



Appeal Decision

Site visit made on 14 January 2025

by R M Nicholson MArb MICFor FArborA

an Inspector appointed by the Secretary of State

Decision date: 30 January 2026

Appeal Ref: APP/TPO/W1715/10577

Brackenridge, 4 Oakhurst Way, Netley Abbey, Hampshire SO31 5AY

- 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 (TPO).
 - The appeal is made by Mr Iain Macgregor against the decision of Eastleigh Borough Council.
 - The application Ref: T/25/98807, dated 26 January 2025 was refused by notice dated 25 February 2025.
 - The work proposed is T1 Oak remove large limb extending north over the drive of 'Tobermar' and remove 3 lowest limbs growing out over the garden of 4 Oakhurst; T2 Oak fell.
 - The relevant TPO is Tree Preservation Order No. 209 Land off St Marys Road, Netley, which was confirmed on 12 February 1990.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed works on the character and appearance of the area; and whether the reasons given for the proposed works justifies that course of action.

Reasons

3. Turning to the first main issue, Brackenridge is an established bungalow in a sizeable plot on an unmade road near Netley railway station on the eastern side of Netley. The rear garden slopes down to St Mary's Road to the east where the property known as Tobermar is situated. The area is characterised by mixed residential detached one and two storey dwellings in generous plots with mature hedging on the boundaries. There is an area of woodland to the south and east and scattered mature pines and oaks in surrounding gardens.
4. The garden of Brackenridge is not maintained, and the two oaks grow on the rear boundary overhanging St Mary's Road. Oak T1 is a mature ivy clad tree which forks near its base into a wide spreading canopy. It suppresses oak T2 resulting in the canopy growing phototropically to the north and the canopies of the two trees merging into one.

5. Only the tops of the trees are visible from Oakhurst Way above the roofs of the bungalows. The trees are visible from St Mary's Road from the south and the north and from the cul-de-sac entrance of Oakhurst Way leading to the station car park. Because of its size and dominance, oak T1 is more visible than oak T2 but both trees combine to form an important landscape element which makes a valuable contribution to the character and appearance of the area.
6. The TPO has a woodland classification. The boundary of the woodland extends from the rear of properties in Oakhurst Way to include an area to the east on St Mary's Road. The Planning Practice Guidance sets out that "*The woodland category's purpose is to safeguard a woodland as a whole. So it follows that, while some trees may lack individual merit, all trees within a woodland that merits protection are protected and made subject to the same provisions and exemptions.*" It goes on to state "*It is unlikely to be appropriate to use the woodland classification in gardens.*"
7. Apart from the TPO plan there is nothing before me to show whether or not the woodland was part of a garden in 1990, or if the land was subsequently included within the garden of Brackenridge and neighbouring properties. However, with a TPO with a woodland classification the protection is afforded to the woodland area and not individual trees within it.
8. In the light of this, oak T2, although suppressed, makes a valuable contribution to the woodland forming its western edge and its loss would harm the appearance of the woodland when viewed from St Mary's Road. The proposed removal of branches from oak T1 which would adversely alter its appearance also causing harm to the character and appearance of the area. The works would therefore need clear and convincing justifications. It is to those reasons, the second main issue, to which I now turn.
9. In response to the question on the application form about the condition of the tree '– e.g. it is diseased or you have fears that it may break or fall' the applicant has ticked 'no'. All trees move or sway as a natural response to wind loading and groups of trees have a beneficial damping effect on each other in windy conditions. Removing any parts of this cohesive canopy would increase the loading on the crown during high wind events. While branches from T1 overhang St Mary's Road towards Tobermar, no evidence has been submitted to indicate that the structure of the tree is sufficiently hazardous such that the removal of branches is required. Furthermore, any deadwood in the trees can be removed without the need for consent to prevent this from falling from the trees. The one-sided crown structure of oak T2 is a result of suppression and no evidence has been produced to justify its removal or to demonstrate, contrary to my observations, that the tree appears to be in good health.

10. I recognise neighbour concerns and accept that no tree is completely safe. Should such concerns persist, the appellant could explore an appropriate specification of works from the Council. I also acknowledge the appellant's willingness to replace the tree with a new one if I were to allow the appeal. However, the belt of oak trees has low branches and no clear gap in the joint canopies. It would be difficult to establish a new tree on the property within the TPO boundary given the canopy density and lack of light. Moreover, the application form states that the original oak is dominated by T1, and I have no doubt that this was due to shading and lack of light.
11. With any application to prune or fell protected trees, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant impact on the contribution the woodland makes to the amenity of the area. In this case the proposed works to the trees would cause harm to the woodland and its contribution to the character and appearance of the area and, in my judgement, insufficient compelling justification has been demonstrated for the proposed works.
12. Accordingly, for the reasons set out above and having considered all matters raised, I conclude that the appeal should be dismissed.

RM Nicholson

INSPECTOR