



Appeal Decision

Site visit made on 9 June 2025

by Margaret Wright BSc (Hons) MSc MArborA

an Inspector appointed by the Secretary of State

Decision date: 4th July 2025

Appeal Ref: APP/TPO/W1715/10274

30 Valley Road, Chandler's Ford, Eastleigh, SO53 1GP

- 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 fell a tree protected by a Tree Preservation Order (TPO).
 - The appeal is made by Dr Muhammad Ashfaq Ezad against the decision of Eastleigh Borough Council.
 - The application Ref: T/24/97542, dated 6 June 2024, was refused by notice dated 22 July 2024.
 - The work proposed is described as removal of three marked trees, one Oak and two Scots Pines.
 - The relevant TPO is the Eastleigh Borough Council Tree Preservation Order No. 297 Valley Road, Nielson Close, (1-13 and 2-8) Heathlands Road and (94-100) Park Road, Chandlers Ford, which was confirmed on 8 December 1994.
-

Decision

1. The appeal is allowed and consent is granted to fell the oak tree protected by the Eastleigh Borough Council Tree Preservation Order No. 297 Valley Road, Nielson Close, (1-13 and 2-8) Heathlands Road and (94-100) Park Road, Chandlers Ford, in accordance with the terms of the application Ref: T/24/97542 dated 6 June 2024, subject to the following conditions:
 - (1) The work for which consent is hereby granted shall be implemented within two years from the date of this decision.
 - (2) A replacement oak tree shall be planted in the first planting season immediately following the removal of the tree unless otherwise agreed in writing by the Council. The replacement tree shall be of heavy standard in size with a girth no less than 14cm. The tree shall be planted in accordance with the recommendations in BS 8545:2014 Trees – from nursery to independence in the landscape.
 - (3) If within five years from the date of planting of that tree, or any tree planted in replacement, it is removed, uprooted, destroyed, dies or becomes, in the opinion of the Council, seriously damaged or defective, another tree of the same species and size shall be planted at the same place unless the Council gives its written approval to any variation.

Preliminary Matters

2. As set out in my fourth bullet point, the application sought the removal of three trees and the Council subsequently refused consent for all three. However, there are two Tree Preservation Orders covering the site: TPO No. 297, which applies specifically to oak trees, and TPO No. 58, an area designation confirmed in 1955. For the two Scots pines to fall within the scope of the 1955 area order, they would need to have been present at the time it was made. Based on their size and stem diameter, I

consider, as a matter of fact and degree, that it is highly unlikely that the trees are over 70 years old. Accordingly, the two pine trees were not protected under either order at the time the application was made, and no appeal could be made in respect of them. In that light, this appeal considers only the proposed removal of the oak.

Main Issues

3. The main issues in this case are the effect of the felling of the tree on the character and appearance of the area and whether sufficient justification has been demonstrated for its proposed felling.

Reasons

4. The trees grow on a bank to the rear of the property, adjacent to the flank wall of a double garage. While they are not prominent from public vantage points, they can be glimpsed above the rooflines of properties on Nielson Close and, to a lesser extent, from Brownhill Close. From these vantage points, the trees make a modest visual contribution, though this is softened and partly obscured by the presence of larger mature oaks nearby.
5. In this context, the trees are perceived as part of a broader belt of vegetation, and while they add to its depth and density, their individual removal would not be readily discernible in the wider landscape. As such, I am satisfied that harm to the character and appearance of the local area would be limited and it follows that reasons to remove the tree need not be convincing or compelling. It is to those reasons, the second main issue, to which I now turn.
6. The supporting engineering report indicates that soil pressure against the garage walls has increased due to the collapse of the bank, and that root disturbance associated with wildlife has contributed to structural instability. In order to repair and rebuild the retaining wall and prevent further deterioration of the garage structure, excavation of the bank and pruning of tree roots would be required. The engineering report is clear that such works are necessary and proportionate and I am satisfied that root pruning on this bank would destabilise the oak tree. In my view, this introduces a substantive safety risk were the tree to be retained.
7. While the Council expressed concern over the adequacy of the evidence submitted, I am satisfied that the engineer's report provides sufficient justification for the works proposed. The proximity of the tree to built structures, the observed root impact, and the failed bank make retention unrealistic in this case. Furthermore, consent for removal of the same tree was granted previously in 2006. Although that consent has since lapsed, it establishes that the principle of removal has already been accepted under similar circumstances. This is afforded significant weight in my deliberation of the case.

Conclusion

8. With any application to remove a protected tree, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss of amenity of the area. In this case, the tree is not so instrumental to the character and appearance of the area that the quality of this area would be so

diminished to outweigh the risks presented by retention of the tree. Moreover, the remaining tree belt would compensate for the loss of the tree and long-term views of the site would be unaffected.

9. A replacement tree, required by condition, would also compensate for the loss of the oak. Although, a five-year establishment condition (rather than ten) is consistent with standard practice and should be sufficient to secure establishment in most circumstances. In the absence of site-specific justification for extending this period, I see no reason to part with the normal approach. On balance therefore, the appeal is allowed.

Margaret Wright

INSPECTOR