



03 DEC 2012

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MA 439722

Mr M Amey – Arboricultural Officer
East Hertfordshire District Council
Wallfields
Pegs Lane
Hertford
Herts
SG13 8EQ

Your Ref: P/TPO/84 439722
Our Ref: APP/TPO/J1915/2774
Date: 29 November 2012

Dear Mr Amey

THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012, SI No. 605
APPLICATION TO CARRY OUT WORK ON PROTECTED TREES
APPELLANT: Susan Hogan
SITE AT: Land opposite Heads House, Great Hyde Hall, Hatfield Heath Road, Sawbridgeworth, Herts CM21 9JA

I enclose a copy of our Inspector's decision on the above appeal following the site visit on 30th October 2012.

The appeal decision is final unless it is quashed following a successful challenge in the High Court on a point of law (see enclosed leaflet). If the challenge is successful the decision may be quashed but the case will probably be returned to the Secretary of State for re-determination. However, if it is to be re-determined, it does not necessarily follow that the original decision on the appeal will be reversed.

An application under Section 288 of the Town & Country Planning Act 1990 must be made to the High Court promptly and in any event within 6 weeks of the decision in question. This is an absolute time limit that cannot be extended by the Court.

A challenge must be made on one or both of the following grounds:

- (1) the decision is not within the powers of the above-cited Regulations;
- (2) any of the relevant statutory requirements have not been complied with.

A decision will not be overturned by the Court merely because someone does not agree with an Inspector's judgment. It would need to be shown that a serious mistake was made by the Inspector when reaching his or her decision or, that the site visit was not handled correctly, or that the appeal procedures were not carried out properly. Even if a mistake has been made, the Court may decide not to quash the decision if it is decided that the interests of the person who has sought to challenge the decision have not been prejudiced.



If you have any complaints or questions about a decision, or about the way we have handled the appeal write to:

Quality Assurance Unit
The Planning Inspectorate
4/06 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Phone No. 0303 444 5884

Or visit:

<http://www.planningportal.gov.uk/planning/appeals/planninginspectorate/feedback>

The Quality Assurance Unit will investigate your complaint and will endeavour to reply within twenty working days.

Yours sincerely



Gemma Palmer
Environment Appeals Administration

Enc



Appeal Decision

Site visit made on 30 October 2012

By Brian G. Crane, M Hort, P Dip Arb (RFS), OND Hort, FLS, F Arbor A, MIC For, MI Hort, MEWI, Chartered Arboriculturist

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

Decision date: 29 NOV 2012

Appeal Ref: APP/TPO/J1915/2774

Land Opposite Heads House, Great Hyde Hall, Hatfield Heath Road, Sawbridgeworth, Hertfordshire CM21 9JA

- 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 undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Ms S Hogan acting on behalf of the Great Hyde Hall Management Company Limited against the decision of East Hertfordshire District Council.
 - The application Ref: P/TPO/84439722, dated 20 June 2012, was refused by notice dated 2 August 2012.
 - The proposed work is felling.
 - The relevant Tree Preservation Order (TPO) is the Sawbridgeworth Urban and District Council Tree Preservation Order relating to Hyde Hall, Sawbridgeworth, Hertfordshire which was confirmed by authority of the Secretary of State. The date of confirmation is unclear on the document supplied to me, however it appears to be 3 July 1973.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that in refusing consent to fell the appeal tree the Local Planning Authority have indicated that they would be prepared to allow the raising of the canopy to give 4 metres clearance above ground level and a reduction of extended laterals towards the house by up to 2.5 metres, back to suitable branch nodes or points.

Main Issues

3. I consider the main issues in this case to be:-
 - i. The effect of the proposal on the character and amenity of the area.
 - ii. Does the appeal tree present such a significant threat or nuisance to the owners or occupiers of Heads House that this is sufficient to outweigh its amenity value and justify the works proposed?

Reasons

The effect of the proposal on the character and amenity of the area.

4. The appeal tree is a sycamore (*Acer pseudoplatanus*) in the early part of the

mature phase of its lifecycle. It has formed a well balanced crown and is of aesthetically pleasing shape. Leaf and bud size and extension growth indicate that the tree is growing with appropriate vigour for its age and species and I consider it likely to have a safe, useful life expectancy in excess of 50 years.

5. The tree is visible from the access drive running through the grounds of Hyde Hall and, with other trees, acts as a screen between the access driveway and Heads House. In my view, the tree contributes to the character and amenity of the area and its removal would degrade local landscape quality and amenity.

Does the appeal tree present such a significant threat or nuisance to the owners or occupiers of Heads House that this is sufficient to outweigh its amenity value and justify the works proposed?

6. The tree does not display any characteristics which lead me to suppose that it poses a current threat to the occupiers of Heads House. I noted a small cavity at the base of the tree however; root buttresses either side of this appeared sound. I also noted a site in the mid-crown from which a branch of fairly small diameter has been lost in the recent past.
7. The tree stands to the east of the frontage of Heads House and approximately 13.5 metres from the building. In my view the tree is not in such close proximity to the house that this will cause problems to the owners or occupiers, nor does it appear overbearing. The tree is approximately 18 metres in height, however, such height does not, of itself give any cause for concern.
8. Because of its position, the tree will cast shade towards the building during the morning, shading at the front of the property later in the day will be caused by the building itself. However, there are trees to the south of the appeal tree which are of considerable size and which will also cast shade towards the building. I do not consider that removal of the tree will significantly ameliorate light attenuation problems at this property, or that such problems would justify the removal of a tree of perceived amenity value.

Other Matters

9. The tree stands within the grounds of a Grade II Listed Building.
10. Matters have been raised by the appellant in the appeal documentation which did not form part of the initial application to the Local Planning Authority. As the Authority has not had the opportunity to consider or respond to them, I have not considered these matters in reaching my decision.

Conclusions

11. The appeal tree is apparently healthy and appears likely to have a long safe, useful life expectancy. I saw nothing to indicate that it poses a current, identifiable safety hazard. It is visible from the access driveway and contributes to local visual amenity, landscape quality and the setting of the Listed Building. Removal of the tree would degrade local landscape amenity. It is likely that the tree will cast shade towards the house during the morning, however I do not regard this as sufficient grounds for its removal. I also consider that, due to the presence of other trees, the removal of the appeal tree is unlikely to resolve

light attenuation problems at this property. For these reasons, I dismiss the appeal.

B G Crane

Arboricultural Inspector