The Planning Inspectorate

Appeal Decision

Site visit made on 1 August 2016

by Mick Boddy F Arbor A FICFor CEnv

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

Decision date: 31 August 2016

Appeal Ref: APP/TPO/W1715/5270

5 to 9 Shamblehurst Lane South, Hedge End, Southampton, SO30 2FN

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent for the felling of four sycamore trees protected by a Tree Preservation Order (TPO).
- The appeal is made by Mr Bernie Harverson, acting as agent for the appellant, Mr Kurt Brown of T L Capital Ltd, against the decision of Eastleigh Borough Council.
- The application, No T/16/77827, dated 8 January 2016, was refused by notice dated 14 April 2016.
- The TPO is The Borough of Eastleigh Tree Preservation Order No. 612, 5 to 9 Shamblehurst Lane South, Hedge End. 2008, which was confirmed on 6 August 2008.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The sycamore trees that are the subject of this appeal are growing adjacent to the rear (western) boundary of number 7 Shamblehurst Lane South, within the area of land identified as G1 on the TPO plan. Group G1 is described in the first schedule of the order as containing four sycamore. However, there are five sycamore trees growing within the area indicated on the TPO plan.

3. In the application, the appellant's agent asserts that only three of the four sycamores proposed for removal (trees 2 - 5) are included in the four protected by the TPO, but does not indicate which he considers these to be. This is also the case in the grounds of appeal but, again, it is not specified which of the four trees are considered to be protected by the TPO. Accordingly, I requested that the Inspectorate seek clarification on the matter from the Council.

4. In a response received on 12 August, the Council's Senior Tree Officer confirms that there are 5 sycamores but states that the additional tree is difficult to see, describing it as: *'towards the back, hidden next to an adjacent conifer and clad in Ivy.'* The email concludes: *'In the absence of any other information available to me, it seems clear that it is the Ivy clad Sycamore that is not included within the '4 x Sycamore' group TPO and that it is the other 4 more visible trees are covered.'* However, no documentary evidence to confirm this has been presented, leaving a degree of uncertainty over which of the five sycamores are actually scheduled in the order.

5. It is beyond the scope of this appeal to resolve the issue as to which of the sycamore trees are protected by the TPO. As both the application and appeal relate to four trees and do not specify which is considered to be omitted from the order, I have determined the appeal on the basis that all four of the subject trees are protected. However, this does not imply that tree 1 of the application is the sycamore that is not protected, merely that I am unable to unequivocally determine the protected status of the subject trees.

Main Issues

6. I consider that the main issues in this case are:

   (i) The impact of the proposed removal of the four sycamores on the visual amenity, ecology and wildlife, shelter and screening of the surrounding area.

   (ii) Whether the reasons put forward are sufficient to justify the proposed removal of the four trees.

Reasons

Impact of the proposed removal of the four sycamore trees

7. The four sycamores that are the subject of the appeal are growing adjacent to the rear (western) boundary of number 7 Shamblehurst Lane South and are identified as trees 2 to 5 on the plan that accompanied the application.

8. Number 7 Shamblehurst Lane South and the adjacent properties to either side, 5 and 9, were unoccupied at the time of my site visit and the roadside boundaries enclosed by hoarding, in advance of the clearance and redevelopment of the land currently occupied by the three bungalows.

9. Tree 5 is the largest of the four trees and is set forward from the boundary. The butt of this tree is swept and the trunk bifurcates at 2 metres. This sycamore is in the early stages of maturity and is the better tree of the four. Having the largest crown it also affords the greatest degree of screening of the gable elevation of the adjacent warehouse-like building to the west, on the Solent Industrial Estate.

10. Trees 2, 3 and 4 are smaller specimens growing as a short, closely spaced row abutting the boundary and forming a common canopy mass which merges with the crown of T5 to the east.

11. Whilst not outstanding individuals, the combined canopies of the sycamores are clearly visible from Shamblehurst Lane South to the front of the properties and fulfil a useful role in screening the adjacent substantial building on the neighbouring industrial estate. The trees' crowns are also visible over the roof of the adjacent bakery from the entrance road to the industrial estate to the north.

12. Collectively, I consider the trees afford a significant degree of public visual amenity and also make a modest contribution to the ecological and wildlife value of the site. This collective rather than individual amenity is reflected in the group designation within the preservation order.

13. The ecology and wildlife value of the trees is questioned in the grounds of appeal, apparently on the basis that sycamores are only host to aphids (they are actually listed as having 15 associated insect species and 183 associated lichen species).

14. Whilst a tree species may have relatively few insect species associated with it, if these occur in large numbers (e.g. aphids) then that tree species may provide an important source of food for birds and other wildlife. A tree's value for wildlife does not therefore necessarily solely equate to the number of species directly associated with it. Although the contribution that the sycamores make to the ecological and wildlife value of the site may be modest, this would nonetheless be diminished by their removal.

15. The sycamores are shown as retained on the layout drawing that accompanied the application, which I take to be the approved planning drawing. I therefore consider there should be a presumption in favour of the retention of the trees and that their compatibility with the proposed layout should have been addressed at the design stage. Accordingly, I am of the opinion that the trees should only be removed if an overriding justification has been demonstrated, reflecting a change in circumstances since the planning permission for the redevelopment of the land was renewed.

Reasons put forward for the removal of the trees

Potential instability

16. The photographs submitted with the application show a degree of ground disturbance around the base of the trees and illustrate that they are growing in a difficult rooting environment, with impermeable hard surfacing immediately beyond the boundary. The photograph of the base of tree 5 shows the buttress roots flattened on the southern side and the butt swept to the north, apparently as a consequence of the tree having developed adjacent to a garage that previously stood in this location.

17. The base of tree 5 was inaccessible at the time of my visit and ivy had developed around the bases and up the stems of trees 2 – 4, suggesting that the photographs submitted with the application were taken some time ago. From my limited inspection of the trees, I could see no indication that they are at foreseeable risk of uprooting and, in the absence of any detailed evidence to the contrary, take the view that the sycamores have adapted to compensate for the restrictive nature of their rooting environment.

Compatibility with the proposed development layout

18. The application states that the layout currently caters for the retention of all of the TPO'd trees in G1 and the individually scheduled ash T1 to the front of the site. Following reference to the potential stability issues with the trees, it continues to suggest that the sycamores will constitute a significant nuisance factor due to prolific self-seeding and aphid drip onto parked cars damaging paintwork. The grounds of appeal refer to surfaced car parking bays under the canopies of the trees, but this does not appear to be the case in the layout shown on the plan submitted.

19. Although the sycamores are not outstanding individuals, they are protected specimens that were proposed for retention within the planning submission and are subject to conditions relating to their protection in the planning permission. As the site has not yet been developed, the incompatibility issues raised relate to the proposed layout rather than the trees. I am therefore of the opinion that these should be addressed through the planning process rather than separately by means of the TPO application and appeal process.

Conclusions

20. In view of my decisions on the main issues, I have concluded that the reasons put forward provide insufficient justification for the removal of the four sycamores trees. The appeal is therefore dismissed.

Mick Boddy

Arboricultural Inspector