



Appeal Decision

Site visit made on 13 June 2022

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2022

Appeal Ref: APP/TPO/X1118/8568 32 Yelland Road, Fremington EX31 3DS

- 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 Nicola Willmott against the decision of North Devon District Council.
 - The application Ref: 72879, dated 8 February 2021, was refused by notice dated 20 May 2021.
 - The work proposed is: Tree 1 – crown reduction to reduce height by 4m to bring ht to approx. 10m, reduce radius by 2m to bring radius to approx. 6m; Tree 2 – crown reduction to reduce height by 3m to bring ht to approx. 7m, reduce radius by 4m to bring radius to approx. 6m.
 - The relevant Tree Preservation Order (TPO) is 260 - W1, Chillparks Wood. Chillparks, Fremington, which was confirmed on 16 April 1991.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. There is a discrepancy between the plan and the aerial photograph submitted with the application. The plan identifies Tree 1 as the northern of the two trees, whereas the photograph shows it to be the southerly tree. It is clear from the description of the trees on the submitted schedule of works that the photograph is correctly annotated, and this was confirmed by the appellant at the site visit. I have determined the appeal on that basis.

Main Issues

3. The main issues are the effect of the proposed tree works on the character and appearance of the area, and whether sufficient justification has been demonstrated for those works.

Reasons

4. The two trees subject of the appeal are both ash trees, which form part of an area of woodland that lies to the west of a row of detached bungalows in Chilpark. They lie just beyond the rear boundary of the appellant's property at No 4. Tree 1 has a more open and vertical appearance than Tree 2, which has a wider, denser canopy. Nevertheless, neither appears to have been subject to any significant reduction works in the past, and both have developed an attractive and natural shape and form.

5. The two trees are prominent above the bungalows in public views from a wide area of Chilpark. They are seen as part of a large expanse of mixed woodland, which provides an attractive verdant backdrop to the row of bungalows. This woodland softens the appearance of the urban environment, and makes a very significant and positive contribution to the overall character of the area.
6. Although part of a group, both trees can also be appreciated as individual specimens, particularly Tree 1 which, when viewed from the cul de sac opposite, is largely silhouetted against the sky, demonstrating its balanced and natural form. Both trees are also readily visible from Yelland Road, to the south. From a viewpoint beside the bus shelter outside No 32, the form and stature of both trees can be appreciated. The form of Tree 1, in particular, is readily evident from here, as its upper canopy is seen separately from the backdrop of the woodland.
7. The two trees are, therefore, widely visible, and make a positive contribution to the character and appearance of the area, both individually, and as part of a larger area of woodland.
8. The proposed works would reduce the overall height and crown spread of both trees by a noticeable degree, which would reduce their stature, and detrimentally affect their current attractive and natural shape and form. Consequently, the contribution that the trees make to the visual amenity of the area, both individually and as part of a group, would be diminished. This would result in harm to the character and appearance of the area. Accordingly, any reasons given to justify the works need to be compelling. It is to those reasons, the second main issue, to which I now turn.
9. The trees lie to the west of the appellant's property, so will cast some shade over the rear garden during the afternoon/evening. However, the two trees lie beyond opposite corners of the garden, with a gap in between, which allows the passage of sunlight. At the time of my visit, in mid-afternoon, much of the garden was in full sun, including all of the decked area along the rear elevation of the bungalow. I am mindful that at other times of year the sun would be lower, but the canopy of Tree 1 is quite open, so does not cast dense shade. Furthermore, I saw that the garden is quite large, and relatively open to the south, east, and north. Consequently, it receives good levels of daylight, and I saw that grass and other plants were growing well throughout the garden. So, although the works would increase the amount of sunlight, the trees do not currently result in a level of shading that prevents the reasonable enjoyment of the garden.
10. Tree 2 partly overhangs a patio in the north-western corner of the garden. I do not doubt that this sometimes results in bird droppings landing on garden furniture, and may have some effect on the attractiveness of this part of the garden as a sitting out area. However, the tree only overhangs a very small part of the garden. The rest of the garden is level, so relocating the patio outside the canopy spread would be a feasible option. In any event, there are already alternative areas for sitting and relaxing, including an extensive decking area adjacent to the bungalow. Furthermore, there is an existing consent¹ for selective branch reduction and crown lifting of the two trees, which may go some way towards alleviating this concern.

¹ Local Planning Authority reference: 71982

11. There is an array of solar panels on the rear roof slope of 4 Chilpark. The appellant has submitted evidence showing a decline in the level of electricity generation between 2013 and 2020, which is attributed to the growth of the two trees. However, there is no clear evidence to discount other factors that may play a greater role. Furthermore, figures for some years are missing, so it is not clear whether the decline has been continuous, or whether there have been peaks and troughs.
12. At the time of my visit, the panels were in full sunlight, and would have remained so for some time. However, at times when the sun is lower in the sky the trees would cast shade on them, so would reduce their efficacy to some extent, although the open canopy of Tree 1 would still allow some sunlight through. Reducing the height of the trees would be unlikely to result in a significant increase in the length of exposure to the sun, as it would soon dip behind the remaining trees in the woodland. Consequently, there is no compelling evidence to demonstrate that the reduction in solar energy generation is directly linked to the growth of the trees, or that a reduction in their height would result in a significant increase.
13. Any application for works to protected trees requires a balancing exercise to be carried out. The reasons for the works applied for must be weighed against the resultant loss to the visual amenity of the locality. In this case I have found that the work to the two trees would result in harm to the character and appearance of the area. I have also found that there is no strong demonstrable need for carrying out the crown and height reduction. Therefore, having considered all matters, I conclude that insufficient justification has been provided for the works, and the appeal should be dismissed.

Nick Davies

INSPECTOR