
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 11/07/14

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 16/12/14

Appeal Decision

Site visit made on 11/07/14

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 16/12/14

Appeal Ref: APP/H6955/T/14/515965

Site address: Heddwch, St. Martins Mews, Llay, Wrexham LL12 0SJ

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Mr K Cleary against the decision of Wrexham County Borough Council.
 - The application Ref: LLA P/2014/0003, dated 6 January 2014, was refused by notice dated 31 March 2014.
 - The work proposed is to fell to ground level one oak tree in front garden of Heddwch, St. Martins Mews.
 - The relevant Tree Preservation Order (TPO) is the Wrexham Maelor Borough Council (Community of Llay) Tree Preservation Order 1992 No. 67, which was confirmed on 15 July 1992.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are; the amenity value of the oak tree and the impact of felling it on the character and appearance of the area, and, the condition of the tree and whether there are sufficient grounds to justify felling it.

Reasons

Amenity value

3. The canopy of this oak tree is clearly visible from St Martins Mews, School Road and from areas of public open space adjacent to St Martins Church. The crown of this mature oak tree has developed uniformly, leaf coverage is good and it appears healthy with no obvious signs of dieback.
4. This protected tree is highly visible contributing to its setting, and is clearly regarded as an important tree of high amenity value to local residents and the community in Llay in general. I would concur with these views that the tree affords a high amenity value given its form, visibility and contextual setting. I therefore consider that its removal would have a significant impact on the local environment and its enjoyment by the public. I conclude that the oak tree contributes to the amenity of its

surroundings and its removal would be harmful to the character and appearance of the area.

Justification for felling

5. The basis of the appellant's case is that the tree is infected by a primary wood decay fungus which has compromised the structural integrity of the tree. A visual examination by the appellant's arboriculture advisor indicates that the decay has progressed through the stem and into the buttress roots which has resulted in structural weakness and its inability to resist the wind.
6. The appellant's report identifies several fruit bodies *Inonotus dryadeus* were present on the stem and between the buttress roots. It indicates that a considerable portion of the main stem is decayed leaving a residual thickness of around 150-250mm. The report indicates that the buttress on the north-west side of the tree sounded hollow, and that in all likelihood the underside of the buttress roots is decayed. The report acknowledges that the decay does not yet appear in the remainder of the buttress roots, although there are signs that decay is beginning to progress into the underside of the buttress root from the cavity on the south-west side of the main stem.
7. The report recommends felling the tree, as only extensive crown reduction would reduce the risk of structural failure. Such remedial works, it is concluded, would significantly harm the amenity value of the tree.
8. The Council does not dispute the fact the tree is colonised by the fungus and that decay has occurred. However, it does not agree that the decay would necessarily spread to the rest of the buttress roots or that the tree shows signs of physiological problems. The Council indicates that the evidence presented to justify a case for felling has not been provided. The Council asserts that the information supplied does not quantify the extent of decay or the extent of the remaining sound wood in the tree's stem and buttress roots. As a result, the Council contends that the risk of failure has not been properly quantified given the paucity of evidence and the investigation techniques adopted to establish the extent and spread of the decay.
9. The Council provides a critic of the possible scenarios associated with a tree which has a residual wall thickness of 150mm and 250mm. The margin of 100mm it contends could make the difference between a tree which would be considered structurally defective and one which could remain.
10. I would agree with the Council that the level of decay in this tree has not been adequately explored to provide the substantive grounds that would quantify the risk of structural failure. The extent of decay properly mapped would provide the information to make an informed decision about the level of the present risk of the tree falling in windy conditions. The evidence provided with this appeal does not indicate at present that the tree is an immediate risk of falling. The Council refers to recognised methods to detect the extent of decay in the tree, such as picus sonic tomography, resistograph and a static load test. Tree radar is also a developed technique which would provide information of the extent of decay in the roots and the stem of the tree.
11. In the absence of such evidence I am unable to reach a conclusion that the tree is decayed to such an extent that the risk of failure from wind-blow would amount to an unacceptable risk. I therefore conclude that based on the available evidence as presented there are no sufficient grounds to justify felling this protected oak tree.

Conclusions

12. I conclude that the oak tree has a high amenity value and its removal is not justified based on the available evidence presented with this appeal.
13. I conclude having considered all other matters raised including representations from interested parties, that the appeal should be dismissed and that consent to fell the protected tree should be refused.

Iwan Lloyd

INSPECTOR