



Appeal Decision

Site visit made on 3 April 2014

by **I Murat** MSc, F.Arbor.A, CEnv, MCIEEM

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

Decision date: 30 April 2014

Appeal Ref: APP/TPO/W4705/3698 All Saints Church, Bingley, BD16 2RH

- 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 prune a willow protected by a Tree Preservation Order.
 - The appeal is made by Mr D Collins against the decision of City of Bradford Metropolitan District Council.
 - The application Ref: 13/04173/TPO, dated 9 October 2013, was refused by notice dated 12 December 2013.
 - The proposed work is pruning.
 - The relevant Tree Preservation Order (TPO) is the City of Bradford Metropolitan District Council land at All Saints Church, Old Main Street, Bingley Tree Preservation Order 2007, which was confirmed on 6 March 2008.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In accordance with current guidance, fast-track procedure cases are dealt with on the information available when the local planning authority made its original decision on the application for consent, the authority's decision and supporting information in that decision and any further information requested by the Inspector.

Main Issues/s

3. I consider the main issues in this appeal are:
 - a. The effect on the appearance and character of the Conservation Area if the tree is pruned.
 - b. Whether the reasons given for the works are sufficient to justify that course of action.

Reasons

4. **(a) The effect on the appearance and character of the Conservation Area if the tree is pruned.** The tree is a visually prominent specimen visible from a wide and varied number of public vantage points.
5. There are views of the tree from within the town centre, the bridge over the River Aire and within residential areas.

6. From Main Street, there are clear and uninterrupted views of the tree for reasonable distances along the street. The tree, from these vantage points, is a pleasing specimen that adds to the setting of the church and the Conservation Area. From Millgate, the upper portion of the canopy can be seen over the roof tops of the cottages along Old Main Street. There are views of the tree from the public footpath that travels along the banks of the River Aire. These views of the tree would be lost if the tree were pruned. In my view, this would be detrimental to the Conservation Area and visual amenity as a whole.
7. The tree is visible from Bailey Hills Road. From this vantage point, as with the view from Main Street, the tree is a pleasing specimen that adds to the setting of the church and the Conservation Area.
8. The application is based on a specification included in a report prepared for the appellant. It states: "*Crown reduce and thin by 25%...Crown lift to clear railings...Carry out on a two year cycle*" [sic]. Crown thinning would have little detrimental effect on the overall appearance of the tree. Thinning is concerned with the removal of leaf bearing branches to leave an even density of foliage throughout a well-spaced and balanced branch structure.
9. In respect of crown reduction. This is concerned with the reduction in height and/or spread of the crown (the foliage bearing portions) of a tree. The reduction, as stated in the report, would be detrimental to visual amenity creating an artificial looking specimen in the landscape, particularly when combined with crown thinning. Crown lifting would to the tops of the railings would have no impact on visual amenity.

Conclusions on (a)

10. Overall, I have decided that there would be a significant effect on the immediate locality and the appearance of the Conservation Area if the tree were pruned as applied for on the application form.
11. **b) Whether the reasons given for the works are sufficient to justify that course of action.** In view of the amenity associated with the tree, there would need to be sound reasons to justify any works. The reasons given in the original application are supported by a report prepared for the appellant. The reasons for the works are identified at Section 5 of the report and states: "*pruning to maintain visibility and safe public access*" and *crown reduction and crown thin.....in order to prevent re-growth of mould to the exterior of 58 Old Main Street*" [sic].
12. The tree works application form, at Section 8, clearly requests that where there is alleged damage to property written technical evidence from an appropriate expert is to be provided. There was no such evidence supplied with the application form. As part of the appeal documentation, a report has been submitted. In light of the fact the matter has been introduced late in the process and unsupported; the issue has received no consideration.
13. The appeal relies on the historical claims history to justify works. It is suggested by the appellant that the previous claim sets a precedent for this application and appeal. When considering an application the authority is advised to: assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area; consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it; consider

whether any loss or damage is likely to arise if consent is refused or granted subject to conditions; consider whether any requirements apply in regard to protected species; consider other material considerations, including development plan policies where relevant; and ensure that appropriate expertise informs its decision. There is no requirement to take account of previous claims. It is noted that a claim submitted to the council's insurers, Zurich Municipal, has been repudiated by a letter dated 6 July 2013.

14. As part of the application process, applicants must provide reasons for proposed work. They should demonstrate that the proposal is a proportionate solution to their concerns and meets the requirements of sound arboriculture. The work specified does not meet this criteria. Crown reduction and crown thinning by 25% on a two-year cycle does not meet the requirement of sound arboricultural practice.
15. I find the degree of pruning to be excessive in terms of volume. Crown reduction is defined as an operation that results in an overall reduction in the height and/or spread of the crown of a tree by means of general shortening of twigs and/or branches whilst retaining the main framework of the crown¹. Due to its potentially negative effects, crown reduction should not be carried out in addition to other crown pruning operations, which would add to the amount of wounding and leaf loss. Having viewed the tree canopy architecture I am not satisfied that this could be achieved and retain a visually appealing silhouette. Equally, I am not satisfied that the volume of material being removed is within current best practice. The application is to crown thin and crown reduce by 25%. Therefore, there is a genuine concern that excessive volumes of leaf bearing branches will be removed to the detriment of visual amenity and tree physiology.
16. The specification, in terms of percentage reduction, is imprecise and unsatisfactory in terms of being able to reference the overall impact of the works. It is essential when dealing with trees of high visual amenity that specifications are precise. Specifications should detail an end result stated as an overall height or crown spread to remain following the works.
17. A 25% reduction in either the canopy area or the height of the tree, combined with a 25% crown thin, would be significantly damaging to tree physiology. It would expose shade leaves to high levels of sunlight, consequently resulting in malfunction of leaves. The reduction would cause severe dysfunction and lead to decay in the major structural parts of the tree. The tree will either die as a result of this pruning or there will be a profusion of new growth as the tree tries to rapidly recreate the canopy areas that had developed. This new growth will be in the form of dormant buds beneath the surface of the bark. These buds rapidly re-grow creating a dense canopy. To undertake these works on a two-year cycle is not in accordance with sound arboricultural practice.

¹ BS 3998:2010 – Tree Work – Recommendations

18. The tree is said to be located to the north east of the appellant's property and casting some shade. The tree is quoted by the appellant as preventing a decent level of natural sunlight reaching the wall. As the sun rises in the east and sets in the west passing through a southern azimuth, I find it unlikely the north east facing wall would be receiving any sunlight. The tree only has a limited canopy spread into the road. There appears to be a reasonable gap between the building elevation and the tree's canopy that allows the free flow of air. Little in the way of conclusive evidence has been forthcoming to support the contention regarding a temporal link between the mould on the wall and the tree.
19. In respect of crown lifting, the council has granted consent to undertake works. They have also granted consent to undertake work in the tree's canopy that will address the issues raised about debris and damage to parked cars.

Conclusions

20. Pulling all the threads together. I have noted all that the appellant has stated in support of the application and those matters which are valid before me. Having considered carefully the points raised, I am not persuaded that the evidence placed before me is sufficient to justify the pruning of the tree which makes a significant contribution to the amenity of the area. Applicants must provide reasons for proposed work. They should demonstrate that the proposal is a proportionate solution to their concerns and meets the requirements of sound arboriculture. This test has not been met. The appeal is dismissed.

I Murat

Arboricultural Inspector