



Appeal Decision

Hearing held on 23 March 2021

Site visit made on 25 March 2021

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2021

Appeal Ref: APP/TPO/U4610/7478 7 South Avenue, Coventry CV2 4DG

- 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 Susie Edwards against the decision of Coventry City Council.
 - The application Ref: TP/2019/0693, dated 14 March 2019, was refused by notice dated 20 May 2019.
 - The work proposed is: T1 and T2 - Pollard Limes to original pollard heads approx. 4-5 metres above ground level.
 - The relevant Tree Preservation Order (TPO) is City of Coventry (South Avenue No 3) TPO 2014, which was confirmed on 21 May 2014.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the works would preserve or enhance the character or appearance of the Stoke Green Conservation Area (CA) and whether sufficient justification for the works has been given.

Reasons

3. The northern part of the CA contains what appeared to be a discrete estate of Edwardian and early 20th dwellings, mainly detached and on large plots. The loop of South Avenue in particular is lined by large dwellings with a very high proportion of mature garden trees. Gardens are also screened from view by evergreen hedges at the back of the footway.
4. The limes (T1 and T2) are located very close to the plot boundary of 7 South Avenue (No 7). They are reasonably symmetrical specimens estimated to be around 100 years old, and with an estimated height of about 20 metres. There are other mature trees in nearby gardens which have clearly been heavily pruned or pollarded in the past, but which have now been allowed to grow unchecked.
5. I observed that the area has a very distinctive sylvan character and that the predominance of fine mature trees is a key feature of that distinctive character. I conclude that the appeal trees are imposing specimens which make an individual and collective contribution to the CA and the street scene.

6. Pollarding the limes to a height of 4.5 – 5 metres would significantly reduce their canopies and their overall impact. Consequently, their contribution to the street scene would be diminished, which would have an adverse impact on the CA. The Council observed at the hearing that this was one of the first conservation areas to be designated in the city and also contains some of the city's best trees. I appreciate that the Council has not provided a formal CA appraisal but this does not lessen my statutory duties with regard to the consideration of the effect of the works on its character and appearance, or the weight I attribute to that harm.
7. My attention has been drawn to heavily pollarded limes elsewhere on this residential estate. However, the pleached limes at 1 South Avenue are little more than an ornamental arch over a gate, and the very heavily pollarded limes at 56 South Avenue (No 56) reinforce my reasoning that pollarding and the loss of the appeal limes' mature canopies would be detrimental to the street scene at the junction of South Avenue and West Avenue. Moreover, No 56 is on the periphery of the estate where there are fewer mature trees and the distinctive verdant appearance of the estate is far less apparent. It is also the case that these examples are not protected trees and so the situations are not comparable.
8. I now turn to whether sufficient justification for the works has been given. I have used the references given on the plan. The trunk of T1 splits at a height of about 2.5 metres, and has a series of former pollard knuckles at a height of around 3.5 – 4 metres above ground level. Above those points the stems are of variable size with some appearing to be quite large and mature. The canopy is congested, and some stems have already or are likely to fuse in the future. Although there has been pollarding in the past it has clearly lapsed for a considerable period of time.
9. Lime T2 appears to have been pollarded at a height of around 2.5 metres as there are multiple stems emerging from the main stem at this height, with additional pollard knuckles above. The canopy is comprised of stems of similar size to T1. Again the morphology of the tree suggests that pollarding has been lapsed for some time. Both trees have very little canopy below the proposed pollard height.
10. The arguments advanced to support the application are that the limes overshadow the dwelling and the garden. Number 7 has a more or less south facing front elevation which is screened from the road by a substantial evergreen hedge and a sizeable magnolia bush which extends to at least the height of the first floor. The hedge is higher than could be required for privacy from the road and the hedge and the magnolia combined will in themselves obstruct morning sunlight and daylight into No 7's front windows.
11. Both trees are shown on the plan to be closer to the house than appeared to be the case at the visit. I have based my assessment of their shading effects on their distance and orientation relative to the dwelling. T2 is located about 6-7 metres from the corner of No 7's front elevation. I conclude that it will cause overshadowing of windows on No 7's front and side elevation from around noon to mid-afternoon.
12. T1 is located about 11 metres from the side elevation of No 7 and will overshadow the dwelling from mid-afternoon until the sun has an azimuth of due west. Taken together the limes are likely to overshadow the house to

some extent from noon until the sun is in the west. However, given that there are other unprotected trees in the garden, as well as the aforementioned hedge and magnolia that are highly likely to be contributing to overall shading and light loss, it seems to me that the situation could be partially mitigated by the pruning of other garden vegetation. In a suburban setting there are always likely to be obstructions to sunlight at periods during the day. Moreover, the garden shrubs did not seem particularly affected by shade.

13. With regard to pollarding, BS 3998:2010 states that if the pollarding cycle has been allowed to lapse, the crown should be reduced to the minimum necessary to fulfil current objectives. The text goes on to state that old pollard branches should not be cut to the knuckle, since the removal of all the attached foliage would probably lead to physiological dysfunction and decay. The BS indicates that that formerly pollarded trees should not be cut to previous pollard knuckles or into large diameter limbs, when the pollarding cycle has lapsed.
14. Bearing in mind the advice in the BS, I conclude that notwithstanding the adverse effect that pollarding would have on the limes' visual amenity and contribution to the CA, some of the wounds would be excessively large and most of the trees' active foliage would be removed. This is highly likely to have an adverse effect on the limes' future health and longevity as a consequence of pathogen entry and an inability to regenerate.
15. The likelihood of future pathogen entry was a matter of dispute at the hearing but given the content of the BS in this regard, and my experience of determining other pollarding appeals, I conclude that a resumption of pollarding would be detrimental to these trees.
16. Moreover, I see no reason why a past instance of pollarding should automatically result in pollarding being an acceptable means of tree management going forward. Tree management can vary over the lifetime of a tree for many reasons. Nor is the fact that they were pollarded after the designation of the CA particularly determinative.
17. There is no evidence before me that the trees are damaged, diseased or lack structural integrity. Although the potential for structural decay at the pollarded points is raised as an argument in favour of the appeal, there is no evidence that this is likely to occur. In any case precautionary works are not necessarily a sufficient reason to carry out works to protected trees without supporting evidence. It is also the case that if there are concerns in relation to structural issues a climbed inspection could be undertaken to inform further works.
18. However, I appreciate that the limes are a significant part of the overshadowing experienced by the appellant and I am also aware that limes have heavy dense canopies. Given the congestion and fusing of branches that I observed in these two trees, and notwithstanding my previous comments, I am satisfied that some limited pruning would in any case be appropriate management.
19. The Council has suggested a condition that stipulates crown thinning to 15 – 20 per cent for both trees. Whilst this would not be as extensive as the works applied for, it would go some way towards reducing overshadowing and light loss whilst retaining the presence of the limes in the street scene and the CA. It would also reduce some of the excess material from the congested crowns whilst retaining foliage bearing branches. I appreciate that the

appellant considers crown thinning an unacceptable solution. However, I have to presume that the appellant was aware of these trees when moving to the area and their protected status. Anyone moving to the area would also be aware that its mature trees contribute to its distinctive character.

20. I have considered whether I could allow the appeal with a condition for crown thinning but pollarding and crown thinning are different operations. I have concluded that to give conditional consent would be outside my remit as it would allow works not described in the application.

Other matters

21. The arguments for the inclusion of the limes in the TPO is outside the remit of this appeal. Even if I agreed that they should not have been included, it would not affect my reasoning as there is a valid TPO before me.
22. I give no weight to concerns in relation to leaves. There are very many large trees in the vicinity and leaves are a part of the natural cycle. To reduce trees to avoid the inconvenience of leaves would be an extreme measure and would diminish the attractive character of these areas. There is no evidence before me that there are safety issues arising from falling debris.
23. I give little weight to the arguments that the pollarded canopies would regrow, as once they had regrown it is highly likely that overshadowing concerns would be raised again.
24. It is argued that there is a presumption that trees in an urban environment will be managed. I am not satisfied that this is automatically the case as it depends very much on site-specific factors. In this case these are garden trees, and the imposition of the CA and the making of the TPO are indicative of their importance to visual amenity. In any case, the Council appears receptive to other forms of management.

Conclusion

25. I conclude that the works would fail to preserve or enhance the character or appearance of the CA and that insufficient supporting evidence has been given. The appeal is dismissed.

A Blicq

INSPECTOR

APPEARANCES

FOR APPELLANT

Mr Jonathan Hazell

Arboricultural Consultant

FOR COUNCIL

Mr Robert Penlington

Coventry City Council

INTERESTED PARTIES

Ms Ann Wilson

Stoke Park Tree Warden