



# Appeal Decision

Site visit made on 12 November 2009

by **Mick Boddy F Arbor A FICFor CEnv**

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

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Date:  
25 November 2009

**Appeal Ref: APP/TPO/R1845/798**

**13 Cornwall Avenue, Kidderminster, Worcestershire, DY11 5JF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent for the felling of a sycamore protected by a Tree Preservation Order.
- The appeal is made by Mrs E H Brown against the decision of Wyre Forest District Council.
- The application Ref: 09/0373/TREE, dated 29 May 2009, was refused by notice dated 3 August 2009.
- The relevant Tree Preservation Order (TPO) is the County of Worcester (The Beeches, Kidderminster) Tree Preservation Order, 1968, which was confirmed on 13 January 1969.

## Decision

1. The appeal is dismissed.

## Main Issues

2. I consider that the main issues in this case are:
  - (i) Whether the proposed removal of the sycamore would have a detrimental impact on the amenity of the area.
  - (ii) Whether the grounds put forward for the felling of the tree are sufficient to outweigh the amenity afforded by the sycamore and thereby warrant its removal.

## Reasons

### Amenity Value

3. The sycamore is a mature specimen growing adjacent to the eastern boundary wall of the rear garden of the property. It is a substantial tree, of good form, that is visually prominent when viewed from the B4190 Wolverley Road to the north. The tree's broad crown is also clearly visible above the roof of Mrs Brown's bungalow when approaching the property along Cornwall Avenue from the west.

4. The refusal notice states that the appeal sycamore is the only mature tree remaining on the estate protected by the preservation order. Whilst there is a younger sycamore to the north, adjacent to Wolverley Road, and a further younger sycamore and a birch at the head of the cul de sac to the front of 12 Cornwall Avenue, no trees of similar stature to the appeal sycamore were apparent in the immediate vicinity.
5. On this first issue I have concluded that the proposed removal of the sycamore would have a significantly detrimental impact on the area in visual amenity terms.

### **Grounds put forward for felling the tree**

#### *Shading*

6. The rear garden is approximately 11 metres square, with the garage projecting adjacent to the western boundary and a conservatory on the eastern side of the rear elevation of the bungalow. The sycamore is situated 5.8 metres from the rear right corner of the conservatory. The ground rises from south to north and the garden is terraced up from the rear of the bungalow to the main garden area. A mature silver birch is growing adjacent to the centre of the rear boundary.
7. It is apparent that the sycamore's crown has previously been raised and thinned, and there is limited scope to undertake further pruning without detracting from its appearance.
8. The sycamore's crown extends radially to the west over the garden by around 7 metres. Whilst it will cast direct shade over the area beneath its canopy, it will only deprive the garden and rear of the bungalow of direct sunlight in the earlier part of the day. Although the sycamore is the dominant feature of the garden, the western section is largely unaffected by the tree. The use of this area for drying washing would avoid the reported problems associated with droppings from birds alighting in the crown of the sycamore. Whilst an obvious inconvenience, I do not consider the influence of the sycamore in terms of shading or reduction of natural light is currently sufficient to warrant its removal.

#### *Health issues*

9. Mrs Brown's doctor, Dr K O'Connor, submitted a letter to the Council on 28 May 2009 in support of the application to remove the sycamore. The letter refers to breathing difficulties being experienced by Mrs Brown, stating that her health is being severely affected by the tree and advocating its prompt removal. However, the letter does not provide sufficient information to conclusively link the influence of the tree to Mrs Brown's health problems. Without knowing what it is about the tree that is causing the problem, I am unable to satisfy myself that its removal will provide sufficient relief to Mrs Brown's condition to justify this action and that she will not continue to be adversely affected by the other trees in the vicinity.

10. No evidence has been submitted to support the assertion that the allergy problems affecting the neighbours are tree related and, if so, that the appeal sycamore is the sole cause of these and not the other trees growing nearby.

#### *Safety*

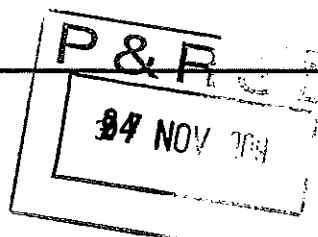
11. The tree appeared to be in good overall physiological and structural condition, with no indications that it is particularly prone to branch shedding or collapse, subject to it continuing to be appropriately maintained. Whilst concerns relating to the safety of the tree may be understandable, I do not consider that the risk of further branch shedding or any other aspect of the tree's structural or physiological condition currently warrant its proposed removal.

#### *Risk of structural damage*

12. No evidence has been submitted to suggest that the tree poses a foreseeable threat to the stability of Mrs Brown's bungalow or the neighbouring dwellings due to its rooting activity. Vegetation-related subsidence is a complex issue with many variables. It is not therefore possible to predict the risk of a tree causing structural damage merely by considering its size and proximity to a dwelling.
13. Whilst the tree is close to the garden boundary wall and may have caused damage to this in the past, it has been successfully repaired and appeared to be in reasonable condition, with no indication that it is likely to be damaged by the sycamore in the near future.
14. I do not therefore consider the unsubstantiated risk of future damage occurring warrants the removal of the sycamore tree.

#### *Other problems associated with the tree*

15. There will be a degree of seasonal inconvenience and additional maintenance associated with the collection of fallen leaves in the autumn but this is an unavoidable consequence of owning a property with a tree in the garden. Whilst it may not be possible to eliminate the problem of the gutters and rainwater downpipes becoming blocked by leaves and other debris from the sycamore, this could be reduced by the installation of proprietary leaf guards.
16. Sycamores are prone to aphid infestation and I have no doubt that there will be some honeydew deposition and resultant sooty mould associated with the appeal tree. This will be a further source of seasonal inconvenience, and may necessitate the more regular cleaning of the windows than if the tree were not present.
17. Whilst I sympathise with the appellant, I do not consider that the problems associated with the tree and additional associated maintenance issues are sufficient to warrant its removal.
18. The sycamore is a considerable distance from the road and the driveways of the neighbouring properties, I cannot therefore see that honeydew deposition from the tree affecting the windscreens of the neighbours' cars is likely to be an appreciable problem.



*Vermin*

19. Whilst the presence of rats is a serious matter, there are effective methods of controlling these which do not require the removal of the tree.
20. With regards to this second issue, whilst I sympathise with the appellant, I do not consider that the problems directly associated with the sycamore and additional associated maintenance issues are sufficient to warrant its removal. Whilst the potential influence that the sycamore may be having on Mrs Brown's health is a particular cause for concern, this link has not been sufficiently clearly demonstrated to influence the determination of the appeal.

*Other matters*

21. An eighteen signature petition was submitted in support of the application to remove the sycamore but this does not raise any additional issues.

**Conclusions**

22. In view of my of my decision on the two main issues, I have concluded that on the basis of the evidence submitted, there is currently insufficient justification for the removal of the sycamore tree and I therefore dismiss the appeal.

*Mick Boddy*

Arboricultural Inspector