



Appeal Decision

Site visit made on 18 December 2009

by **David H Thorman B Sc F Arbor A**

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

The Planning Inspectorate
4/09 Kita Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date:

01 FEB 2010

Appeal Ref: APP/TPO/R1845/927

Land at No 6 Highgate Close, Kidderminster, Worcestershire DY11 6JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent to fell one Corsican pine tree that is protected by a Tree Preservation Order.
- The appeal is made by Mr & Mrs Peter Marsh against the decision of Wyre Forest District Council
- The application (Ref: 09/0518/TREE) was refused by notice dated 16 September 2009.
- The relevant Tree Preservation Order (TPO) is the Wyre Forest District Council 12 "Beeley Ridge" Whitehill Road, Kidderminster, Tree Preservation Order 1997 which was confirmed on 5th May 1998

Decision

1. The appeal is allowed in respect of the Corsican pine tree T1 of the TPO, and consent is granted to fell subject to the following conditions:
 - (i) That a heavy standard size (14-16cm girth) common oak tree is planted in the rear garden of no 6 Highgate Close at least 5m distant from any other tree in the garden, and no more than 2m from the western boundary. The exact spot to be agreed between the local authority and the appellant.
 - (ii) The date of the felling to be notified to the local planning authority no less than one week prior to the felling, and the replacements are to be planted within 12 months from the date of the notification.
 - (iii) If the replacement tree is destroyed, dies or is removed within 5 years of the date of planting, a replacement tree of the same size and species shall be planted during the next available planting season.

Main issues

2. In my view the main issues are:

- (i) The effect of felling the tree on the character and appearance of the area
- (ii) Whether the condition of the tree constitutes such a significant hazard that this is sufficient to outweigh its amenity value and thereby warrant its removal.

Reasons

The effect of felling the tree on the character and appearance of the area.

- 3. The appeal pine tree is located within a fairly modern housing estate which borders open countryside to the west. There are a number of trees including tall pines which characterise the locality. The appeal pine is visible amongst these from a number of viewpoints within the housing estate. Photographs A and B submitted by Mr Taylor - the appellant's agent - have been taken from selected private driveways, so give a limited perspective. The tree can be seen very clearly from Highgate Close outside the entrance to nos. 6 and 8, and from the corner opposite nos. 4 and 5. It can also be seen clearly from Southgate Close. It is likely that in more distant views from the west the appeal tree will not be individually distinct, but it forms part of a canopy that is an important feature in the landscape
- 4. In Mr Taylor's photograph C the appeal tree is partly obscure by tall birch trees, but on the day of the site visit it could be clearly seen from this viewpoint because the birch trees had lost all their leaves. Although this view is just in the winter months, the pine makes a pleasing contrast with the bare deciduous trees at this time of year, adding to its amenity.
- 5. The fact that Corsican pine trees are common trees or that they are not native does not nullify their amenity value. The perception that conifer trees are ugly is a subjective view, as pine trees are widely viewed as a pleasing amenity in the landscape. The appeal pine therefore has significant amenity value in the local environment.

Whether the condition of the tree constitutes such a significant hazard that this is sufficient to outweigh its amenity value and thereby warrant its removal.

6. In the assessment of the appeal tree's condition by Mr Taylor, he states that the tree is in good health, and I would agree. In his closer inspection of the general condition in relation to safety he focuses entirely on a feature known as "included bark sections". I did observe just one significant example of this feature (confirmed by Mr Taylor) on the southern side of the tree. Whereas the tight union for this limb does have the appearance of poor integrity, the limb is completely enclosed within the southern part of the crown, and has very little space for independent movement, which diminishes the potential for failure. Even in the event of it becoming insecure, it would be supported by the remainder of the crown.
7. The tree is very exposed to the west and north-west, so this will have an impact on it, but trees usually adapt to these situations over time by putting on extra growth where needed. I also note that the crown is severely unbalanced on its south-east side and is heavily weighted toward the rear of the bungalows nos. 6 and 8 Highgate Close, and the trunk leans in the same direction. There is no indication at present of any past reason for its unbalanced shape, although it could be that trees have been removed on its north side in the past. Whereas the tree will likely have reacted to possible changes in its environment, its present status would depend to some extent on how long ago such changes occurred. Sudden changes in a tree's shape and exposure can have serious consequences.
8. The excessive crown weight, imbalance, and lean of the tree are significant factors in this case, and I would conclude on this issue that, whilst balancing all other factors, the tree's current disposition does represent a hazard to the nearby bungalows and their occupants.

Conclusion

9. Although the appeal pine tree is an important amenity feature in the local landscape, I am of the view that this is marginally outweighed by safety implications related to its severe imbalance and exposure close to residential buildings. I shall therefore allow the appeal subject to a replacement planting condition as described in paragraph 1 above. I have suggested a deciduous tree as the submissions appear to indicate that this would be preferred.

David H Thorman

Arboricultural Inspector