
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 14/03/17

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 05/05/2017

Appeal Decision

Site visit made on 14/03/17

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 05/05/2017

Appeal Ref: ENV/3167765

Site address: 1 The Sycamores, Top Road, Summerhill, Wrexham LL11 4SR

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 Mrs Karen Goodall against the decision of Wrexham County Borough Council.
 - The application Ref: GWE P/2016/1010, dated 26/10/2016, was refused by notice dated 20/12/2016.
 - The work proposed is to fell and replace a sycamore tree.
 - The relevant Tree Preservation Order (TPO) is the Wrexham County Borough Council Community of Gwersyllt, Tree Preservation Order No 250/2016 – No 1 'The Sycamores', Top Road, Summerhill, which was confirmed on 01/07/2016.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are; the amenity value of the sycamore tree and the likely impact of felling it on the amenity of the area, and, in the light of the above whether the proposal is justified having regard to the reasons put forward in support of it.

Reasons

3. The TPO individually protects the sycamore which is situated in the front garden of No. 1 adjacent to Top Road. The dwelling is positioned broadly to the north-east of the tree on lower ground. The Council has granted consent to remove deadwood in the upper crown and to undertake a 2m crown reduction, and allowed the lower primary limb extending over the lawn and driveway to be cut by 3m.
 4. The protected tree is a large mature specimen adjacent to the road and towers above the appeal property and the neighbouring dwelling. As indicated in the appellant's arboricultural assessment the single stem tree splits at some 2.5m in height into two with the western stem topped and the eastern stem forming the dominant stem and canopy of the tree. The tree has an asymmetrical crown compromised by the forked appearance of the stems which has been cut on one side of the tree next to the road. There are over-extended branches to one side of the tree. The upper crown has reduced density and there are signs of dieback in smaller branches. The tree is highly
-

visible in alignment with other trees alongside the roadside to the south, although the tree is individually protected in its own right. There is evidence of fungi decay on the main stem but there is no diagnostic evidence to indicate that the health and life expectancy of the tree is seriously affected nor are there particular signs of structural defects although I note that the tree bark was underneath a thick covering of ivy.

5. Despite its asymmetrical crown and cleft appearance the tree is a dominant feature along this village road such that it provides moderate amenity value. The consented works would re-shape and bring the tree into a managed condition and improve its current appearance. I saw a number of trees in alignment with the sycamore tree of No. 1, and a woodland area to the west. The removal of the appeal tree would diminish and materially harm the amenity of the area, because it is a tree of significant stature and visual prominence despite its current canopy form and appearance.
6. I therefore conclude that the sycamore tree has a continued positive impact on the amenity of the local environment and its enjoyment by the public.
7. The appellant indicates that the sycamore shades the appeal property and its neighbour and has provided a sunlight shadow assessment showing the shadow paths of the tree at different times of day and year. The assessment shows the shadow path on plan form with the affected houses Nos. 1 and 2 shown together with their curtilages. The shadow path is taken in March at noon, 15:00 and 17:00hrs, and in June for the same times. The fronts of these properties have main living rooms facing the tree, and it is shown that these properties are affected by shading from around midday to 17:00hrs in spring and summer. The appellant claims that daylight is affected because the tree fills a considerable area of visible sky and results in the main living rooms being diminished of natural light. This is also claimed to be compounded by the large leaves and usually dense canopies of sycamore trees.
8. The appellant refers to the seasonal issue of leaf fall, maintenance of gutters and the concern about honeydew damaging the parked cars and resulting in additional cleaning which is reported to be onerous and costly. The appellant is also fearful of the tree falling in high winds due to its proximity to the house and its overbearing presence. The appellant's fear is exacerbated by the knowledge that a neighbouring tree failed in high winds and landed on the next door house.
9. I note the concern about shading, although the evidence does not show the effect throughout the year. I consider that the shading effects would be less significant during several hours of the day, particularly in the morning to midday, and during late evening times from May to August when the sun's influence has passed around the canopy of the tree and when the shadow cast would not encroach on the fronts of Nos. 1 and 2. I acknowledge that during the afternoons there would be shadow cast on the houses for the most part of the year, when the sun is shining, but equally there are several hours of the day throughout the seasons when the influence of shading is not apparent. I therefore do not consider the effects to be so severe given that there would be a comparable period of time when the effects are not present.
10. I have not been shown the levels of diffused light received in the main living rooms of the houses to demonstrate that light levels fall below acceptable thresholds as established by British Standards. Whilst the tree is a dominant feature I do not regard it as overbearing since the canopy is relatively open. In my view, it does not significantly diminish the outlook or the amount of open sky aspect when viewed from

the house. Similarly, I do not consider the effects to be severe so as to justify the tree's removal.

11. I note the concern about falling leaves, and the honeydew residue, but these are natural and ordinary consequences of having trees within a residential environment. Honeydew can be particularly problematic but it can be washed off with soapy water and should be no more than a seasonal nuisance but it is unlikely to cause permanent damage.
12. The fear of a tree falling is understood, and the house is within the striking range of this tree. However, there is no observed structural defect to indicate a higher degree of risk of failure. There is no evidence or sign of progressive movement or structural weakness. Nevertheless, the fall of a tree may not be even due to an unobserved inherent defect in the tree. Healthy trees may be uprooted in severe winds. However trees have a built-in safety factor whereby they are usually able to withstand much stronger mechanical loading than occurs under normal conditions, although that is sometimes not enough to prevent them from falling.
13. However, if this argument succeeds then every protected tree would have to be felled which might be dangerous, particularly when the risk of injury and damage is high. The evidence provided with this appeal does not indicate at present that the tree is an immediate risk of falling. Whether or not there is a high risk of the tree falling should be assessed on the basis that there is a present danger. I have no evidence to support the claim that the tree is immediately dangerous and hence needs to be felled.
14. I therefore conclude that based on the available evidence as presented there are insufficient grounds to justify felling this protected sycamore tree.

Conclusions

15. I conclude that the sycamore tree has a moderate amenity value and its removal is not justified based on the available evidence presented with this appeal.
16. I conclude having considered all other matters raised that the appeal should be dismissed and that consent to fell the protected tree should be refused.
17. In reaching my decision I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle, through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

Iwan Lloyd

INSPECTOR