' current growth pattern, it is difficult to see how their future growth might develop or be contained. Further lateral growth of the canopies will result in significant oversailing of Nos 43 and 45, and their overall form suggests these sycamores have developed this etiolated form through proximity to other trees, now removed. Even if lateral limbs developed to support an increasing canopy, the space for additional growth is very limited. Given their proximity to the dwellings it is likely that even if the appeal was dismissed, there would be future pressure for the removal of these sycamores.
9. Moreover, the tree report suggests that there is some evidence of decay in T2. In another context I would give less weight to this observation. However, this reinforces my reasoning that these trees are poorly formed and in a less than ideal location. I conclude that there is sufficient justification for the removal of these sycamores.
10. It is noted that replacement trees have been suggested. It is unclear where these could be located, but as this is a condition supported by the Council I have presumed that it is a realistic and enforceable condition. This would enable some continuity of tree cover which would be necessary to make the removal of these trees acceptable in planning terms.

Horse chestnut T3

11. This is located along No 43's front boundary. Although lateral growth of its canopy appears to have been restricted, possibly by other trees, it has a reasonable form and is a significant presence in the street scene. It also provides some screening for the dwellings of Nos 43 and 45 whose bulk and massing is significantly larger than most other dwellings in the area. I conclude that the horse chestnut makes a notable contribution to the character and appearance of the area.
12. The tree report argues that this horse chestnut has signs of bleeding canker, and I am aware that this is a common disease in horse chestnuts. However, I am also aware that many mature trees are retained even where this has been diagnosed. It is also argued that the canopy contains deadwood, but there is nothing before me to suggest that this could not be removed.
13. There are other concerns expressed with regard to the tree's slight lean and possible stem decay. However, the tree report notes that the lean might be historic and that the decay has not been further investigated. There is nothing before me to indicate that other approaches have been considered. As this is an important tree in the street scene, I am not satisfied that there is sufficient justification for its removal.
14. I acknowledge that the ground levels at No 45 are lower than at No 43, but there is nothing before me to suggest there was not an existing level change before Nos 43 and 45 were built, particularly as the current vehicular entrance to No 45 appears to be in the same position and orientation as the vehicular entrance shown on the TPO plan.

Sycamore T4

15. This sycamore is a tall mature specimen with an asymmetric crown which is contiguous with that of the horse chestnut. In conjunction with the horse chestnut, it makes an important contribution to the street scene.
16. The tree report notes that there is fungal decay on the buttress roots and significant deadwood in the canopy. However, there is nothing before me to indicate why the deadwood could not be removed as part of ongoing management or that other options, such as reducing the canopy weight, have been considered. Given this sycamore's position and contribution to the street scene I am not satisfied that sufficient justification has been given for its removal.

Conditions

17. Conditions are imposed to ensure that replacement tree planting is agreed with the Council in order to ensure the character and appearance of the area, and that works are carried out in accordance with best practice.

Conclusion

18. For the reasons given above, the appeal is allowed for sycamores T1 and T2, but the appeal relating to the horse chestnut T3 and sycamore T4 is dismissed.

A Blacq INSPECTOR