
Appeal Decision

Site visit made on 28 November 2023

by R J Perrins MA ND Arbor Tech ArborA

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

Decision date: 21 February 2024

Appeal Ref: APP/TPO/W1715/9348

29 Launceston Drive, Eastleigh, Hampshire SO50 4QE

- 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 Mr M Worboys against the decision of Eastleigh Borough Council.
 - The application Ref: T/22/93618, dated 15 August 2022, was refused by notice dated 26 September 2022.
 - The work proposed is the felling of Birch (T1).
 - The relevant Tree Preservation Order (TPO) is TPO No. 322 Launceston Drive, Barrington Close, Penrhyn Close, Dyrham Close, Oxburgh Close, Exeter Close, Totnes Close, Harlaxton Close, Pembroke Close, Denbigh Close, Lyme Close, Boyant Wood, Eastleigh, which was confirmed on 17 May 1995.
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Decision

1. The appeal is allowed, and consent is granted to fell the Silver birch tree to the rear of 29 Launceston Drive, Eastleigh, Hampshire SO50 4QE, protected by TPO No. 322 Launceston Drive, Barrington Close, Penrhyn Close, Dyrham Close, Oxburgh Close, Exeter Close, Totnes Close, Harlaxton Close, Pembroke Close, Denbigh Close, Lyme Close, Boyant Wood, Eastleigh. In accordance with the terms of the application T/22/93618, dated 15 August 2022.

Main Issues

2. The effect on the character and appearance of the surrounding area if the Silver birch tree was felled and whether the reasons submitted justify its removal.

Reasons

Character and appearance

3. The Silver birch grows to the rear of No 29 in a small garden which is predominantly paved. No 29 is at the eastern end of a small terrace of three properties. The gardens back onto, and adjoin, similar properties in Lyme Close. Directly to the east is a belt of mature broadleaved woodland which separates the residential development from a busy main road, Woodside Avenue.
4. Given the belt of woodland provides a substantial backdrop, the Silver birch has no effect upon the character and appearance of the location when viewed from the east. Viewed from the south, on the road in front of Nos 25 to 29, the

upper part of the crown can be seen over the rooftops but its effect is minimal when set against the adjoining wooded strip. In the same way when viewed from the west, from Launceston Drive across the rear gardens, the tree blends in with the woodland strip to which the eye is drawn.

5. Further views of the tree are available from Lyme Close above the roofs where it again has minimal effect. In that light it seems to me the main effect of the tree upon the character and appearance of the area is when it is viewed from adjacent gardens and the garden within which it grows. Although inevitably that is tempered by the mature woodland strip which continues to draw the eye.
6. For these reasons I find the loss of the tree would have minimal effect on the character and appearance of the area. Nevertheless, it is a mature tree with some impact. The reasons to justify the felling of the tree must therefore outweigh that harm. It is to those reasons which I now turn.

Justification

7. From my site visit I saw that numerous pavements had been lifted around the base of the tree and that it leans away from the woodland strip. In addition, it does not have an upright habit. Although, I saw nothing on site to lead me to the view that the lean had come about due to high winds. I see no reason to disagree with the Council in that regard. In the same way there is no evidence to suggest that the tree is solely responsible for the disruption to the pavements. Although given the size of the base of the tree it has undoubtedly had some influence and may have caused some disturbance.
8. Nevertheless, there is nothing before me to suggest that the paved areas could not be re-laid successfully and there has been no investigation to establish what sort of sub-base the pavements were laid onto and whether disturbance was inevitable in any event. However, I do recognise the tree is of concern to the owner of the property who served a 5-day notice on the Council prior to submitting the application. That was following consultation with a local tree surgeon, which indicates a degree of responsibility and fear about the tree causing substantial damage should it fail. Whilst there is nothing before me to indicate that to be the case, the effect of such concerns, is not without some weight albeit limited.
9. The appellant has referred to a number of other matters, which weren't before the Council as part of the appeal, but I am unable to take them into account. I also accept there would inevitably be some effect on ecology locally but given the adjacent woodland that is likely to be minimal. I recognise that neighbours have also not objected to its removal. In that light, the reasons put forward for its removal are simply that it may have lifted the patio, it may have moved and the appellant has concern about its safety. From what I saw on site, given the lean of the tree, and the raised pavements, the perception that it may have moved is not without merit and I do not doubt the appellant's concerns. Taken together these matters carry minimal weight.
10. I also recognise a replacement tree could be planted but it seems to me, given the small size of the garden and the adjacent woodland strip, that would not be necessary.

Conclusion

11. With any application to fell a protected tree a balancing exercise needs to be carried out. I have found that the loss of the tree would result in minimal harm to the character and appearance of the area. In the same way, the reasons put forward carry minimal weight. Therefore, this is a finely balanced case. However, this isn't an appeal from someone concerned about sunlight, leaf litter, and the other problems normally associated with such applications. It is, to my mind, borne out of the appellant's real concerns of the risk to property, and that just tips the balance in favour of tree removal.
12. In the normal course of events there would be a strong presumption against removal of a mature, protected tree. However, this particular tree is not at all prominent when set against the nearby tree cover and there have been no objections to its removal. Therefore, given the very particular circumstances of this case, taking into account all of the foregoing matters, both individually and in combination, sufficient justification has been provided to fell the tree.
13. On balance therefore, the appeal should be allowed. As set out above, I do not consider a replacement tree is required in this instance.

RJ Perrins

Inspector