The Planning Inspectorate

Appeal Decision

Site visit made on 18 September 2013

by Giles Biddle OBE, MA, DPhil, FArborA

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

Decision date: 04 OCT 2013

Appeal Ref: APP/TPO/W1715/3340
9 Park View, Botley, SO30 2AB

- 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 Tennant against the decision of Eastleigh Borough Council.
- The application Ref: T/13/72613, dated 23 May 2013, was refused by notice dated 5 July 2013.
- The proposed work is the pruning and crown reduction of 2 oak trees.
- The relevant Tree Preservation Order (TPO) is No. 89, Land at Botley Rectory, Botley, which was confirmed on 8 November 1983.

Preliminary matter.

1. It is a requirement that Tree Preservation Orders must be confirmed and the Council should provide evidence that it has been confirmed. The Council have provided the Minutes of the Development Control Sub-Committee of 8 November 1983 that resolved that Tree Preservation Order Number 89 be confirmed, and have advised that the Order would have been confirmed on that date. In these circumstances I will accept that the Order was confirmed.

Decision.

2. The appeal is allowed in part and consent granted:

   i. To remove the two lowest limbs of oak T1 of the application.

   ii. To reduce the overhang of oak T2 by 3 – 4m, but only to a height of 7m above ground.

   The above consent is subject to a condition that all work shall be undertaken in accordance with British Standard 3998:2010 'Tree Work. Recommendations'.

3. The appeal is dismissed in respect of the application:

   i. To reduce the overhang of T1 by 2 – 3m.

   ii. To reduce the overhang of T2 by 3 – 4m above a height of 7m above ground.

Main Issues.

4. I consider that the main issues in this appeal are:

   i. The effect of the proposed work on the extent to which the trees contribute to visual amenity of the surrounding area.

   ii. The effect of the proposed work on the health of the trees.

Reasons.

The effect of the proposed work on the extent to which the trees contribute to visual amenity of the surrounding area.

5. Area A2 of the Tree Preservation Order (TPO) protects "the several trees of whatever species standing in the area designated as A2". The trees are principally oak and sycamore with at least one large beech tree and an understorey of holly and hazel. The plan of the TPO shows the eastern boundary of area A2 abutting the rear gardens of Nos. 5 – 8 Park View and part of the rear garden of No. 9. At the time the TPO was made the plan shows that Rectory Court occupied the area to the west where Maffey Court now stands. It also shows a path that connects Winchester Street to the High Street. This path still exists through the small area of woodland that forms the remains of area A2. A narrow strip of woodland also extends beyond area A2 to the south (to the rear of Nos. 10 – 12 Park View) and also to the north (between Nos. 1- 4 Park View and Nos. 1 – 15 Amberley Close).

6. All of these trees, both those within area A2 and those beside the path to the north and south, provide an attractive woodland setting for this path. They are also a very prominent feature to the rear of the houses along the west side of Park View, providing an attractive backdrop to these houses. The trees are also visible from Pern Drive and the adjacent section of Winchester Street. I consider them to be a very important feature in the visual amenity of the locality.

7. The two trees subject to the application form part of the woodland edge, with tree T1 lying just within the south east corner of area A2. As individual trees neither is of particular merit, but they contribute to the canopy along the edge of the woodland, and to that extent contribute to the visual amenity of the woodland strip.

8. The trunk of T1 has forks at 2.5m and 5m and has most of its crown extending to the east so that it partly overhangs the appellant's rear garden. The trunk of T2 leans to the east with branches also overhanging the rear garden.

9. The application seeks the removal of the two lowest branches from T1. These branches extend diagonally upwards to form the lower part of the crown to a height of about 7m. I consider that the removal of these could be achieved without significant detriment to the appearance of the trees either from the woodland path, or from Park View and the adjacent roads.

10. The reduction of overhanging branches from higher in the crown would alter the appearance of the canopy edge and be visible over the roof of the houses along Park View and to that extent would be detrimental to visual amenity.

11. Tree T2 has a mass of small branches overhanging the garden by 3 – 4m above the garden shed. Branches at higher level overhang by a slightly lesser amount. As the lower part of the crown is not visible from Park View, a

reduction in length of the branches to a height of 7m would make no difference to the appearance of the tree from that direction, and would have negligible impact on the appearance from the woodland path.

12. In my opinion the proposed work would not have any adverse impact on ecology, wildlife, shelter and screening provided by the trees.

13. A heavier crown reduction has been applied in the past to a large oak tree in the long rear garden of 75 Winchester Street (to the rear of the houses at the north end of Park View). This tree is not a subject of TPO No. 89, and is separated from the woodland strip to the north of area A2. I could see no evidence that trees within area A2, or in the woodland strip beside the path to the south, had been subject to any significant crown reduction in the past. There is therefore no precedent for a heavier crown reduction.

The effect of the proposed work on the health of the trees.

14. The two lowest branches on tree T1 have diameters of about 12 and 10cm at their point of attachment to the main stem. Cuts of this diameter would be able to occlude reasonably rapidly and pose negligible risk for entry of decay or be detrimental to the health of the tree.

15. Reduction in length of the branches of T2 by up to 4m would only involve small diameter cuts. Provided this work is undertaken in accordance with the recommendations of BS3998:2010, it would not be detrimental to the health of this tree.

Conclusions.

16. The removal of the two lowest branches from tree T1 and reduction in length of branches of T2 by not more than 4m to a height of 7m would not have an adverse effect on the visual amenity of the trees or their future health. I will therefore grant consent for this work, subject to a condition that it is undertaken in accordance with the recommendations of BS3998:2010.

17. Reduction in length of branches of either tree above a height of 7m would alter the appearance of the canopy edge of the woodland strip when viewed from Park View and thus be detrimental to their contribution to visual amenity, and I will therefore dismiss the appeal in respect of this part of the proposed work.

Dr P.G. Biddle OBE

Arboricultural Inspector